Congressional Record

SEVENTY-FIRST CONGRESS, THIRD SESSION

SENATE

SATURDAY, FEBRUARY 28, 1931

(Legislative day of Tuesday, February 17, 1931)

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

PRODUCTION OF TIMBER IN PORTO RICO

Mr. BINGHAM. Mr. President, late yesterday afternoon I submitted a concurrent resolution (S. Con. Res. 41) requesting the President to return the enrolled joint resolution (H. J. Res. 192) extending the provisions of sections 1, 2, 6, and 7 of the act of Congress entitled "An act to provide for the protection of forest lands, for the reforestation of denuded areas, for the extension of national forests, and for other purposes, in order to promote the continuous production of timber on lands chiefly suitable therefor," to the Territory of Porto Rico. The concurrent resolution was agreed to.

I did this because of the appearance in the joint resolution of the words "the Territory of" as relating to Porto Rico. Since then the Delegate from Porto Rico has called my attention to a most interesting and important opinion of the Attorney General in a letter to the President dated August 11, 1930, in which the Attorney General gives it as his opinion that Porto Rico is a completely organized Territory, and states specifically that he is of the opinion that the agricultural marketing act extends to the Territories of Alaska, Hawaii, and Porto Rico, but does not extend to the Philippine Islands.

In view of that opinion I ask unanimous consent that the vote whereby the resolution (S. Con. Res. 41) was agreed to, which I introduced, may be reconsidered and that the concurrent resolution may be indefinitely postponed.

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

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

Ashurst	Fletcher	La Follette	Shipstead
Barkley	Frazier	McGill	Shortridge
Bingham	George	McKellar	Smith
Black	Gillett	McMaster	Smoot
Blaine	Glass	McNary	Steck
Blease	Glenn	Metcalf	Steiwer
Borah	Goff	Morrison	Stephens
Bratton	Goldsborough	Morrow	Swanson
Brock	Gould	Moses	Thomas, Idaho
Brookhart	Hale	Norbeck	Thomas, Okla.
Broussard	Harris	Norris	Townsend
Bulkley	Harrison	Nye	Trammell
Capper	Hastings	Oddie	Tydings
Caraway	Hatfield	Partridge	Vandenberg
Carey	Hayden	Patterson	Wagner
Connally	Hebert	Phipps	Walcott
Copeland	Heflin	Pine	Walsh, Mass.
Couzens	Howell	Pittman	Walsh, Mont.
Cutting	Johnson	Ransdell	Waterman
Dale	Jones	Reed	Watson
Davis	Kean	Robinson, Ark.	Wheeler
Deneen	Kendrick	Robinson, Ind.	Williamson
Dill	Keyes	Schall	
Fess	King	Sheppard	

Mr. SHEPPARD. I wish to announce that the senior Senator from Missouri [Mr. HAWES] is necessarily detained from the Senate by illness. I ask that this announcement may stand for the day.

The VICE PRESIDENT. Ninety-four Senators have answered to their names. A quorum is present.

MODERNIZATION OF BATTLESHIPS (S. DOC. NO. 317)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting, pursuant to law, a supplemental estimate of appropriation, fiscal year 1931, to remain available until June 30, 1932, for the modernization of three of the older battleships by the Navy Department, amounting to $10,000,000, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

VETERANS' ADMINISTRATION (S. DOC. NO. 316)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting, pursuant to law, a supplemental estimate of appropriation for the Veterans' Administration, fiscal year 1932, to be immediately available, amounting to $2,000,000, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

AIR MAIL CONTRACTS (S. DOC. NO. 315)

The VICE PRESIDENT laid before the Senate a communication from the Postmaster General making a report in response to Senate Resolution 394 (submitted by Mr. DILL and agreed to January 21, 1931) requesting the Postmaster General to furnish information to the Senate regarding air mail contracts, which, with the accompanying papers, was ordered to lie on the table and to be printed.

TREASURY AND POST OFFICE PUBLIC BUILDINGS (H. DOC. NO. 788)

The VICE PRESIDENT laid before the Senate a joint communication from the Secretary of the Treasury and the Postmaster General reporting, pursuant to law, relative to public-building construction outside of the District of Columbia, and transmitting a report of the interdepartmental committee appointed by them to administer the details of the public-building program, being a composite report covering the allocation of all funds authorized for new construction outside of the District of Columbia, including the $115,000,000 authorized by the act of March 31, 1930, and the $100,000,000 authorized by the act of February 16, 1931, which report is approved and transmitted as their report, which, with the accompanying papers, was referred to the Committee on Public Buildings and Grounds.

ADJUSTED-SERVICE CERTIFICATES

The VICE PRESIDENT laid before the Senate the following telegrams, which were ordered to lie on the table and to be printed in the RECORD:

NEWARK, OHIO, *February 28, 1931.*

The SENATE,
Washington, D. C.:

We the members of Post 1060, Veterans of Foreign Wars, wish to thank the Senate for their support of soldiers' bonus.

Commander GLEN DEBORD.

GRAND ISLAND, NEBR., *February 27, 1931.*

The MEMBERS OF THE UNITED STATES SENATE,
Washington, D. C.:

We extend our sincere thanks for the passing of the bonus bill over President Hoover's veto.

MILLIE HENDRIX,
President American Legion Auxiliary Unit 53.

PETITIONS AND MEMORIALS

Mr. WALSH of Massachusetts presented petitions of 2,027 citizens of the State of Massachusetts, praying for the

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

prompt ratification of the World Court protocols, which were referred to the Committee on Foreign Relations.

Mr. PARTRIDGE presented petitions and letters in the nature of petitions of sundry citizens of the State of Vermont, praying for the prompt ratification of the World Court protocols, which were referred to the Committee on Foreign Relations.

Mr. CAPPER presented petitions numerously signed by sundry citizens of Wichita, Kansas City, Newton, and Manhattan, in the State of Kansas, and also of Washington, D. C., praying for the prompt ratification of the World Court protocols, which were referred to the Committee on Foreign Relations.

Mr. FRAZIER presented the petition of Jorgem Boe and 28 other citizens of Kenmare, in the State of North Dakota, praying for the prompt ratification of the World Court protocols, which was referred to the Committee on Foreign Relations.

Mr. McGILL presented petitions and letters and papers in the nature of petitions from sundry organizations and citizens in the State of Kansas, praying that a tariff be placed on the importations of crude oil and its refined products, which were referred to the Committee on Finance.

He also presented petitions and papers in the nature of petitions, numerously signed, from sundry citizens in the State of Kansas, praying for the prompt ratification of the World Court protocols, which were referred to the Committee on Foreign Relations.

Mr. MORROW presented petitions numerously signed by sundry citizens of the State of New Jersey, praying for the passage of legislation for the exemption of dogs from vivisection in the District of Columbia, which were referred to the Committee on the District of Columbia.

He also presented petitions numerously signed by sundry citizens of the State of New Jersey, praying for the prompt ratification of the World Court protocols, which were referred to the Committee on Foreign Relations.

He also presented petitions numerously signed by sundry citizens of the State of New Jersey, praying for the passage of legislation making The Star-Spangled Banner the national anthem, which were ordered to lie on the table.

He also presented a resolution adopted by Pride of Ramsey Council, No. 141, Sons and Daughters of Liberty, of Ramsey, N. J., favoring the stringent restriction of immigration, which was referred to the Committee on Immigration.

He also presented a resolution adopted by the Borough Council of Glassboro, N. J., favoring the passage of legislation for the construction of a bridge or tunnel across or under the Delaware River from South Philadelphia to a suitable place in New Jersey, which was referred to the Committee on Commerce.

He also presented resolutions adopted by a convention of the New Jersey State Federation of Post Office Clerks, at Camden, N. J., complaining of the methods alleged to have been instituted in many of the post offices in New Jersey as the result of a "survey" made by the Post Office Department, creating a condition of distress and apprehension which tends to impair the morale and incentive of the postal employees, which were referred to the Committee on Post Offices and Post Roads.

PROPOSED FUR-BREEDING EXPERIMENT STATION IN MINNESOTA

Mr. SHIPSTEAD presented the following concurrent resolution of the Legislature of the State of Minnesota, which was ordered to lie on the table:

S. F. No. 564

A concurrent resolution (Res. No. 14) memorializing Congress to establish a fur-breeding experiment station in the State of Minnesota

Whereas the State of Minnesota, by reason of its climate and other natural advantages, affords unusual opportunities for the development of a large and profitable fur-breeding industry; and

Whereas there are upward of 2,500 licensed fur breeders within said State at the present time, with an investment of over $25,000,000 in breeding stock, besides the value of the real estate and equipment used in connection with said industry; and

Whereas there is a large traffic in furs in said State at the present time, said State being the fourth State in the Union in volume of such traffic, with total sales of raw furs within the State for the year 1930 of over $5,000,000, the greater proportion of which was derived from fur-breeding farms; and

Whereas the wild stock of fur-bearing animals in said State and the surrounding territory is becoming more and more depleted, and the fur trade is becoming more and more dependent for its supply upon the fur-breeding industry; and

Whereas the further promotion and development of said industry will not only benefit the fur trade but will provide employment for large numbers of persons, will render useful considerable areas of land and water not otherwise productive, and will create a demand for large quantities of agricultural and other products required for said industry; and

Whereas a large number of problems have arisen in connection with said industry, particularly with respect to the breeding and keeping of animals, requiring scientific investigation and experiment, the solution of which problems is vitally important to further progress of said industry: Therefore be it

Resolved by the Senate of the State of Minnesota (and the House of Representatives of the State of Minnesota concurring), That we most earnestly urge the Congress of the United States to provide for the establishment of a fur-breeding experiment station in said State as soon as possible; be it further

Resolved, That the secretary of the State of Minnesota be, and he hereby is, instructed to transmit certified copies of this resolution to the presiding officers of the Senate and the House of Representatives of the United States and to each Member thereof from the State of Minnesota.

HENRY ARENS,
President of the Senate.
OSCAR A. SWENSON,
Speaker of the House of Representatives.

Passed the senate the 20th day of February, 1931.

G. H. SPAETH,
Secretary of the Senate.

Passed the house of representatives the 20th day of February, 1931.

JOHN I. LEVIN,
Chief Clerk, House of Representatives.

Approved February 26, 1931.

FLOYD B. OLSON, *Governor.*

Filed February 26, 1931.

MIKE HOLM, *Secretary of State.*

I, Mike Holm, secretary of state of the State of Minnesota, do hereby certify that I have compared the annexed copy with record of the original resolution in my office of S. F. 564, Laws 1931, and that said copy is a true and correct transcript of said resolution and of the whole thereof.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State at the capitol, in St Paul, this 26th day of February, A. D. 1931.

[SEAL.]

MIKE HOLM,
Secretary of State.

REPORTS OF COMMITTEES

Mr. HOWELL, from the Committee on Claims, to which was referred the bill, H. R. 303, for the relief of Charles Thomas and Edgar Thomas, reported it with amendments and submitted a report (No. 1808) thereon.

He also, from the Committee on Claims, to which were referred the following bills, reported them severally with an amendment and submitted reports thereon:

S. 4727. An act for the relief of the Federal Real Estate & Storage Co. (Rept. No. 1807);

H. R. 7339. An act for the relief of H. H. Lee (Rept. No. 1830);

H. R. 8953. An act for the relief of Thomas C. Edwards (Rept. No. 1809); and

H. R. 10562. An act for the relief of John Sanford Tillotson (Rept. No. 1831).

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

H. R. 5521. An act for the relief of Louis Czike (Rept. No. 1810);

H. R. 7784. An act for the relief of Mrs. L. E. Burton (Rept. No. 1828);

H. R. 8785. An act for the relief of the Board of Underwriters of New York (Rept. No. 1811);

H. R. 9035. An act for the relief of Walter L. Turner (Rept. No. 1812);

H. R. 9575. An act for the relief of the New York Marine Co. (Rept. No. 1813);

H. R. 10631. An act for the relief of Barnet Albert (Rept. No. 1814);

H. R. 11911. An act for the relief of Frank J. Spencer (Rept. No. 1815); and

H. R. 12076. An act authorizing the Postmaster General to credit the account of Postmaster A. E. White, at Payette, Idaho, with certain funds (Rept. No. 1829).

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

S. 6254. An act for the relief of United States Marshal George B. McLeod (Rept. No. 1816);

H. R. 6207. An act for the relief of the estate of the late Dr. W. A. Cox (Rept. No. 1817);

H. R. 7833. An act for the relief of H. L. Lambert (Rept. No. 1818);

H. R. 8983. An act for the relief of Charles S. Gawler (Rept. No. 1826);

H. R. 9354. An act for the relief of Okaw Dairy Co. (Rept. No. 1825); and

H. R. 12498. An act for the relief of the Port Arthur Canal & Dock Co. (Rept. No. 1819).

Mr. STEPHENS also, from the Committee on Claims, to which was referred the bill (H. R. 12632) for the relief of Frank J. Michel and Barbara M. Michel, and others, reported it with amendments and submitted a report (No. 1832) thereon.

Mr. BROCK, from the Committee on Claims, to which was referred the bill (H. R. 10052) for the relief of A. J. Bell, reported it without amendment and submitted a report (No. 1820) thereon.

Mr. BLACK, from the Committee on Claims, to which was referred the bill (S. 6226) for the relief of Mildred B. Crawford, reported it without amendment and submitted a report (No. 1833) thereon.

Mr. REED, from the Committee on Military Affairs, to which was referred the bill (H. R. 3564) for the relief of John T. O'Neil, reported it without amendment and submitted a report (No. 1822) thereon.

Mr. FESS, from the Committee on the Library, to which was referred the joint resolution (S. J. Res. 247) directing the President to proclaim October 11, 1931, General Pulaski's Memorial Day, for the observance and commemoration of the death of Brig. Gen. Casimir Pulaski, reported it with amendments and submitted a report (No. 1823) thereon.

Mr. DENEEN, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred the resolution (S. Res. 408) to make a complete survey of cooperative credit laws and systems, reported it without further amendment.

ENROLLED BILLS PRESENTED

Mr. PARTRIDGE, from the Committee on Enrolled Bills, reported that on February 27, 1931, that committee presented to the President of the United States the following enrolled bills:

S. 1072. An act for the relief of Gabriel Roth;

S. 2643. An act to amend the joint resolution establishing the George Rogers Clark Sesquicentennial Commission, approved May 23, 1928;

S. 3213. An act for the relief of E. F. Zanetta;

S. 4750. An act to authorize alterations and repairs to certain naval vessels; and

S. 6171. An act to regulate the prescribing and use of waters from the Hot Springs National Park at Hot Springs, Ark., and for other purposes.

BILLS AND JOINT RESOLUTION INTRODUCED

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

By Mr. NYE:

A bill (S. 6263) to amend Public Act No. 624, Seventy-first Congress; to the Committee on Commerce.

A bill (S. 6264) to establish a Federal Trade Court, and for other purposes; to the Committee on the Judiciary.

By Mr. WALSH of Montana:

A bill (S. 6265) relative to assumption of risks of employment; to the Committee on the Judiciary.

By Mr. DENEEN:

A bill (S. 6267) appropriating $690,000 for Federal participation in A Century of Progress, Chicago, Ill., in 1933; to the Committee on Appropriations.

By Mr. REED:

A bill (S. 6268) to protect the water supply of the town of Highlands, Orange County, N. Y., and for other purposes; to the Committee on Military Affairs.

By Mr. BINGHAM and Mr. GOLDSBOROUGH:

A joint resolution (S. J. Res. 260) to provide for the naming of Blair Circle (with accompanying papers); to the Committee on the District of Columbia.

FUMES FROM SMELTER OF CONSOLIDATED MINING & SMELTING CO. AT TRAIL, BRITISH COLUMBIA

Mr. DILL introduced a joint resolution (S. J. Res. 262) to establish a joint congressional committee of the Senate and House of Representatives of the United States to investigate damages in the United States by fumes from the smelter of the Consolidated Mining & Smelting Co. at Trail, British Columbia, and for other purposes, which was read twice by its title, referred to the Committee on Foreign Relations, and ordered to be printed in the RECORD, as follows:

Joint resolution to establish a joint congressional committee of the Senate and House of Representatives of the United States to investigate damages in the United States by fumes from the smelter of the Consolidated Mining & Smelting Co. at Trail, British Columbia, and for other purposes

Whereas, pursuant to Article IV, section 3, clause 2, of the Constitution of the United States, the Congress has under its control all the territory or other property belonging to the United States and no use of public lands can be made for any purpose but by the authority of Congress; and

Whereas as a result of investigations by the Bureau of Indian Affairs and of the General Land Office, under the direction of the Secretary of the Interior, it has been developed that substantial damages have been and are at present being caused to Indian allotments, where the legal title is in the United States, and on United States Government lands in the State of Washington by fumes from the smelter of the Consolidated Mining & Smelting Co. at Trail, British Columbia; and

Whereas as a result of an investigation by the Forest Service, under the direction of the Secretary of Agriculture, it has been developed that substantial damages have been and are at present being caused to the Colville National Forest in the United States in the State of Washington by fumes from the smelter of the Consolidated Mining & Smelting Co. at Trail, British Columbia, whereby the policy of Congress of preserving this area as a forest preserve is being defeated; and

Whereas as a result of an investigation by scientists of the Department of Agriculture it has been developed that fumes from the Consolidated Mining & Smelting Co. at Trail, British Columbia, have caused and are causing destruction of plant life and economic devastation in the upper Columbia River section in the United States over a region exceeding 125,000 acres, which includes Indian allotments, Government lands, and national-forest lands: Therefore be it

Resolved, etc., That a joint congressional committee is hereby established to be composed of three Members of the Senate, who are Members elect of the Seventy-second Congress, to be appointed by the President of the Senate, and three Members of the House of Representatives, who are Members elect of the Seventy-second Congress, to be appointed by the Speaker of the House of Representatives. The committee is authorized and directed to make a full investigation of the problem of ways and means to protect the sovereign rights of the United States in the State of Washington in its public capacity, the proprietary rights of the United States in Government-owned lands, in the Colville National Forest, and in Indian allotments and the rights of inhabitants of the United States in the area damaged by smelter fumes from the Consolidated Mining & Smelting Co. at Trail, British Columbia. The committee is also authorized and directed to investigate the problem of ways and means of providing relief for the inhabitants and private property owners in the damaged area. The committee shall report the results of its investigations to the Congress on the first day of the first regular session of the Seventy-second Congress, or as soon thereafter as is practicable, together with such recommendations as it deems advisable. The committee shall cease to exist upon the making of such report.

For the purposes of this resolution such committee is authorized to select a chairman, to hold such hearings, to sit and act at such times and places, and to employ such experts and clerical, stenographic, and other assistants, to administer such oaths, to take such testimony and to make such expenditures as it deems advisable. The expenses of the committee, which shall not exceed $10,000, shall be paid one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives, upon vouchers to be approved by the chairman of the committee.

AMENDMENT TO THE COPYRIGHT BILL

Mr. THOMAS of Oklahoma submitted an amendment intended to be proposed by him to the bill (H. R. 12549) to amend and consolidate the acts respecting copyright and to permit the United States to enter the Convention of Berne for the Protection of Literary and Artistic Works, which was ordered to lie on the table and to be printed.

UTILIZATION OF THE WATER RESOURCES OF THE SACRAMENTO, SAN JOAQUIN, AND KERN RIVERS, CALIF.

Mr. JOHNSON submitted the following resolution (S. Res. 486), which was referred to the Committee on Irrigation and Reclamation:

Resolved, That the Committee on Irrigation and Reclamation, or a duly authorized subcommittee thereof, is authorized and directed to make a complete investigation with respect to proposed legislation providing for the ultimate utilization of the water resources of the Sacramento, San Joaquin, and Kern Rivers, in the State of California, including irrigation and reclamation, improvement of navigation, flood control, and power development, as outlined in House Document No. 791, of the Seventy-first Congress, third session. For the purposes of this resolution such committee or subcommittee is authorized to hold hearings, to sit and act at such times and places within the United States, and to employ such clerical and stenographic assistance as it deems advisable. The cost of stenographic assistance service to report such hearings shall not be in excess of 25 cents per hundred words. The committee or subcommittee is further authorized to send for persons and papers, to administer oaths, to take testimony, and the expense attendant upon the work of the committee or subcommittee shall be paid from the contingent fund of the Senate, but shall not exceed $20,000. Such committee or subcommittee shall make a report of the results of such investigation with recommendations to the Seventy-second Congress, first session.

THE STORY OF THE CAMPAIGN AND SIEGE OF YORKTOWN

On motion of Mr. SWANSON, it was ordered that there be printed, with illustrations, as a Senate document, The Story of the Campaign and Siege of Yorktown, prepared by Dr. H. J. Eckenrode for the United States Yorktown Sesquicentennial Commission.

WITHDRAWAL OF PAPERS—JOSEPH M. HARRIS

Mr. DILL. Mr. President, I ask unanimous consent that the papers accompanying the special pension bill (S. 4346) granting a pension to Joseph M. Harris (71st Cong., 2d sess.), which has been rejected by the Committee on Pensions, may be returned to the parties in interest.

The VICE PRESIDENT. If there is an adverse report, it can not be done under the rule.

Mr. DILL. There has been no adverse report made to the Senate.

The VICE PRESIDENT. Without objection, the order will be entered.

EDITH BARBER

The PRESIDING OFFICER (Mr. FESS in the chair) laid before the Senate the amendment of the House of Representatives to the bill (S. 1496) for the relief of Edith Barber, which was to strike out all after the enacting clause and insert:

That the United States Employees' Compensation Commission is hereby authorized, notwithstanding the lapse of time, to consider the claim of Edith Barber, who is alleged to have contracted tuberculosis while in the performance of her duties as a nurse at the National Soldiers' Home, Johnson City, Tenn., and the National Soldiers' Home, Va.: *Provided*, That no benefit hereunder shall accrue prior to the enactment of this act.

Mr. MORRISON. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

MEXICAN CLAIMS COMMISSION

Mr. BORAH. Mr. President, it has been discovered that the General Claims Commission will not have sufficient time to hear the evidence and gather the facts with reference to a number of claims pending before it. I therefore am offering a resolution requesting the President to negotiate and conclude with the Mexican Government an agreement for the extension of the time.

This very important. I suppose almost every Senator knows that a number of the claims of the claimants are still unsettled, even the facts not yet having been presented.

I ask permission to submit the resolution, and then I shall ask for its immediate consideration.

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

The Chief Clerk read the resolution (S. Res. 480), as follows:

Whereas by Senate Resolution 73, which was considered and agreed to by the Senate on May 16 (calendar day May 25), 1929, the President was requested, in his discretion, to negotiate and conclude with the Mexican Government such agreement or agreements as might be necessary and appropriate for the purpose of extending the duration of the General Claims Commission provided for by the convention of September 8, 1923, and of the Special Claims Commission provided for by the convention of September 10, 1923, between the United States and Mexico; and

Whereas in pursuance of the said resolution there were concluded with the Mexican Government conventions of September 2, 1929, and August 17, 1929, whereby the duration of the General Claims Commission and the Special Claims Commission was extended to August 30, 1929, and August 17, 1929, respectively; and

Whereas it has been brought to the knowledge of the Senate that it will not be possible for the said commissions to hear, examine, and decide in the manner contemplated by the said conventions within the time specified therein all the claims which have been filed with said commissions in accordance with the terms of the conventions; and

Whereas it is in the interest of both Governments fully to hear, judicially determine, and settle all such claims: Therefore be it

Resolved, That the President is requested, in his discretion, to negotiate and conclude with the Mexican Government such agreement or agreements as may be necessary and appropriate for the further extension of the duration of the General Claims Commission provided for by the convention of September 8, 1923, and of the Special Claims Commission provided for by the convention of September 10, 1923, between the United States and Mexico in order to permit of the hearing, examination, and decision of all claims within the jurisdiction of said commissions under the terms of said conventions, and to make such further arrangement as in his judgment may be deemed appropriate for the expeditious adjudication of said claims.

Mr. BORAH. Mr. President, I ask for the present consideration of the resolution.

The VICE PRESIDENT. Is there objection?

There being no objection, the resolution was agreed to.

The preamble was agreed to.

Mr. KING. Mr. President, I wish to say to the Senator from Idaho that for many years the two commissions have failed, in my judgment, to push with expedition the work devolving upon them. In 1912, as the Senator knows, more than 10,000 Americans came out of Mexico, many of them leaving that country in pursuance of a proclamation or order of the then President of the United States, Mr. Taft. The property of many had been confiscated, and since they left Mexico much of their property has been confiscated.

A committee of the Senate made an investigation, and found that more than $500,000,000 worth of property of American citizens in Mexico had been either confiscated or destroyed. Five hundred or more Americans were killed upon Mexican soil, and a considerable number were killed upon American soil by shots across the line, and a great many were maltreated. Not one penny in damages has been collected for those wrongs which were done to American citizens, not a penny has been paid to the families of those who were killed.

The two commissions which were appointed, I regret to say, have not pushed the work devolving upon them with that earnestness and zeal which I think should have characterized them. It may be said in extenuation, however, that one of the commissioners, a gentleman from Brazil, for some time declined to act, and that created an impasse. Nothing was done.

Scores of people who formerly had lived in my State were driven out of Mexico, their property confiscated or destroyed, and hundreds of them wandered along the border for years. Many of them died in poverty because all of their property had been destroyed. Not a single penny has been paid to them or to their heirs.

It does seem to me that these two commissions ought to proceed with the utmost earnestness to the settlement of these claims, and I do hope the State Department and the President of the United States will do all they can, in a proper way, to see that the commissions discharge their

duties, so that those who have been so wronged may receive some compensation before all of them shall die.

POEM BY HORACE C. CARLISLE

Mr. HARRIS. Mr. President, Horace C. Carlisle, of Alabama, has requested me to ask that a poem he has written be printed. I therefore ask that it be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, and it is as follows:

WAITING FOR THE CAT TO DIE

As the end of this memorable Congress approaches,
And the breaking of ties of endearment draws nigh,
When remorse upon merriment strangely encroaches,
And the heart melts to tears at the thought of good-by,
There is not one, perhaps, of all those that are leaving,
Upon whom the great masses have learned to depend,
Whose approaching departure is causing more grieving
Than TOM HEFLIN'S, the recognized common man's friend.

With a heart that's as big as his physical being,
And a courage as bold as the look in his eye,
He hews square to the line, without caring or seeing
Where the chips from his hatchet are going to fly—
But all over the country it goes without saying,
From his coming to Congress on through to the end,
That TOM HEFLIN has never been once found betraying
The American masses, who count him their friend.

An American first, and a southerner second,
A true friend to Democracy, trusted and tried,
A despiser of fraud and deceit, he is reckoned
As a foe to big business's arrogant pride;
But he's stood firm and strong as the Rock of Gibraltar
In defense of the flag—which he loves to defend—
With a courage too fearless to fail or to falter,
As he's proved himself always the needy man's friend.

In his fierce one man's fight to plant always Old Glory
Above all other flags on our warships at sea,
He has read into history's pages a story
That will startle the world in the years yet to be;
And because of his constant, unbridled contention
For the freedom of speech and the press to the end,
He's been wronged in more ways than these verses can mention—
Yet TOM HEFLIN stands firm as the "under dog's" friend.

From his good deeds in Congress his haters have whittled
Away all that is noble, worth while, and sublime.
All his outstanding acts they have shrewdly belittled,
Till his mole-hill mistakes appear mountains of crime.
But the truth will continue when falsehood and error
Shall be doomed to despair, with no fiend to defend—
While this spokesman for truth to the Nation grows dearer,
As his actions declare him the common man's friend.

His great heart has been pierced through with many a sorrow,
His proud head wears a crown, but it's platted with thorns,
He is hanging to-day on his cross and to-morrow
He'll be buried, they say, 'neath a mountain of scorns.
But he'll rise from this grave to which envy's consigned him—
Alabama will right every wrong in the end—
And the truth will rip off the false graveclothes that bind him,
And TOM HEFLIN will live as America's friend.

—Horace C. Carlisle.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Chaffee, one of its clerks, announced that the House had passed without amendment the following bills and joint resolutions:

S. 17. An act to amend section 12 of the act entitled "An act to readjust the pay and allowances of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service," approved June 10, 1922, as amended;

S. 988. An act for the relief of Franz J. Jonitz, first lieutenant, Quartermaster Corps, United States Army;

S. 1042. An act for the relief of Mary Altieri;

S. 1251. An act for the relief of the Ayer & Lord Tie Co. (Inc.);

S. 3924. An act for the relief of the First State Bank & Trust Co., of Mission, Tex.;

S. 4070. An act for the relief of Patrick J. Mulkaren;

S. 4120. An act for the relief of McIlwraith McEacharn's Line, Proprietary (Ltd.);

S. 4353. An act for the relief of the Orange Car & Steel Co., of Orange, Tex., successor, to the Southern Dry Dock & Ship Building Co.;

S. 4489. An act for the relief of the heirs of Harris Smith;

S. 6098. An act relating to the adoption of minors by the Crow Indians of Montana;

S. 6099. An act authorizing the Secretary of the Interior to change the classification of Crow Indians;

S. 6136. An act for the enrollment of children born after December 30, 1919, whose parents, or either of them, are members of the Blackfeet Tribe of Indians in the State of Montana, and for other purposes;

S. J. Res. 222. Joint resolution relating to the authority of the Secretary of the Interior to enter into a contract with the Rio Grande project; and

S. J. Res. 226. Joint resolution authorizing the distribution of the judgment rendered by the Court of Claims to the Indians of the Fort Berthold Indian Reservation, N. Dak.

The message also announced that the House had agreed to the concurrent resolution (S. Con. Res. 40) accepting the statues of Junipero Serra and Thomas Starr King to be placed in Statuary Hall.

The message further announced that the House had agreed to the amendment of the Senate to the bill (H. R. 9599) to authorize the Secretary of Agriculture to carry out his 10-year cooperative program for the eradication, suppression, or bringing under control of predatory and other wild animals injurious to agriculture, horticulture, forestry, animal husbandry, wild game, and other interests, and for the suppression of rabies and tularemia in predatory or other wild animals, and for other purposes.

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

S. 2811. An act for the relief of Oscar R. Hahnel; and

S. 5139. An act to extend the provisions of certain laws relating to vocational education and civilian rehabilitation to Porto Rico.

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

S. 3404. An act authorizing the Secretary of Commerce to dispose of a portion of the Amelia Island Lighthouse Reservation, Fla.; and

S. 5743. An act to authorize 24-hour quarantine inspection service in certain ports of the United States, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

S. 6106. An act to authorize the Leo N. Levi Memorial Hospital Association to mortgage its property in Hot Springs National Park; and

H. R. 16969. An act making appropriations for the Navy Department and the naval service for the fiscal year ending June 30, 1932, and for other purposes.

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

H. R. 654. An act for the relief of Nelson M. Holderman;

H. R. 834. An act for the relief of John W. Barnum;

H. R. 1709. An act for the relief of Hedwig Grassman Stehn;

H. R. 4242. An act for the relief of Fred W. Boschen, lieutenant colonel, Finance Department, United States Army;

H. R. 4536. An act for the relief of John S. Stotts, deceased;

H. R. 4799. An act for the relief of James Johnson;

H. R. 4858. An act for the relief of Margaret Thomkin;

H. R. 5314. An act for the relief of W. A. Blankenship;

H. R. 6763. An act for the relief of Albert G. Dawson;

H. R. 7175. An act for the relief of Arthur A. Burn, sr., and J. K. Ryland;

H. R. 7520. An act for the relief of the estate of Clarendon Davis;

H. R. 7525. An act for the relief of Elizabeth J. Edwards;

H. R. 7798. An act for the relief of Mrs. Lawrence Chlebek;

H. R. 7943. An act for the relief of Stuart L. Ritz;

H. R. 8172. An act for the relief of William T. Roche;

H. R. 8585. An act for the relief of Maj. Thomas J. Berry;

H. R. 8848. An act for the relief of Daniel W. Seal;

H. R. 8858. An act for the relief of Elizabeth Moncravie;
H. R. 8998. An act for the relief of Dr. Luis H. Debayle;
H. R. 9526. An act for the relief of G. Carroll Ross;
H. R. 9816. An act for the relief of Thomas F. Gibbons;
H. R. 9866. An act for the relief of Walter G. Harrell;
H. R. 10888. An act for the relief of Margaret V. Pearson;
H. R. 11189. An act for the relief of Fritz Zoller;
H. R. 11464. An act for the relief of Charles A. Holder;
H. R. 11839. An act for the relief of Galen E. Lichty;
H. R. 12158. An act authorizing the Secretary of the Treasury to refund to the so-called assistant directors in the public schools of the District of Columbia, divisions 10–13, all that portion of their salaries erroneously and illegally deducted and withheld under the provisions of the act of June 20, 1906;
H. R. 12184. An act for the relief of C. B. Bellows;
H. R. 12239. An act for the relief of Lela B. Smith;
H. R. 12679. An act for the relief of Kenneth G. Gould;
H. R. 12781. An act to authorize the Secretary of War to donate certain bronze cannon to the Maryland Society, Daughters of the American Revolution, for use at Fort Frederick, Md.; and
H. R. 15984. An act to amend an act entitled "An act to provide for the creation of the Colonial National Monument in the State of Virginia, and for other purposes," approved July 3, 1930.

NOMINATION OF JOHN P. M'MAHON

Mr. KING. From the Judiciary Committee I report favorably the nomination of John P. McMahon, of the District of Columbia, to be a judge of the police court of the District of Columbia. I shall ask as soon as may be practicable that the Senate proceed to the consideration of executive business for the purpose of confirming the nomination.

The VICE PRESIDENT. The nomination will be placed on the Executive Calendar.

Mr. KING subsequently said: Mr. President, a few moments ago I reported the nomination of John P. McMahon, of the District of Columbia, to be judge of the police court of the District of Columbia. I now ask unanimous consent, as in executive session, that the nomination of Judge McMahon may be confirmed.

Mr. McNARY. I ask the Senator if there is any emergency connected with the nomination.

Mr. KING. Judge McMahon's term expires within the next day or two, I am told.

Mr. McNARY. Very well.

The VICE PRESIDENT. Is there objection? The Chair hears none, and, as in executive session, the nomination is confirmed.

MUSCLE SHOALS—STATEMENT BY SENATOR BROCK

Mr. CONNALLY. Mr. President, I ask unanimous consent to have printed in the RECORD an article appearing in the Chattanooga (Tenn.) Times of February 25, 1931, containing a statement on Muscle Shoals by the junior Senator from Tennessee [Mr. BROCK].

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

[From the Chattanooga Times, February 25, 1931]

HOPES SHOALS BILL WILL BE APPROVED—BROCK SAYS HOOVER CAN SETTLE CONTROVERSY—CITES ECONOMIC VALUE OF PLANT TO FARMERS IN FERTILIZER AT LOWER COST

By Russell Kent

WASHINGTON, February 24.—Hope that President Hoover will sign the Muscle Shoals resolution and thus by settling that question open the way for further development of east Tennessee was expressed to-day by Senator W. E. BROCK in a statement setting forth his position.

The compromise is not what he had desired, but the best that could be obtained, Senator BROCK said. So long as Muscle Shoals remains a political football the development of the Tennessee Valley will be delayed, he emphasized, and he urged voters to take an interest in the attitude of candidates on this subject.

A lessee for the fertilizer plants may be obtained who will use all of the power, Senator BROCK asserted, thus removing the Government operation of the power plants from controversy.

So far as concerns the power possibilities of Muscle Shoals, Senator BROCK quoted figures of the electric consumption of the four major cities of Tennessee, which consume more than Muscle Shoals produces, and with Cove Creek added would consume so much that there would be insufficient for the remainder of the State, not counting any communities in Alabama or elsewhere that could claim a part of this power.

After referring to the resolution now being up to the President, Senator BROCK said:

BELIEVES COMPROMISE BEST POSSIBLE PLAN

"While this bill as amended does not meet my views, it was the best we could get out of the conference committee, and if the bill is signed by the President and a lessee can be had for the nitrate plant that will use all the power at Muscle Shoals in the manufacture of fertilizer and other products and probably will be able to use the additional power created by the Cove Creek Dam by the time it is finished. If this is done, the Muscle Shoals political football will no longer stand in the way of the development of the Tennessee River.

"It is hard for me to understand, and it is hard for the people of my section to understand, why the development of the Tennessee River should be kept on the 'black list,' depriving us of what I think is our privilege and our State's right to develop our own God-given resources.

"We are just as much a part of the Federal Government as any other section in the United States, and feel that we should have the same consideration as any other section of the United States.

"Now that the conferees have agreed, and both Houses have passed the bill, our people will be more keenly disappointed than ever if the bill does not become a law.

"If the bill is signed, it will bring happiness to our people and they will feel that we are no longer on the black list and being discriminated against in developing our resources. They will feel that the doors are open for us to go forward in developing and building up our section, just as our sister States, namely, North and South Carolina, Georgia, Florida, Mississippi, etc., are doing—taking advantage of and developing their resources in the interest of their people, and I believe that the people of Alabama, Tennessee, and Kentucky should make the development of the Tennessee River an issue in all future political campaigns until the matter is settled, whether they be local, State, or otherwise, as the development of this river is the largest asset we have.

"We want to be a part of the great inland waterway system as provided in the rivers and harbors bill enacted July 7. We want a 9-foot year-around navigable channel in the Tennessee River for 652 miles to connect us up with the great inland waterway system. Yet, we know that until the Muscle Shoals matter is settled this great development will be delayed.

"We will not only lose the effect from operating this great plant at Muscle Shoals by making cheap fertilizer for the farmer and giving employment to the unemployed and increasing the consumption of our products, but we will lose the effect of our connection with the inland waterway system, giving cheap freight rates to both industrial and agricultural interests.

"The proposed project of the engineering department, which is a part of the rivers and harbors bill, calls for 32 low dams for navigation, or seven high dams. The advantage of the seven high dams, according to the engineers' report, is that they take the place of the 32 low dams as far as navigation is concerned and also affect the flood hazards of our section, saving hundreds of thousands of dollars' damage every year, in addition to the power possibilities of the seven high dams.

COVE CREEK DAM WOULD CONTROL FLOODS

"Take Cove Creek storage dam for instance. In addition to the effect of Cove Creek Dam on the power project, it gives effective flood protection on the main stream. The flood damage to Chattanooga alone averaged $687,000 annually. We are entitled to this protection which Cove Creek will give in addition to doubling the power at Muscle Shoals.

"The effect of Cove Creek Dam as a headwater dam is very essential in carrying out the $75,000,000 project adopted in the rivers and harbors bill of July 3, 1930, for a 9-foot year-around navigable channel connecting us with a 12,000-mile inland waterway system, with the prospective commerce given by the engineers' report at 17,800,000 tons by 1950, with the estimated saving on freight in the difference of water and rail of $22,000,000.

"It will mean a vast saving to the farmer in transportation costs of his fertilizer. It will be produced at Muscle Shoals, the center of the great fertilizer-consuming area of the United States, and the haul distance will be materially decreased.

"It is estimated by the Secretary of Agriculture that the freight bill paid by the farmers on their 7,900,000 tons of fertilizer for the year 1928 was no less than $20,000,000, and if made at Muscle Shoals this would be cut approximately in half.

"The other resulting saving would come from the reduction in the price of fertilizer itself, manufactured at Muscle Shoals.

"The American Farm Bureau Federation estimates the cost to the Tennessee farmer of fertilizer, as now purchased, to be $32.76 per ton, and that the cost to the Tennessee farmer when fertilizer is produced in quantities, and not by experimentation at Muscle Shoals to be $16.87 per ton, or a savings of 48½ per cent in the delivered cost of the product.

"According to the statistical abstract of the United States for 1930, published by the United States Department of Commerce, the farmers of the United States purchased more than 7,900,000 tons of fertilizer, of which the Southern States used 5,500,000.

"I have always felt that the advantage of Muscle Shoals to our section from a power point of view is not as important as a great many seem to think. I feel that if the power could be used for operating the nitrate plant and other industries, meaning employ-

ment of from 3,000 to 5,000 people, with the Muscle Shoals question settled so it will not interfere with further development of the Tennessee River, that is far more important to our section than the power question itself.

"To illustrate, I give you the amount of power consumed by four of the largest cities in Tennessee and the population of these cities.

	Kilowatt-hours	Population 1930 census
Power consumed during 1929:		
Chattanooga	226,950,000	119,798
Nashville	114,160,000	153,866
Memphis	160,175,000	233,143
Knoxville	91,925,454	105,802
Total	593,213,454	632,609

Population of State, exclusive of the four cities mentioned above, 1,983,947.
Total population of State, 2,616,556.

"Muscle Shoals at present, on basis of 50 per cent load factor, would supply for general distribution 512,270,000 kilowatt-hours. This would lack 80,940,000 kilowatt-hours of supplying the four cities mentioned above. With Cove Creek Dam completed, there would be an excess amounting to 175,189,000 kilowatt-hours after supplying the four cities.

"In other words, if Tennessee got all the power from Muscle Shoals and Cove Creek, there would only be 175,189,000 kilowatt-hours left to supply the remainder of Tennessee's population of 1,983,947 after supplying the four cities mentioned, to say nothing of what Alabama and other interested States would be entitled to.

"The average amount of power consumed per person in the four Tennessee cities is 941 kilowatt-hours per annum, 78⅓ per month. Amount of Muscle Shoals power left, even with Cove Creek Dam completed, would give to each inhabitant of the State of Tennessee, outside of the four cities, 88 kilowatt-hours per year, or 7¼ per month, which is not enough to make toast for breakfast.

"If all power at Muscle Shoals, with Cove Creek Dam completed, were sold for distribution on a basis of 50 per cent load factor, each of the 12,000,000 persons residing within a radius of 300 miles of Dam No. 2 would be entitled to 64 kilowatt-hours per annum, or 5⅓ per month. Compare this with the consumption per capita in the four Tennessee cities."

REMONETIZATION OF SILVER—ARTICLE BY DR. J. H. COLLARD

Mr. CONNALLY. Mr. President, I ask unanimous consent to have printed in the RECORD an article on the Remonetization of Silver, by Dr. J. H. Collard, of San Antonio, Tex.

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

Mr. Francis H. Brownell, chairman of the American Smelting & Refining Co., has presented a plan to stabilize silver, and has given it to the press; but his plan is so far-fetched and is subject to so many disadvantages that it seems to me any man, both the gold standard and the silver advocates, will reject it as untenable and impossible.

He says, first, get an informal agreement of all the governments who will accede to the plan "that no sale will be made for a stated period, or until further notice, of any silver owned by each government at less than a fixed price—for example 50 cents an ounce."

I may remark that these governments will never agree to such a plan, and that, although he disclaims any intention of fixing a price of silver, he does do it, and suggests 50 cents as a price, below which these contributing governments shall not sell silver or allow it to be sold. You can not fix the price of any commodity—gold, silver, wheat, cattle, cotton, or anything that has a market value.

He says, second, "that the governments will purchase the amount of silver they now are authorized to acquire for subsidiary coinage whenever the market price is under the figure agreed on."

The United States will not agree to authorizing our Government to coin silver they now own or purchase more, unless bimetalism is restored and silver is remonetized.

He says, third, "an agreement that the governments, particularly India, may sell government-owned silver whenever the price is more than 50 cents, for example, above the accepted quotation."

We have no authority for saying that India will agree to this plan, nor have we any authority for saying that India will sell any of the billions she now owns at any price; nor shall we assume that any of these governments would agree to such plan.

The initiative in the proposed modification, Mr. Brownell believes, should come from Great Britain or the United States. By a strange coincidence of national policies it was stated that the policy of Great Britain was to establish a gold standard and take silver out of the market to be used as money. That is to say, that England is informally asking the United States to reestablish silver as money just like they informally did when they established the gold standard, and the United States followed that policy and demonetized silver, and destroyed bimetalism. That is a roundabout way to secure the cooperation of the United States in stabilizing our currency.

Now, why not restore bimetalism, remonetize silver, and immediately put in circulation money produced by the sale of 500,000,000 ounces of silver? Why have an informal agreement with any other nation in restoring bimetalism and remonetizing silver? Let the United States adopt a policy of her own and let these other countries follow the United States.

The Red Cross is feeding hundreds of thousands of starving families, and General Pershing is broadcasting a speech in support of what the Red Cross is doing. Mr. Bryan said in his famous Chicago speech: "They shall not press down on the brow of labor this crown of thorns; they shall not crucify humanity on a cross of gold." But they did that very thing, and millions of laboring men are without means to support their families, and humanity is struggling in the agonies of a crucifixion produced by the gold standard.

Mr. Brownell suggests that the gold being used as money shall be studied; it has been studied; and gold is being exhausted.

During the World War Mr. McAdoo was Secretary of the Treasury, and all of the gold producers of Utah and Colorado met for the purpose of asking the United States Government to give a bonus of $10 an ounce for all gold being produced at this time. They offered a resolution asking the United States Government to furnish them with that bonus. I arose to make them a speech as I was mining in Mexico at the time and was familiar with the entire question. I said to them about this: "I came down to this meeting to-day because I believe in you, because you are the men who produce the raw material of the money itself. Every ounce you put on top of the ground is worth $20.57 now and you have produced that much money that up to that time had no existence; but I can not see how giving such a bonus would not add to the price of gold, because if the Government gives you that bonus it will raise the price to $30.57; besides that Mr. McAdoo would never agree to it, and the southern Democrats would all oppose it, as it is the very essence of paternalism." They got up all over the house and said the gentleman had raised an impassable barrier; many of them made speeches in support of what I had said. Finally, the president of the Independence Mines at Cripple Creek arose and said: "The world does not know that we have reached the bottom of the well producing gold; there is no more gold to be produced, and we have to have help from some means." They disbanded the meeting and made an appointment for Salt Lake City, Utah, some months afterwards, but they never did anything.

I have written of this meeting and its results to show that what the president of the Independence Mines had said was giving out information that the gold-standard men ought to know. Hence the plan offered by Mr. Brownell could only enlighten the people as to what might be expected from the gold producers.

Now, let silver be remonetized and bimetalism restored to the place from which it was expelled and let her take her place in the stabilization of our own currency and you may rest assured all the great governments would follow them. When bimetalism is restored and silver remonetized this Government will put 500,000,000 ounces in circulation and stop all this depression. Why not adopt that plan at once and feed the starving families who are now being fed by the Red Cross? Money is right at our door—reach out your hand and take it. If the men who are holding our money would give one one-hundredth part of the money that Will Rogers is generously giving to help the unemployed, all this money would be put into circulation at once and hungry children and heart-broken women and agonizing fathers and husbands would stand again where they were when this depression came. They do not want charity. They want an honest chance to make money by their own labor. Again let me say submit this plan at once to all of our public men and stop this depression by restoration of bimetalism.

CONSTITUTION AND BY-LAWS OF THE AMERICAN VETERANS OF ALL WARS

Mr. McGILL. Mr. President, I ask unanimous consent to have printed in the RECORD the constitution and by-laws of the American Veterans of All Wars and the names of the officers of that organization.

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

CONSTITUTION AND BY-LAWS OF THE AMERICAN VETERANS OF ALL WARS

OFFICERS

National commander, Col. T. J. Rogers, United States Army, retired, Oklahoma City, Okla.

Chairman national executive committee, Lieut. Col. J. H. Stolper, United States Army Reserve, retired, Muskogee, Okla.

First vice commander, Dr. D. Natanson, New York City, N. Y.

Second vice commander, S. Sachs, Jersey City, N. J.

National chaplain, ——— ———.

General counsel, J. H. Stolper, Muskogee, Okla.

National adjutant, Maj. John L. DeGroot, Oklahoma City, Okla.

National treasurer, S. F. Stolper, Muskogee, Okla.

National sergeant at arms, Joseph J. Ehing, Fort Smith, Ark.

National organizer, Capt. John C. Hawk, National Military Home, Leavenworth, Kans.

Board of trustees: Lieut. Col. J. H. Stolper; Maj. John L. DeGroot; Pvt. William J. T. Stephens, Shawnee, Okla.

National executive committee: Lieut. Col. J. H. Stolper, Muskogee, Okla., chairman; Col. T. J. Rogers, Oklahoma City, Okla.;

William J. T. Stephens, Shawnee, Okla.; Angelo Carano, Krebs, Okla.; William M. Mayer, St. Louis, Mo.; Joe Mazinter, Shawnee, Okla.; D. Natanson, New York City, N. Y.; S. Sachs, Jersey City, N. J.; George Lintner, Dallas, Tex.; John L. DeGroot, Oklahoma City, Okla.

General offices: 316 North N Street, Muskogee, Okla.

CONSTITUTION

ARTICLE I. NAME

SECTION 1. The American Veterans of All Wars.

PURPOSE

SEC. 2. The purpose and aims of this organization is to bring together veterans of all wars and expeditions of the United States of America, for charitable, fraternal, and patriotic purposes; to perpetuate in veterans, their families and descendants, true love to our country and flag, a positive wholesome respect for life and rights of others; to help needy veterans to help themselves to become useful, self-supporting, good citizens; to give aid to dependent families of veterans; to help obtain for our membership all the rights they are entitled under the laws of the United States and any State; to teach respect and obedience to all laws, and particularly all laws and ordinances originating from and existing by virtue of the eighteenth amendment to the Constitution of the United States; to do all within our power by all honorable legal means to promote adequate national military preparedness, in order that knowing the horrors of war by being adequately prepared, we may avoid the necessity of making war; and to take an interest in all that goes into and tends to maintain, protect, and continue our existing form of government under the Constitution and the laws of the United States, and fight all the internal and external enemies of our form of government and its best interest to the best of our knowledge.

ARTICLE II. MEMBERSHIP

SECTION 1. Who eligible: Any veteran who has participated in any war or expedition of the United States by being in actual military service during such war, and was honorably discharged by lawful authority, or was separated under honorable conditions from the service from any of the military forces of the United States, or is yet in such service, may, by making written applications and proving a good, moral character, and paying such dues as shall be required by the by-laws made in pursuance of this constitution, become a sustaining member. Such member shall have the right to vote, hold office, and receive all the benefits as shall be furnished from time to time by this organization.

SEC. 2. Beneficiary members: Any person possessing the qualifications as provided in section 1, article 2 of this constitution, who is maintained in any hospital, national military home, or any other public institution, who does not receive any pension nor any compensation from the United States nor any State, may become a beneficiary member. Such members shall pay no dues, have no right to vote, and not be eligible to hold office, and shall be entitled only to personal services, and no other benefits. Members who are subject to pay dues, when they cease paying dues shall become beneficiary members.

SEC. 3. Associate members: Any person who has received an honorable discharge from any of the military forces of the United States, or is yet in such service, and is of good moral character and is not a veteran of any war, and any person who has served in the military forces of any nation which was associated or allied with the United States of America in any war, who possesses the qualifications provided in section 1, article 1 of this constitution, may become an associate member. Associate members pay dues and all assessments and shall receive all benefits as may be provided for sustaining members, but shall not be eligible to vote nor hold office in this organization.

SEC. 4. Honorary members: Persons who have rendered great and distinguished service, either to the United States of America, humanity at large, or this organization, whether they are veterans or not, shall, under rules and regulations as shall be provided hereafter in the by-laws, be eligible to become honorary members. Honorary members pay no dues of any nature, shall receive all the benefits that may be provided by this organization, but shall not be eligible to vote nor hold office.

SEC. 5. Oath: Every member of every nature, after duly elected, shall take the following oath: I hereby upon my honor solemnly promise to defend, protect, and to obey the Constitution of the United States and the laws made in pursuance thereof, the constitution and laws of my State and of the American Veterans of All Wars, and that I will not use, sell, give away, or ask any other member of the American Veterans of All Wars to use any intoxicating liquor of any nature while discharging any official function or while attending any official meeting or convention of the American Veterans of All Wars, so help me God.

SEC. 6. Forfeiture of membership: Any person who shall be convicted of any offense involving moral turpitude in any court of competent jurisdiction, or who shall offer any insult to the flag of the United States, or who shall bring, sell, use, or induce others to use any intoxicating liquor at any official meeting of any local or stated national meeting of this organization, and any officer and employee of this organization found intoxicated while attending any function of this organization, shall, upon conviction before a judiciary committee of this organization, forfeit membership and the office.

ARTICLE III

SECTION 1. Benefits in this organization: Members and needy veterans shall be entitled to all legal services before the Pension Office and Veterans' Bureau, and a legal-aid bureau is hereby created to be presided by a lawyer of not less than 10 years' experience in law, promoting by all lawful and honorable means beneficial legislation in the interest of veterans, obtaining hospitalization for the sick and food for the needy, loans without interest to needy members, death benefits for wives and minor children of deceased members of the sustaining, associate, and honor classes, and such other benefits as may be provided from time to time hereafter.

ARTICLE III. PLAN OF ORGANIZATION

Sec. 2. This organization shall when found desirable establish local and State subordinate posts; until this is done, the organization shall consist of one central headquarters post, with a general headquarters to be established by the by-laws of this organization, and the national executive committee hereafter in this constitution created shall when it shall be deemed desirable have authority to establish a ladies auxiliary to be a part of this organization.

ARTICLE IV. OFFICERS

SECTION 1. The officers of this organization shall consist of the governing body to be known as the national executive committee, the chairman of said committee, a national commander, two national vice commanders, national chaplain, board of trustees to consist of three members, general counsel, national adjutant, and national treasurer; a sergeant at arms and such additional officers and employees as the national executive committee may from time to time deem necessary to provide for.

Sec. 2. The national executive committee at the time of the adoption of this constitution shall consist of the board of trustees, the chairman of which board shall be chairman of the national executive committee, the national commander, national vice commanders, and five members to be elected at large, the first board to be elected at the time of the adoption of this constitution and thereafter every six years at national conventions of the membership; vacancies that may arise from time to time shall be filled by the national executive committee; the national executive committee shall be the governing body of this organization and shall have all the powers possessed by the national convention between conventions. Members of the national executive committee shall serve without salaries, but shall be paid their actual expenses when performing official duties by authority of the convention or the national executive committee.

SEC. 3. The chairman of the national executive committee shall, between the meetings of the committee, have all the powers of the committee, but all of his acts shall be subject to the approval of the national executive committee.

SEC. 4. The national commander shall preside at all conventions of this organization and shall be a member of the national executive committee.

SEC. 5. The national vice commanders shall in the absence of the national commander perform his duties in order of seniority and shall perform such additional duties as may be delegated to them by the convention or national executive committee.

SEC. 6. The national chaplain shall be elected by the national executive committee and shall perform the usual duties of his office.

SEC. 7. The national adjutant, treasurer, and sergeant at arms shall be appointed by the national commander during conventions; between conventions they shall be elected and perform such duties as shall be prescribed by the national executive committee.

SEC. 8. The board of trustees shall be elected by the national executive committee, shall consist of three members, who shall hold office during good behavior. The first board shall be named by the convention at the time of the adoption of this constitution, and thereafter upon the death, resignation, or removal from office by forfeiture of membership; such vacancies shall be filled by the national executive committee. The board of trustees shall elect one of its members to act as its chairman, who shall thereafter act as chairman of the board of trustees and the national executive committee. The board of trustees shall be the finance committee of this organization and all proposed appropriations for the expenditure of any funds shall first be submitted and acted upon by the board of trustees before any final action is taken by any other body of this organization. The board of trustees shall be the custodian of all property of this organization.

SEC. 9. The national executive committee shall, as soon as it deems desirable, create an advisory board to consist of prominent citizens, irrespective whether such are or are not eligible for membership, to advise with upon matters of policy whenever it is deemed desirable.

SEC. 10. The national executive committee may, when it deems it to be to the best interests of this organization, assign to one individual several offices, but the holding of one or more than one office shall entitle the holder to the salary whenever a salary may be paid for one office only.

SEC. 11. No salaries shall be paid to any officer or employee of this organization unless such salary shall first have been provided for either by the convention or national executive committee.

SEC. 12. The national general counsel shall be elected by the national executive committee and be a regularly qualified and licensed attorney at law with the right to practice law in the highest court of the land; he shall serve at the pleasure of the national executive committee, shall give either all of his time or as much as may be needed to the business of this organization, shall receive such salary and perform such duties as may be assigned to him by the national executive committee; but nothing

in this section shall be deemed as prohibiting or preventing the general counsel from continuing to practice law for private clients: *Provided*, That under no circumstances shall any suit ever be brought against the United States of America in the name of this organization.

ARTICLE V. CONVENTIONS

SECTION 1. Every six years this organization shall hold a national convention. This convention shall consist of delegates, to be elected, when subordinate posts shall have been established, by such posts, and in the manner and proportion as shall be determined for the second convention by the national executive committee, and thereafter by a vote of the convention itself. The convention shall have all the legislative, executive, and judicial powers of this organization. All acts of the national executive committee and every other body shall be reported to the convention which may approve or disapprove such acts: *Provided*, That all acts done and performed before such convention meets shall be in full force and remain in effect until the adjournment of such convention.

SEC. 2. The national executive committee shall select the meeting place of the second convention, and thereafter the convention shall determine the place of its future meetings. Extra meetings of the convention may be called by the national executive committee when deemed for the best interest of the organization, at an extra meeting of the organization, the convention shall act only upon such matter or subjects as shall be submitted by the national executive committee.

SEC. 3. Before any convention shall be held in any city, the authorities of said city shall satisfy the national executive committee, that all necessary precaution shall be taken to prevent the introduction, sale, or giving away of any intoxicating liquor in and around the proximity of the official meeting place and headquarters of this organization, any city violating such guarantees, shall forever remain disqualified from being host to any national convention, and no authority shall be possessed by any committee or any future convention to modify this provision.

SEC. 4. Publicity: The files and records of this organization shall at all times be open to the inspection of the pension commissioner, director of the United States Veterans' Bureau, any proper public authority acting in an official capacity, and all persons of good moral character not officers of any other veteran organization, who shall satisfy the proper officer of this organization that such inspection and information thereby obtained will not be used against any member of this organization.

SEC. 5. Any officer or employee of this organization who either directly or indirectly demands or obtains any pay from any member or any veteran for any service rendered to such member or veteran unless such pay is authorized by the laws of the United States, the constitution and by-laws of this organization, shall forfeit the office and never be eligible to hold office in this organization: *Provided*, That such act shall be proven after a full hearing before the national executive committee or any committee it may designate for such purpose.

ARTICLE VI, SECTION 1

Amendments: This constitution can be amended at any regular meeting of a regularly assembled convention by filing the proposed amendment three months before the date of the next convention with the national adjutant, who shall submit the same to the national executive committee not later than 60 days before the convention. The national executive committee shall submit the proposed amendment with its recommendation to the national convention, and it shall require three-fourths of the total vote of the convention to adopt any amendment, which shall take effect 30 days after adjournment of the convention.

Unanimously adopted this the 3d day of June, 1927, at Kansas City, in the State of Missouri.

J. H. STOLPER,
Chairman of the Convention.

Attest:

THURSTON BRAYTON,
Secretary of the Convention.

STATE OF OKLAHOMA,
County of Muskogee.

We, the undersigned officers of the American Veterans of All Wars, do hereby certify that the above and foregoing is a true and correct copy of the constitution of the American Veterans of All Wars as duly adopted at the convention in Kansas City, Mo., on June 3, 1930, and is in force and full effect at present, this 20th day of June, 1930.

J. H. STOLPER,
Chairman National Executive Committee,
American Veterans of All Wars.

Attest:

JOHN L. DEGROOT,
National Adjutant.

47810—7332

BY-LAWS

ARTICLE I

Office

SECTION 1. A general office is hereby established at 316 North N Street, Muskogee, Okla.

Seal

SEC. 2. An official seal is hereby adopted, to be circular in form, have around its circumference the words "American Veterans of All Wars" and the word "seal" in the middle, with such engravings as the committee appointed to procure a seal shall prescribe.

Dues

SEC. 3. The dues for sustaining members and associate members shall be equal to one day's income or earning of a member, the member to be the judge of said amount, but not less than $2.50 per annum payable on the 1st day of July annually.

SEC. 4. Upon the death of any sustaining, associate, or honorary member the national committee shall assess each sustaining and associate member the sum of 30 cents, 25 cents of which shall be paid to the widow and minor children of the deceased member, and 5 cents to defray the cost of the assessment; no assessment shall be made if the deceased leaves no widow and minor children or either.

SEC. 5. Honorary members, how elected: No name shall be considered for honorary membership unless such name is proposed by the chairman of the national executive committee, concured in by the national commander, and voted upon three times with an interval of six months each by the national committee. One adverse vote shall defeat the proposition; a person elected six consecutive years shall be a life honorary member.

ARTICLE II

SECTION 1. Amendments: These by-laws may be amended by three-fourths of the elected national executive committee voting affirmatively; amendments may be submitted by mail; all business of this organization which can be conducted by mail shall be so conducted.

Procedure

SEC. 2. Until otherwise provided, Roberts rules of order shall govern the order of business of this organization; where such rules are silent, the rules of the House of Representatives of the United States shall govern; where both such are silent, the ruling of the chairman of the national executive committee shall govern.

SEC. 3. The committee on the seal shall adopt an emblem, properly inscribed, to be worn on the lapel of the coat of members.

SEC. 4. The chairman of the National executive committee may for cause, to him to appear sufficient, issue for the fraction of a year complimentary memberships, such membership to have the same status as honorary membership but shall receive no death benefits.

Unanimously adopted this the 3d day of June, 1927.

J. H. STOLPER,
Chairman National Executive Committee,
American Veterans of All Wars.

Attest:

THURSTON BRAYTON,
National Adjutant.

STATE OF OKLAHOMA,
County of Muskogee, ss:

We, the undersigned officers of the American Veterans of All Wars, do hereby certify that the above and foregoing are a true and correct copy of the constitution and by-laws as duly adopted and in full force and effect on this the 20th day of June, 1930.

J. H. STOLPER,
Chairman National Executive Committee,
American Veterans of All Wars.

Attest:

JOHN L. DE GROOT,
National Adjutant.

TWENTY-FOUR-HOUR QUARANTINE INSPECTION SERVICE

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 5743) to authorize 24-hour quarantine inspection service in certain ports of the United States, and for other purposes, which were, on page 3, line 20, to strike out "876" and insert "875"; on the same page, line 22, to strike out "is" and insert "are."

Mr. COPELAND. Mr. President, the amendments simply correct a typographical error in one instance and a grammatical error in the other. I move that the Senate concur in the House amendments.

The motion was agreed to.

AMELIA ISLAND LIGHTHOUSE RESERVATION

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 3404) authorizing the Secretary of Commerce to dispose of a portion of the Amelia Island Lighthouse Reservation, Fla.

The first amendment was to strike out all after the enacting clause and insert:

That upon the payment of $4,762.50 by the city of Fernandina, Fla., to the Secretary of Commerce such city is authorized to convey, without regard to the conditions and limitations of paragraph (6) of section 1 and of section 2 of the act entitled "An act to authorize the Secretary of Commerce to dispose of certain lighthouse reservations, and to increase the efficiency of the Lighthouse Service, and for other purposes" approved May 22, 1926, the lands conveyed to such city pursuant to paragraph (6) of section 1 of such act, except a tract bounded on the south by so much of the shell road as crosses section 12, on the east by the eastern boundary of section 12 with a water front of not less than 960 feet, on the north by a straight line extending from such eastern

boundary for 1,000 feet, more or less, to the western boundary of section 12, and on the west by the western boundary of section 12 extending 1,000 feet, more or less, to the shell road. Such tract shall contain not less than 20 acres and shall, together with the ocean beach and water front abutting on the eastern boundary thereof (including all easements and rights of ingress and egress), be devoted exclusively to public-park purposes. Any conveyance made by such city shall contain express conditions reserving to the United States (1) a perpetual easement for beams of light from the Amelia Island Lighthouse, and (2) the right to trim any trees and to limit the height of any structures erected on such property that may obstruct the beams of such light.

The next amendment was to amend the title so as to read: "An act to authorize the city of Fernandina, Fla., under certain conditions, to dispose of a portion of the Amelia Island Lighthouse Reservation."

Mr. FLETCHER. I move that the Senate concur in the House amendments.

The motion was agreed to.

ADDRESS OF HON. HUGH GUTHRIE

Mr. SHORTRIDGE. Mr. President, William R. Vallance, president of the Federal Bar Association, has furnished me with a corrected copy of the address delivered by the Hon. Hugh Guthrie, Minister of Justice and Attorney General of Canada, at the Eleventh Annual Dinner of the Federal Bar Association, held on Thursday evening, February 12, 1931, at the Mayflower Hotel in this city. Mr. Vallance suggests that this address is of international significance and worthy of publication in our CONGRESSIONAL RECORD. I ask that it may be printed in the RECORD.

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

I felt greatly honored by your kind invitation to be a guest at your banquet this evening, and while I realize full well that my invitation was due not to any merit of my own but rather to the fact that, for the time being, I happen to be the titular head of the bar of Canada, nevertheless I embrace the occasion to tender to the Federal Bar Association the friendliest greetings and heartiest good wishes of your brethren of the bar who practice upon the northern side of the forty-ninth parallel of latitude upon this good Continent of North America.

I assure you that the occasions are not frequent when one of my humble position and humbler attainments is privileged to address for a short time so distinguished an assemblage of eminent jurists as I find gathered around your board to-night; and while it is a very great privilege and a very great honor to be with you to-night, I confess that I find myself appearing for the first time before one of the foremost jurists of the world in the person of the Chief Justice of the United States of America.

The Bar of Canada delight in according full honor and respect to the learned Chief Justice and to the exalted office which he occupies with so much dignity and ability, but we also desire to accord to the man, apart altogether from his high office, our unqualified admiration of his marvelous legal attainments, of his wonderful grasp of legal principles, of his marked ability in elucidating and applying those great principles in the adjustment of the many controversies of mankind, whether local, national, or international in their character and application. This country has been singularly fortunate in the men who have been selected under your Constitution to fill the highest judicial positions in the land. A glance at the past will recall many great names as occupants from time to time of your Supreme Court Bench. The names of Marshall, Story, Taft, and many others will not soon be forgotten by students and exponents of the common law in this and in other countries. Perhaps as one reflects upon the past one is inclined to magnify the reputations and achievements of the great lawyers of former times, for as one glances over the long list of great judges and lawyers in this country who have long since gone to their reward, one is tempted to believe that, in legal and intellectual stature at least, "there were giants in the world in those days."

And now, Mr. Chairman, before I proceed, may I be permitted to pay my modest tribute to the memory of that great man, in many respects "the noblest Roman of them all," the anniversary of whose birth into this world you so fittingly celebrate to-day. Time was, I admit, when Abraham Lincoln belonged to the United States. To-day he belongs to the world—one of the greatest of the world's great men whose life, whose work, and whose name will survive in world history until time shall cease to flow.

The sympathetic bond which has long existed between the bar of this country and of Canada springs, no doubt, from many roots. Proximity, environment, common habits, and a common language have all favorably influenced our professional and international relations; yet I am persuaded that the most potent influence in this respect arises from the fact that we are both disciples and teachers of the same great system of jurisprudence founded upon the ancient principles of the common law. From the cradle to the grave we both exist in what one might describe as a common-law atmosphere; and it is satisfactory to realize that almost the whole Anglo-Saxon world lives in the same common-law atmosphere as do ourselves. This, I believe, is the case, save only in Scotland, Quebec, and Louisiana, in which domains the legal principles expounded in Justinian's Corpus Juris still prevail. Both systems are very ancient—very wise and very serviceable to the complex problems of mankind. Each system has always had its champion, many champions, indeed, throughout all centuries; however, this is neither the time nor the place to discuss the merits or defects of either system, even were I competent to do so; but suffice it to say that, so early as the year 1607, upon the first settlement of Virginia, and in 1620 in Massachusetts, upon the landing of the Pilgrim Fathers, the principles of the common law were introduced into this continent to survive, I venture to say, for all time to come. In the introduction of the English common law into this country you were many years in advance of your northern neighbors. From the year 1535 until 1759, Canada continued to be a French possession, and the law of the land was civil law as administered in the France of those days. However, Nova Scotia, then called Acadia, early became a British possession and it is interesting to note as an historical incident that at Annapolis Royal in Nova Scotia in the year 1749, the people in lawful assembly solemnly adopted not the common law of England, as might be expected, but the common law of the Colony of Virginia—"the Old Dominion"—and this law continued in Nova Scotia for the next 40 years. Otherwise Canada remained a French possession and the civil law as administered in old France continued to be the law of the land until the great year 1759.

At this point, will you pardon a brief historical digression? I said the "great year 1759." Macaulay has termed it the greatest year in British history. The American Colonies were then still intact. George Washington was then a lieutenant colonel in a British regiment operating against Fort Duquesne in the fight with France for North America.

The year 1759 forms an important historical landmark in Canada. The great and decisive battle which took place upon the Plains of Abraham at Quebec has now become to us all a glorious and gallant incident in history. The names of Wolfe and Montcalm, who both fell in that great fight, are beloved and respected alike throughout Canada. To-day we look back upon that great victory without exultation on the one hand, and without bitterness on the other. That victory and the treaty of peace which followed proved the inception of a dual system of jurisprudence in Canada, and also of a bilingual system in our Federal courts and in our Federal parliament. So it is that in the great Province of Quebec to-day in civil matters, the civil law—the Code Napoleon—prevails, while throughout the rest of Canada, we live under the common law of England. And let me say that this dual system of jurisprudence has worked well in Canada. Complaints are rarely if ever heard in regard to it. And both in Quebec and in the other provinces it has given us many able lawyers and judges highly trained in the principles of both systems.

You will agree, Mr. Chairman, that I am wandering far from the subject which I was supposed to discuss very briefly this evening. The subject as announced on the program is "Law and Peace" and the central idea conveyed to my mind by these plain and simple words is that the supremacy of law is the surest guaranty of peace.

In his first letter to Timothy the Apostle Paul wrote, "For we know that the law is good if a man use it lawfully"—a trite saying which has as much application in the world to-day as it had 19 centuries ago and applies with equal force to our relationships, whether domestic, civic, national or international. Universal respect of law would produce a new world condition—not likely to be achieved in our time, perhaps not at any time. The best and the most that we can hope for is that substantial progress toward an ideal condition may be made in our day and generation in which progress the great jurists of the world must play a most important part.

You will find in this country, as in other countries, that lawyers generally become leaders in their local communities. They exert a marked influence in molding public opinion upon all important questions. The vast majority of lawyers are not only loyal to their profession but loyal also to those legal principles which have been their life study. All great lawyers respect and reverence the law—and if a portion of that respect and reverence of law could be infused into the masses in the various countries of the world improvement in world conditions would surely follow. And if one may be permitted to emphasize a platitude, let me repeat, Mr. Chairman, that a general recognition throughout the world of the supremacy of the law could prove the strongest guaranty of world peace.

But some one will say, "Oh, that is all very well—but whose law, what law, do you suggest?" My answer is in these United States, your own law; in Canada, our own law; and in every civilized country, its own law, so far as domestic matters are concerned; and in international affairs that system of rules and precedents and principles which are embraced under the general title of international law—which has been an established and recognized system of jurisprudence—at least since the days of Grotius, that great sixteenth century lawyer, scholar, and statesman who succeeded in placing a polish upon the rugged science of law, and who, in his great work, "De jure in belli et pacis," laid the foundation of what is sometimes called the science of international law, in spite of that line from the poet Tennyson, where he speaks of "The lawless science of our law."

I grant, Mr. Chairman, that the mere existence of an international code of law will not itself suffice. Great jurists throughout the world will differ as to the meaning and application of almost every subject mentioned in the code. Honest differences of opin-

ion are bound to arise from time to time. These differences must be adjusted and resolved by some tribunal which the nations of the world must approve. At this juncture, the lawyers of the world—those men who have all their lives proclaimed to the world "Fiat justicia ruat coelum" must lend their powerful support to the only fair, reasonable, concrete proposition which has so far been evolved from the mind of man for the peaceful and final settlement of international disputes. I refer, of course, to the Permanent Court of International Justice, commonly called the World Court at The Hague. Notwithstanding many early misgivings and forebodings, lawyers and statesmen throughout the world will to-day agree that the World Court has long since passed the experimental stage and has amply justified both the efforts and the hopes of its founders. It has now become a valuable bulwark for the peace of the world. While it is true that the World Court is a human structure, and, as such, is not in all respects a perfect model, yet it has already performed much valuable world service for which humanity may justly feel thankful. We must all strive to uphold the prestige and authority of that great tribunal in every possible way. I hope to live to see its functions enlarged and its jurisdiction extended to every quarter of the globe; and to this end we must enlist the very best brains and the very best efforts of the very best lawyers in the world.

No one realizes more fully than I, no one appreciates more highly than I the valuable cooperation, the wonderful practical assistance rendered by some of the great lawyers of the United States to the institution, the constitution, and the actual working of the World Court as it exists to-day. The great names of Root, Moore, Hughes, and Kellogg will always stand out preeminently in regard to the World Court, notwithstanding that this great and powerful Nation has not as yet given complete adherence to that tribunal. However, as to the attitude of the United States to the World Court, I offer no opinion, I make no suggestion, certainly no criticism. I merely express profound, and I think also, universal regret.

The chief object to be attained by a universal world court is the highest which the human mind can contemplate. It is peace—international peace, world peace, the avoidance of war, the negation of war, the abolition of war, with all its direful consequences. Do not think me presumptuous if I say that the most important policy, whether domestic or foreign of this and of every country in the world to-day, is the maintenance of peace—other policies and other problems fade into insignificance at even the remote possibility of another world conflict.

I grant that it is somewhat discouraging to reflect that during the past year of grace, military and naval armaments throughout the world were greater than they were prior to the outbreak of the Great War in 1914. Evidently the day has not yet arrived when men are found willing "to beat their swords into ploughshares, and their spears into pruning hooks." The world's military and naval expenditure has been increased, not lessened, and this in spite of world courts, leagues, covenants and treaties of limitation, of arbitration, and of renunciation. Perhaps it is too much to expect that the golden rule as laid down in Holy Writ can ever be applied internationally; but surely civilized nations may be induced to abide by some common and accepted code for the settlement of their differences. There must be common ground somewhere upon which all civilized nations can meet and agree. Has that common ground been found at The Hague? Many very eminent lawyers believe that it has. Once again let me quote, "For we know that the law is good if a man use it lawfully." Let us, therefore, resolve lawfully to use the law to hasten the achievement of the great end which all right-minded people so earnestly desire, namely, the settled peace of the world.

And now one brief reference to the League of Nations and I have finished. As you are aware, Great Britain and all her Dominions have given unqualified support to the League of Nations. I am well aware that throughout the world the league has many critics—and many detractors. While the original conception of a League of Nations certainly emanated from the mind of one of the great presidents of this country—the United States has not yet become a party to the league, and some other nations which were originally members have since withdrawn. Yet the work of the league has gone on for 10 years and more—much excellent work has been done—many excellent results have been achieved—but much still remains to be done because the peace of the world is not altogether free from menace to-day. Personally, I am a firm believer in the League of Nations as a most potent influence for good in the world. I hope and pray for its continued success. All I can say is that if the League of Nations shall succeed in removing from the minds of men the fear of war and the burdens of war from the backs of the weary multitudes, it will have done the greatest thing for mankind which has been done in this world since Christ was born in Bethlehem.

ECONOMIC CONDITIONS

Mr. BLEASE. Mr. President, the following editorial appeared in this morning's Washington Herald:

TIME TO THINK—AND TO ACT

The Washington Herald's call yesterday for a nonpartisan conference on means of preventing further economic upsets has stirred into being a widespread feeling that careful thought and suitable action can solve the present problem and do much to avoid the possibility of recurrent crises in trade.

A great many people obviously, from the reaction the Herald has received, are thinking purposefully along these lines, and to many of them also the idea of a national conference has occurred. The mechanism of such a conference is of minor importance; effectiveness alone is important. The intelligence of America brought to bear on any problem will solve it.

The present economic system is challenged in Italy and in Russia. Democratic institutions are challenged in those countries and in many other states. The Herald believes firmly in democracy, and has no fears for its survival. Neither does the Herald fear any overturn of the present economic system in America.

But the survival of democratic institutions depends upon keeping them democratic, and the survival of any economic system depends upon its practicability. It has been shown now over a period of a year that our economic order is functioning badly. And a remedy must be found.

The Herald has taken the initiative in seeking a solution because it believes that the time is ripe for action, and that some person or organization must set matters in motion. Now the start has been made, and the Herald is confident that the movement will soon have attained tremendous momentum.

All that was necessary was to broach the idea. Its intrinsic soundness will do the rest.

Business is seeking a remedy for its ills. Workingmen everywhere are thinking more deeply, perhaps, than ever before of the problem of stabilizing unemployment. Public-spirited citizens everywhere are deeply concerned with the matter of economic security for all groups in the population. This Nation, or any nation, for that matter, is healthiest and happiest when all its people are steadily employed and earning wages that make possible a comfortable standard of living and savings to provide for old age. Our resources are enormous; our productive mechanism can supply, bountifully, all the wants of our people.

Given constructive thought, the problem should not be difficult of solution.

And in reference thereto I ask unanimous consent to have inserted in the RECORD an extract from a letter bearing on present economic conditions, received by me from an ex-Member of this body, who lives in South Carolina.

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

I look for boom prices as soon as the vast sums appropriated by Federal and State Governments get into circulation, backed by expenditures of corporations, but it will last only as long as the cash is poured out, then like a drink of whisky leave us flatter than ever. It is our present financial system that needs overhauling, and when we face the relentless fact that money, tariff walls, and labor unions alone can not repair our broken domestic structure, then is when we will really begin permanent improvement.

Mr. BLEASE. Mr. President, personally I repeat what I have heretofore said here and elsewhere that I favor a rich government and a rich people, but I prefer a poor government and a rich people to a rich government and a poor people.

VOCATIONAL EDUCATION AND CIVILIAN REHABILITATION IN PORTO RICO

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 5139) to extend the provisions of certain laws relating to vocational education and civilian rehabilitation to Porto Rico, which was, on page 2, line 24, to strike out all after the word "appropriated," down to and including "$15,000," in line 1, page 3, and insert "the sum of $15,000 annually for a period of two years, commencing July 1, 1931."

Mr. BINGHAM. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

UNEMPLOYMENT IN THE EAST

Mr. COPELAND. Mr. President, may I have the attention of the Senator from Massachusetts [Mr. WALSH]? Did the Senator observe this morning the disquieting reports about unemployment in the East? The Potter committee in New York yesterday renewed its appeal for $10,000,000 to relieve unemployment distress in the city of New York. I am speaking of this because I know the Senator from Massachusetts has been interested and has been trying from the beginning to get action upon his bill relating to the subject of unemployment. May I ask the Senator what prospect there is for the consideration and passage of his relief bill, and what is delaying its passage?

Mr. WALSH of Massachusetts. I will say to the Senator from New York that the reason why we have not been able to secure action is because we have not been able to make my bill the unfinished business. It is a relief measure that would provoke a good deal of debate, is opposed by the

administration, and there has not been any opportunity to make it the unfinished business of the Senate. If the Senator has any influence with the steering committee of the majority party, he might be able to persuade them to give us an opportunity to make it the unfinished business, but I fear the opposition is too powerful. The legislative program of the majority prevents action.

Mr. COPELAND. Does not the Senator feel that the need for the measure is just as urgent now as it was at the time he presented it?

Mr. WALSH of Massachusetts. I certainly do feel so.

Mr. COPELAND. Would it not be a great mistake if the Congress should adjourn without having made some provision so that in the recess there may be a way of dealing with the problem as necessity may demand?

Mr. WALSH of Massachusetts. I agree with the Senator. Of course, the Senator knows, in view of the administration's opposition, that at this stage of the proceedings it would be impossible to get action by the House and the Senate on a matter of this importance. I doubt even if we could get action in the Senate. I will say to the Senator that one of the reasons for delaying action was that I felt that the petition of those from the drought area was more appealing, if that were possible, than the petition from the areas where unemployment is extensive, and I felt that no move ought to be made until the legislation asked for by the Senators from Arkansas for the drought victims had been disposed of. As the Senator knows, that relief measure took a very long period of time; for weeks we were discussing it; and I did not want to inject a new subject until that was disposed of. Since that time we have been unable to make my proposal the unfinished business.

Mr. COPELAND. I know the Senator, as I myself did, gladly aided the Senators from Arkansas in their noble and successful effort to secure relief, but I do feel, Mr. President, that we are so sheltered and protected here, and so remote from the evidences of unemployment and distress, that perhaps we are overlooking the fact that there is a serious situation in the country. While Mr. Green, the president of the Federation of Labor, this morning says he feels there is an upturn in general, there can be no doubt that the economic depression in certain sections is as great now as it was or greater than it was at Christmas time.

I feel that unemployment in my section of the country is increasing. We have 79 bread lines, where thousands of persons are being fed every day. I do not know that there is anything in the world that can be done by Congress to give greater relief than has been given. We have provided a building-construction program and perhaps that will help, but at the same time I do feel that there should be a reserve at the disposal of the President or some other person or somebody that might take care of the unemployment problem should it become more pressing.

Mr. WALSH of Massachusetts. Of course the Senator is not unmindful of the attitude of the administration toward relief measures of that kind. The Senator is aware of the fact that even in the case of supplying food to the drought areas in Arkansas there was insistence that relief should be in the nature of loans. In view of the attitude of the administration—and their leaders must accept the responsibility—it is inconceivable that we should get through here any measure extending aid to those municipalities and subdivisions and States which have been obliged to bear through taxation an extra heavy burden on property owners to extend relief by reason of unemployment.

Mr. COPELAND. I agree fully with the Senator that the responsibility is on the administration. No doubt, if the administration had been active from the beginning there would not be the same necessity for relief as there now is.

(At this point a message was received from the House of Representatives by Mr. Chaffee, one of its clerks, announcing, among other things, that the House had concurred in the Senate amendment to House bill 9599, to authorize the Secretary of Agriculture to carry out his 10-year program, etc. The message appears under its proper heading.)

Mr. CARAWAY. Mr. President, will the Senator from New York yield to me for just a moment?

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

Mr. COPELAND. I yield.

Mr. CARAWAY. Mr. President, I notice that in the message just received from the House there was mention made of a bill to enable the Secretary of Agriculture to carry out his 10-year program. I am curious to know if the reference is to a measure to enable him to prepare blanks for the loaning of money under the $20,000,000 appropriation, because, at the rate he is traveling, he will need 10 years to put that bill into operation.

Seriously speaking, Mr. President, if the Senator from New York will yield to me a moment further——

Mr. COPELAND. I yield.

Mr. CARAWAY. The Secretary of Agriculture is deliberately—I say "deliberately" because I have been trying to ascertain every day what the plans are—holding up money that Congress authorized to be loaned to people in destitute circumstances, and is making it difficult, if not impossible, for the farmers in my State and other States to avail themselves of it and make a crop in 1931.

The Senate asked, through a resolution which I submitted yesterday, the Secretary to advise us when he expects to put this program into effect. My information is that he is off making a speech somewhere. Every time we ask for him he has gone to Cincinnati. I do not know whether a branch office has been opened in that city or not, but if so, if he is to spend his time there, I trust he will leave somebody in authority here to speak for him.

Mr. COPELAND. Mr. President, I agree fully with the Senator from Massachusetts that the responsibility rests on the administration, and it is a very solemn responsibility and it should rest heavily because certainly the burden is great.

I observe in the New York Times of to-day that Mr. Green says that there is some check to unemployment, but he assails cuts in wages. He urges more relief funds and says the jobless will suffer in March unless aided by agencies in the cities. That statement is confirmed by the report of the Prosser committee, submitted at Town Hall yesterday in New York, which asks $10,000,000 from the city for the jobless.

Mr. President, I have no wish at all to make an appeal for my State or my city. We can get on and will go forward, but if the conditions are universal, as indicated by the conditions in New York City and as indicated by Mr. Green, we have a problem that must be dealt with by somebody.

I do not know whether the plan proposed by the Senator from Massachusetts is the wisest plan in the world, but it is the only plan proposed; there is nothing else pending here, and it is my judgment that some action should be taken which will show the country that we are alert to the necessities of our citizens.

That is all I have to say, Mr. President; I had not thought to say as much; but I want to say to my friend from Massachusetts that he has stood almost alone here in his efforts to help the unemployed of the country. Other Senators who have fought for those in the drought area have stood, of course, for suffering humanity and have been successful in their fight, provided their efforts are not thwarted by the policy of the administration in putting legislation into effect; but there is a problem here which must be dealt with effectively by somebody.

Mr. WALSH of Massachusetts. Mr. President, does the Senator think the Senators from Arkansas have been entirely successful in their fight?

Mr. COPELAND. No; the junior Senator from Arkansas [Mr. CARAWAY] stated a few moments ago that it looks as if it might take 10 years to put the program into effect.

Mr. WALSH of Massachusetts. And they had to compromise their original proposition for a cash payment from the Treasury and accept a form of relief in the nature of an interest-bearing loan.

Mr. COPELAND. Does not the Senator agree with me that there has been an utter failure on the part of the administration and those in control to visualize the situation and to deal with it in any effective manner?

Mr. WALSH of Massachusetts. From the very outset of this session the administration made it clear that the relief problem was no financial concern of the Federal Government; that it was the concern of local charities, of municipalities, and of States; and in the first and most important measure that was urged and pushed here with vigor the compromise which was enacted provided, as the Senator knows, for an interest-bearing loan in the nature of relief to those in distress; and there is some serious question whether even that loan could be used for supplying food even if security was available to the homeless people in the drought area of this country.

Mr. BORAH. Mr. President——

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

Mr. COPELAND. I yield to the Senator.

Mr. BORAH. When the Senator from New York speaks of the lack of vision of the administration in dealing with the unemployment and drought situation, does he not think that he ought to add also lack of courage in the Congress to carry out its program?

Mr. COPELAND. Yes; I agree with the Senator. I said the other day, in language that I feared might be unparliamentary, that there has been a lack of courage. This picture has been painted; but who looks upon it with charity in his heart, or who is stimulated to some courageous act to give relief?

Mr. THOMAS of Oklahoma. Mr. President, will the Senator yield?

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

Mr. COPELAND. I do.

Mr. THOMAS of Oklahoma. I wish to call to the attention of the Senator from New York the fact that on the second day of this session I proposed a resolution providing for the creation of a select committee, composed in the main of the chairmen of the great standing committees of the Senate, having for its purpose the making of a survey of the entire problem, to the end that every section of our people should be considered—those in the drought area, the unemployed, and other classes who might be in need of relief. I remember well, when that discussion was up, that the Senator from Idaho made the statement that if we expected to get relief we could not get it under my resolution.

We are now in the closing days of this session. The class that I had in mind have not had relief.

Mr. BORAH. Mr. President, if we had disclosed the same lack of purpose and courage in carrying it out that we did in the other case, we would not have had it under the Senator's resolution. The Senator's resolution, in my opinion, as stated at the time, would have retarded action.

Mr. COPELAND. Mr. President, I know the Senator from Oklahoma will recall that I seconded his movement at the time, saying that "what is everybody's business is nobody's business." If we had had a special standing committee for the session, some plan might have been formulated; but we have not had any plan, and, apparently, there has not been enough courage on the part of those who have control of the Congress to offer us something that we could enact into law and make effective.

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

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

Mr. COPELAND. I yield to the Senator.

Mr. BARKLEY. All that the Senator from New York says about the lack of courage is true; but what good does it do to talk about that now when we are about to adjourn? How can we inject any more courage into Congress than we have displayed all during this short session? Has the Senator any medical remedy or any other remedy that might inject some courage into Congress, so that even if it should formulate a program it would stand by it long enough to get at least one House to agree to it?

Mr. COPELAND. No, Mr. President. My professional experience teaches me that the time to do something effective in the way of saving a man's life is in the beginning of the ailment and not when he is on his death bed.

Mr. BARKLEY. I agree with the Senator about that; but now that this Congress is on its death bed is there anything that can be done that would not only revive it but revive its courage?

Mr. COPELAND. I think that if the Senator from Massachusetts could find a way, or lead the way, or encourage us we might be helped somewhat; but he can not do it alone. He has not had any support, except such as he has had from his own side of the Chamber.

Mr. WALSH of Massachusetts. Mr. President——

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

Mr. COPELAND. I do.

Mr. WALSH of Massachusetts. Does the Senator recall my asking that a program be outlined by the minority to deal with this subject early in the session?

Mr. COPELAND. Indeed, we must accept responsibility everywhere. That is the fact. Nevertheless, no matter whose fault it is, we have a situation; and, even though this session of Congress is on its deathbed, there ought now, if possible, to be found some means of oxygen administration which would stimulate the Senate to some action, and perhaps by that sort of recuperation and stimulation we might preserve our self-respect, and out of it do some good to the country.

As it is, however, I agree with the Senator from Massachusetts. I feel that he is depressed and discouraged, and he has a right to be. Nevertheless, a few of us have tried, have we not, to do this thing? There has not been any response, however, largely because the administration has not had the vision or the courage to go forward.

Mr. BARKLEY and Mr. WALSH of Massachusetts addressed the Chair.

The VICE PRESIDENT. Does the Senator from New York yield; and to whom?

Mr. COPELAND. I yield to the Senator from Kentucky.

Mr. BARKLEY. Mr. President, I wish to emphasize just the thought which the Senator has conveyed. Congress is about to adjourn for nine months. It has made no provision whatever to deal with the economic problem, except such provision as has been made in these loan bills, which in most cases will not reach the people who really are in need, either in the country or in the cities. It is about to adjourn without any general program that would, in any sort of emergency, enable the United States Government to deal with conditions as they may develop during the next year.

We might say that for all practical purposes Congress will be in recess until next January, because, although we shall be back in December, nothing is ever done prior to the Christmas holidays. All during this whole fight the administration has occupied the familiar posture of the ostrich with its head in the sand, unwilling to acknowledge, or at least to acknowledge publicly, the conditions which have existed, unwilling to offer any real remedy for the situation.

Now Congress is about to adjourn and go home and leave the United States Government helpless in the midst of this great tragedy, and powerless to render any real relief, except such sugar-coated relief as may come by reason of the long-delayed beginning of some blue print that may, at some distant day in the future, result in the erection of a public building somewhere.

Mr. SHORTRIDGE. Mr. President, I should like to ask the Senator a question.

Mr. COPELAND. I agree with the Senator from Kentucky; and I want to say for him and some of us here that what we are saying to-day is not any deathbed repentance.

Mr. BARKLEY. Oh, no.

Mr. COPELAND. We have been striving from the beginning to do this, and we are simply continuing to the very end our efforts to have something done by Congress.

Mr. BARKLEY. I make the prediction that when Congress has adjourned and there is no forum in which the conditions in our country can be publicly discussed, not only will a large measure of the relief now being accorded be withdrawn but there will be, I fear, very great reductions in wages by employers of labor throughout the United States. When we come back here next January we shall find that these conditions have been made worse, instead of better, by anything that will be done by those left in authority while Congress is in adjournment.

Mr. COPELAND. I hope the Senator is mistaken.

Mr. BARKLEY. I wish I might feel that I am mistaken.

Mr. COPELAND. I fear he is not, but I hope he is mistaken. This is no time for employers of labor to lower wages.

Mr. BARKLEY. Of course, the Senator is familiar with the fact that they have done it already. They lowered wages in January, according to the statement of the American Federation of Labor, and they are doing it in February; and I have no doubt, or at least I entertain the fear, that they may do it much more intensively and more universally throughout the country after the adjournment of Congress.

Mr. COPELAND. In reply to what the Senator has said, let me say that Mr. Green, in his address yesterday, said:

> This movement to reduce wages at the very moment when the business depression appears to be reaching bottom is most untimely. Wage reductions did not cure the business depression in 1921. The depression lasted 12 months after the liquidation of labor. A prominent industrial executive says that general reduction of wages would set back the impending recovery by at least two years.

Who can question that? Who are the people who buy the goods that are made? They are the workingmen and the farmers. If labor is not only largely unemployed but the earning power of those men who have employment is reduced, how can we hope to have an industrial recovery? Then, added to that, is the dreadful predicament of the farmers of this country; the wheat situation; the cotton situation.

I can not see how any man who has made the slightest study of the present situation can be anything else than distressed, and disturbed in mind, and fearful of the outcome. We sit here as if we felt that our social structure is as secure as the seven hills of Rome. How do we know it is secure? What is the thing that undermines the life of a nation more, what can be worse for a nation, than widespread economic distress?

Mr. BARKLEY. If the Senator will yield further, one of the things that can undermine the strength of a nation is a feeling on the part of great masses of the people that the Government cares only for those who are members of a special class. I think it is a tribute to the conservative, dependable spirit of the American people up to this time that we have proceeded so far within this tragic depression and economic distress without greater disturbance than we have witnessed among the people of our country.

Mr. COPELAND. I agree with the Senator; and when I see how deaf our people are to the economic depression, not only in America but in Europe—five or six or seven millions in Germany unemployed, increasing unemployment in France, unemployment in England, unemployment here as never before—I wonder where this will end. We sit here and give our attention to local bills and private bills and money bills, failing to catch the vision of what is going on in the wide world.

I know a place up in the mountains back of my home in the country where I can retire and build a log cabin and perhaps live on the game of the forest; but there are millions of people in this country and in the world who have no place to get any food; no place to get fuel. Where will it end? What will be the end of it?

Mr. THOMAS of Oklahoma. Mr. President——

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

Mr. COPELAND. I yield.

Mr. THOMAS of Oklahoma. If I may make a suggestion to the Senator from New York, my information is that already the game has been destroyed and depleted throughout the country. Even the rabbits and the jackrabbits are gone.

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

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

Mr. COPELAND. I yield.

Mr. THOMAS of Oklahoma. What effort has been made at the hands of Congress to discover the cause of all this trouble? What effort has been made to provide some remedy for the existing conditions as we find them throughout the country?

Mr. COPELAND. Do not ask me. I do not know of any effort that has been made. If the Senator's select committee could have been established there would have been at least one group of men in the Senate who would have been studying all the problems to which he refers.

Mr. SMITH. Mr. President——

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

Mr. COPELAND. I yield.

Mr. SMITH. The situation to which the Senator refers, of course, is making itself manifest in unemployment and distress throughout the country. It is accentuated, of course, where providential interference has caused drought; but we are beginning now a new year. What encouragement is there for agriculture, for business, for production of all sorts in this country?

The distress is not limited to the drought-stricken area. It is universal. It is national and international; but it is particularly bad in this country. Here there is more wealth than there has ever been. There are more of the necessities of life than there have ever been. We are talking about reduction of acreage, curtailment of manufacture, in the midst of evidence that people are starving to death, are out of work. Somebody has to work to produce a surplus. We have a surplus. We have more than we know what to do with. We are trying to get rid of a surplus of wheat and a surplus of other things. We are trying to get rid of a surplus of manufactured articles. Yet, in the midst of that, people are unemployed, are starving, and naked, and there is distress throughout the country. The things we are doing are but temporary stimulants. Why do we not address ourselves to the fundamental cause, the thing which has produced this condition? I say that it is an indictment of this administration and previous administrations that we produce so much wealth that we go to the poorhouse, that we produce so much of the necessities of life that nobody can avail himself of any of the necessities.

The present condition is not local at all; it is a general condition, and an indictment of the legislative body of this country that we can not devise any means by which the vast wealth that is here available to everybody can not be obtained by those who really produce it. That can not be accomplished by temporary expedients. We have to find out the basic cause of this condition, and address ourselves to the remedy.

Mr. COPELAND. Mr. President, I agree fully with the Senator. He is entirely right. Who is making any effort to find the basic cause? Whose business is it to do it? Have we done our duty as a Congress?

Mr. LA FOLLETTE. Mr. President——

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

Mr. COPELAND. I yield.

Mr. LA FOLLETTE. I can not agree with the Senator's statement that we have done our duty as a Congress.

Mr. COPELAND. I said, "Have we done our duty?"

Mr. LA FOLLETTE. I have been endeavoring since last December to direct the attention of the Senate to the appalling situation which has existed in the metropolitan and industrial centers of this country. I presented the results of a questionnaire which took in over 300 cities throughout the United States, and in the replies to the questionnaire, 170 of the mayors of cities expressed the

opinion that they needed Federal assistance to meet the distressed condition.

In my judgment, the Senator should have made the speech which he is making now when we had before us the so-called compromise proposal on the Interior Department appropriation bill. The Senator realizes that this session of Congress is about to adjourn. If we had adhered to the position taken by the Senate, while I never contended that the sum provided in the Senate amendment was sufficient to relieve the situation, at least it would have been a fund which could have been used for emergency purposes. But because the Senate surrendered upon that issue, we now find ourselves, in the closing hours of this session, unable to do anything to relieve a situation which is already appalling, and which, in my judgment, based upon information in my possession, will grow more appalling as the months go by.

Mr. COPELAND. Mr. President, I am not quite sure, from what the Senator from Wisconsin said, whether he was finding fault with me personally for any lack of activity with reference to this matter or speaking of the Senate in general. Perhaps he misunderstood me. When I replied to the Senator from South Carolina I did not say that Congress had done its duty. I said, "Have we done our duty as a Congress?" That was a question I was asking.

Mr. LA FOLLETTE. Mr. President, I misunderstood the Senator. I thought the Senator said that Congress had done its duty.

Mr. COPELAND. Far from it.

Mr. LA FOLLETTE. And I wished to take exception to that statement.

Mr. COPELAND. I am not surprised that the Senator wanted to take exception to it, and in order that the Senator may now know how I feel about it, I say that the Congress has not done its duty. Is that clear enough?

I think it is a great pity to think that we should fail here, even at this late moment, to give consideration to what some of us have been begging from the beginning of the session might be studied. We have before us this matter of collectivism in Russia and the bringing in of goods manufactured at no cost. We are seeking to sell 35,000,000 bushels of wheat in the Liverpool market in competition with Russian wheat, which is produced without cost, because the wheat is produced in Russia by forced labor, by slave labor, by conscription of labor. How can we hope to raise wheat or cotton or any other product here and have our people live in accordance with the standard of living which we call the American standard, and maintain that standard, if there are countries on the face of the earth where, by reason of some political philosophy, the authorities can commandeer services and produce things which, so far as labor costs are concerned, have no labor costs?

Who is giving consideration to these matters? Who is giving any thought to what will happen in Germany if there is an economic breakdown and the Russian idea is carried into Germany? These political philosophies recognize no geographical boundary.

We are going on and on and on and doing nothing, so far as I can see, to relieve the situation in the United States, in order that our country may have its powers of resistance raised to the extent of making it possible to resist the invasion of these philosophical ideas and political ideas.

Mr. WALSH of Massachusetts. Mr. President——

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

Mr. COPELAND. I yield.

Mr. WALSH of Massachusetts. I would like to get the Senator's opinion on the comments made by the Senator from Wisconsin [Mr. LA FOLLETTE]. Can the Senator conceive of a stronger case for Federal relief on the part of the Government than that which was made in behalf of those who are suffering in the drought areas?

Mr. COPELAND. No; I can not.

Mr. WALSH of Massachusetts. That case had behind it the whole minority in the Congress. It had behind it the directing force in the Senate of two of the strongest Senators in this body, the two Senators from Arkansas [Mr. ROBINSON and Mr. CARAWAY], and yet a compromise was forced which, in my judgment, ended any possibility of any further relief, except interest-bearing loans. If we can not get money from the Federal Treasury for people who are starving and without means of any kind or description, it does not seem possible to get any legislation here to share the burdens of relief with those communities which at least have some means of sustenance and have some power to tax their people to provide them with food and clothing. It seems to me the action on the drought case completely closed the door for any possibility of Federal relief in this emergency for the sections of the country where the costs of public relief to the unemployed has tremendously increased.

The policy of the administration with respect to Federal relief in the present emergency has made it apparent that the Federal Treasury could not be called upon to assist. When the drought relief bills failed, as proposed originally, the administration in control of Congress declared against other than relief in the nature of loans.

Mr. LA FOLLETTE. Mr. President, will the Senator yield?

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

Mr. COPELAND. I yield.

Mr. LA FOLLETTE. It is because that compromise contained the surrender of the principle of Federal relief to the unemployed and the destitute that I was shocked to see representatives of the States in which this industrial depression is causing such widespread suffering on the part of millions of people voting to accept that surrender and to abandon the fight for Federal assistance in this most critical emergency.

Mr. COPELAND. Mr. President, I want to say a word in reply to the Senator from Wisconsin if I may have his attention. Many a brave army has surrendered in the face of superior forces on the other side.

Mr. LA FOLLETTE. I would like to know to what armies the Senator has reference. If it is the army that marched up the hill and then marched down the hill and never marched up again on this relief proposition, I will agree with him; but I do not agree with his characterization to the effect that the majority of that army were brave soldiers. They surrendered before a shot was fired.

Mr. COPELAND. The Senator from Wisconsin and I are so much in harmony regarding the principle involved that I am inclined to agree with his statement, but nevertheless I insist that we had to take half a loaf when we could not get a whole loaf.

Mr. LA FOLLETTE. I challenge the Senator to prove that there was half a loaf involved in the "Arkansas surrender." There was not even a crust in it so far as the people suffering in the industrial centers are concerned.

If the Senator will pardon me a moment further, this morning one of the chief proponents of the so-called compromise, the junior Senator from Arkansas [Mr. CARAWAY], has been criticizing the administration and claiming that even what he had hoped to obtain for his own people is being defeated by the administration of the law.

Mr. COPELAND. I fully sympathize with all that, too, but I will say, to change my figure of speech, that if we can not get a whole loaf we should take the promise of a half a loaf in the belief at the time the promise is made that it will be carried out in good faith. I agree fully with what the Senator said, that the administration through the Secretary of Agriculture is not carrying out that compromise.

Mr. LA FOLLETTE. Mr. President, will the Senator further yield?

Mr. COPELAND. I yield.

Mr. LA FOLLETTE. The thing I am pointing out is that in so far as the people for whom the Senator from New York has been speaking this morning, namely, those who are suffering want, privation, and hunger as the result of the industrial depression, could under no circumstances receive a penny of benefit under the terms of the amendment for which the Senator from New York and some other representatives of industrial States in this body voted when the issue was presented to them a few weeks ago.

Mr. COPELAND. When was any issue presented to us so that we could have voted to do the thing the Senator has in mind?

Mr. LA FOLLETTE. The issue was presented when the conference report was before the Senate on the Department of the Interior appropriation bill. The Senate had provided a $25,000,000 fund to be used for those who could not obtain food, clothing, and medicine from any other source. The Senate accepted a compromise, as the Senator calls it. I denounced it at that time as, and I still maintain that it was, an abject surrender. So far as the unemployed and their dependents were concerned, had the Senate stood by its position and carried out the bold threat made by the minority in this Chamber that they would force an extra session of Congress if they did not get what they demanded, I am yet to be convinced that the Congress could not have discharged its obligations to those millions of unemployed and their dependents and secured the enactment of such a law.

But before we could make a genuine fight for the Senate proposition the leaders who were carrying the banner struck their flag and surrendered. When they surrendered and when that surrender was denounced and pointed out on the floor of the Senate, the Senator from New York and some other Senators representing industrial States in this body voted to accept that abject surrender and thereby abandoned those for whom the Senator from New York is now raising his voice in the closing hours of the Congress.

Mr. COPELAND. If the Senator is right in his belief that, had we stood out, there would have been some means of relief for these people, I will plead guilty and say it was a wrong act. But I do not believe that we could have gone a bit further than we did go with an unwilling administration and with the present occupant of the White House to give final approval or disapproval.

Mr. LA FOLLETTE. Mr. President, will the Senator from New York yield for a moment further?

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

Mr. COPELAND. I yield.

Mr. LA FOLLETTE. In the first place, the very Senators who were leading the supposed fight were the ones who surrendered without making a fight. That is the first thing, I say; and I say that the record, surveyed by any impartial judge, will prove that statement to be correct.

In the second place, the Senator from New York is standing here this morning wanting to know why we do not enact some legislation to provide relief, in the face of the present emergency, for those who are suffering in the cities. The Senator from New York lost his chance to win such a fight when he joined in the abject surrender on the Department of Interior appropriation bill, and so did some other Senators representing industrial States of the Union who surrendered at the time that issue was before the Senate.

It can not be maintained, Mr. President, that the issue was not squarely presented to this body. It was. The issue was as clear cut as any issue which has presented itself since I have been a member of this body. It does not avail in this late hour of the Congress to plead for the enactment of legislation, and especially it does not become those Senators who joined in the abandonment of the 6,000,000 or 7,000,000 unemployed and their dependents in this country.

The Senator from New York has stated on the floor of the Senate time and time again that New York City will take care of its own. From evidence that comes to me, the city of New York and the people living in it have done heroic work, and I maintain, and I think the Senator, if he is entirely frank, will admit that the city of New York is not taking care of its own. The Senator knows furthermore that the Prosser committee, which raised $8,000,000 to assist the unemployed in New York City, is preparing to abandon its further work unless it receives an appropriation from the city government of New York. The mayor has already stated that he doubts whether the city has any constitutional authority to make such an appropriation.

This is the situation in the richest city in the country, if not in the world. I ask the Senator and the Senate to consider what is happening in the other large industrial centers of the country and in the smaller industrial centers. I presented a survey from 303 cities in the United States and a summary of the replies which came in response to a questionnaire sent out, showing that 174 mayors as long ago as last January stated that they could not care for the unemployed and their dependents without Federal assistance.

Mr. COPELAND. I wish to ask the Senator from Wisconsin if he voted against the surrender, as he calls it?

Mr. LA FOLLETTE. Yes, I did; and I am proud of it. I maintained then that when the Senate surrendered upon that issue it abandoned the pleas of distress coming from 6,000,000 unemployed persons in the United States and another 5,000,000 who are on part-time employment and who are receiving too small a wage to prevent their families from suffering privation and want.

Mr. President, right here in the city of Washington, which is not an industrial city, we have already seen that there are several thousand school children who are undernourished and underfed. Pleas are being made to Congress that money shall be appropriated in order that those undernourished children may be given enough food to enable them to attend school. With such a situation in the city of Washington, which is not an industrial city, I ask Senators to picture in their own minds what widespread suffering is prevalent in the industrial centers of the country as we approach the end of the second winter of unemployment.

Mr. COPELAND. Mr. President, I agree almost 100 per cent with what the Senator from Wisconsin has said, but he has been very free to criticize individual Senators for the way they have voted. I want to say that when a Senator, knowing that he could not get more than was provided in the promise made, knowing that there was hope of carrying out that promise, and that, if carried out, it would save life, relieve suffering, appease the hunger of little children in the drought-stricken areas, voted against it; I fail to see how he has a right to criticize me for the way in which I voted.

Mr. LA FOLLETTE. Mr. President, will the Senator yield?

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

Mr. COPELAND. I yield.

Mr. LA FOLLETTE. Mr. President, I pointed out at the time the so-called compromise was under consideration in the Senate that it was based on a proposition to extend relief only to those who could furnish security; that it abandoned the thousands upon thousands of farmers and their families, who, as the result of the drought, have no security to offer as a basis of procuring loans for their relief.

This morning the junior Senator from Arkansas [Mr. CARAWAY], on the floor of the Senate has stated that the Secretary of Agriculture is so administering this provision that even those who have security are unable to obtain any relief under it; and, Mr. President, if I may be permitted to say so, the sham of the "compromise" is being more and more exposed as time goes on.

Mr. BORAH and Mr. BLEASE addressed the Chair.

The VICE PRESIDENT. Does the Senator from New York yield; and if so, to whom?

Mr. COPELAND. I yield first to the Senator from Idaho.

Mr. BORAH. Mr. President, this debate this morning reveals, as the facts heretofore have been revealing, that Congress is going to adjourn upon the 4th of March without really having taken care at all of those who have no security to give for food. We have four days more in which we may possibly correct that error; but, as the Senator from Wisconsin has so emphatically and so eloquently said, we have really failed to reach those people at all by our legislation. Leaving out of consideration now the fact that even those who have security are having the law administered in such a way that they can not avail themselves of its benefits, we have not undertaken to reach the other people at all.

I suggest to those who know the situation the possibility of putting through by means of a joint resolution an appro-

priation of $10,000,000, to be used exclusively for the benefit of those who have not the security to give in order to enable them to obtain food. If we can do that before the session of Congress ends, we shall have gone far toward redeeming ourselves, in my judgment, with reference to the duty which has been devolving upon us for the last three months.

Mr. COPELAND. Mr. President, I thank the Senator from Idaho for what he has said, and I hope the Senator from Massachusetts [Mr. WALSH] will give consideration to the suggestion made by the Senator from Idaho.

However, I want to say a word or two more to the Senator from Wisconsin [Mr. LA FOLLETTE]. The Senator holds a certain philosophy, a certain conviction, and I honor him both for his philosophy and his conviction. He believes that there should be general relief—and I follow him in that and approve of it—but when the Senators from Arkansas [Mr. ROBINSON and Mr. CARAWAY] found they had to take what they could get or nothing, when there was starvation and suffering in their State, they did not only the humane thing but, as I view it, the sensible thing; and I would not be proud, in defending a philosophy or a conviction, to state that I cast a vote against a measure which would permit some, at least, of those who suffer to be relieved of their suffering. I do not follow the Senator that far, and I am sure, when he gives mature consideration to the thought he has expressed this morning, he will take a different view.

Mr. LA FOLLETTE. Mr. President, will the Senator yield to me?

Mr. COPELAND. If there be a thousand people drowning, the rescuer does not defer all his efforts until he can find a piece of apparatus by which the whole thousand may be saved, risking the chance of having all of them drown, when by prompt action he may save 500 or 100 or even 10.

Mr. COUZENS. Mr. President, will the Senator from New York yield to me?

Mr. COPELAND. I yield to the Senator from Michigan.

Mr. COUZENS. I wonder why the Senator from New York did not make the speech he is now making when we were considering the Arkansas surrender? That was the time when we might have gotten the relief about which the Senator is now talking.

Mr. COPELAND. I think this is the first time the Senator from Michigan has ever suggested that I make a speech. If there is any Senator in the body who has talked more frequently on this subject, as well as on some others, than has the Senator from New York, I should like to meet him. I have made speeches of this character in season and out of season all the time. The Senator from Wisconsin glories in the fact that he voted against surrender.

Mr. COUZENS. So did I.

Mr. COPELAND. Before the Senator from Michigan glories in it let me say that many a brave general has had to surrender and has had to accept terms of capitulation that were distasteful to him. Does not the Senator suppose that the Senators from Arkansas would have preferred to have the project carried through as they first proposed it? Of course, they would. But they found out—and nobody knows that better than does the Senator from Michigan—that they could not get what they wanted. Therefore they agreed to take what they could get.

I am not going to defend the administration in its failure to carry out its share of this responsibility or its share of what the Senator perhaps might call "the bargain." It has not carried it out; I do not think the Secretary of Agriculture has acted in good faith; but the Senators who were contending for human beings, for persons whom they knew, when they saw in it the hope of saving them from starvation did the natural and the proper and the wise thing as I see it.

Senators may come here and glory in the fact that they voted against the little relief which was given, perhaps to those only who could give security, but at least those persons obtained relief.

Mr. LA FOLLETTE. Mr. President, will the Senator from New York yield?

The PRESIDING OFFICER (Mr. FESS in the chair). Does the Senator from New York yield to the Senator from Wisconsin?

Mr. COPELAND. I yield.

Mr. LA FOLLETTE. In the first place, Mr. President, evidence has been presented to the Senate this morning that even those who have security in the drought-stricken areas are not getting relief. In the second place, may I say that it was pointed out at the time the surrender was pending that the Secretary of Agriculture by the manner in which he was administering the $45,000,000 seed loan bill had demonstrated that he was not in sympathy with the legislation. Yet the Senator from New York and other Senators voted to turn over the second phase of the relief program for those who could furnish security to that same unsympathetic administration.

In the third place, the Senate brought forward the $25,000,000 proposition to provide medicine, clothing, and food for those who could not otherwise obtain it. Five other propositions were also brought forward as measures of relief. The Democratic leaders had a meeting, after which they declared those five propositions for relief were their minimum demands. They said further that they would force an extra session of Congress in order to obtain this program. The Democrats secured the support of Senators upon this side of the Chamber for that program. Then, Mr. President, weeks before the end of the Congress had been reached, weeks before they had carried their fight to its logical conclusion, they surrendered and they accepted the proposition for $20,000,000, to be loaned to those who had security.

In the first place, by that surrender they abandoned the other four propositions in their program. In the second place, by it they abandoned the thousands upon thousands of farmers in the drought-stricken areas who had no security and could obtain no relief under the bill, and, in the third place, they abandoned the millions of unemployed and part-time employed and their dependents in this country.

Now, I repeat to the Senator from New York, that I am not accustomed to engaging in sham battles. In so far as I am concerned, when I get into a fight I try to carry that fight through to its logical conclusion. I say further to the Senator from New York that if he had stood with those of us who wanted to carry the fight through to its logical conclusion we would by this time or at some time in the next few weeks have won our fight all the way along the line. I could not accept the sham compromise. I could not accept such an abject surrender of a vital principle. I said a moment ago, and I now repeat, that I am proud that I was not a party to the abandonment of the millions of men, women, and children in this country who in this very hour are suffering hunger, want, and privation.

Mr. CARAWAY. Mr. President——

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. CARAWAY. Will the Senator permit me to interrupt him for a moment?

Mr. COPELAND. I yield.

Mr. CARAWAY. Mr. President, I engage in no kind of a controversy with those who disagree about the program. My good friend from Wisconsin has made reference to a surrender. I say most emphatically that there was no surrender, so far as I was concerned, and any statement of that kind is an utterly unsubstantiated statement. The legislation as it passed was the kind of legislation for which I asked every time I made a speech upon the floor of the Senate, and there is no one in the Senate who ever misunderstood my statement or my position with reference to it. That is not possible; it could not be done.

The $60,000,000 appropriation reported by the Senator from Oregon [Mr. MCNARY] carried a provision for loans secured by first mortgages or first liens on crops or other security. In the committee I had suggested that there ought not to be a lien on all the crop, but I was assured—and I examined previous legislation of similar kind—that in the entire history of legislation of this character there had always been made provisions for a first lien on the crop to

be grown with the seed and feed and fertilizer furnished to those who were in distress. So we accepted that provision.

The bill came upon the floor of the Senate and not a Senator who is now denouncing the legislation which has been enacted voted against it. There was no talk then of it not affording adequate relief. There is not a Senator who now denounces the legislation which has been enacted who did not support the $60,000,000 proposition, although it contained a less liberal provision to care for drought-afflicted people than that contained in the legislation which was enacted. Every one of them voted for it.

When the measure went to the other body it was amended by striking out "livestock" and substituting "work stock." Notwithstanding the fact that we had a Farm Board that was telling us that the 1-crop system was ruining us and that we ought to diversify, the body at the other end of the Capitol, I presume acting under instructions from the administration—because I think that has been pretty well understood, and that they voiced the administration's viewpoint—struck out "livestock" and substituted "work stock," so that a farmer in the drought-afflicted area was compelled to sacrifice all of his livestock. His milk cows, his hogs, and everything else must go because the administration would not permit a loan upon anything except work stock. It certainly was a bill written in aid of the mule and nobody else. It ought to have been so entitled.

The bill came back to this body under a conference report in which, as I said then and I want to say now, I am satisfied the conferees for the Senate did the best they could. I refused to criticize them then and I disclaim any criticism of them now. I said, however, upon the floor when the conference report was up, that it was a bill so restricted by its language, knowing the hostility of the Secretary and the administration to any liberal relief, that there was not a mouthful of food under the bill.

The conference report was agreed to. Then a bill making an appropriation of $45,000,000 to carry out its provisions came from the House to the Senate. I then offered an amendment to restore to it $15,000,000 to be made available as a loan with security to farmers under which they might borrow money to buy food. Every Senator who now criticizes the present measure voted for that $15,000,000 amendment to the drought appropriation bill.

I said then, and I repeat, that the people for whom I particularly spoke, those whose sentiments I professed to know, wanted an opportunity to save both their lives and their self-respect; that they represented the purest blood strain in America, so far as the Anglo-Saxon strain was concerned; that less than 1¼ per cent of them were foreign born; that the majority of them were qualified for membership either as sons or daughters of the American Revolution. They represented the oldest civilization we have.

I want to say, in addition to that, that in 1927 we had 4,000 square miles more of territory under water than the entire State of Maryland. We had 16,000 out of 52,000 square miles of our territory—and that is the most thickly settled—under water from 3 to 40 feet deep; and we survived that.

When legislation was passed in Congress to make appropriations to loan to farmers money to buy feed or seed or fertilizer, we never asked and never received a penny.

In 1928 we had other troubles.

In 1929 we had a fairly good crop and a poor price.

In 1930 we had the worst drought and the only severe drought we have ever had in our history. It was agreed that it was the worst-hit State, so far as the drought was concerned, of the 21 States affected by the drought.

I said then, however, and I repeat now, that we asked for an opportunity to borrow money under such conditions and on such terms as we could actually obtain it, and we would be able to raise ourselves out of our present disaster because—you will pardon me; I know you will recall it—I said that if our whole credit system had not broken down, we could yet get on without a dollar of governmental aid. Under the depression that struck all the country, however, and struck us particularly hard by reason of the severe drought, the greater amount of our credits was tied up in failed banks.

If you have not had a bank in a community, of course, you may not be much hurt; but if you have a bank in which every dollar of the public funds and most of the private funds are tied up, and it closes its doors, you not only have no credit facilities, but you have what resources you did have locked up in closed banks. Our credit situation, therefore, was destroyed; and we asked that you extend to us some credit medium through which we might obtain loans, and we would rehabilitate ourselves.

That has been my position from the beginning to the end. When the present so-called compromise bill came, it was better than the original $15,000,000 bill that I offered. It was better than the $60,000,000 bill, because it carried $5,000,000 more; and it added, as an additional purpose for which the $45,000,000 might be available, feed for livestock, so that the farmers could again feed their milk cows and their hogs and other livestock, and not be restricted to maintaining their work stock.

The $20,000,000 was made available, first, to establish credit by the way of establishing agricultural credit associations and livestock associations, under which those who could borrow through those means could get enough money to make their crop. Then we struck out the provision for a first lien on the crop, and merely inserted a provision for a lien, so that if a man already had a lien on his crop he might borrow under the bill and get food and medicine and clothes under its provisions.

It was charged here on the floor, and I do not think in bad faith at all—because I am not quarreling with the people of whose friendship we are the beneficiaries—that the language did not include these provisions. The Senator from Idaho [Mr. BORAH]—and I was awfully glad that he did it—proposed a resolution asking for its interpretation; and the Secretary of Agriculture gave us a statement of what he said would be his administration—a fair and sympathetic administration. The President promised us that; and let me say that the bill, as I said then and I am repeating now, was an agricultural and not an industrial relief bill. Under its provisions, if the Secretary of Agriculture will give us a fair and sympathetic administration of it, we can live. It seems to me, however, that he is deliberately suppressing the main part of the bill, the part of it under which we hoped to be able to make a crop. If he had given it to us, we could go to work, and we are glad to go to work. We wanted to save both our reputations and our lives.

Now, it is growing late. The bill was approved on the 14th day of February. This is the 28th of February. Anyone knows that in two hours the regulations for the administration of the $20,000,000 could have been written, and in two days it could have been put into administration, and people could have commenced to borrow under it, and could have made their arrangements to make a crop. As it is, they have to wait; and whether or not the Secretary is going to give us any relief under it I do not know.

Mr. BARKLEY. Mr. President——

Mr. SMITH. Mr. President, may I ask the Senator what reason the department has given for the delay? The farmers are there, the farms are there, and the money is made available.

Mr. CARAWAY. Mr. President, I can not get any reason. I have been promised from day to day that the regulations would be out within a day or two days, until yesterday I called up Mr. Warburton, and he said that he had prepared them, but the Secretary did not want to approve them, and had gone to Cincinnati to make some kind of a speech. I take it that he has moved the main office of the Secretary of Agriculture to Cincinnati, because that is where he had gone another time when we wanted him.

Mr. BARKLEY. Mr. President, if the Senator will yield——

Mr. CARAWAY. In just a minute. I think the Secretary is deliberately delaying putting into effect the second provi-

sion of the $20,000,000 loan bill, which was to loan farmers money to make a crop for 1931 for agricultural rehabilitation.

The Senator from Kentucky was the first to address me. I yield first to him, and then I shall yield to all of the Senators.

The VICE PRESIDENT. The Senator from New York [Mr. COPELAND] has the floor. Does the Senator from New York yield to the Senator from Kentucky?

Mr. CARAWAY. Oh. I beg the Senator's pardon.

Mr. COPELAND. I yield to the Senator from Kentucky.

Mr. BARKLEY. Mr. President, I desire to corroborate what the Senator from Arkansas has said. I was reliably informed just a few moments ago that the regulations for the distribution of the last $20,000,000 which we provided have not been promulgated, and there is no definite information as to when they will be promulgated.

In addition to that, while I am on my feet, I wish to call attention to the fact that until within the last very few days the Department of Agriculture had not provided in some of the largest counties in my State more than 25 application blanks upon which the farmers could make application for seed loans under the resolution we passed prior to the Christmas holidays; and only after the most urgent insistence, not only here at the Department of Agriculture but at the seed-loan office in St. Louis, have we been able to secure any assurance that application blanks will be provided to allow farmers to make application under the original appropriation, to say nothing about the last $20,000,000.

Mr. HARRIS. Mr. President——

Mr. COPELAND. I yield to the Senator from Georgia.

Mr. HARRIS. I called Doctor Warburton on the telephone this morning about the $2,000,000 loan fund, which interests about half the counties in my State, the others not being able to come in under the provisions of the $45,000,000 bill. He informed me that the applications are being printed, that it will be several days before the printing is completed, and that it will be some time next week before the applications can be distributed.

Mr. SHIPSTEAD. Mr. President, I am compelled to leave the floor in order to attend a committee meeting. Will the Senator yield to me to read a letter upon this subject from a farmer?

Mr. CARAWAY. The Senator from New York [Mr. COPELAND] has the floor. If he will yield to the Senator from Minnesota——

Mr. COPELAND. Mr. President, what is the request? I am very anxious to get through. I had no idea of holding the floor very long.

Mr. CARAWAY. Will the Senator yield to me, then, for just one moment longer? I want to say this in conclusion:

I merely want to keep the record straight. I am not pretending that this bill would have given relief to industrially depressed communities. It was not so designed. I have stood ready and I stand ready yet, as I said before, to support any measure that those who are more directly representative of the communities that are industrially depressed might think would afford them relief. I have not changed my position, however, nor do I purpose to permit anyone to misunderstand it or to misstate it on the drought-relief legislation. I have stood always exactly in the same position; but I am not quarreling with those people who do not think it went far enough.

Mr. SHIPSTEAD and Mr. GLENN addressed the Chair.

Mr. COPELAND. Just a moment before the Senator stops. Does the Senator consider that what we did was an abject surrender, in view of the promises made to us?

Mr. CARAWAY. Mr. President, it was more than we had first been promised. It was more than the original joint resolution. It was not a surrender upon the part of the people for whom I spoke and with whom I cooperated; but it was a retraction of the position of the administration, because it could have had on the 14th day of December the legislation it got on the 14th day of February.

After it had gone through all the protestations of undying hostility, actuated by certain principles it was alleged to possess, it came around and accepted in a more liberal form the bill introduced by the Senator from Oregon [Mr. MCNARY.]

Mr. SHIPSTEAD. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Minnesota?

Mr. COPELAND. I yield.

Mr. SHIPSTEAD. In view of the early approach of the spring planting season, and in view of the remarks which have been made about the machinery that is set up for the purpose of carrying out the provisions of the act of Congress, I am going to read to the Senate a letter I have received from a farmer in Mennesota, who has accepted the position of chairman for his county in supervising the Government loan. The letter is from Peter E. Stich, of Stephen, Minn., and reads:

HONORABLE SIR: I accepted the chairmanship of the county committee to pass on applications of farmers in the hailed-out area of Marshall County for loans from the United States Government for seed, feed, and fuel. We have received some supplies from Mr. Eliff, who is in charge of the Grand Forks seed-loan office of the United States Department of Agriculture. From reading these instructions and viewing the supplies I beg to advise you that the nature of the security required is such that it places the loan beyond the reach of 90 per cent of our farmers who need this financial backing to put in this year's crop.

This is an alarming situation and one which I am sure you are not aware of. We have had a dozen applicants, and three times that many who have talked to me, just in my home township of Tamarac (157-48). In practically every instance the farmer farms some rented land beside the farm on which he resides. The reason for this must be known to you, as it is the fact that absentee owners hold a lot of our land through mortgage foreclosures. Most of this land is being farmed by neighbors. The United States Department of Agriculture is requiring an absolute first lien on everything that the applicant is farming before they will loan him a cent. For instance, we will take a typical applicant of Marshall County, and one who started to make an application and then threw up his hands, when he learned of the waivers required. He owns his own farm and farms it, and rents adjoining land from two different absentee owners. He wishes seed, feed, and fuel to enable him to put the crop in on his own farm. The newspapers have informed him that the United States Government will loan him money for these purposes and he desires to obtain the loan as he can get the money nowhere else, for his chattels are mortgaged, and he has a real-estate mortgage on his farm. On the land he is renting the landowners are furnishing him with seed and renting on the usual half-share-rental contract. They will not waive their interests in the crop to be raised on their lands for which they are supplying the seed in order that this farmer can obtain seed, feed, and fuel for his own farm. Nor would you or any other good business man. But still this is what is being asked.

I fully realize that the time is at hand when the money is needed and seed should be purchased. In the State of Minnesota I understand that a seed lien is a first lien on the crop for which the seed is furnished. This fact should obviate the necessity of waivers from landowners. But this is not sufficient security for the loan. In addition there is asked a first lien on all the land which the applicant is farming and waivers from all interested owners or prior mortgagees. I think that if the matter can be arranged so that our farmers can obtain seed that they will be able to carry on for feed and fuel some way. I suggest a seed lien covering land for which seed is furnished. If this is not done the loan is beyond the reach of our farmers and of little if any benefit to this section of the country.

I believe that it was the intention of the United States Government through our Representatives and Senators to enact legislation and make an appropriation for these loans which would render assistance to those in need of it. This end has been defeated. Your immediate action appears to be the only thing which can remedy the situation. I shall await your advice as to whether there will be loans available to our farmers.

Mr. President, that letter comes from a man who has been appointed to supervise the loans to farmers in the county where he lives. I have every reason to believe that he states the facts as they are, and unless something is done to make it possible for these people in need, 90 per cent of whom can not avail themselves of loans under these rules and regulations, to get the loans, the purpose for which Congress passed the recent legislation will be thwarted, and the intended aid will not be given.

I thank the Senator from New York for yielding to me.

Mr. COPELAND. Mr. President, when we made what the Senator from Wisconsin calls "an abject surrender"—of course, I do not accept that characterization, and I put the words in quotation marks—we had a right to believe that the administration in all fairness and justice would go

forward with what the Congress adopted as its will. We had a right to believe that it would do that. If the Secretary of Agriculture has fallen down on his job, that is to be regretted, and it is the fault of the Republican administration. But when we adopted the proposal we took it in good faith.

A man certainly would not be proud, to use the language of the Senator from Wisconsin, for having voted against a measure which everybody thought would be carried out in good faith. No man could be proud of voting against something which would give food and sustenance to those who were starving or in distress. Of course, we have different ideas about what we should be proud of, and we hold different ambitions; but I could never be proud to think that I had voted against any measure which had in it the hope of saving human life. As it has turned out a man may stand up now and say, "Because the administration has not carried it out I am proud I did not vote for it." That is quite a different thing.

Mr. President, I will go as far as the Senator from Wisconsin will go in demanding relief in the industrial sections of our country. I was in the fullest sympathy with the appeal he made, and the equally eloquent appeal of the Senator from Massachusetts; but the Republican administration has utterly failed to measure up to its responsibility, and the responsibility rests there.

That there is widespread distress in this country, and that no effort is being made to relieve that distress, is the fault of the White House and the Republican administration. If the President at Christmas time had recognized the importance of the problem, the Red Cross would have been called into action, and the appeal for funds would have been made at a time when there would have been universal response to the appeal. But in the meantime, by reason of the delay, the funds which ordinarily go to the Red Cross had been absorbed by relief committees in the various industrial centers.

Mr. President, I heard what the Senator from Wisconsin said about my city. We do not ask for one penny of Federal funds, not one cent from the Public Treasury. There is no question about what the city of New York will do. The Prosser committee raised $8,500,000. The Senator from Wisconsin expressed doubt that the board of estimate would provide $10,000,000 more. I dispute the statement. There is every evidence, from the papers this morning, that on next Tuesday, at the executive session of the board of estimate, that $10,000,000 will be provided to take care of the people in my city. I am not making any appeal for the people of my community. We will take care of the people suffering in that community. The great heart of New York has never failed, and it will not fail now. There will be funds for our people.

My plea is for the country at large. I think the Senator from Wisconsin was somewhat heated this morning in what he had to say, and I do not blame him. I know how interested he is in this problem and how disappointed he is that the administration has not handled it. At the same time, he must not criticize those of us who did what we could and continue to do what we can to relieve distress.

My plea, and what I came here to say—and I had no thought of being on the floor more than five minutes—is that even yet the Congress may take some effective action in order that there may be left in the hands of the President funds to be used in case of necessity to deal with the increasing distress in the industrial centers as well as in the drought-stricken States.

Let me appeal to my friend from Massachusetts that he give early attention to the suggestion made by the Senator from Idaho that we now make an effort to put through a joint resolution to provide funds which may be used after we have adjourned this session.

Mr. President, I think there rests upon the President and on the Republican Party a responsibility which is theirs. If they had come here at the beginning of this session with a program of relief, there is no question but that every Senator on this side of the aisle would have voted quickly and enthusiastically to support the administration in an effort to relieve distress and unemployment. But the President did not see fit to do that, and the responsibility is his. It rests upon him and he will have to answer for the results.

GEORGE B. M'LEOD

Mr. HARRIS. Mr. President, I want to ask unanimous consent to bring up a bill, a counterpart of which is now on the calendar in the House, which has been reported favorably by the Committee on Claims in both Houses. There will be no debate on it, I am sure. I refer to Senate bill 6254, for the relief of United States Marshal George B. McLeod.

Mr. JOHNSON. Is the bill upon the calendar?

Mr. HARRIS. The bill was reported this morning for the calendar. A similar bill is on the House Calendar, and if the Senator will let me explain I am sure there will be no opposition to it.

The bill is to reimburse the United States marshal in the southern district of Georgia for the payment of $577 for services as stenographer in a court case. Competitive bids had been asked for the reporting, but the comptroller would not pay the bill because the man was drawing another salary, although the work he did as a stenographer did not in any way relate to his other work. I hope there will be no objection to the bill.

There being no objection, the bill (S. 6254) for the relief of United States Marshal George B. McLeod, which had been reported from the Committee on Claims without amendment, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to credit the account of George B. McLeod, United States marshal for the southern district of Georgia, in the amount of $577.50, being the amount paid by him to J. W. Talbert for stenographic service in reporting the testimony of James J. McGrath in the matter of the United States against Sonia Goldbert and others in February, 1929.

UNITED STATES NAVAL ACADEMY ON PACIFIC COAST

Mr. JOHNSON. Mr. President, I ask permission to introduce a joint resolution and to have it read. I do not ask that it be considered at present, but I desire to spend two or three minutes making a statement in relation to it.

The PRESIDING OFFICER. The joint resolution will be read for the information of the Senate.

The joint resolution (S. J. Res. 259) creating a joint select committee to investigate the question of establishing a United States naval academy on the Pacific coast was read the first time by its title and the second time at length, as follows:

Whereas the present number of midshipmen at the United States Naval Academy is insufficient to meet the needs either of a Navy of the size assigned to the United States under the limitation of armaments agreement or of a Navy corresponding to our rapidly growing maritime interests and proportional to the position on the seas that will be ours within a few years; and

Whereas the very rapid evolution of aviation afloat and ashore, both in the naval service and in civil life, requires in the immediate future many more naval aviators than can be supplied through the training of present complements at the United States Naval Academy; and

Whereas it is highly desirable in the interest of naval effectiveness that the Marine Corps and the staff corps of the Navy be regularly recruited from Naval Academy graduates, which will be impossible without increasing the number of such graduates; and

Whereas one of our greatest naval deficiencies is in the number of properly trained reserve officers, and this deficiency would be best filled from Naval Academy graduates who have entered civil life, the availability of any considerable number of whom would require surplus graduates of the Naval Academy return to civil life annually over and above the number needed for retention in the service; and

Whereas the continuous successful expansion of the American merchant marine, upon which the prosperity of our country so much depends, will be greatly aided by the recruiting of its officer personnel from Naval Academy graduates, at present impossible on account of the small number of such graduates; and

Whereas it is of great national benefit, as George Washington declared and experience proves, to have among our citizens civilians who have received the benefits of the education and training that the United States Naval Academy and the United States Military Academy gives, and since the number of such citizens

at present is small by reason of the small number of graduates from our two national academies: Therefore be it

Resolved, etc., That a joint committee of Congress, to be composed of three Members of the Senate, appointed by the Vice President, and three Members elect of the House of Representatives of the Seventy-second Congress, appointed by the Speaker of the House of Representatives, shall make an investigation relative to the practicability, advisability, feasibility, and location of a United States naval academy on the Pacific coast of the United States.

SEC. 2. For the purposes of this resolution the committee, or any subcommittee thereof, is authorized to select a chairman and to hold such hearings after March 4, 1931, to sit at such times and places, 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 as it deems advisable.

SEC. 3. The head of any executive department, independent establishment, or agency in the executive branch of the Government shall, upon request of the committee or any subcommittee thereof, furnish such records, documents, papers, correspondence, and information in the possession of such department, independent establishment, or agency as may assist the committee, and may temporarily detail any officers or employees of such department, independent establishment, or agency to assist such committee or subcommittee in carrying out the provisions of this resolution.

SEC. 4. The committee shall report to Congress the results of its investigations, together with its recommendations for legislation, if any, on or before December 18, 1931.

SEC. 5. To carry out the purposes of this resolution there is hereby authorized to be appropriated the sum of $10,000, one-half to be expended from the contingent fund of the Senate and one-half from the contingent fund of the House. All expenses of the committee shall be paid upon vouchers to be approved by the chairman of said committee.

Mr. JOHNSON. Mr. President, let me say in a word that the purpose of the joint resolution is not to retard legislation at the present time nor to interfere with any pending measures at all. Its design, sir, is in line with the dreams of some of us who live on the Pacific coast of possibilities there.

I can recall 30 years ago, when I used to speak of the possibilities of the coast, of its commerce, its importance, and its population, people were inclined to smile indulgently; and yet, according to the last census, the sixth State in the Union in population is to-day the State of California; its expanding maritime activities and its rapidly increasing commerce are recognized as of prime national importance. I can recall the times when we thought little of the commerce on the Pacific, and yet to-day, sir, there is no man of vision but realizes that ultimately the theater of world activity will be upon that ocean.

The mild Pacific, sir, washes the shores of more than a third of the earth's surface. The mild Pacific touches 70 per cent of the population of the entire globe.

My design is, and it is a dream which ultimately will come true, though not to-day, of course, upon the Pacific slope—and I count the Pacific slope all of that territory which is west of the Rocky Mountains—to have a naval academy finally, a naval academy not from the standpoint of militarism at all, but a naval academy which will furnish those who must necessarily finally, in the ever-increasing commerce of the Pacific and in the needs of the Pacific for national defense, provide the personnel for directing ships. It is not, I insist again, a design in erecting there a naval academy to increase the military forces of the land, nor is it directed mainly toward militarism.

There on the Pacific coast are harbors such as have no counterpart in all the world. No more appropriate place could be found for a naval academy. It interested me a few years ago in sailing about to observe harbors and make comparisons with harbors on the Pacific coast. Incomparably superior are our harbors to most in foreign lands. The commerce of the Pacific to-day by leaps and bounds has increased until very recently when difficulties have arisen in the Orient, and that commerce is destined to be even greater with the lapse of years. A naval academy such as suggested would accomplish many very important purposes.

Some of us who yet believe in national defense desire to have some measure of preparedness finally in case any differences may arise. We recognize that our Navy was stripped of its power by a naval treaty which we entered into just a few months ago. We recognize that then, under the pious cry of peace and protestations of what was going to be accomplished in the world, we reduced our Navy beyond that point at which we presumed it ever would be maintained. To-day, sir, not only have we done that, not only have we shot the Navy to pieces under a naval treaty, but the administration leaders in the House of Representatives have blocked any endeavor to build up even under that naval treaty, and to-day the Navy of the United States in comparison with the Navy of Great Britain is inferior and far from parity, and in comparison with that of Japan woefully inferior.

But this is not primarily a naval measure which I introduce. It is a measure for peace time and for the protection of our commerce, the education of those who ultimately may be sought to direct the shipping commercial interests upon the Pacific coast, the empire that is growing so to-day that a man needs no imagination to understand what its possibilities in a quarter of a century will be and how it will rank with all the world.

I ask that the joint resolution be referred to the Committee on Naval Affairs.

The PRESIDING OFFICER. The joint resolution will be referred to the Committee on Naval Affairs.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Chaffee, one of its clerks, announced that the House had passed the bill (S. 255) for the promotion of the health and welfare of mothers and infants, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

H. R. 2366. An act authorizing the Secretary of War to convey a certain portion of the military reservation at Fort McArthur, Calif., to the city of Los Angeles, Calif., for street purposes, and to amend an act to authorize the acquisition for military purposes of land in the county of Montgomery, State of Alabama, for use as an addition to Maxwell Field, approved July 1, 1930;

H. R. 3309. An act to provide extra compensation for overtime service performed by immigrant inspectors and other employees of the Immigration Service;

H. R. 9199. An act for the relief of John F. Williams and Anderson Tyler;

H. R. 9599. An act to authorize the Secretary of Agriculture to carry out his 10-year cooperative program for the eradication, suppression, or bringing under control of predatory and other wild animals injurious to agriculture, horticulture, forestry, animal husbandry, wild game, and other interests, and for the suppression of rabies and tularemia in predatory or other wild animals, and for other purposes;

H. R. 15263. An act to relieve restricted Indians in the Five Civilized Tribes whose nontaxable lands are required for State, county, or municipal improvements or sold to other persons, or for other purposes; and

H. R. 17071. An act granting the consent of Congress to the State Highway Department of Pennsylvania to construct, maintain, and operate a free highway bridge across the Mahoning River near New Castle, Lawrence County, Pa.

WELFARE OF MOTHERS AND INFANTS

Mr. BARKLEY. I ask that the amendments just received from the House to Senate bill 255, for the promotion of the health and welfare of mothers and infants, and for other purposes, be retained on the Secretary's desk with a view to making a motion to concur in the House amendments. I do not make the motion now because of the absence of the Senator from Washington [Mr. JONES].

The VICE PRESIDENT. The message from the House of Representatives will be retained on the Secretary's desk.

ELIZABETH LYNN

Mr. HOWELL submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 6227) entitled "An act for the relief of Elizabeth Lynn," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same.

R. B. HOWELL,
HUGO L. BLACK,
Managers on the part of the Senate.
ED. M. IRWIN,
JOHN C. BOX,
ROY G. FITZGERALD,
Managers on the part of the House.

Mr. TYDINGS. What is the bill? One can not tell by the number.

Mr. HOWELL. These are certain claims where the Senate cut down the amount claimed as passed by the House and in conference compromises were made.

The report was agreed to.

JOHN MAIKA

Mr. HOWELL submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 531) entitled "An act for the relief of John Maika," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate, and agree to each thereof with an amendment as follows: In lieu of the sum inserted by each of said amendments of the Senate insert "$3,000"; and the Senate agree to the same.

R. B. HOWELL,
HUGO L. BLACK,
Managers on the part of the Senate.
ED. M. IRWIN,
JOHN C. BOX,
ROY G. FITZGERALD,
Managers on the part of the House.

The report was agreed to.

GEORGE W. M'PHERSON

Mr. HOWELL submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 8242) entitled "An act for the relief of George W. McPherson," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment as follows: In lieu of the sum inserted by said amendment of the Senate insert "$4,000"; and the Senate agree to the same.

R. B. HOWELL,
HUGO L. BLACK,
Managers on the part of the Senate.
ED. M. IRWIN,
JOHN C. BOX,
ROY G. FITZGERALD,
Managers on the part of the House.

The report was agreed to.

LAURIN GOSNEY

Mr. HOWELL submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 2222) entitled "An act for the relief of Laurin Gosney," 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 amendment.

R. B. HOWELL,
HUGO L. BLACK,
Managers on the part of the Senate.
ED M. IRWIN,
JOHN C. BOX,
ROY G. FITZGERALD,
Managers on the part of the House.

The report was agreed to.

FEDERAL REAL ESTATE & STORAGE CO.

Mr. GOLDSBOROUGH. Mr. President, I ask unanimous consent for the immediate consideration of the bill (S. 4727) for the relief of the Federal Real Estate & Storage Co.

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

Mr. DILL. Mr. President, is the bill on the calendar?

Mr. GOLDSBOROUGH. No; it was reported this morning. It simply refers a case to the Court of Claims for report back to Congress.

Mr. DILL. Is it a unanimous report of the committee?

Mr. GOLDSBOROUGH. It is.

Mr. DILL. I have no objection.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Claims with an amendment on page 1, line 4, after the word "determine," to insert the words "and report to Congress," so as to make the bill read:

Be it enacted, etc., That the Court of Claims of the United States is hereby authorized and empowered to hear and determine and report to Congress the claims of the Federal Real Estate & Storage Co. as owners of lands lying partly in Montgomery County, Md., and partly in the District of Columbia, arising out of the taking and closing of the Little Falls Road, leading from the Conduit Road to the aforesaid lands of the Federal Real Estate & Storage Co., by the building of the Delecarli filtration plant and other buildings in connection therewith, and for the closing of a road substituted therefor by the agreement of the United States district engineer and the Federal Real Estate & Storage Co., any statute of limitations to the contrary notwithstanding.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

FOREIGN INTERFERENCE WITH AMERICAN AFFAIRS

Mr. HEFLIN. Mr. President, under the rule I am required to give notice of a motion to discharge a committee from the further consideration of a bill. Accordingly I desire to enter a motion to discharge the Committee on Foreign Relations from the further consideration of the bill (S. 5868) making it unlawful for any American citizen to accept any office or title from any king, prince, or foreign state.

The PRESIDING OFFICER. The motion will be entered.

INVESTIGATION OF AGRICULTURAL CONDITIONS

Mr. WHEELER. Mr. President, I ask permission to introduce a resolution and to have it read, and then to make a very brief statement with reference to it. It will not lead to any discussion because I am going to ask that it be referred to the Committee on Agriculture and Forestry.

The PRESIDING OFFICER. Without objection, the clerk will read, as requested.

The legislative clerk read the resolution (S. Res. 481), as follows:

Whereas the depression in agriculture continues unabated, and there are involved in the problem of prices for farm products, agricultural marketing, and financing, a number of questions which require detailed study and upon which Congress should have further information before considering remedial legislation: Therefore be it

Resolved, That a subcommittee of the Committee on Agriculture and Forestry, consisting of five members, including the chairman of the committee and four others to be designated by the chairman, shall be authorized, and is hereby directed to make full inquiry into the subject of agricultural conditions, including the efficacy of existing organizations for marketing and credit service

to agriculture, and report to the next session of Congress its recommendations in the premises.

Such subcommittee shall have full authority to administer oaths, or compel the attendance of witnesses and the production of papers, and to sit in Washington and such other places throughout the country as it may deem proper, and to sit while Congress is in session or during adjournment.

There is hereby appropriated from the contingent fund of the Senate the sum of $20,000, or so much thereof as may be necessary to defray the expenses of such inquiry.

The PRESIDING OFFICER. The Chair will state to the Senator that the resolution is not in proper form. It should provide an authorization and not an appropriation. The resolution reads:

There is hereby appropriated.

It should read "there is hereby authorized."

Mr. WHEELER. I desire this resolution to go to the Committee on Agriculture and Forestry. It does not provide for an appropriation, but for an investigation of agricultural conditions, the expenses to come out of the contingent fund of the Senate.

Mr. President, if I may say just a word, I will state there has been a considerable demand throughout the country that a general investigation of the Farm Board take place. I have been opposed to an attack on the Farm Board, but I feel that agriculture is in the most deplorable condition in which it has been for a number of years. I know that many members, if not a majority, of the Committee on Agriculture and Forestry are without any information as to exactly what has been going on in the Farm Board; how the four hundred or five hundred million dollars that have been placed at its disposal have been expended. So it seems to me that, during the recess, when Congress shall have adjourned, during the intervening nine months, the Committee on Agriculture and Forestry of the Senate ought to investigate farm conditions throughout the United States, and that it ought to examine and take testimony as to how the money appropriated for the Farm Board has been spent. It also ought to make a study of any proposed changes in legislation for the purpose of bettering the condition of agriculture. I hope, Mr. President, that the chairman of the Committee on Agriculture and Forestry will call the committee together and that we may get action upon the resolution in the immediate future.

Let me say to the Senate that while I have suggested the sum of $20,000, to be paid from the contingent fund of the Senate, to cover the cost of the investigation, I doubt if that much will be required, because most of the data which we desire, in my judgment, are available here in Washington or from the various cooperative organizations throughout the country.

The PRESIDING OFFICER. The resolution will be referred to the Committee on Agriculture and Forestry.

WELFARE OF MOTHERS AND INFANTS

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 255) for the promotion of the health and welfare of mothers and infants, and for other purposes.

Mr. JONES. I move that the Senate disagree to the amendment of the House, ask for a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JOHNSON, Mr. JONES, and Mr. FLETCHER conferees on the part of the Senate.

SURVEY OF SEMINOLE INDIANS OF FLORIDA (S. DOC. NO. 314)

Mr. FLETCHER. From the Committee on Printing I report an original resolution providing for the printing of the document which I send to the desk, and I ask unanimous consent for the immediate consideration of the resolution. It will take but a moment.

The PRESIDING OFFICER. The resolution will be read.

The Chief Clerk read the resolution (S. Res. 482), as follows:

Resolved, That the manuscript entitled "Survey of the Seminole Indians of Florida," by Roy Nash, be printed with illustrations as a Senate document.

Mr. FLETCHER. An estimate of the cost of the printing has been obtained.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

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

PROPOSED MERGER OF ROOSEVELT STEAMSHIP CO. AND INTERNATIONAL MERCANTILE MARINE CO. (S. DOC. NO. 313)

Mr. FLETCHER. Mr. President, yesterday there came to the Senate a report from the Shipping Board in response to a resolution which I had submitted. It is a very short report. It was ordered to be printed and to lie on the table. I ask to have the report printed in the RECORD and referred to the Committee on Commerce.

There being no objection, the report was referred to the Committee on Commerce and ordered to be printed in the RECORD, as follows:

[Senate Document No. 313, Seventy-first Congress, third session]

PROPOSED MERGER OF ROOSEVELT STEAMSHIP CO. AND INTERNATIONAL MERCANTILE MARINE CO.

Letter from the vice chairman of the United States Shipping Board transmitting in response to Senate Resolution No. 431, information relative to the merger of the Roosevelt Steamship Co. and the International Marine Co.

UNITED STATES SHIPPING BOARD,
Washington, February 27, 1931.

Hon. EDWARD P. THAYER,
Secretary of the Senate, Washington, D. C.

SIR: In the matter of information requested of the Shipping Board by Senate Resolution 431, introduced by Mr. FLETCHER, I have the honor to advise as follows:

(1) What information the board has with respect to the merger of the Roosevelt Steamship Co. and the International Mercantile Marine Co.

It has been stated to the board indirectly that representatives of the Roosevelt Steamship Co. and associates have purchased a working control of the stock of the International Mercantile Marine Co.

(2) If the board has been consulted concerning this merger and what action or attitude the board took with respect thereto.

The matter has never been formally presented to the board although there was some informal discussion of the subject with representatives of the corporation in July, 1930.

(3) If the board permits any of its managing agents directly or indirectly to operate foreign-flag lines or vessels in competition with lines established and operated or sold by the board.

It is the recorded and established policy of the board to prevent such competition.

(4) What action the board contemplates taking as a result of this merger.

The investigations being made by the board have not developed to the point where that question can be definitely answered at this time.

(5) Whether any loan has been made by the Shipping Board for the construction of any ship now operated by any foreign company, or whether any ship for the construction of which loans have been made has been sold to and is now operated by any foreign company.

No.

Very truly yours,

E. C. PLUMMER, *Vice Chairman.*

STUDY OF UNEMPLOYMENT INSURANCE

Mr. WAGNER. Mr. President, the resolution submitted by me providing for a study of unemployment insurance was reported favorably by the Committee on Commerce and this morning was also favorably reported by the Committee to Audit and Control the Contingent Expenses of the Senate. Since then a defect has been discovered in the drafting of the resolution. So I am reintroducing the resolution in its proper form, and I ask that it may be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

The PRESIDING OFFICER. The Chair will suggest to the Senator from New York that a better plan would be to wait until the report of the committee shall come in and then to move an amendment, because the Committee to Audit and Control the Contingent Expenses of the Senate will not again meet this session.

Mr. WAGNER. I consulted the chairman of the Committee to Audit and Control the Contingent Expenses of the Senate and he suggested the procedure which I have proposed.

The PRESIDING OFFICER. If the Senator from New York desires to take the risk, it is all right, but the Chair suggests that there will be no further meeting of the Com-

mittee to Audit and Control the Contingent Expenses at this session, and there will be no polling of the committee.

Mr. WAGNER. I take it that after all the committee may modify its decision in that regard. Then, under those circumstances, since the resolution has already been reported favorably by the committee, I ask unanimous consent for its adoption.

The PRESIDING OFFICER. Is the resolution as reported on the calendar?

Mr. WAGNER. The report has not been submitted, but the Chair knows that the committee agreed to report the resolution providing for an expenditure of $10,000, and the resolution is in conformity with the report.

The PRESIDING OFFICER. The Chair is trying to assist the Senator in getting what he desires.

Mr. WAGNER. I appreciate that.

The PRESIDING OFFICER. The Chair will suggest that when the report comes in the Senator offer the resolution he now has as a substitute, and then it will be perfectly clear of any parliamentary confusion.

Mr. WAGNER. Very well.

THE MANGANESE INDUSTRY AND THE DUMPING OF MANGANESE ORES

Mr. HEBERT obtained the floor.

Mr. ODDIE. Mr. President——

Mr. HEBERT. Mr. President, the Senator from Nevada wishes to make a brief statement, and I now yield to him for that purpose.

Mr. ODDIE. Mr. President, it will take me but a few moments.

Mr. President, the American manganese industry, in response to the protection afforded in the tariff act of 1930, was making excellent progress and would have in 1930 produced about 200,000 tons of metallurgical-grade ore had it not been for the dumping of soviet ores at artificially low prices far below the cost of production in the United States.

When this dumping began the industry was compelled to shut down, and the situation was so serious that on July 30, 1930, I wrote to the Hon. Seymour Lowman, Assistant Secretary of the Treasury, setting forth fully the conditions and urging upon him the importance of affording relief under existing statutes. On August 2, 1930, additional information came to me to the effect that the price for the manganese ore also being sold by the Soviet Government in the United States was less than the cost of production in Russia, and on that date I conveyed this information to Mr. Lowman calling attention to the dumping of soviet manganese ores and asking that the liquidation of entries of such ore from Soviet Russia be suspended under the provisions of the antidumping act of 1921 and until a satisfactory ascertainment of the proper antidumping increment of duty should have been determined. I herewith submit for the RECORD my letters to Mr. Lowman of July 30 and August 2, 1930, and his reply of August 12, 1930.

The PRESIDING OFFICER. Without objection, the correspondence will be printed in the RECORD.

The correspondence referred to is as follows:

JULY 30, 1930.

Hon. SEYMOUR LOWMAN,
Assistant Secretary of the Treasury,
Washington, D. C.

MY DEAR MR. SECRETARY: The American Manganese Producers' Association, through its president, Mr. J. Carson Adkerson, informs me that since the 1930 tariff act became a law the Soviet Government has reduced the price of Russian manganese ore so low that American producers of manganese have been compelled to shut down mines and plants. I am also informed that the soviet manganese price is below the cost of production. Furthermore, production losses are being justified and sustained in order to establish foreign gold credits for purchases of steel, machinery, and equipment required under the Soviet Government's industrialization program. In substantiation, I quote from The Iron Age of May 8, 1930, as follows:

"HAMBURG, GERMANY, April 21.—Based on recent reports and statements by government officials in Soviet Russia, the government is losing heavily on manganese-ore production in the Caucasus. The director of mines has stated that production costs have advanced about 34 per cent recently. Estimates by German ore dealers show that the Russian Government is selling manganese ore from the Georgian mines at about 3d. (6 cents) per unit less than the cost of production. However, the Soviet Government is selling manganese ore regardless of costs to establish sufficient foreign credits for purchases of machinery and equipment required in its industrialization program."

When the Soviet Government adopts a policy to meet the American price without regard to the cost of production and the losses sustained, I submit that this constitutes "dumping" of manganese ore on the American market and that this "dumping" policy nullifies the provisions of paragraph 302-a of the tariff act of 1930 and prevents the operation and development of the American manganese industry.

A crisis exists in the American manganese industry which requires emergency relief by declaring immediately an embargo on the importation of Russian manganese ore.

Furthermore, the question as to whether the manganese ore in Russia is produced by convict, indented, conscript, or forced labor arises. Soviet competition has some unusual factors which should be taken into account if the interests of American capital and labor are to be considered and adequately protected. On this question I quote from the Business Week of April 9, 1930, as follows:

"The important factors that distinguish Russian competition are, first, that other countries have what are called labor costs, which determine prices, while Russian industry has no labor costs in the sense in which we understand them. All workers are practically State employees, and internal wages and prices are so regulated by the State that comparison between real labor costs in Russia and other countries is practically meaningless. At best they are merely subsistence costs, charged not to the industry or the product but distributed over the whole economic system.

"Costs of production in the usual sense do not begin until her exports pass her border and she has to commence paying both her transportation and handling charges in terms of wages of non-Russian workers. Consequently, prices on her exports can be fixed almost arbitrarily."

Under such circumstances the "dumping" of Russian manganese ore on the American market, regardless of price, and the system of using convict, indented, conscript, or forced labor, the duty in the 1930 tariff act is too low to afford adequate protection to the domestic manganese industry. The most immediate and certain relief from such arbitrary and unfair manufacturing and selling practices is the declaration of an embargo on imports of Russian manganese ore.

It is reported that representatives of the Amtorg Trading Co., the business organization of the Soviet Government in the United States, has stated that the consumers of manganese in this country are dependent on Russian manganese ore because of its superiority in grade to that of American origin. This statement has no foundation in fact. The manganese product of the Butte mines has for some time been used by the steel industry and preferred because of its freedom from objectionable impurities and its high grade of 60 per cent manganese content as compared with 50 per cent for Russian ore. The products of other domestic mines have also been used and found superior to the Russian ore.

The contention urged by the steel interests during the tariff debate that there were no satisfactory domestic ores has been completely dissipated by actual developments in the past two years. The production of marketable manganese from domestic mines in 1929 was 30 per cent greater than in 1928, and the production recorded during the first few months of 1930 indicates that the production for this year will be approximately 200,000 tons, or an increase of about 400 per cent over 1928, provided that there is a market for the ore.

The steel industry, grown fat on protection, urged Congress to restore manganese ore to the free list, and the Senate Committee on Finance so recommended. The Senate, however, voted 60 to 18 not only to restore the 1922 rate of 1 cent per pound on the manganese content but extended the duty to apply on ores containing from 10 to 30 per cent manganese, which in the 1922 act were on the free list. The conference committee on the 1930 tariff bill concurred in my amendment, as above stated, and the House of Representatives voted in its favor. There is no question but that Congress regards the development of a strong domestic manganese industry important to the Nation's peace-time economy and to its national defense.

The selfish views of the steel interests were overwhelmingly set aside by Congress in the 1930 tariff act in favor of a nationally progressive policy of development for the domestic manganese industry; and nothing should be allowed now to interfere with full operation of the protection afforded manganese ore in the 1930 tariff act. No doubt the Bethlehem Steel Co., obtaining most of its manganese supply from the Soviet Government, would like to continue to set aside the American tariff and obtain their product at the expense of American capital and labor and under the starving subsistence allowance paid to soviet convict, indented, conscript, or forced labor. The selfish desires of the Soviet Government and the American steel interests must again be set aside by an administrative order declaring an embargo on the imports of Russian manganese ore.

To allow the domestic manganese industry to be shut down because of these unfair and artificial trade practices of the Soviet Government would be indefensible in times of exceptional national prosperity and under the fullest employment of American labor. To permit this unfair trade practice to exist now, when this Nation is struggling to regain its economic equilibrium and to insure more employment to the American workingman, would be a national economic error of the first magnitude. The immediate declaration of an embargo on Russian manganese ore will not only protect the large amount of capital invested in the American manganese industry but will result in greatly improved employment conditions for thousands of American miners. Since

there are manganese deposits in 34 States of the Union, the benefits of increased labor employment from an expanding manganese industry would be generally well distributed throughout the Nation.

The present practices concerning the manufacture and "dumping" of Russian manganese ores in the American market are indefensible from any national or humane viewpoint. As chairman of the Senate Committee on Mines and Mining and leader of the 1930 manganese-tariff fight, I submit the question of declaring an embargo on the imports of Russian manganese ore.

Very sincerely yours,

TASKER L. ODDIE.

UNITED STATES SENATE,
Washington, August 2, 1930.

Hon. SEYMOUR LOWMAN,
Assistant Secretary of the Treasury, Washington, D. C.

MY DEAR MR. SECRETARY: With further reference to my letter of July 30, 1930, urging that an embargo be placed upon Russian manganese-ore imports, I desire to call your particular attention to the emergency relief which may be afforded under the provisions of the antidumping act of 1921.

It is generally known that the Harriman interests were forced to relinquish their concession on the Caucasus manganese deposits because they failed to meet production costs when the world price of manganese was 40 cents per long ton unit of 22.4 pounds of metallic manganese. It is, therefore, inconceivable that under the present soviet management, costs of production have been lowered sufficiently to permit this ore to be laid down in the United States at a cost of even 30 cents per unit. Notwithstanding this, Russian manganese is freely offered for sale delivered at American seaboard ports at 25 cents per unit plus the duty. Furthermore, it is understood that Russian ore has been sold in Europe at prices substantially higher than those at which similar ore is being offered and sold in American markets. It is also reported that agents of the soviet manganese-ore trust have assured consumers in the United States that they are prepared to undersquote domestic producers of manganese ore at all times.

Under these circumstances and the crisis which exists in the American manganese industry, with mines and plants being shut down due to the dumping and unfair trade practices of the Soviet Government, I hereby petition, under the provisions of the antidumping act of 1921, that from this date liquidation of entries of manganese ore imported from Soviet Russia be suspended until a satisfactory ascertainment of the proper antidumping increment of duty shall have been determined.

While it may require some little time to determine the facts upon which an embargo on Russian manganese ore, urged in my letter of July 30, 1930, can be made effective, this petition, if promptly acted upon, will afford a measure of immediate relief to the American manganese industry.

Very sincerely yours,

TASKER L. ODDIE.

TREASURY DEPARTMENT,
Washington, August 12, 1930.

Hon. TASKER L. ODDIE,
United States Senate.

MY DEAR SENATOR: Your letter of August 2, further in regard to importations of manganese ore from Russia, has been received and carefully considered.

Under the provisions of the antidumping act of 1921, dumping exists only where the purchase price or exporter's sales price, as the case may be, is less than the foreign market value; i. e., the price at which the same or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the country of exportation in the ordinary course of trade for home consumption—or if not sold or offered for sale for home consumption, then for exportation to countries other than the United States—or in the absence of such value, the cost of production.

Due to the fact that the Soviet Government of Russia has not been recognized by the Government of the United States, the Treasury Department has no representatives in Russia and has no other facilities for obtaining reliable information as to value, costs of production, or other conditions in that country which might warrant a finding of dumping, or obtaining competent evidence which could be used in appraisement or other court proceedings. As you are doubtless aware, general information and hearsay would not be admissible as evidence in any such proceedings.

Dumping has been alleged as to several commodities from Russia, but, due to conditions recited above, the Treasury Department has been unable to deal adequately with them. In a single instance, that of safety matches, the evidence was sufficient to warrant a finding of dumping. In this case the evidence, in the form of direct testimony and official trade publications of the Soviet Government, was obtained and presented by representatives of the industry in the United States. May I suggest a similar course for the consideration of the American Manganese Producers' Association.

In the present case there is no evidence whatever of a competent nature that the purchase price or exporter's sales price is less than the foreign value of the manganese ore imported from Russia and inasmuch as under present conditions, and so long as those conditions continue, there seems to be no likelihood that the Treasury Department will be able to obtain such evidence, I regret to inform you that the Treasury Department is not in a position to comply with your request that liquidation of entries covering manganese ore from Russia be suspended.

The Treasury Department is endeavoring in every way possible to carry out the policy embodied in the antidumping law, and any assistance which private interests may render which will enable it to enforce the law more effectually will be greatly appreciated.

Your letter addressed to the Hon. Edgar D. Brossard, chairman of the United States Tariff Commission, under date of August 1, 1930, in regard to importations of manganese ore from Russia has been referred to this department for reply.

The contents of the above-described letter appear to be identical with those of your letter addressed to the Secretary of the Treasury under date of July 30, to which I replied under date of August 2, informing you of the status of the particular matter and as to the Treasury Department's policy in respect to the enforcement of section 307 of the tariff act of 1930.

Inasmuch as the situation has not changed, as a reply to your letter to Mr. Brossard I refer you to my letter of August 2.

Very truly yours,

S. LOWMAN, *Assistant Secretary.*

Mr. ODDIE. Mr. President, on August 11, 1930, the American Manganese Producers' Association wrote to the Hon. Andrew W. Mellon, Secretary of the Treasury, requesting relief under the antidumping act of 1921 and petitioned the Secretary to withhold liquidation of entries of Russian manganese ores until the amount of actual dumping duty properly chargeable could be ascertained. I herewith submit this letter for the RECORD, together with a response by the Hon. Seymour Lowman, Acting Secretary of the Treasury, dated August 14, 1930.

The PRESIDING OFFICER. Without objection, the correspondence will be printed in the RECORD.

The correspondence referred to is as follows:

AMERICAN MANGANESE PRODUCERS' ASSOCIATION,
Washington, D. C., August 11, 1930.

Hon. ANDREW W. MELLON,
Secretary of the Treasury, Washington, D. C.

MY DEAR MR. SECRETARY: (1) The American Manganese Producers' Association, under the provisions of the "antidumping act, 1921," respectfully petitions the Secretary of the Treasury to suspend the liquidation of entries of manganese ore exported from Russia to the United States pending an investigation by the Treasury agents of the increment of additional duty properly chargeable against imports of such ore, by virtue of the fact that such ore is freely offered and sold in the United States at less than its fair market value and at less than the indicated cost of production in Russia.

(2) Relief from this condition is requested under the "antidumping act, 1921," certain pertinent sections of which read as follows:

"SEC. 201. (a) That whenever the Secretary of the Treasury (hereinafter in this act called the "Secretary"), after such investigation as he deems necessary, finds that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation into the United States of a class or kind of foreign merchandise, and that merchandise of such class or kind is being sold or is likely to be sold in the United States or elsewhere at less than its fair value, then he shall make such finding public to the extent he deems necessary, together with a description of the class or kind of merchandise to which it applies, in such detail as may be necessary for the guidance of the appraising officers.

"(b) Whenever, in the case of any imported merchandise of a class or kind as to which the Secretary has not so made public a finding, the appraiser or person acting as appraiser has reason to believe or suspect, from the invoice or other papers or from information presented to him, that the purchase price is less, or that the reporter's sales price is less or likely to be less, than the foreign market value (or, in the absence of such value, then the cost of production) he shall forthwith, under regulations prescribed by the Secretary, notify the Secretary of such fact and withhold its appraisement report to the collector as to such merchandise until the further order of the Secretary, or until the Secretary has made public a finding as provided in subdivision (a) in regard to such merchandise."

(3) It is common knowledge that the Russian Soviet Government has determined to sell manganese ore in foreign markets as a means of creating gold credits, regardless of cost. This policy is clearly described in two memoranda, both dated August 5, 1929, prepared by Mr. E. C. Ropes, chief Russian Section, Division of Regional Information, United States Bureau of Foreign and Domestic Commerce, and supported by certain translations from the German press pertaining to Russian methods respecting the marketing of manganese. Copies of these memoranda constitute Exhibits A and B attached to this letter. Attention is directed especially to the following statements which appear in the memorandum marked "Exhibit A":

"Thus the basis for a dumping process of extraordinary nature and with far-reaching aims is present in Russia, and it is further extended by the difference maintained between the official valuation of the ruble in Russia and the actual value abroad. There is

thus added to dumping based on State capitalism a dumping based on the difference in exchange."

* * * "But the Russian effort is directed quite plainly further to shut out so far as possible, by quoting lower prices, other manganese producers and to assure a monopoly for itself."

* * * "The question is only whether the Russian policy will not lead to a further reduction of prices, with the result that their chief competitors can no longer meet them, and thus a Russian monopoly will be reached in the manganese market, as in the platinum market."

* * * "If the Russians once maintain a monopoly, which is quite easily possible with their opportunities for dumping, under the system where it is immaterial whether an export trust itself makes or loses, then they will very probably refuse to sell Russian ore to those plants which have adapted their processes at prices acceptable to the consumers, but will demand those rates that will suit them as monopolists."

The further reductions in manganese prices foreseen by Mr. Ropes a year ago have subsequently become an accomplished fact. As indicated by the Hamburg (Germany) correspondent of the Iron Age, and quoted by that well-informed organ of the steel industry, these low manganese prices resulted some months ago in a loss to the Russian export trust amounting to about 6 cents a unit. The article appearing in the Iron Age of May 8, 1930, is as follows:

SOVIET LOSSES HIGH ON MANGANESE ORE

"HAMBURG, GERMANY, April 21.—Based on recent reports and statements by government officials in Soviet Russia, the government is losing heavily on manganese-ore production in the Caucasus. The director of mines has stated that production costs have advanced about 34 per cent recently. Estimates by German ore dealers show that the Russian Government is selling manganese ore from the Georgian mines at about 3d. (6 cents) per unit less than the cost of production. However, the Soviet Government is selling manganese ore regardless of costs to establish sufficient foreign credits for purchases of machinery and equipment required in its industrialization program."

(4) That the efforts of the soviet manganese-export trust have not been in vain is evidenced by the following table which shows that the imports of manganese ore from Russia have increased at an extraordinary rate:

Imports of manganese ore into the United States

Year	Total from all countries (gross tons)	Imports from Russia	
		Gross tons	Per cent of total
1922 [1]	425,000	3,284	0.4
1923 [1]	419,000	23,340	5.9
1924 [1]	505,000	82,194	17.8
1925 [1]	615,000	229,074	40.0
1926 [1]	738,000	244,690	35.2
1927	622,067	253,544	40.8
1928	427,708	159,842	26.7
1929	664,269	329,336	49.6
1930 [2]	742,000	346,178	46.7

[1] U. S. Bureau of Mines estimate of gross weight, based on actual manganese content.
[2] Based on actual figures, imports for first 6 months of 1930 which show 173,689 tons from Russia and total from all countries 370,903 tons.

(5) The average price of manganese ore per unit for the five years ending January 1, 1929, was about 40 cents c. i. f. Atlantic seaboard. As a result of increasingly heavy importations of ore from Russia, however, manganese ore has been sold and is being sold on the Atlantic seaboard at approximately 25 cents per long-ton unit (22.4 pounds) or fully 15 cents below the average for previous years. The Summary of Tariff Information 1929, schedule 3, paragraph 302, page 598, presents a table of prices of manganese ore delivered in the United States. From this table it appears that the average price of foreign ore during the 5-year period ending January 1, 1929, was 68.19 cents per unit. This price includes the tariff of 22.4 cents per long-ton unit and freight equivalent to 5.04 cents per unit, and compares with the present price delivered at Pittsburgh, including freight of approximately 52.4 cents per unit.

(6) The dumping of larger and larger quantities of Russian ore upon the American market at continually lowering prices has recently compelled the major producers of manganese in the United States to close their mines and plants, throwing thousands of men out of employment. Furthermore, the normal expansion of the domestic industry has been definitely arrested, thus curtailing the possibilities of increased employmnet and seriously limiting the capacity of the industry to fully satisfy the manganese consuming requirements of the Nation.

(7) The recent developments in American manganese are well known. The production of high-grade manganese ore from domestic mines during the year 1929 was 60,000 tons or 30 per cent greater than during 1928, and the production accomplished during the first few months of 1930 indicates that the output during the current year would be in excess of 200,000 tons, or an increse of approximately 400 per cent, as compared with 1928, provided there is a satisfactory market for the ore.

The 60,379 tons of high-grade ore, containing 35 per cent or more manganese, shipped from domestic mines in 1929 was valued at the mines at $1,612,357. In addition the shipments of ore containing 10 to 35 per cent manganese amounted to 78,191 tons, valued at $451,843; and ore containing 5 to 10 per cent manganese amounted to 1,110,067 tons, valued at $2,822,623. Thus the total value of manganese and manganiferous iron ore shipped from domestic mines during the year 1929 amounted to $4,846,823. To this may be added freight paid to American railways amounting to over $3,000,000. This shows the total market value of the shipments of manganese and manganiferous iron ore from domestic mines during the year 1929 alone amounted to approximately $8,000,000.

The high-grade ore imported from Russia runs approximately 50 per cent metallic manganese. The major portion of the high-grade metallurgical ore produced in the United States runs from 56 to 62 per cent metallic manganese. The domestic manganese ore now produced from the low-grade deposits by the newer methods of beneficiation is the freest from impurities and is the highest-grade ore ever sold on the world's market.

(8) It is common knowledge that the Soviet Government is attempting to break down the capitalistic system and to destroy industries in United States. This is clearly outlined in an article appearing in the Business Week under date of August 9, a paragraph of which is as follows:

"Through her industrialization program and her state-controlled export activities Russia is aiming clearly to attack the capitalistic system in its most vulnerable spot and to speed up and force the collapse of free competitive markets by drastic price cutting."

See Exhibits C, D, E, F, G, and H.

(9) The policy and intent of Congress, as evidenced by paragraph 302 (a) of the tariff act of 1930, was to establish a domestic manganese mining industry based upon low-grade ore resources and newly developed processes. The policy and intent of Congress is rapidly being defeated by the aggressive dumping campaign of the soviet manganese ore export trust. During the last six months the price quoted by this organization has been progressively reduced and the assertion has been made that the soviet agents for the sale of Russian ore in the United States are prepared to underquote domestic producers under any and all circumstances.

Our laws would not permit any American concern to destroy its rivals by such tactics, and our laws do not allow another country to attack us in this fashion. Relief to an American industry from this insidious foreign invasion is afforded through the provisions of the antidumping act, 1921.

(10) Manganese is essential to the production of steel and is an indispensable material in time of war. There is no substitute to take the place of manganese. Therefore, the development of the domestic manganese ore industry is fundamentally necessary to our national defense.

The evidence leads to the belief that Russian ore has been sold and is being sold at less than its fair market value and below its cost of production. The Iron Age article quoted above indicated that the loss suffered several months ago by the soviet manganese export trust amounted to at least 6 cents a unit of 22.4 pounds. The antidumping act, 1921, on the other hand, requires that instead of a loss a profit of not less than 8 per cent should be earned by Russia on such export manganese sales.

Since these practices constitute violations of the provisions of the antidumping act, 1921, resulting in serious damage and even the wreckage of the growing domestic manganese industry, I urge that proper action be taken by the Treasury Department to remedy this condition. In order to prevent further damage to the domestic manganese industry, prompt action is necessary, and I respectfully petition that the appraising officers and the collectors of the various ports be instructed to withhold liquidation of entries of Russian manganese ore until the amount of the additional dumping duty properly chargeable shall have been ascertained and assessed.

Respectfully submitted.

AMERICAN MANGANESE PRODUCERS ASSOCIATION,
J. CARSON ADKERSON, *President*.

DEPARTMENT OF COMMERCE,
BUREAU OF FOREIGN AND DOMESTIC COMMERCE,
Washington, August 5, 1929.

To: Minerals Division.
From: Russian Section, Division of Regional Information.
Subject: Soviet Monopoly of Platinum and Manganese. (Berliner Tageblatt, July 12, 1929.)

The fundamental attitude of Russia toward economic questions makes it possible for a number of agricultural products to be exported from Russia at prices which could never be accepted by private exporters. As it is the most important aim of the present Russian foreign-trade policy to accumulate the greatest possible amount of foreign exchange, it naturally follows that there is a tendency to export even when the prices received are above or very close to the costs of production. For what significance have cost prices in the Russian trade policy? The sale of a particular product may show a loss, when the actual cost prices and sale prices are compared, without seriously influencing the whole situation in Russian trade; what one trust loses, the other makes; what is lost to-day may be regained to-morrow.

Thus the basis for a dumping process of extraordinary nature and with far-reaching aims is present in Russia, and it is further extended by the difference maintained between the official valuation of the ruble in Russia and the actual value abroad. There is thus added to dumping based on state capitalism a dumping based on the difference in exchange.

On the strength of these possibilities the Russians have succeeded in practically monopolizing certain world markets during the past year. The experience in the egg market may be remembered, also the attempts, not entirely successful, in the flax market, and also the reentry of Russia as chief factor in the platinum market. There are other examples which might be mentioned.

This Russian dumping has, as a matter of fact, in some cases been of advantage to consumers in other countries because of the drop in prices which resulted. Since the reentry of the Russians into the international platinum trade prices on this metal have fallen from £28 per troy ounce to £13½ to £14. The object of this policy of the Russians is perfectly clear; indeed, there was no effort to conceal it. The purpose was to force from the market the Colombian production, which had arisen during the absence of Russia from the market, and also to prevent the development of the deposits in South Africa. This object was achieved by the Russians in a comparatively short time. Since the Colombian platinum costs more per ounce to produce than the Russians demand for their product in the world market, it is no wonder that the production there suffered a very rapid reduction, but the Russians certainly did not adopt this policy for the benefit of the European and American consumers but with the object of increasing the use of platinum to a considerable degree through the lowering of prices in order to concentrate in their hands the enlarged sales and thus establish the trade policy referred to above. If the Russians had achieved the desired result they then would undoubtedly have taken the next step of raising prices and taking advantage of their monopolistic position in the market, a perfectly possible proceeding if confined to rates under the reduction costs in Colombia. They made at least one mistake, however, for the reduction of prices had no appreciable effect on the volume of sales. This metal, still very high priced—in Germany a kilogram sells from eight to nine hundred marks—has now been so widely replaced in technical uses, particularly in chemistry by substitute materials, that the Russian policy would have failed for this reason, if it had been successful in reaching and holding its first planned stage of practical monopolization of the market.

In the case of materials, however, for which substitutes can not so readily be found the Russian attempt at monopoly by means of dumping may lead to more far-reaching results. We are obliged to think particularly of the manganese market, in which the Russians at present are active to an extent greater than in any other postwar period. The sales agency, which is centered in Germany, made contracts during the first six months of the Russian fiscal year for an even million tons, of which the greater part naturally did not stay in Germany; but we see, nevertheless, that the German steel industry has again almost entirely returned to the use of Russian manganese. But the Russian effort is directed quite plainly further, to shut out so far as possible by quoting lower prices other manganese producers and to assure a monopoly for itself. There is no doubt whatever that Harriman, their own concessionaire, was treated in a similar fashion by developing, contrary to his expectation, the south Russian mines in Nikopol at a forced rate and offering the ore produced there at prices with which it was well known that Harriman could not possibly combat. This is the reason for the large figures of German imports of Russion ore in 1927. There was an unquestioned dumping carried on with Nikopol ore against the Chiaturi ore, and Harriman got out from under after he had failed to secure control of the Nikopol mines. At the present time the Russians have forced Harriman out of the Caucasus and they can now direct their dumping moves against those countries where, as in the platinum market during the absence of the Russian production, considerable new production has developed or where the old production, as in British India, it has been enlarged.

It is undoubtedly a favorable feature both for the European and American consumers that the average price for manganese is now only 1s. 2d., while about four years ago it was nearly 1s. 8d. The question is only whether the Russian policy will not lead to a further reduction of prices, with the result that their chief competitors can no longer meet them, and thus a Russian monopoly will be reached in the manganese market as in the platinum market. The prospects in this field for the price policy of the Russians are quite different from those in the platinum market, for manganese is not a metal for which substitutes have thus far been found to as great an extent as with platinum. If the Russians once maintain a monopoly, which is quite easily possible with their opportunities for dumping, under the system where it is immaterial whether an export trust itself makes or loses, then they will very probably refuse to sell Russian ore to those plants which have adapted their processes at prices acceptable to the consumers, but will demand those rates that will suit them as monopolists.

E. C. ROPES,
Chief, Russian Section,
Division of Regional Information.

DEPARTMENT OF COMMERCE,
BUREAU OF FOREIGN AND DOMESTIC COMMERCE,
Washington, August 5, 1929.

Memorandum

To: Minerals Division.
From: Russian Section, Division of Regional Information.
Subject: Russian Manganese.

The following articles from two German papers are submitted as of possible interest. The first article is called "The Export of Russian Manganese," and is taken from Berliner Borsen-Zeitung, June 26, 1929. The president of the State Manganese Export Co. "Export-Marganets" is quoted in the soviet press as follows, in regard to the sale to date of Russian manganese abroad:

Up to the present time 95 per cent of the manganese to be produced at Chiaturi and 97 per cent of that from Nikopol has been sold. Actual exports of the company up to June 1, 1929, are nearly 550,000 metric tons. In addition, during the present fiscal year on the basis of old contracts with the Harriman Co. 60,000 tons of ore have been shipped abroad; the total export from October 1 is therefore approximately 610,000 tons. Consumers of Russian manganese are, first, America, with 275,000 to 300,000 tons; Germany, with 115,000 tons; Luxemburg, 105,000 tons; France, 100,000 tons, etc. The future prospects for the sale of Russian manganese ore in the world market are very favorable. Prices for ore have almost reached the lowest possible limit. If prices remain at this level for any considerable time, it may be predicted with certainty that a large portion of the foreign competition will be forced out because of high costs of production.

The second article is called "Russian Manganese for Germany," and is taken from Koluische Zeitung, June 25, 1929. The latest large sales of manganese by the Russians to German firms have been made at very low prices. One hundred thousand tons of washed ore have been sold at the price of 1s. 1d. per unit and ton c. i. f. and 75,000 tons of crude ore at a price of 1s. per unit and ton. The Indian mines complain of their inability to deliver at these prices unless cheap preferential freight rates from the mine to the port of shipment are extended. It is said that negotiations leading to the granting of such preferential delivery are in progress with the government. Until this is accomplished the Indian mines can not deliver under 1s. 2d. per unit and ton. They maintain, however, that the Russians are systematically dumping, in order to drive the Indian industry out of business, in the same way as they are attempting to ruin the Colombian platinum industry and trade in other fields.

E. C. ROPES,
Chief Russian Section,
Division of Regional Information.

TREASURY DEPARTMENT,
Washington, August 14, 1930.

Mr. J. CARSON ABKERSON,
President American Manganese Producers Association,
Metropolitan Bank Building, Washington, D. C.

SIR: I desire to acknowledge the receipt of your petition of the 11th instant requesting that the liquidation of entries of manganese ore exported from Russia to the United States be suspended pending an investigation of the fair market value of such merchandise in Russia and the price at which such ore is sold to the United States.

You submit that Russian manganese ore is being dumped into the United States at prices less than the foreign market value and request that corrective measures be taken under provisions of the antidumping act approved May 27, 1921.

May I assure you that this question will receive immediate attention. In the meantime may I request that you submit any evidence which may come into your possession showing the prices at which such manganese ore is freely offered for sale in the country of production—Russia.

Respectfully,

SEYMOUR LOWMAN,
Acting Secretary of the Treasury.

Mr. ODDIE. On August 22 a conference was held before Hon. Seymour Lowman to discuss the manganese situation, at which the American Manganese Producers Association, the American Iron & Steel Institute, and the Amtorg Trading Corporation were represented. At the conclusion of the meeting a representative of the firm of Simpson, Thatcher & Bartlett, the law firm which organized the Amtorg Trading Corporation, requested that an opportunity be afforded for them to prepare a brief, and Mr. Lowman extended the time until September 9, 1930, at which time another hearing was held. The American Manganese Producers Association was represented at this hearing, as was also the American Iron & Steel Institute, but the Amtorg Trading Corporation, which had previously through its counsel requested an opportunity to prepare a brief, failed to appear, and the attorney for the American Iron & Steel Institute volunteered the information that the Amtorg Trading Corporation was not interested. Evidently the Amtorg Trading Corporation was willing henceforth to rely upon the American Iron and Steel Institute to prevent the imposition of an embargo on soviet manganese ores.

On November 10, 1930, a formal printed brief was submitted by the American Manganese Producers Association to the Treasury Department for an embargo against the importation of Russian manganese, and in the latter part of November the American Iron & Steel Institute submitted another brief, to which reply was made by the

American Manganese Producers' Association on December 17, 1930. I herewith submit the briefs of November 10 and 17, 1930.

The VICE PRESIDENT. Without objection, the briefs will be printed in the RECORD.

The briefs referred to are as follows:

BRIEF OF THE AMERICAN MANGANESE PRODUCERS ASSOCIATION SUBMITTED IN SUPPORT OF REQUEST FOR PREVENTION OF SOVIET DUMPING OF MANGANESE ORE

THE HEARINGS

On August 11, 1930, the American Manganese Producers Association, by J. Carson Adkerson, its president, submitted to Hon. Andrew W. Mellon, Secretary of the Treasury, certain irrefutable evidence of the dumping in this country of manganese ore by the Soviet Government.

At the request of Senator TASKER L. ODDIE, chairman of the Committee on Mines and Mining of the United States Senate, and the American Manganese Producers Association, Hon. Seymour Lowman, Assistant Secretary of the Treasury, on August 22, 1930, in Washington, D. C., held a preliminary hearing. At that time and place, the American Manganese Producers Association appeared by Barron, Rice & Rockmore, its counsel. The American Iron & Steel Institute was represented by its counsel, Mr. Thomas J. Doherty, and the Amtorg Trading Corporation, the official commercial and business unit of the Soviet Government in this country, also appeared and was represented by the firm of Simpson, Thacher & Bartlett. At this hearing, various operators of manganese properties in the United States testified to the fact that as a consequence of the dumping committed by the Soviet Government, they had been forced to close their mines and practically go out of business.

The testimony on this score is wholly uncontradicted and unquestioned. It is so overwhelming and irrebuttable that it stands as an admitted and conceded fact that the American manganese industry, as a consequence of the soviet activities, has been seriously injured.

Counsel for the Amtorg Trading Corporation requested that the hearing be adjourned to September 9, 1930, in order to give them the opportunity to prepare and present certain facts in behalf of their client. The date of September 9, 1930, was fixed to meet the convenience of counsel for the Amtorg Trading Corporation.

On the adjourned date of the hearing, September 9, 1930, the American Manganese Producers Association again appeared with its counsel, but the Amtorg Trading Corporation and its counsel, who requested the adjournment to September 9, was conspicuous by its absence. They have not been heard from since the first hearing.

Instead, the so-called American Iron & Steel Institute appeared by its counsel to contest the application made by the American Manganese Producers Association for an embargo on soviet manganese ore.

The absence of the Amtorg Trading Corporation and its counsel is not without significance. Had they appeared and actively participated in the proceedings, they would undoubtedly have been compelled to answer some very pertinent questions and give authentic proof with reference to the fair value of manganese and the cost of its production in Soviet Russia. Obviously, a person who does not appear can not be questioned. There is no doubt that the absence of the Amtorg and its counsel from the hearing on September 9, and its complete silence from that time on, was inspired only by the soviet's desire to continue a policy of secrecy and concealment. No other possible explanation can be given for their absence from the hearings and continued silence during the entire controversy.

As above stated, in the absence of the Amtorg Trading Corporation and its counsel, the so-called American Iron & Steel Institute, by Mr. Doherty, its counsel, stepped into the breach so patently left by Amtorg Trading Corporation. Obviously, the American Iron & Steel Institute could not be questioned as to the fair value of manganese and the cost of production in Russia.

The American Iron & Steel Institute is an organ created and fostered by the steel industry of the United States, an industry which has consistently combated the progress of the American manganese industry. It has endeavored at every conceivable step to stifle and throttle the development and production of domestic manganese. It opposed the manganese industry in its attempt to obtain its first tariff in 1922. It opposed the manganese industry in its attempt to obtain an increased tariff in 1930. It purchased manganese abroad at a time when it might have purchased domestic manganese at prices much lower than that which it paid abroad. It has done in times of peace what—in time of war—would have been little short of treason.

The president of the American Iron & Steel Institute is also the chairman of the board of the Bethlehem Steel Corporation. The son of the vice president in charge of the purchases of raw materials for the Bethlehem Steel Corporation is the head of the corporation appointed by the soviet as its American sales agent for the disposition in this country of soviet manganese. See the Business Week of August 20, 1930.

This temporary alliance (Soviet Russia and the American steel industry) is the fantastic combination which appears to combat the life of an important and basic American industry.

Steel, the most carefully nurtured and best protected of all American industries, has become the spokesman for an international brigand. The reasons for this are obvious.

The brigand dare not speak lest he incriminate himself. Hence he attempts to speak indirectly from behind the mantle of steel's respectability.

In 1925 Russia's contribution to the world production of pig iron was 1.7 per cent, according to league figures. In 1929 it rose to 4.4 per cent, an increase of 334 per cent over her production of former years. In the same period Russia's share of world production of steel rose from 2.1 per cent to 4.3 per cent, an increase of 170 per cent over its 1925 production.

It is apparent from these figures that steel will inevitably have cause to regret the alliance. Its security in this country has befogged its vision. For, if Russia's production of steel in four years increased 170 per cent, it is a simple matter of mathematics to compute its steel production under its 5-year industrialization plan a few years from now. At that time, unquestionably, steel and the soviet will part company and steel will then be compelled to seek protection from an economic assault similar to that which manganese is being subjected to to-day.

We must not be misled by the purposes of the present alliance. The soviet is simply using the American Iron and Steel Institute as a means of defending itself so that the institute might speak for the soviet without the damage to it that would unquestionably flow if it were to take the stand in its own behalf.

Soviet Russia, not steel, is the defendant in this case.

THE RIGHT OF THE SOVIET TO APPEAR

The State Department has refused to recognize the Soviet Government for reasons indisputable.

The New York State Court of Appeals, in the case of the Russian Republic *v.* Cibrario (235 N. Y. 255), has held that an unrecognized government has no standing in our courts. The court of appeals, per Judge Andrews, said:

"We reach the conclusion, therefore, that a foreign power brings an action in our courts not as a matter of right. Its power to do so is the creature of comity. Until such government is recognized by the United States, no such comity exists. The plaintiff concededly has not been so recognized. With regard to the present Russian Government, the case is still stronger, even did comity not depend on recognition. We not only refused to recognize it; our State Department gives the reasons. In the face of these declarations it is impossible to hold that to-day any such relations exist between the United States and Russia as call upon our courts to enforce rules in favor of the latter depending on the comity of nations." (See also Penza, 277 Fed. 91.)

And the United States Supreme Court, in the case of Oetjen *v.* Central Machine Co. (246 U. S. 297), on page 302, says:

"The conduct of the foreign relations of our Government is committed by the Constitution to the executive and legislative—the political—departments of the Government, and the propriety of what may be done in the exercise of this political power is not subject to judicial inquiry or decision."

If the refusal of the State Department to recognize Soviet Russia is binding upon our courts, and the courts hold, in view of such refusal of recognition, that Russia has no standing in any judicial tribunal of this country, neither has it any standing nor the right to be recognized as a party in any administrative or quasi-judicial hearing, such as this, before the Treasury Department.

Steel has no greater rights than the soviet for whom she speaks.

Since Russia's voice is stilled, both by the policy of the State Department and by the decisions of our courts in consonance with that policy, steel must likewise remain silent. It would be a novel proposition which would permit the alter ego to advocate that which the ego and principal is debarred from asserting.

PRELIMINARY HISTORICAL ANALYSIS

(*A*) *American manganese industry*

The manganese industry in the United States is in its infant stages. It has had a short and arduous career. Before the World War, domestic manganese production was negligible. World supplies came, for the greater part, from Russia and India.

During the World War when the Dardanelles were closed, the Russian source of supply ended.

Manganese is absolutely necessary in the manufacture of steel. Hence, the Allies' cause was considerably endangered as a consequence of the cutting off of the Russian supply.

There was then fostered the development of domestic manganese deposits and production of high-grade ore increased from about 4,000 tons in 1913 to over 300,000 tons in 1918.

It is safe to say that without this domestic manganese production, America's participation in the World War and its material assistance to the Allies would have been seriously curtailed. The shortage of manganese was so great and the need for it was so acute that the United States Government dispatched the naval collier *Cyclops* to Brazil for a cargo of approximately 15,000 tons of manganese. This situation was also reflected in the price, for at this particular time the price of ferromanganese went above $400 per ton.

The Government agencies of information, to wit, the Geological Survey and Bureau of Mines, had incomplete knowledge concerning manganese deposits in this country.

The steel industry contended, and still has the audacity to contend, that there is little or no manganese in the United States; and due to the lack of data from the American governmental sources of information, this erroneous conception was permitted to remain unchallenged.

But the war had awakened patriotic citizens of America to the knowledge that manganese was a necessity in the national de-

fense; and there were sufficient patriotic men who gave of their time and their money to an investigation of possible manganese deposits, in order that, in the event of national emergency, the United States would be independent, at least, as to this important mineral element. Of necessity, as an infant industry, it could not begin, much less endure, without tariff protection.

In 1922 the tariff bill gave to manganese the protection of 1 cent per pound on metallic manganese contained in ore running above 30 per cent manganese. Despite this inadequate tariff, American pioneers proceeded to make investigations and began investing their money to the extent of millions of dollars in domestic mines and plants. In this effort the Geological Survey and the Bureau of Mines cooperated to the fullest possible extent, and it soon became definitely established that manganese deposits in this country existed in at least 34 States, and that there were actually known deposits of at least 400,000,000 tons running from 5 per cent to 50 per cent in metallic content.

It is true that a great percentage of this ore was of low grade; but American ingenuity was not to be thwarted. In a comparatively short period of time beneficiating processes were evolved and developed on a commercial basis, among these being the leaching, flotation, and sintering processes, which, like alchemy, transformed the lower grade ores of this country into ores having a metallic content superior to that of any known in the world. The steel companies were and are as fully cognizant of this development in the domestic manganese industry as were the manganese producers themselves. This superior manganese was offered to the steel companies at prices per ton cheaper than that which they were buying abroad. Nevertheless, the steel industry practically ignored the American manganese producers and continued for the greater part with its foreign purchases.

In 1930 Congress gave to the manganese industry, despite the opposition of the American Iron and Steel Institute, a tariff of 1 cent per pound on metallic manganese contained in ore running above 10 per cent manganese.

Under the prospect of this additional tariff protection, production increased from 1928 to 1929 from 45,000 tons to 60,000 tons, and during the early part of 1930 domestic manganese production, from plants then completed, was proceeding on a basis of 200,000 tons per annum. The Soviet dumping commenced the demoralization of the domestic industry.

The Russian situation caused not only the cessation of the building of further plants and not only prevented the development of the increased production at the mines but brought about a situation where American consumers practically ceased to purchase from domestic manganese producers. In a short period of time the industry was paralyzed, an investment of many millions of dollars was idle, and thousands of workmen (in a recognized acute period of depression) were thrown out of work and added to the already increasingly large army of the unemployed.

(B) The United Soviet Socialist Republics

For many years prior to 1916, and under the czaristic régime in the Russian Empire, which possessed and under its present form of government possesses one-seventh of the territory of the globe, Russia was a great exporter of high-grade manganese ore. There was then little, if any, difference in the staple prices of this world-necessary commodity.

At the outbreak of the war, Russia, as an ally of France and England, was looked upon as the source of supply to these nations in the conduct of the war. The closing of the Dardanelles, however, shut off this avenue of supply, and much of the manganese thereafter came, for the greater part, from India and Brazil. Later, a substantial quantity came from the United States.

The treaty of Brest Litovsk in 1916 ended Russia's participation in the war as an ally of the civilized nations, and there came into being shortly after the Soviet Republic, a form of government which has been a nuisance to itself, a cruel and heartless master to its peoples, and a source of trial and tribulation to the rest of the civilized world. It stated at the outset—a point which we will develop later—that it would bring the world to its point of view and to its form of government; and that it would incite and encourage revolution in all the countries having a government different than its own. But it proclaimed to the world, anomalous as it may seem, that a free people have the right to determine for themselves their own form of government; and on May 7, 1920, concluded a treaty with the Republic of Georgia, headed "Treaty, May 7, 1920, between the Democratic Republic of Georgia and the Russian Soviet Socialist Federated Republic," Article I of which reads as follows:

"Based on the right proclaimed by the Russian Soviet Socialist Federated Republic, of all peoples to fully dispose of themselves to the extent of and including total withdrawal from the state of which they form a part, Russia recognizes without reservation the independence and the sovereignty of the Georgian State, and voluntarily renounces all sovereign rights which belong to Russia with respect to the Georgian people and territory."

The manganese which the Soviet Government exports is produced in the so-called Chiaturi district, which happens to be located in the Republic of Georgia. Despite the treaty which the Soviet Government entered into with the Republic of Georgia, the Soviet Government seized the Georgian Republic and its territory. The manganese mines were permitted to continue under the operation of a private organization known as "Tchemo" until 1925.

During this period the price of Russian manganese was in consonance with the prices quoted on the world markets. In 1925 a concession agreement for these mines was granted by the Soviet Government and Tchemo to W. A. Harriman & Co. W. A. Harriman & Co. operated this concession from 1925 until 1928.

During this period the prices of Russian manganese were consistent with the world prices thereof.

In 1928 W. A. Harriman & Co., finding its investment and its concession an unprofitable one, relinquished its concession. These mines, by the simple process of larceny, were seized by the Soviet Government, and from that time on the Soviet Government has itself carried on the manganese mining operations.

It is interesting to note that the agreement between the Soviet Government, Tchemo, and W. A. Harriman & Co., dated June 12, 1925, provided that in the event Harriman & Co. relinquished its concession in the properties involved before the expiration thereof that "all rights, titles, interest, and property belonging to Tchemo, transferred by them to W. A. Harriman & Co. under this agreement, except exported manganese ore, will revert to Tchemo, free of any encumbrances imposed by Harriman, except liens or claims arising by reason of the breach of this agreement by Tchemo."

Again, however, the Soviet Government violated its agreement, a practice in keeping with its usual policy. Instead of returning the mines to Tchemo, the soviet took over the mines completely, expelled Tchemo, and refused to recognize the right of Tchemo to the mines and properties in question. It is this ore which the soviets are now dumping the world over.

It was about that time that the soviet embarked upon its so-called 5-year industrialization plan.

Of necessity, its form of government was such and the official expressions of its authorized representatives of such an astounding nature that civilized countries refused to have business dealings with it on credit bases. Hence, the only way in which the soviet could obtain the imports which it so sorely needed was to sell to the various other countries of the world the raw materials which (however acquired) were under its control and as a consequence of these sales establish the necessary credits abroad to buy the materials that it needed to import.

It must be borne in mind that up to this time Russia had sold its products at a price consistent with the prices quoted in the world markets for similar products of other countries.

There would, of course, be no inducement to civilized nations to deal with an international brigand if it could obtain from other civilized nations the same products at the same prices.

Hence, it was incumbent upon Soviet Russia to reduce the prices of its export products, irrespective of their value and irrespective of their cost of production, in order to induce other nations to buy its products in preference to those of civilized nations.

This, of course, was not the only purpose, as we will demonstrate later; but whatever the design or the reason, it has succeeded admirably, and Russia has dumped its products not only in the United States, to the detriment of domestic industry and domestic labor, but is dumping its products all over the world, and is becoming—if it has not already become—an international industrial and commercial menace.

A Washington dispatch to the New York Times of September 23, 1930, says that information from accredited sources shows that Russian dumping activities are not confined to the United States. The practice has been in progress for the past eight months in the British Isles, Germany, Poland, Italy, Greece, Sweden, Mexico, Cuba, Belgium, Egypt, and Hungary.

A resolution, asking measures by the League of Nations to prevent soviet dumping in foreign countries, was filed with the commission on economics by M. Vannerstein, of Sweden, on September 22, 1930.

On October 3, 1930, France took direct measures to protect herself against Russian dumping, the cabinet having ordered by decree the application of the law of 1910, that imports from Soviet Russia should henceforth be subject to license.

On October 17, 1930, Canada issued an embargo against Russian anthracite.

The United States Government issued an embargo against Russian matches. The American Federation of Labor had its representative present at the manganese hearings before the Treasury Department at Washington on August 22 and September 9, 1930, and joined in the appeal of the American Manganese Producers' Association for protection against unfair soviet dumping.

The New Jersey State Federation of Labor, at its session at Atlantic City on September 16, 1930, unanimously adopted a resolution demanding that Congress immediately take steps for the absolute boycott of Russian products.

The reason for this agitation is quite apparent. Bulletin 99 of September 26, 1930, of the United States Department of Commerce, Bureau of Foreign and Domestic Commerce, gives certain figures from the newspaper Pravda, of August 21, 1930, which is the official organ published by the Soviet Government. We find this statement:

"On the whole, the accomplishment of soviet industries during the first nine months of 1929–30 were in excess of the 'control figures,' that is, the revised figures of the 5-year plan for the current fiscal year. According to the 5-year plan, the output of all industries in 1929–30 was to be 47.5 per cent greater than in 1927–28, while actually, the output of the first nine months of the former year was 54.7 per cent greater than the output in the corresponding period of the latter.

"The output of producers' goods during the first nine months was to be 58.4 per cent greater, but its actual increase was 75.5 per cent, the output of consumers' goods was 41.4 per cent, as against the planned increase of 40.1 per cent; the total shown area

has been increased by 15.2 per cent instead of the planned 12.4 per cent; the increase in total carloadings, 55.6 per cent instead of the planned increase of 23.4 per cent; the revenues of the State budget increased by 91.4 per cent as compared with the planned increase of 37.7 per cent."

It is quite apparent that if this plan of Russia proceeds successfully and it continues to sell its products at any price to the detriment of American industry it will be but a matter of time before we will be supporting Russia's industries at the expense of our own.

THE ATTITUDE OF THE STATE DEPARTMENT

We have heretofore shown that the State Department of the United States has it wholly within its power to determine whether or not a foreign government de jure or de facto shall be recognized; and this power of the State Department is final and not subject to review by the courts. It is not necessary that the State Department give reasons for its refusal to recognize.

From time to time the question of soviet recognition has come up. In each instance the State Department has ruled definitely and in no uncertain terms that it will not recognize the soviet.

On August 10, 1920, Hon. Bainbridge Colby, Secretary of State, issued a statement of his reasons for refusing to recognize Russia, from which we quote in part as follows:

"That the present rulers of Russia do not rule by the will or the consent of any considerable proportion of the Russian people is an incontestable fact. * * * At the moment when the work of creating a popular representative government based upon universal suffrage was nearing completion, the Bolsheviki, although, in number, an inconsiderable minority of the people, by force and cunning seized the powers and machinery of government and have continued to use them with savage oppression to maintain themselves in power. * * *

"It is not possible for the Government of the United States to recognize the present rulers of Russia as a government with which the relations common to friendly governments can be maintained. This conviction has nothing to do with any particular political or social structure which the Russian people themselves may see fit to embrace. It rests upon a wholly different set of facts. These facts, which none disputes, have convinced the Government of the United States, against its will, that the existing régime in Russia is based upon the negation of every principle of honor and good faith and every usage and convention underlying the whole structure of international law; the negation, in short, of every principle upon which it is possible to base harmonious and trustful relations, whether of nations or of individuals. The responsible leaders of the régime have frequently and openly boasted that they are willing to sign agreements and undertakings with foreign powers while not having the slightest intention of observing such undertakings or carrying out such agreements. They have made it quite plain that they intend to use every means to promote revolutionary movements in other countries. * * *

"In view of this Government, there can not be any common ground upon which it can stand with a power whose conceptions of international relations are so entirely alien to its own, so utterly repugnant to its moral sense. There can be no mutual confidence or trust, no respect even, if pledges are to be given and agreements made with a cynical repudiation of their obligations already in the mind of one of the parties. We can not recognize, hold official relations with, or give friendly reception to the agents of a government which is determined and bound to conspire against our institutions, whose diplomats will be the agitators of dangerous revolt, whose spokesmen say that they sign agreements with no intention of keeping them * * *."

Our Government has not receded from this position. On March 25, 1921, Hon. Charles E. Hughes, Secretary of State, in rejecting trade proposals of the soviet, said:

"It is manifest to this Government that in existing circumstances there is no assurance for the development of trade, as the supplies which Russia might now be able to obtain would be wholly inadequate to meet her needs and no lasting good can result so long as the present causes of progressive impoverishment continue to operate. It is only in the productivity of Russia that there is any hope for the Russian people and it is idle to expect resumption of trade until the economic bases of production are securely established. Production is conditioned upon the safety of life, the recognition by firm guaranties of private property, the sanctity of contract, and the rights of free labor. If fundamental changes are contemplated, involving due regard for the protection of persons and property and the establishment of conditions essential to the maintenance of commerce, this Government will be glad to have convincing evidence of the consummation of such changes, and until this evidence is supplied, this Government is unable to perceive that there is any proper basis for considering trade relations."

We quote from the annual message of Hon. Calvin Coolidge, President of the United States, to a joint session of the Senate and House of Representatives, on December 6, 1923, with reference to the Soviet Government:

"I do not propose to barter away for the privilege of trade any of the cherished rights of humanity. I do not propose to make merchandise of any American principles. These rights and principles must go wherever the sanctions of our Government go.

"But, while the favor of America is not for sale, I am willing to make very large concessions for the purpose of rescuing the people of Russia. Already encouraging evidence of returning to the ancient ways of society can be detected. But more are needed. Whenever there appears any disposition to compensate our citizens who were despoiled, and to recognize the debt contracted with our Government not by the Czar but by the newly formed Republic of Russia; whenever the active spirit of enmity to our institutions is abated; whenever there appear works mete for repentance our country ought to be the first to go to the economic and moral rescue of Russia. We have every desire to help and no desire to injure. We hope the time is near at hand when we can act."

On July 20, 1922, the Department of State issued the following statement to the press:

"In reply to inquiries, the American chargé d'affaires at The Hague was instructed on July 15 to say that the Government of the United States does not countenance any arrangements by its citizens with the soviet authorities that would jeopardize or prejudice the vested rights of the citizens of other countries in Russia and that the United States has complete confidence that the other governments concerned will adhere to the same policy."

On August 30, 1922, the Department of State issued the following:

"In reply to inquiries concerning a statement reported to have been made at Moscow regarding informal overtures by the American Government to the soviet authorities looking to the sending of an investigation commission to Soviet Russia, it was explained at the State Department that the American ambassador at Berlin had made inquiries with regard to the attitude of the soviet authorities should this Government consider sending to Russia in the future an expert technical commission to study and report on the economic situation there. There has been no question at any time of sending any commission to Russia, other than an economic commission of experts to investigate and report."

The Department of State, officially addressing the press, on September 18, 1922, said:

"The text of a statement by the Soviet authorities concerning the inquiry recently made with regard to their attitude should this Government consider sending to Russia in the future an expert technical commission to study and report on the economic situation there (see press notice of August 30, 1922), has been received at the State Department. It is not different in purport from the text reported in press dispatches from Moscow September 15. In view of the definite refusal contained therein, the matter is considered to be terminated."

On March 21, 1923, Hon. Charles E. Hughes, Secretary of State, said, in part:

"Not only would it be a mistaken policy to give encouragement to repudiation and confiscation, but it is also important to remember that there should be no encouragement to those efforts of the Soviet authorities to visit upon other peoples the disasters that have overwhelmed the Russian people. I wish that I could believe that such efforts had been abandoned. Last November—last November, Zinoviev said: 'The eternal in the Russian revolution is the fact that it is the beginning of the world revolution.' Lenin, before the last congress of the Third Internationale, last fall, said that 'the revolutionists of all countries must learn the organization, the planning, the method, and the substance of revolutionary work. Then I am convinced,' he said, 'the outlook of the world revolution will not be good but excellent.' And Trotsky, addressing the Fifth Congress of the Russian Communist Youths at Moscow last October—not two years ago, but last October—said this: 'That means, comrades, that revolution is coming in Europe as well as in America, systematically, step by step, stubbornly, and with gnashing of teeth in both camps. It will be long protracted, cruel, and sanguinary.'"

We quote an excerpt from an address on foreign relations, prepared by Hon. Warren G. Harding, President of the United States, intended to be delivered at San Francisco on July 21, 1923, but not delivered because of his illness:

"The problem of Russian recognition is complicated by a fundamental difficulty, because of a government régime there, whose very existence is predicated upon a policy of confiscation and repudiation."

On December 18, 1923, the Department of State authorized the following statement to be issued to the press:

"With respect to the telegram to President Coolidge from Tchitcherin, of December 16, the Secretary of State to-day made the following statement in reply:

"'There would seem to be at this time no reason for negotiations. The American Government, as the President said in his message to the Congress, is not proposing to barter away its principles. If the soviet authorities are ready to restore the confiscated property of American citizens or make effective compensation, they can do so. If the soviet authorities are ready to repeal their decree repudiating Russia's obligations to this country and appropriately recognize them, they can do so. It requires no conference or negotiations to accomplish these results, which can and should be achieved at Moscow as evidence of good faith. The American Government has not incurred liabilities to Russia or repudiated obligations. Most serious is the continued propaganda to overthrow the institutions of this country. This Government can enter into no negotiations until these efforts directed from Moscow are abandoned.'"

On December 19, 1923, the Department of State issued to the press a confidential release for publication:

"The Department of State made public to-day the text of instructions given by Zinoviev, president of the Communist International and president of the Petrograd Soviet, to the Workers' Party of America, the communist organization in the United States. The Department of Justice has assured the Department of State of the authenticity of these instructions. The Com-

munist International, with headquarters at Moscow, is the organ of the Communist Party for international propaganda. The soviet régime in Russia is the organ of the Communist Party for the governing of Russia. As Steklov, member of the Russian Communist Party and of the All-Russian Central Executive Committee and editor of the Izvestia, official organ of the soviet régime, has stated in this official paper:

"'The close organic and spiritual connection between the Soviet Republic and the Communist International can not be doubted. And even if this connection had not been admitted many times by both sides it would be clear to everybody as an established fact. * * * This connection is not merely of a spiritual but also of a material and palpable character. * * * The mutual solidarity of the Soviet Republics and the Communist International is an accomplished fact. In the same degree as the existence and the stability of Soviet Russia are of importance to the Third International, the strengthening and the development of the Communist International is of great moment to Soviet Russia.'

INSTRUCTIONS

"The Communist International notes with great satisfaction that the work of the W. P. A. for the past year has been expressed in a satisfactory, broad, and real revolutionary work. Particularly pleasing to us is the fact that all dissentions existing up to the present time in the ranks of the party have finally been liquidated and we hope that the W. P. A., the advance guard of the revolutionary proletariat of the United States of North America, will now more successfully conduct its revolutionary work among the millions of American proletarians.

"For more intensive revolutionary work we suggest that the following instructions be adhered to:

"1. All the activity of the party must at the present time be directed among the workers of the large industries, such as the railroad workers, miners, weavers, steel workers, and similar workers engaged in the principal industries of the United States.

"2. Among these workers in the factories, mills, plantations, clubs, etc., there must be organized units of 10. The head of this unit of 10 must, in so far as possible, be an old, trusted member of the party, who must once a week, together with his 10, study the communist program and other revolutionary literature.

"3. These units of 10 must be organized by occupation and nationality.

"4. The head of the unit must know intimately each individual member of his 10—his character, habits, the degree of his revolutionism, etc., and report everything direct to the central committee of the party.

"5. Each of these units of 10 must have their own fighting unit, of not less than 3 men, who are appointed by the leader of the unit with the approval of the central committee of the party. The members of the fighting unit, in addition to all other matters, must once a week be given instructions in shooting and receive some instruction in pioneer work (sapper work).

"6. All the unit leaders of each district must meet once every two months to discuss the progress of their work and their plans for further activities in the presence of a member of the central committee of the party.

"We are firmly convinced that work in the direction designated by us will give enormous results in the sense of preparing thousands of new propagandists, future leaders of the military forces of the party, and faithful fighters during the social revolution. With reference to the organization by the W. P. A. of the Federated Farmer Labor Party, the Communist International expresses its complete satisfaction and its approval to the central committee of the party for its boldness and tact in putting this idea into effect. We hope that the party will step by step conquer (embrace) the proletarian forces of America and in the not distant future raise the red flag over the White House."

The following is an excerpt from a statement entitled "Foreign Relations," by the Hon. Frank B. Kellogg, Secretary of State, published in 1928:

"* * * No state has been able to obtain the payment of debts contracted by Russia under preceding Governments or the indemnification of its citizens for confiscated property. Indeed, there is every reason to believe that the granting of recognition and the holding of discussions have served only to encourage the present rulers of Russia in their policy of repudiation and confiscation, as well as in their hope that it is possible to establish a working basis, accepted by other nations, whereby they can continue their war on the existing political and social order in other countries.

"Current developments demonstrate the continued persistence at Moscow of a dominating world revolutionary purpose and the practical manifestation of this purpose in such ways as render impossible the establishment of normal relations with the Soviet Government. The present rulers of Russia, while seeking to direct the evolution of Russia along political, economic, and social lines in such manner as to make it an effective 'base of the world revolution,' continue to carry on, through the Communist International and other organizations with headquarters at Moscow, within the borders of other nations, including the United States, extensive and carefully planned operations for the purpose of ultimately bringing about the overthrow of the existing order in such nations."

On February 1, 1928, the Department of State authorized the following statement to the press:

"The department objects to financial arrangements involving the flotation of a loan in the United States or the employment of credit for the purpose of making an advance to the soviet régime. In accordance with this policy, the department does not view with favor financial arrangements designed to facilitate in any way the sale of soviet bonds in the United States. The department is confident that the banks and financial institutions will cooperate with the Government in carrying out this policy."

Later and recent events have fully justified the decision of the American Government not to recognize Soviet Russia. In fact, their statements have been prophetic, for what they surmised would happen has actually happened. If the American Government feels, in effect, that what Russia has done is "seizure by bandits or by other lawless bodies" (Sokoloff *v.* National City Bank, 239 N. Y. 158), and has endeavored to dissuade American firms from dealing with Russia, the various branches of the Government must take cognizance of this decision and be guided accordingly.

NATIONAL DEFENSE

The Soviet Government has evidenced, in no uncertain terms and methods, that it is an international outcast. It has been a government of bad faith. It has been guilty of concealment, dishonesty, intrigue, conspiracy, and dissemination of the propaganda of revolution. It has consistently refused to live up to its contracts, its treaties, and obligations.

We have cited before the instance of the Soviet Government seizing the Chiaturi mines, in complete violation of its treaty with the Republic of Georgia.

We have mentioned previously the Soviet Government's breach of its agreement with Tchemo. Its confiscation of the property of foreigners has been the subject of comment by our State Department. It has refused to recognize its external obligations.

Prior to England again recognizing the soviet, it had been expelled from Britain for violation of its sacred agreement with that country, an agreement which covenanted that there was to be no revolutionary propaganda spread in England, a covenant which Russia very promptly violated. The same situation exists to-day and is presently the basis of discussion in Parliament.

It has been excluded from and is waging secret warfare against China.

It has been expelled from Mexico for a like violation of treaty.

It is a well-known and conceded fact that it has conspired against and incited revolution in India and China.

On August 20, 1930, a special cable to the New York Times from London stated:

"The soviet is busy stirring up unrest among the negro masses in Africa and America, according to dispatches from Riga, which announce that a new 'international negro committee' had been formed in connection with the Red Trade Union International Congress, now sitting in Moscow, to intensify its revolutionary work."

The soviet press, according to the Riga dispatches, asserts that the Profintern has done much work during the past two years among the natives of British and French Africa and the West Indies, and that its efforts have produced strikes and revolts at Durban and Johannesburg, and in Rhodesia, the Belgian Congo, French Equatorial Africa, Nigeria, and Tahiti, as well as negro unrest in the United States.

On September 22, 1930, London advised that the Soviet Government was holding 450 American mechanics virtually in prison, while their promised pay was being held up, although these mechanics went to Russia under agreements which promised to make such a situation impossible.

The situation with reference to Lena Gold Fields (Inc.) is well known. This British concern held a gold-mining concession in Russia. This concern was invited by the Soviet Government to invest in Russia under a liberal concession, but when the investment was made the Moscow régime became hostile and allowed thieves to prey upon this enterprise. The concession came under the attack of Stalin, and an intensive program for the communizing of that industry was pushed. Thereafter, all efforts on the part of the concessionaries were effectively blocked by the soviets. An agreement was finally reached to arbitrate the difficulties, and, in accordance with the agreement, a Russian, an Englishman, and a German were appointed the arbitrators.

While the arbitration proceedings were going on, the 14,000 employees in the gold fields, many of them foreign experts, complained that because of soviet interference operation of the mines had become an impossibility. Whereupon the authorities of the concession notified Moscow that operations would be discontinued awaiting the decision of the arbitration committee. Despite its agreement to arbitrate, the Russian arbitrator was withdrawn and Moscow requested new arbitrators to consider the new problem that had arisen. The remaining arbitrators heard witnesses, decided that Moscow was guilty of breach of contract, and adjudged that it should pay Lena Gold Fields (Inc.) $65,000,000. This judgment the soviet now ignores and in effect refuses to pay.

The activities of the soviet in its wheat operations in Chicago at a time when general depression existed, is too well known to mention. But we do recall the fact that the soviet was a party to the Kellogg treaty, outlawing war. When hostilities between China and Russia broke out involving the Manchurian railroad, Secretary of State Stimson, of the United States, very properly, in accordance with the Kellogg treaty, addressed a note to the Soviet Government, reminding it of its obligations under that treaty. The crude and boorish response of the Soviet Government to this note was an insult not only to our Secretary of State but to our Government and its people.

However, Russian conditions internally are no better than the soviet's attitude toward the world generally.

A Russian citizen has no right to leave the country under any circumstances without the permission of the Government. The home, the very foundation on which society rests elsewhere in the world, has been completely destroyed. Several families now occupy a single room. Religion, the spiritual basis of humanity, has been outlawed from this godless country. The churches, cathedrals, temples, and other places of worship have been destroyed. Marriage, the most sacred thing in human existence, has been ridiculed. There is on record an instance where two people were married and divorced in the short space of 15 minutes.

The collection of a few pieces of silver currency results in the infliction of the death penalty.

Starvation and hunger stalk Russia at all times. The food-card system is so generally known that it needs no comment. Children of tender years, for the greater part, are brought up not under the guiding influence of their parents but in public institutions, and taught only communistic and revolutionary doctrines. And while its own people are starving, necessary products are being exported to the detriment of the Russian people.

What is the purpose of all of this?

We repeat again the statement of President Coolidge in 1923 that the American Government could not negotiate for the recognition of Russia for many reasons—"most serious is the continued propaganda to overthrow the institutions of this country."

Secretary of State Colby in 1920 said:

"We can not recognize, hold official relations with, or give friendly reception to the agents of a government which is determined and bound to conspire against our institutions; whose diplomats will be the agitators of dangerous revolt; whose spokesmen say that they sign agreements with no intention of keeping them."

These are the statements made not by laymen, based on mere assumption, but by the responsible formulators of our international policies, who are fully possessed of the necessary facts and who speak officially.

Zinoviev, the Russian leader, has said:

"The eternal in the Russian revolution is the fact that it is the beginning of the world revolution."

Lenin has said that:

"The revolutionists of all countries must learn the organization, the planning, the method, and the substance of revolutionary work. Then, I am convinced, the outlook of the world revolution will not be good, but excellent."

And Trotsky said:

"That means, comrades, that revolution is coming in Europe as well as in America * * *."

And the statement issued by the Petrograd Soviet to the Workers' Party of America ends:

"We hope that the party will, step by step, conquer the proletarian forces of America and in the not distant future raise the red flag over the White House."

We have, therefore, a situation where Russia has presently stated to the world its desire to overthrow all capitalistic governments and that, suiting action to word, has conspired in various countries to accomplish that purpose. Her great aim, openly expressed, is to overthrow the American Government.

What has all this to do with manganese?

Our learned adversary, Mr. Doherty, in his brief admits that ferromanganese is an absolute necessity in the manufacture of steel, and no substitute for it has ever been discovered.

A most important element in the matter of national defense is manganese, for if steel can not be manufactured without manganese, and no manganese were available, no guns, no vessels, no cannon, no ammunitions could be constructed without it.

Hon. Hanford MacNider, Assistant Secretary of War, wrote on October 3, 1927:

"It appears that manganese is essential to the production of steel, and without steel national defense is obviously impossible. The safety of the country requires that we have a readily available source of manganese within the United States."

Sir Robert Hadfield, the eminent British metallurgist, has written that—

"It would be safe to say that they who own the manganese of the world have largely in their hands the control of steel of satisfactory quality."

Russia, in her dumping activities, has conquered not only the American manganese industry but has effectively stifled the manganese industry of the world. It has caused a complete collapse of the manganese markets. In effect, it admits dumping, but contends that it is necessary to sell its products at a price even lower than production cost in order to create gold credits in foreign countries, and thus be able to purchase imports necessary to assist in the successful completion of its 5-year industrialization plan.

The soviet admits so much, but logic and reason and an understanding of soviet intrigue lead to a different and perhaps far more important conclusion.

That the soviet desires to overthrow and is planning the overthrow of capitalistic governments, it has openly proclaimed, and our State Department has taken official cognizance thereof. This the soviet is doing by a careful and systematic plan of propaganda.

Princess Kropotkin, of Russia, a sister of Prince Peter Kropotkin, who is an advocate of a conservative form of socialism, said, on October 14, 1930, upon her arrival in the United States:

"Every American dollar sent to Russia in the form of trade is a contribution of 50 cents toward a world revolution. All credit extended to the soviet is hastening the day when you will be driven out of your homes."

National defense is dependent on manganese, for without manganese steel can not be manufactured. By flooding world markets with manganese, the soviet is effectively killing the manganese industry. If this situation is permitted to continue, it is only a matter of time before the manganese mines of the world will be closed and abandoned. In the event of such a state of affairs, the world will be dependent upon Soviet Russia for its source of manganese supply, which would necessarily mean that in the event of national emergency we would have to import our manganese from Russia.

The revival of the manganese industry in this country, after prolonged abandonment, could not be accomplished in a short period. It took considerable time to develop the manganese industry to its present proportion. Hence, in the event of national emergency, we would be able to look only to Russia for our immediate source of supply, and the soviet could supply us, or not, as it saw fit, at prices which it could determine and collect if it provided us at all. But, more than the fact that it controlled the markets of the world would be the fact that it held in its hands the safety and the destiny of this country; and, certainly, if it is bent on overthrowing the Government of the United States, it would most certainly see to it that when the revolution was ready to be launched the United States would be wholly without manganese at whatever the price.

Mr. E. C. Ropes, Chief of the Russian Section of the Division of Regional Information, of the Department of Commerce, translating an article in the Berliner Tageblatt of July 12, 1929, says:

"If the Russians once maintain a monopoly, which is quite easily possible with their opportunities for dumping, under the system where it is immaterial whether an export trust itself makes or loses, then they will very probably refuse to sell Russian ore to those plants which have adapted their processes at prices acceptable to the consumers, but will demand those rates that will suit them as monopolists."

Woe to the country that looks to an international brigand, bent on its overthrow, for its sustenance and protection.

That England is aware of this situation is borne out by the fact that with her usual keen-sighted policy she is lending encouragement to the development of manganese deposits in India and in the Gold Coast of Africa. Control of these properties is retained by Great Britain, and the reserves are earmarked to supply the needs of the British Empire in case of an emergency; and though the cost of production there is very high, Datico Zereteli (a world famous authority on manganese ore, in his book entitled "Manganese Ore") says that more than once the British Government has come to the aid of the Indian manganese producers. In other words, Britain foresees the possible consequence of soviet machinations and as a matter of national safety is going to the extreme of even subsidizing manganese production elsewhere in order not to be dependent for it upon the soviet in time of emergency.

Mr. Paul Scheffer, for many years the Moscow correspondent of the Berlin Tageblatt and, perhaps, one of the best-informed men in the world on the soviet situation, has stated in an article written by him in Foreign Affairs that he is convinced that the communistic dictatorship in Russia is as determined as ever to push the revolutionary crusade and to upset, by efforts employed from without as well as within, the so-called bourgeois governments—that of the United States included. It is his view that Moscow's economic policy and its military policy are directed consistently to that end. He states that Russia is being strengthened by the admission of foreign capital and the encouragement of foreign trade as a preparation for political hostilities. The red army is being trained in supporting uprisings in neighboring states started by communistic conspirators and agents, and he then makes this significant statement: "Despite the country's exhausted condition, the red army is always being strengthened. No sacrifice is too great."

Since the soviet dumping commenced it has sold manganese at 40 per cent, and even lower than previous recognized world prices. If the sole purpose of soviet dumping were the establishment of gold credits for the purpose of developing purchasing power, she could still control the world's manganese markets by selling at slightly less than previous prices.

The fact, therefore, that the soviet is reducing prices to a point far beyond that necessary for it to establish its gold credits is proof positive of the fact that it desires not only to establish gold credits but to definitely destroy the manganese industry in this country, and thus take away from America a vital material necessary in its national defense.

America can do no less than to protect itself from the machinations and conspiracies of a government which our State Department has declared worthy only of distrust and bent on "raising the red flag over the White House."

THE LAW

In the tariff act of 1922 Congress for the first time took cognizance of the manganese industry, and written in that law is a provision of a tariff of 1 cent per pound of metallic manganese contained in ore running above 30 per cent manganese.

In 1930 Congress increased this duty by providing that there shall be a tariff of 1 cent per pound on metallic manganese contained in ore running above 10 per cent manganese because Congress desired to exclude a large and increasing manganese tonnage

of slightly less than 30 per cent metallic content avoiding the payment of the duty.

In 1921 Congress enacted what is known as the antidumping act, which we will hereinafter discuss at length.

The intent of Congress in providing for a tariff on manganese in 1922 and increasing the amount of the tariff in 1930 was solely for the benefit of this infant American industry.

The antidumping act of 1921 was designed in furtherance of the general policy of Congress to protect American industry from unfair competition and to prevent flooding American markets by foreign products.

The tariff act of 1930 specifically provided that nothing therein contained should be construed to amend or repeal the antidumping act of 1921. So that, coupled with the protection afforded manganese by the tariff act of 1930, are the provisions of the antidumping act of 1921. The ultimate aim, therefore, of congressional legislation was the protection, fostering, encouragement, and furtherance of American industry.

Every statute must be construed with reference to the object to be accomplished by it (36 Cyc. 1110, United States *v.* Musgrave, 160 Fed. 700). The statute should be given that construction which is best calculated to advance its object (U. S. *v.* Jackson, 143 Fed. 783) by suppressing the mischief and securing the benefits intended (Wheeler *v.* McCormick, 29 Fed. cases 17498).

Since the benefits intended for the protection of American industries and suppressing the mischief is the prevention of dumping of foreign products in this country, it is manifest that the antidumping act must be read most favorably to and applied most advantageously for the benefit of American industry.

Section 201 (a) of the antidumping act reads as follows:

"That whenever the Secretary of the Treasury (hereinafter in this act called the 'Secretary'), after such investigation as he deems necessary, finds that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation into the United States of a class or kind of foreign merchandise, and that merchandise of such class or kind is being sold or is likely to be sold in the United States or elsewhere at less than its fair value, then he shall make such finding public to the extent he deems necessary, together with a description of the class or kind of merchandise to which it applies in such detail as may be necessary for the guidance of the appraising officers."

Section 201 (b) of the antidumping act reads as follows:

"Whenever, in the case of any imported merchandise of a class or kind as to which the Secretary has not so made public a finding, the appraiser or person acting as appraiser has reason to believe or suspect, from the invoice or other papers or from information presented to him, that the purchase price is less, or that the exporter's sales price is less or likely to be less, than the foreign-market value (or, in the absence of such value, than the cost of production) he shall forthwith, under regulations prescribed by the Secretary, notify the Secretary of such fact and withhold his appraisement report to the collector as to such merchandise until the further order of the Secretary, or until the Secretary has made public a finding as provided in subdivision (a) in regard to such merchandise."

Section 201 (a) of the antidumping act states that if an American industry is being or is likely to be injured, or is prevented from being established by reason of the sale of foreign merchandise "at less than its fair value," the Secretary of the Treasury shall make a finding to that effect.

Section 201 (a) is the deliberate quasi-judicial method of embargo. Since it is undisputably proved and conceded that the manganese industry is being injured and prevented from being established, all that is necessary under 201 (a) is to show that Russian manganese is being sold at "less than its fair value."

Section 201 (b) is the arbitrary and summary method of preliminary embargo. If, under 201 (b), the appraiser has reason to believe or suspect that the situation is even more aggravated than under 201 (a), namely, that the purchase price of the merchandise is less than the "fair value," to wit, "is less or is likely to be less than the foreign market value," or, in the absence of such foreign market value, then less than the cost of production, the appraiser shall withhold his appraisal report until further order of the Secretary.

Manifestly, if Congress gave to the appraising officer the right summarily, and on mere suspicion, to withhold his appraisal report if the merchandise is sold at less than its foreign market value, or at less than the cost of production, it is clear that the foreign market value or the cost of production must necessarily be less than the fair value. As between the foreign market value and the cost of production (in the absence of the foreign market value), the cost of production is the lower. Hence in "cost of production" is the most offensive degree of price aggravation which warrants embargo.

In other words, if the sale price is less than the fair value, then only the Secretary of the Treasury, after investigation, can issue an embargo. If, however, the sales price is less than the fair value, to wit, "less than the foreign market value," the appraising officer may summarily withhold his appraisal report. If the price is even lower than the foreign market value, to wit, "the cost of production," the appraising officer may likewise summarily withhold his appraisal report.

Hence the degrees of price governing embargo are: First, fair value; second, foreign market value; third, cost of production, and below which, of necessity, and under civilized principles of merchandising nothing can be sold.

To bear out our contention that cost of production is the lowest item of the scale and that nothing can be sold under that sum, we point to section 206 of the antidumping act, provided that in computing the cost of production, and addition for profit of not less than 8 per cent of the sum under paragraphs (1) and (2) of section 206 should be added.

Under section 201 (b), if the appraiser suspects dumping he must act immediately and on his own initiative.

To assist in these endeavors article 710 of the regulations provides for an antidumping unit of the special agency service, and states further:

"Field investigations relating to suspected dumping will be centralized at this point."

Field agents, under the article, are instructed to forward an original and two copies of all reports to the unit, with a copy to the director of the Special Agency Service.

Under article 713 of the regulations, whenever dumping is suspected, the appraiser shall immediately request the importer, or his authorized agent, to appear before him in order that he may obtain whatever information the importer or his agent may have relative to the matter.

The burden is not upon the American industry affected to prove dumping, but, on the contrary, is on the exporter, in this case the Soviet Government, to disprove dumping.

The act becomes applicable under section 201 (a) if the Secretary of the Treasury finds that (1) an industry in the United States is being or is likely to be injured or is prevented from being established by reason of the importation into the United States of a class or kind of foreign merchandise, and (2) that the merchandise of such class or kind is being sold or is likely to be sold in the United States or elsewhere, at less than its "fair value."

And the act becomes applicable under section 201 (b), under circumstances more aggravating than 201 (a), to wit, if the appraiser has reason to believe or suspect that the purchase price is much less than the fair value, to wit, is less or that the exporter's sales price is less or likely to be less than the foreign market value (or, in the absence of such value, than the cost of production).

That the manganese industry in the United States is being or is likely to be injured or is prevented from being established by the importation of Russian manganese has been demonstrated and proven by the testimony of witnesses who appeared before the Secretary of the Treasury, and all of whom stated in no uncertain terms that their mines had been completely shut down and that they had been unable to compete with Russian manganese, imported and sold in this country at a price of 25 cents or less per unit, c. i. f. Atlantic ports; so that the injury to the American industry has been completely established. As to this there can be no contrary contention.

Under section 201 (a) it remains to be seen, therefore, whether manganese is being sold in the United States at less than its fair value. Fair value, of necessity, must mean that value which is reasonably and fairly measured by civilized standards of computation. A fair value, of necessity, must be more than the cost of production. Certainly an article sold at less than cost of production is not sold at a fair value. Looking at the situation from an angle most favorable to the soviet, it is at most necessary to show that Russia is selling at less than cost of production. If it is doing that, it is selling at less than fair value.

The Amtorg Trading Corporation, representing the Soviet Government, has withdrawn from the hearings. Obviously, because it does not wish to be questioned as to what fair value and cost of production is. It is fair, then, to contend that the soviet, having failed to submit its proof and having retired from the hearings lest it be compelled to submit proof—which, if submitted, would show its violation of the antidumping act—has, of necessity, defaulted, and thus, inferentially, if not actually, has admitted its violation of the antidumping act.

It is important to remember that the United States has refused to recognize Russia, and as a consequence of that refusal we have no consular or diplomatic representative in Russia; hence the usual channels of information are not open to America when its citizens deal with Russia. The nonrecognition of Russia by our Government is, however, of her own doing. She alone is responsible for her position.

The hearings in Washington gave to Russia the opportunity to divulge and present to the Secretary of the Treasury what its cost of production is. It is certainly logical to assume that, if the price at which the soviet sold manganese in the United States was more than the cost of production, it would welcome with open arms the opportunity to present that evidence to the Secretary of the Treasury. The fact that it is silent, that it has withdrawn from the hearings in order to avoid being asked embarrassing questions, and the fact that it continues in its policy of concealment, bears the inference, if not establishing positively, that the cost of production is far greater than the sales price of Russian manganese in this country.

Russia, committing a wrong, is seeking by a policy of concealment to hide behind that wrong. It is axiomatic that "a right can not arise to anyone out of his own wrong" (21 Corpus Juris 183, citing Harton *v.* Little, 188 Ala. 640; Baird *v.* Howison, 154 Ala. 359). In T. B. Harms et al. *v.* Stern et al., 231 Fed. 645, at page 648, the court, quoting with approval from the language of the Supreme Court of the United States (5 How. 192) says:

"You (the wrongdoer) can not be admitted here to plead your own demerits; precisely, therefore, in the position in which you have placed yourself, in that position we must leave you."

Where every consideration of propriety and honest dealing would demand that Russia, through her accredited representatives, should speak, we have been met with a wall of silence. That silence has a legal as well as a practical significance.

In Jones on Evidence (second edition), section 19, it is stated that:

"The mere withholding or failing to produce evidence, which under the circumstances would be expected to be produced and which is available, gives rise to a presumption against the party. * * * The courts recognize and act upon the natural inference that the evidence is held back under such circumstances because it would be unfavorable."

In 22 Corpus Juris, 111, the rule is stated as follows:

"The failure of a party to produce evidence which is within his knowledge, which he has power to produce, and which he would naturally produce if it were favorable to him, gives rise to an inference that if such evidence were produced it would be unfavorable to him; and a similar effect attends an effort to suppress evidence."

In the New York (175 U. S. 187) the United States Supreme Court quoted with approval its statement in Clifton *v.* United States (4. How. 242) that "to withhold testimony which it was in the power of the party to produce in order to rebut a charge against him * * * might be as fatal as positive testimony in support or confirmation of the charge."

To like effect see Kirby *v.* Tallmadge (160 U. S. 379).

The withholding of information by the Soviet Government has led to similar action by those with whom it had dealings. It will be recalled that the Soviet Government gave to W. A. Harriman & Co. a concession in Russia for the operation of the manganese mines. Harriman found the operation an unprofitable one and relinquished it. The Soviet Government agreed to repay Harriman a substantial sum of money over a period of time.

We called W. A. Harriman & Co., spoke to one of their representatives, and asked them if they would give us their production costs in the mining of Russian manganese while they had the concession.

This information was refused us. Bearing in mind that the Russian Government owes Harriman money, it is logical to assume that if the revelation of these production costs would have shown that they were less than the amount at which Russian manganese is being sold in the United States, and thus favorable to Russia, Harriman would have been glad to reveal its cost.

Hence their silence and refusal can be construed only as showing that had they revealed these costs they would have shown that they were higher than the price at which Russian manganese is being sold in the United States, and hence might have put Harriman in the embarrassing position where, by giving evidence against Russia, they were endangering the payment of the moneys due them from Russia.

We shall hereafter show the production costs which the Soviet Government and its agents have been so anxious to conceal and were so constant in their endeavor to secrete.

We come, therefore, to the sole point at issue, namely, What is the cost of production, the most aggravating figure, which summarily and without hearing, but on mere suspicion, warrants a preliminary embargo?

We have pointed out heretofore that Russian dumping is not confined solely to the United States. It is world-wide. It has caused a complete demoralization of the manganese industry and of the manganese market throughout the world. The purpose of this demoralization and the motives behind it we have previously revealed.

It is inconceivable that Congress intended that the foreign market value should be less or might be less than the cost of production. No civilized industry can sell its product at less than cost and still endure. Bankruptcy in such an instance must inevitably follow. Clearly, therefore, Congress intended that the foreign market value must either be more than or at least equal to the cost of production. To construe the language of the statute otherwise would be to read into it an absurdity, for it would then permit in indirection what Congress expressly prohibited directly. If Congress says that a sales price less than cost of production constitutes dumping, then certainly a foreign market price which is less than production cost is likewise dumping.

All laws should be so construed, if possible as to avoid an unjust or an absurd conclusion. In Ah Tie (13 Fed. 291) the United States Supreme Court is quoted:

"General terms should be so limited in their application as not to lead to injustice, oppression, or an absurd consequence. It will always, therefore, be presumed that the legislature intended exceptions to its language, which would avoid results of this character. The reason of the law in such cases should prevail over its letter." (United States *v.* Kirby, 7 Wallace, 482.)

For in no instance can it be conceived that a civilized exporter would in his own country or in the other markets of the world sell his products at less than cost. To sell legitimately at less than cost of production would be impossible. To sell at less than cost of production the world over can result only in the creation of a fictitious market. But Congress was not asleep. It specifically provided against such a contingency. In section 205 of the antidumping act the following is provided:

"In the ascertainment of foreign-market value for the purposes of this title no pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account."

Irrespective of fair value, which manifestly must be more than cost of production; irrespective of foreign market value, which manifestly must be more than cost of production, if the cost of production is higher than the selling price of the foreign article in the United States, the Secretary of the Treasury is compelled by law to invoke the antidumping act.

Russia may, of course, contend that her production cost is low, since she is starving her people, since they are improperly and cheaply housed, since she has seized the mines from Georgia; since she has conscripted her labor, since she has confiscated transportation facilities, and all this is hers without cost. She might further contend that having stolen the mines she has no capital investment; and since the property in the first instance is the result of her larceny she need charge off nothing for amortization or depletion. And that since she disregards the law of nations and her duties as a government amongst nations, since she disregards treaties, breaches contracts, and violates every principle of humanity, that she can likewise disregard usual accounting custom and contend that any price that she sets is her cost of production.

Again, however, Congress has made adequate provision. Section 206 of the antidumping act provides:

"That for the purposes of this title, the cost of production of imported merchandise shall be the sum of—(1) The cost of materials of, and of fabrication, manipulation, or other process employed in the manufacturing or producing, identical or substantially identical merchandise, at a time preceding the date of shipment of the particular merchandise under consideration which would ordinarily permit the manufacture or production of the particular merchandise under consideration in the usual course of business; (2) the usual general expenses (not less than 10 per cent of such cost) in the case of identical or substantially identical merchandise; (3) the cost of all containers and coverings, and all other costs, charges, and expenses incident to placing the particular merchandise under consideration in condition, packed ready for shipment to the United States; and (4) an addition for profit (not less than 8 per cent of the sum of the amounts found under paragraphs (1) and (2) equal to the profit which is ordinarily added, in the case of merchandise of the same general character as the particular merchandise under consideration, by manufacturers or producers in the country of manufacture or production, who are engaged in the same general trade as the manufacturer or producer of the particular merchandise under consideration."

If the sales price of Russian manganese in the United States is less than the cost of production computed as Congress has decreed the issue must be resolved in favor of the American industry.

Congress has declared that it is the duty of the Treasury Department to protect American industry. Certainly it is not consonant with reason or justice that an American governmental department is to go out of its way to assist an international renegade in the use of our markets, when that use is for the avowed purpose of destroying our Government and our institutions.

In a situation where an honorable and responsible government, would, in deference to its national and international integrity, be impelled to speak—and even welcome the opportunity of so doing—Russia has been guilty of a constant policy of silence, secrecy, and concealment. That she does not give any information is evidenced by the affidavit submitted by her official in charge of manganese export. We will consider this affidavit later. Suffice it to say that in submitting that affidavit, the Soviet Government had the opportunity of stating facts. It chose not to do so and, hence, the inference exists that if it had stated facts, they would have been inimical to Russia.

W. A. Harriman & Co. has likewise refused to give information, an opportunity which Russia would certainly have availed itself of if that information had been favorable to it.

The match situation offers an interesting example. Only by having a representative in Russia and obtaining its production cost was the match industry of America able to obtain information necessary to obtain its embargo. Since that time, however, the Soviet has been very careful not to permit such information to leak out. Obviously, if such information were to be divulged an embargo on any product involved by such information would quickly result. Her agents in this country and elsewhere are constantly warned and cautioned to give out no information.

B. W. Delgass, a former vice president of the Amtorg Trading Corporation, resigned from Amtorg and proceeded to tell something of Soviet methods. Mr. Delgass was forthwith sentenced to death by a Russian tribunal, and that penalty awaits him in event that he ever sets foot upon Russian soil.

But, despite Russia's attitude of secrecy and concealment, despite her refusal to give information, and despite the barriers of protection with which she has surrounded all sources of information, and despite every impediment which she has placed in the way of obtaining information by American industry, the American Manganese Producers Association has been successful in its search for data.

This evidence is irrefutable. The American manganese industry knows the production cost of Russian manganese. This we will later show.

It is important to note that while Russia has endeavored to conceal her production costs, she indirectly has revealed them. She admits that in order to carry out her 5-year industrialization plan she must sell her raw products abroad to enable her to establish gold credits; and, as we pointed out heretofore, if the prices of Russian products were the same as that of the products of a civilized country, dealing with civilized nations would be preferred, Russia can only obtain these markets by underselling her civilized competitiors.

In the New York Times of Sunday, September 28, 1930, there appears an article by Michael Farbman, an expert economist who has had a long association with Russia, and who presents a sum-

mary of interviews he had with the Russian leaders of trade and industry, which took place during a recent visit by Mr. Farbman to Russia. He says:

"Strictly speaking, Russia has not and can not have any exportable surplus save such articles as timber, oil, and furs. But when it became a question of paying for imports with exports or of stopping imports altogether the government was compelled to put on the market any goods which could be sold, without regard to whether they were surplus goods or not. Discussing the economic position of Russia in 1929, the State plan commissioners declared that while the state of foreign trade was in general favorable in one respect it was extremely difficult.

"'Imports,' they said, 'had to be cut down because the international bourgeoisie increased their pressure on the Soviet monopoly of foreign trade, using for this purpose a financial blockade. Therefore, if we had in 1929 to record a considerable decrease of imports, this must be put down to the decrease of foreign credits. But, on the other hand, the same circumstance stimulated us to increase our export trade, the development of which must in the future remain our most important task, since the financial capital of the world is being organized against us.'

"This insistence on the fictitious character of the development of the export trade I came across again and again in Russia in the course of my conversations with the leaders of trade and industry. The failure to obtain credits compelled them, they confessed, to export everything and anything for which they could find a market. * * * To-day, then, they are bound to explore every avenue in an endeavor to find new exports and new markets. Moreover, they are bound to get rid of their exports as quickly as possible and at any price they can obtain."

We have, therefore, an admission from the Soviet Government's representatives that they must get rid of their exports at any price they can obtain, irrespective of what that price may be. That this is the true situation is borne out by the production costs which we now present

RUSSIA'S COST OF MANGANESE PRODUCTION

The world-famous expert on manganese, Datico Zereteli, has compiled records of the detailed labor costs of mining manganese in the Tchiaturi district of Russia. They are as follows:

Wages per day paid to laborers in the mines in rubles and kopecks

	1913		1922		1923	
	Rubles	Kopecks	Rubles	Kopecks	Rubles	Kopecks
Miners	1	70	1	50	1	23
Shovellers	1	50	1	37	1	12
Barrowmen	1	40	1	23	1	12
Sorters	1	20	1	10	----------	90

Cost (in gold kopecks) of a pood of washed ore at Tchiaturi platform

	Before the war		1923		Per cent increase in cost
	Absolute	Per cent	Absolute	Per cent	
Cost at pit's mouth:					
Extraction, sorting, delivery at pit's mouth; Tools, propping, lighting, technical supervision, etc; Lease; Unforeseen expenses; Transportation from the pit's mouth to the washery; Increase of the cost through washing	2.50	36.2	4.96	48.91	216.00
Transportation from the pit's mouth to the washery			0.25		
Increase of the cost through washing			2.69		
			7.90		
Expenses of washing	1.00	14.5	2.93	18.1	193.00
Transportation to railway platforms	2.03	29.2	2.50	15.5	21.18
Unforseen expenses; Amortization	1.39	20.1	1.33; 1.50	1.75	103.60
	--------	--------	2.83	--------	--------
	6.92	100	16.16	100	133.53

The cost of transportation from Tchiaturi to Poti during 1923 (in gold kopecks) is as follows:

	During 1923 (in gold kopeks)
1. Loading into wagons at Tchiaturi	0.65
2. Loading into wagons at Poti	1.37
3. Railway charges between Tchiaturi and Poti	4.91
4. Supply of wagons at Tchiaturi—Tchiaturi-Poti	.18
5. Agencies at Tchiaturi and Shorapan	.05
6. Lease of platforms	.25
7. Agency at Poti	.15
8. Post telegraph, traveling, and sundry and unforeseen expenses	.30
9. Analyses, samples for	0.05
10. Loading installations at Tchiaturi-Poti	.50
11. Baths and workers' houses	.20
12. Dock laborers	.15
13. Expenses of "Temo"	.50
14. Tax per pood	1.50
Total	10.76
Received	10.86

The average cost of a pood of manganese from a period during the régime of the Czar, thereafter and up to 1925, was as follows:

	Lump ore	Washed	Peroxide
Franco-platform Tchiaturi	14.65	22.16	26.73
Tchiaturi-Poti	13.06	13.06	13.06
Expenses of TEMO	1.10	1.10	1.10
Tax on monopoly	.84	.84	.84
	29.65	37.16	42.57
Loss in transport	.59	.74	.85
Stamp duties	.03	.04	.04
Total	30.27	37.94	43.46

Translating these figures into American money, we find that the cost of production of a ton of manganese in Russia at that time was $11.80 per long ton in gold in the yards at Poti, Russia. This includes a charge of $4.04 per ton for transportation from Tchiaturi to Poti. The transportation from Poti to Atlantic seaboard ports is between a minimum of $3.75 and a maximum of $5 per long ton. If we then add the minimum ocean freight cost of $3.75 per ton, we get a cost price of $15.55 per long ton c. i. f. American Atlantic seaboard ports.

It must be borne in mind that, in making this computation there is not taken into consideration capital investment, interest on capital investment, amortization, depletion, depreciation, and the usual charges which enter into mining operations.

From 1919 to 1925, Tchemo with the sanction of the soviet operated the Tchiaturi mines. It is unfortunate that we can not, in this brief, mention the confidential source of the following authentic information. The original documents containing the same are being submitted by us herewith in confidence, to the Treasury Department.

These figures, showing the past and present cost of production of manganese ore from the Tchiaturi mines, are as follows:

Average cost of 600 poods of 52 per cent manganese ore f. o. b. Poti, Georgia (Caucasus), during years 1919–1925. (One pood equals 36 pounds avoirdupois)

4 laborers working with spade, at $2.50	$10.00
2 laborers working with shovel, at $2	4.00
1 laborer working on carriage, at $1.55	1.55
3 laborers working cleaners, at $1	3.00
Transportation of manganese ore from the mines to the works	
840 poods of ore (out of which 600 poods buddled)	$14.00
Buddling of 600 poods of ore	12.00
Transportation from the works to the railroad stations—600 poods	15.55
Railroad freight charges	
From Chiaturi to the port of Poti—600 poods	$18.50
Loading in Chiaturi, unloading and loading in Charabam and unloading and loading in Poti—600 poods	9.00
Overhead (management) expense—600 poods	6.00
Rental of the ore property—600 poods	6.00
Maintenance of the mines and roads—600 poods	10.00
Laborers vacations with pay—600 poods	8.00
Labor insurance, hospitals, public baths, police force, etc.—600 poods	12.50
Total for 600 poods	130.10
Per 60 poods	13.01

According to the official documents published in Union of Socialist Soviet Republics, the cost of living in Russia for the last five years increased by more than 50 per cent; accordingly, the immediate necessities, as well as labor, increased over 50 per cent. Also, according to the statement made by the so-called representative of the Georgian Manganese Ore, Mr. Mikadze, the laborers in Chiaturi are earning from $3 to $4 a day. Based on the above, we will increase our cost per 60 poods of manganese ore, $13.01, by 50 per cent, equaling $19.51 per 60 poods, f. o. b. Poti. (This means that a ton of 2,240 pounds of 52 per cent manganese ore costs $20.22 f. o. b. Poti.)

No charge per pood has been made for amortization, depletion, depreciation, brokerage, or other customary charges considered legitimate and necessary when compiling such cost.

Since 1925 and to the present time there have been no material installations of machinery or other improvements at the Georgian manganese mines which would permit the present soviet operators to mine and ship ore at a cost lower than the cost of 1925, as shown above.

If we add to the present cost of $20.22 per ton f. o. b. Poti the minimum cost of ocean transportation to American ports $8.75 per ton), we find that the c. i. f. cost in this country, without the addition of any profit, is $23.97 per ton.

The Soviet Government can not contend that any material improvements have been made which would reduce the already absurdly low production costs claimed by them.

The United States Daily, on September 2, 1930, published a statement by Doctor Furness, of the United States Bureau of Foreign and Domestic Commerce, to wit: "That the Soviet Government, in taking back its concession from Harriman, did so under the contention that Harriman did not carry out the program of important improvements provided for in the agreement." That Harriman did not make any improvements is conceded.

Mr. Seth R. Swain, the American mining and metallurgical engineer employed by the Harrimans while operating their Russian concession, bears out the statement that no material improvements had been made by Harriman, and that the cost of mining and transportation, because of the antiquated methods used, was expensive.

Nor can it be contended by the Soviet Government that its labor costs have been reduced, which might justify any decrease in producing manganese ore.

An article in the Economic Review of the Soviet Union, of August 1, 1930, a magazine published by the Amtorg Trading Corporation, and hence, the mouthpiece of the Russian Government itself, published an interview with A. V. Mikadze, representative of the Soviet Manganexport Corporation in the United States, and A. E. Kalnin, president of Rudo-export, the Ore Export Corporation of the Union of Socialist Soviet Republics, which handles all soviet exports of ore, including manganese. Mr. Mikadze said:

"Soviet manganese is being purchased in the United States largely by the United States Steel Corporation and the Bethlehem Steel Corporation, who have been using Tchiaturi manganese ever since 1886. * * * According to soviet statistics, exports of manganese to the United States during the 12 months ending September 30, 1929, amounted to 338,500 metric tons. Soviet manganese imported into this country comes from the Tchiaturi mines (in the Soviet Georgian Republic), which are located not far from the Black Sea. About 7,600 workers are employed in the Tchiaturi mines at the present time. While the average wages amount to roughly 84 rubles per month ($43), some miners receive from 7 to 8 rubles per day ($3.50–$4). Benefits received by workers include free medical service, living quarters free or at nominal rent, free sickness, old age, and unemployment insurance. In addition, workers receive vacations of at least two weeks per year."

Nothing has transpired between 1928 when the Harriman concession ceased and the present time which would reduce the cost of production. On the contrary in view of the higher labor costs stated by Mr. Mikadze to be presently existing and the greater number of laborers employed the cost of production of manganese ore at the Tchiaturi mines is, of necessity, now higher than it was before.

Despite that fact, Russia is selling her manganese in this country at 25 cents and less per unit, or approximately $12.50 per ton, c. i. f. Atlantic ports, when the actual cost to them is $23.97 per ton. In other words, she is selling here almost 50 per cent less than the cost of production.

The Harriman concession commenced operations in 1925 and continued until the latter part of 1928, when Harriman publicly announced his renunciation of his manganese concessions in Russia because he could not sell manganese at a profit. Harriman was selling at a price of approximately 43 cents per unit, c. i. f. Atlantic ports, or in excess of $21 per ton. If, as Mr. Mikadze states, labor is being paid more and is employed in greater numbers now than it was during the Harriman régime, and Harriman could not make a profit at $21 per ton and was constrained to relinquish his concession, and Russia is now selling at $12.50 per ton, it is quite apparent, again, that she is dumping.

The Russian Government well knew that its production cost or world-market price was about $21 per ton, for the formal agreement between the Soviet Government and W. A. Harriman & Co. (Inc.), dated Moscow, June 12, 1925, the original of which is in our possession, states on page 16, section 27 thereof, as follows:

"The concessionnaire agrees to keep in his books a special account to be known as 'The Government Surplus Account.' In all cases, excluding peroxide ore (MnO_2), when sales of ore are made at a price in excess of $21 per dry ton, there shall be credited to said account one-half of the difference between the price abroad and $21 per dry ton. In all cases when sales are made at a price less than $21 per dry ton, there shall be debited to said account one-half of the difference between the sales proceeds and $21 per dry ton. Said Government Surplus Account shall be kept on the basis of c. i. f. prices, with references to invoices and 'facturae,' and shall in cases of necessity, be supported by same. At the end of each five years during the time this agreement is in force, said account shall be balanced. If it shows a credit, the amount of said credit shall be paid to the government. If, however, a debit is shown, no payment will be required of the government."

It is further provided, in section 49, page 27, that:

"Conditions of labor on the conceded enterprise shall be regulated by the appropriate laws in force in the Union of Socialist Soviet Republics."

It is quite apparent from this section of the agreement that the Soviet Government expected that the world price of manganese, including the price of soviet ore from Tchiaturi, would be approximately $21 per ton. Yet, at $21 per ton Harriman was losing and was constrained to relinquish his concession.

In spite of all this, and in the face of its greater production cost, Russia is selling at $12.50 per ton, c. i. f. Atlantic ports.

When it is remembered that Congress has decreed, under section 206 of the antidumping act, in defining what the cost of production shall be, to wit:

"(1) The cost of materials of and of fabrication, manipulation, or other processes employed in manufacturing or producing identical or substantially identical merchandise, at a time preceding the date of shipment of the particular merchandise under consideration, which would ordinarily permit the manufacture or production of the particular merchandise under consideration in the usual course of business."

We find that the cost in the usual course of business, at a time preceding the date of shipment of the particular merchandise under consideration was the Harriman cost, and the Harriman cost was approximately $21 per ton.

In paragraph 4 of section 206 Congress provides for a profit of not less than 8 per cent, "equal to the profit which is ordinarily added in the case of merchandise of the same general character as the particular merchandise under consideration by manufacturers or producers in the country of manufacture or production, who are engaged in the same general trade as the manufacturer or producer of the particular merchandise under consideration."

Harriman was engaged in the same general trade as and with the soviet. So was "Tchemo." Hence, again under the law we revert to the Harriman and Tchemo costs and these we have shown are far higher than the present selling price of the soviet.

On May 8, 1930, the Iron Age printed an article submitted by its Hamburg correspondent, which reads as follows:

"SOVIET LOSSES HIGH ON MANGANESE ORE

"HAMBURG, GERMANY, April 21.—Based on recent reports and statements by Government officials in Soviet Russia, the Government is losing heavily on manganese-ore production in the Caucasus. The director of mines has stated that production costs have advanced about 34 per cent recently. Estimates by German ore dealers show that the Russian Government is selling manganese ore from the Georgian mines at about 3d. (6 cents) per unit less than the cost of production. However, the Soviet Government is selling manganese ore regardless of costs to establish sufficient foreign credits for purchase of machinery and equipment required in its industrialization program."

The Daily Metal Trade, a prosteel publication, admits that Russia is selling at less than cost of production and at a loss, in its editorial of August 16, 1930, which says:

"True, exports of manganese ores from Russia have increased enormorously. True, too, prices have gone down to a point where the soviet manganese-export trust may be losing 6 cents a unit, as some reports indicate. Quite probably it is also true that the soviets have determined to sell their manganese ore in foreign markets as a means of creating gold credits, regardless of costs."

That this price cutting has accomplished Russia's purpose is borne out by the following table of imports:

Imports of manganese ore into the United States

Year	Total from all countries, gross tons	Imports from Russia	
		Gross tons	Per cent of total
1922 [1]	425,000	3,284	0.4
1923 [1]	419,000	23,340	5.9
1924 [1]	505,000	82,194	17.8
1925 [1]	615,000	229,074	40.0
1926 [1]	738,000	244,690	35.2
1927	622,067	253,544	40.8
1928	427,708	159,842	26.7
1929	664,269	329,336	49.6
1930 [2]	742,000	346,178	46.7

[1] U. S. Bureau of Mines estimate of gross weight, based on actual manganese content.

[2] Based on actual figures, imports for first 6 months of 1930 which show 173,089 tons from Russia and total from all countries 370,903 tons.

Mr. E. C. Ropes, chief of the Russian section of the division of regional information, United States Bureau of Foreign and Domestic Commerce, has prepared the following translations from the German press, pertaining to Russian methods of marketing manganese:

"Thus, the basis for a dumping process of extraordinary nature and with far-reaching aims is present in Russia, and it is further extended by the difference maintained between the official valuation of the ruble in Russia and the actual value abroad. There is thus added to dumping, based on State capitalism, a dumping based on the difference in exchange."

And the final conclusive evidence is illustrated by the following:

The Domestic Manganese & Development Corporation, of Butte, Mont., had a contract for the sale of its manganese ore with a certain American manufacturer of ferromanganese.

The Domestic Manganese & Development Corporation had enlarged its plant and had reached a point where it could meet all of the requirements of its contract from the viewpoint of production.

Hardly had deliveries commenced under the contract than the same was canceled by the ferromanganese manufacturer. Mr.

Harold A. Pumpelly, vice president of the Domestic Manganese & Development Corporation, testified in Washington before the Treasury Department that he personally went to the ferromanganese manufacturer to ascertain the reason for the cancellation of the contract, and was informed that it was due to the fact that the price was too high. He then asked what price would be acceptable and was advised by the ferromanganese manufacturer that he had been informed by a representative of the Soviet Government that the Soviet Government was ready to undersell any competitor for the American business, at whatever price quotation, be they American or other foreign producer.

We have, therefore, incontestable proof of the fact that Russia is selling manganese in the American market at considerably less than her actual cost of production, computed on a basis most favorable to her; and since this is so, she is selling at less than fair value. Thus she is dumping in violation of the antidumping act of 1921.

But this is not the only law that Russia is violating.

The immigration act of 1922 was designed for the purpose of keeping out of America cheap foreign labor, which would come into our country and work at low wages, thus displacing the American workman from his job and bring down his standard of living.

By permitting Russia to import into this country merchandise manufactured by cheap forced, indentured, conscripted, and convict labor, Russia is as effectively evading the immigration act as if her workmen were actually in this country.

Title 30 of the Code of Laws of the United States of America, in force December 6, 1926, section 187, provides that in the mines owned by the United States, the employment of any boy under the age of 16, or the employment of any girl or woman, without regard to age, in any mine below the surface, is prohibited. Yet we find in an article in the New York Times, cabled to it from Moscow, by Walter Duranty, its correspondent, that tens of thousands of young communists, ranging in age from 8 to 16, and from 16 to 22, are actually being put into brigades on a military basis, and sent by tens of thousands for special service in mines and factories, and on railroads and building projects.

We respectfully submit that violations of these laws can not and shall not be tolerated in this country.

Our laws do not permit any American concern to destroy its rivals by such tactics, and our laws do not allow another country to attack us in this fashion.

REPLY TO THE DATA SUBMITTED BY THE AMERICAN IRON AND STEEL INSTITUTE

In the face of overwhelming proof submitted by the manganese industry, one would imagine that definite facts and figures would have been submitted by Soviet Russia in reply thereto.

We have pointed out heretofore that Soviet Russia abandoned the hearings and permitted, in effect, a judgment by default against it. We must assume, therefore, that she did this knowing that any defense she might interpose would be unavailing. We infer, too, that the default was occasioned by the fact that appearance would have meant questions, that questions would have meant answers, and that answers could not be forthcoming without incrimination.

Instead, Soviet Russia contents herself by submitting, through the American Iron & Steel Institute, an affidavit by A. E. Kalnin, who is the president of the rudo-export trust in the Union of Socialist Soviet Republics, the organization which has full charge of all exportations of manganese ore from Russia.

Strangely enough, despite the soviet's proclamations to the world that she has abolished religion and abandoned God, this affidavit is sworn to before a notary public. We respectfully submit that there could be no oath by an individual who denies the existence of one. But, in this so-called affidavit, Mr. Kalnin was afforded the glorious opportunity of presenting to the Treasury Department the cost of production of manganese at the Tchiaturi mines. But these production costs are conspicuous, by their absence. There is not a single word in the affidavit that has any reference to the cost of production or to fair value. Mr. Kalnin simply says that the purchase prices of manganese ore obtained in the United States for Tchiaturi manganese ore were at all times higher than the prices obtained therefor in countries other than the United States. His sole statement is an endeavor to rush for a loophole which does not exist. He does not even state what the prices in these other countries are. We have disposed of this argument previously in this brief, for we have shown that Congress has decreed that no ore can be imported into the United States at less than the cost of production. Cost of production is the minimum line. We have shown that Russia, through her dumping processes throughout the world, is selling in foreign markets as well as in our own for less than cost of production. Hence, even if the foreign-market value of the ore is less than the price received for it in the United States, since the foreign-market value of the ore is less than the cost of production, under the antidumping act, the cost of production controls and not the foreign-market value, and certainly not a fictitious market value which Russia herself has created.

Hence, Mr. Kalnin, by his very statement with reference to foreign-market value (and carefully refrained from showing what that value is), and by his silence as to cost of production and as to the overwhelming proofs submitted as to cost of production, has squarely brought himself within the antidumping act of 1921.

We have, therefore, a situation where the soviets, with full opportuntiy to present facts, have maintained a complete silence; and this silence has proclaimed more eloquently than words her violation of American law.

We come now to the statement of Mr. Thomas J. Doherty, tariff counsel for the American Iron & Steel Institute, indirect spokesman for the Soviet Government.

At the hearing on September 9, 1930, Mr. Doherty said that his only interest was the deep concern on the part of steel producers of the United States that an adequate supply of ferromanganese should be assured them. In the same statement Mr. Doherty says that a very informative article was published on page 396 of Commerce Reports, issue of August 18, 1930, by James W. Furness and Donald P. Lloyd, of the minerals division of the Department of Commerce, and he desired to point out (1): That there is a very large accumulation of manganese ore in British India awaiting a market. The other is the reference to Gold Coast production which says that (quoting from Mr. Doherty's memo):

"It has been reliably stated that the properties now being developed will be able to produce high-grade manganese for many years to come at a figure substantially lower than that in India, Russia, and Brazil."

Mr. Doherty says further that the point of all this is that if there are any additional burdens by way of duty on manganese ore from any one of the world's producers, or if there were a complete embargo of managanese ore from any of them or from all of them, except one, that one would be able to supply the entire demands of the American market.

If this latter statement of Mr. Doherty is true, then he should have no concern at all about an adequate supply of ferromanganese being supplied to the steel producers of the United States, for he himself says that any one of the other world producers could satisfy the needs of the United States.

And again, if any one of these other countries could satisfy the needs of the United States and thus relieve Mr. Doherty of all anxiety, why does he appear and contest the enforcement of the antidumping act against Russia?

We have no quarrel with India, the Gold Coast of Africa, or Brazil, any one of which, Mr. Doherty contends, could amply fill the needs of the American steel industry. Our contention is solely with Russia, and since, as Mr. Doherty admits, an embargo on Russia would in no wise affect the source of supply of the steel companies, he likewise admits that an adequate supply of ferromanganese is assured the steel industry.

But Mr. Doherty goes farther. He says that ferromanganese is an absolute necessity in the manufacture of steel and no substitute for it has ever been discovered.

Again we quote Mr. Doherty to the effect that this absolute necessity is available from sources other than Russia; therefore he has no cause for worry. We agree with Mr. Doherty that ferromanganese is an absolute necessity and that no substitute for it has ever been discovered. We also call to his attention the fact that, being a necessity for the manufacture of steel, it is likewise a vital necessity in the matter of national defense; and, since he is fighting the cause of Russia, we must assume that he desires the steel industry to be dependent upon Russia for its source of supply, thus indirectly placing our national defense in the hands of and at the mercy of Soviet Russia.

Mr. Doherty further contends that—

"In order to obtain manganese of 78 to 82 per cent content, you must have a manganese ore containing about 50 per cent metallic manganese. And that is just why manganese ore has to be imported from foreign countries. There is little or none of such ore found in the United States, and the relatively small quantity that is produced here is obtained through beneficiating processes which are very costly."

This statement of Mr. Doherty is not sworn to before a notary public.

The United States Bureau of Foreign and Domestic Commerce points out that from only one source in the world, namely, British India, does the average metallic content of manganese ore exceed 50 per cent. The figures are as follows:

	Per cent
Russia	49.95
Brazil	43.56
British India	51.94
Gold Coast	49.40
All others	48.14

making a total average content, even including British India, of 48.09 per cent.

In striking contrast to these percentages of foreign ores is the percentage of metallic manganese content in the United States ores.

In the Wall Street Journal of Friday, February 21, 1930, the following article appeared:

"The Anaconda Copper Mining Co. has proved that the large quantities of low-grade manganese ore in the United States can be commercially treated by the newer methods of beneficiation. The company has recovered manganese by flotation method, discovery of which was made by the United States Bureau of Mines, through its experimental station at Rolla, Mo., under the direction of Will H. Coghill.

"On December 16, 1929, a test run was started in one of Anaconda's commercial plants. Since that time approximately 12,000 tons of manganese (rhodochrosite) ore, averaging between 29.5 and 30 per cent metallic manganese and over 20 per cent silica, have been treated in this plant by flotation. The concentrates have averaged between 38 and 40 per cent metallic man-

ganese and under 6 per cent silica. The recovery of manganese in the flotation plant has averaged about 95 per cent.

"The material is being treated at the rate of 300 tons a day and the finished product shipped at the rate of 200 tons a day to the Domestic Manganese & Development Co. at Butte, Mont., for nodulizing. The nodulized product runs approximately 60.8 per cent metallic manganese and 6.9 per cent silica. This is the highest grade manganese ore ever introduced into the world's market."

We find, therefore, Mr. Doherty's statement to be far from the true facts. For the metallic content of American manganese is in the neighborhood of 60 per cent and is, therefore, the highest grade manganese ore in the world, a fact which Mr. Doherty's clients know for they have purchased this product from the American producers and have manufactured ferromanganese with it.

When it is borne in mind that these processes of beneficiation, resulting in the highest metallic content ever known have been evolved by the American manganese industry in the short space of two years, it is certain that if allowed to continue and to progress, it will make even greater strides.

If Mr. Doherty is worried about the source of supply and the metallic content, certainly these amazing figures of the American industry should completely relieve him of all anxiety.

We might add also that the output on plant capacity of manganese in the United States to-day is in excess of 200,000 tons per year. We might further add that if Mr. Doherty and his cohorts had not done everything conceivable in their power to injure the American manganese industry, that its output undoubtedly would long since have been sufficient to provide the greater part of the manganese needs of the United States; for we have shown heretofore that hundreds of millions of tons of manganese ore exist in the United States, awaiting similar beneficiation processing and shipment to the market.

The argument of Mr. Doherty as to the methods in which the antidumping statute may be violated we have already disposed of. His contention of the inherent improbability of dumping is negatived by the statement of Russian officials themselves, hereinbefore quoted.

The test, as we have said before, is whether or not the price in the United States is less than cost of production, and we have conclusively demonstrated not only that it is less but much less.

To further show the error of Mr. Doherty's contention we quote his language. He says "that there is a very large accumulation of manganese ore in British India awaiting a market." If Russia is not dumping, why is the ore from British India awaiting a market?

He further says, with reference to the Gold Coast of Africa that these properties "will be able to produce high-grade manganese for many years to come at a figure substantially lower than that in Indian, Russia, and Brazil." If these products are being produced at a figure substantially lower than that in India, Russia, and Brazil, and despite that fact, the ores of Russia for the greater part are being imported into this country, Mr. Doherty, by his own words, shows that since the manganese from the Gold Coast is coming into this country in lesser quantities than soviet manganese that Russia is selling even more cheaply than Gold Coast manganese, and Mr. Doherty himself says that the production cost of Gold Coast manganese is less than that of Russia.

His statements to the effect that there are world prices quoted freely for manganese are absurd. We have shown that Russia is dumping not only in the United States but in all the world markets. Russia is in the unique position where, having stolen the Georgian mines, she has no capital investment, and having conscripted labor and transportation facilities, and having everything governmentally owned and operated, she can sell at any price, irrespective of cost of production, because there is no capital being jeopardized.

In this unique and uncivilized position, she has caused a complete collapse of the manganese markets of the world. Hence, the only quotations for world markets are Russian quotations, and being Russian quotations, are meaningless.

Mr. Doherty's anxiety and fears we have shown have been alleviated by Mr. Doherty's words and conclusions. The important statement which he makes and which disposes of all his arguments is that "if there were a complete embargo of manganese ore from any of them, or from all of them except one, that one would be able to supply the entire demands of the American market."

We do not in this application object to the importation of manganese from Brazil, India, or the Gold Coast of Africa; and since any one of these would meet the needs of Mr. Doherty's clients as he himself admits, he could even, if an embargo were placed on Russian manganese, obtain his full needs for the purposes he mentions.

We respectfully submit that Mr. Doherty, by his own statement, has added the final argument in our behalf.

CONCLUSION

The picture of the Soviet Government as an international outcast spreading commercial ruin and disaster wherever it goes is indeed a novel spectacle, previously unheard of in the history of the world. The editorial in the Wall Street Journal of October 2, 1930, says:

"In one respect the Soviet Government is a unique historical phenomenon in that it aims openly at the destruction of those things which are the foundations of the western civilization. It has put us all upon notice that its word is worthless—even in business. It has struck at the home and family—the very building stones of the state. Even the Hottentot and the Bushman have a code by which they will live, but the soviet has none. And in order to make quite sure that there should be no mistake as to its purpose it has declared open war upon Almighty God Himself."

President Coolidge on December 18, 1923, refused to negotiate with reference to the recognition by our Government of Russia for several reasons, "the most serious is the continued propaganda to overthrow the institutions of this country."

We refuse to recognize Russia because she seeks to overthrow our institutions. Yet, we are permitting her to overthrow our industries and by obtaining the money in so doing, giving her the means to overthrow our institutons.

Secretary of State Colby refused to recognize Russia, "whose diplomats will be the agitators of dangerous revolt." Nevertheless, we are putting into the Russian treasury the necessary wherewithal to permit her to use her commercial agents rather than her diplomatic agents as agitators of dangerous revolt.

On December 6, 1923, Calvin Coolidge, President of the United States, said: "I do not propose to barter away for the privilege of trade any of the cherished rights of humanity. I do not propose to make merchandise of any American principles." Yet, we stand idly by and, while supinely refusing to barter our cherished rights of humanity, are daily seeing them destroyed by the very government to whom the President's statement was addressed.

On March 21, 1923, the Hon. Charles E. Hughes, Secretary of State, said:

"* * * It is also important to remember that there should be no encouragement to those efforts of the soviet authorities to visit upon other peoples the disasters that have overwhelmed the Russian people."

Yet, if we permit the disposition of Russian products in this country at less than production cost, resulting in the collapse of American industries and the unemployment of American labor, we are assisting in the visitation of the very disasters which our own Secretary of State cautioned us to guard against.

On February 1, 1928, the State Department objected to American banks and institutions assisting the Soviet Government in the flotation of any loan in the United States. Yet, by permitting the sale of Russian products in this country on the basis mentioned, we are, in effect, giving to Russia the financial wherewithal as effectively as if we had assisted in the flotation of a Russian loan, and are again violating the instructions of the State Department.

The Hon. Charles E. Hughes, Secretary of State, quoted Trotsky as saying that revolution is coming in Europe as well as in America as a consequence of Russian propaganda. In the face of that knowledge, we put into the hands of Russia the very money, at the cost of the despoliation of our industries, to accomplish that revolution in America.

In the words of the Washington Post of August 25, 1930, "Russia is waging war disguised as trade."

We realize that Russia is buying considerable merchandise in this country for its uses at home. We do not object to Russia doing this. But we do say that it is un-American and unpatriotic to permit a few American industries to make a profit at the expense of the very life of many other American industries.

On October 21, 1930, the New York Sun quoted from articles in the official Russian newspapers Isvestia and Pravda to the effect that if America enforces its antidumping laws against Russia, Russia would retaliate by decreasing its purchases in this country and buying its necessary imports elsewhere. Soviet Russia is thus threatening America with reprisal should America enforce its laws for the benefit of its citizens.

This threat of reprisal is not only an admission of Russian dumping but it is a challenge to America which should not remain unanswered. Certainly our Government can not be put in the position where at the threat of a renegade it relinquishes its sovereignty and the duty to enforce its laws.

We believe that it is fundamentally and basically wrong to stand complacently by and lend substantial aid and comfort to an international enemy at the cost of the sacrifice of American industry and labor

We believe that it is the paramount duty of the American Government to protect American industries and labor.

We are passing to-day through a period of general economic depression. It is the duty of the American Government to eliminate as quickly as possible the basis of this depression and to do all within its power to overcome it at the earliest possible moment. Certainly, the complete demoralization of many basic American industries, of which manganese is one, as a consequence of Russian dumping, has contributed in no small degree in creating the depression. Every American industry which ceases functioning and discharges its labor, adds to the economic depression and to the already too great number of the unemployed. An embargo will immediately enable the American manganese industry to create employment for thousands of laborers now idle.

Russia is violating, as we pointed out heretofore, not only the antidumping act but, indirectly, the immigration act and the mining act as well.

She is bent upon "raising the red flag over the White House."

The Treasury Department should go to every extreme to assist American industry and prevent Russia from accomplishing her insidious purposes openly expressed.

Americans will not tolerate the destruction of their industries.

America will not tolerate Russia accomplishing indirectly what our Government has decreed Russia shall not accomplish directly.

American sentiment is aroused against Soviet Russia, and it has been pointedly asked on more occasions than one whether our laws

are to be enforced for the protection of American industry or in the interests of Soviet Russia.

The Russian problem presents one of the most important facing the world to-day.

America by its fearless enforcement of the antidumping act can assist materially in the solution of that problem. The civilized world is waiting for America to act and to enforce its antidumping provisions. If the markets of the world are closed against Russian dumping, it is only a matter of time before Russia's 5-year industrialization plan must fail; and if it fails, as it should, it can have only one consequence—that Russia must change its form of government and method of doing business; that it must subscribe as does the rest of the world to international custom and usage; that it must adhere to the laws of humanity; and it must finally, against the will of its rulers, but perhaps in consonance with the will of its own people, take its place again as a member of the family of nations.

The importance of the decision in the instant case can not be overemphasized.

The spirit of the American people is reflected by the statements and actions of its Government, and no government can afford, through its accrediated agents, to say what America's representatives have said and then act contrary to those declarations.

If we do not enforce the antidumping act in this case we will then be giving to Soviet Russia, whom we declare as unworthy of recognition, rights and prerogatives which only those nations have whom we recognize, yet with none of the duties and obligations that flow from such recognition. We will, in other words, give to Soviet Russia, unrecognized, a greater latitude than we give to other nations, whom we do recognize. We shall add to the prestige of an international brigand, while proclaiming to the world that he is unworthy of relationship with us.

We believe that the American people look with interest and anxiety to the Treasury Department's determination of the issues presented by this memorandum, and we feel and hope that a decision will come which is in harmony with American sentiment with the spirit of American fairness, with the principles upon which America is based, and in consonance with those ideals for which our forefathers so gallantly died.

We desire to make grateful acknowledgment to the American press generally for the very helpful and authentic information which the newspapers and other publications gave us and which proved so valuable in the preparation and drafting of this memorandum.

We desire also to acknowledge our grateful appreciation to the officials of the United States Treasury Department for the courtesy and considerate treatment accorded us at the hearings at which they presided.

Respectfully submitted.

BARRON, RICE & ROCKMORE,
Attorneys for the American Manganese Producers' Association.
BERNARD S. BARRON, *Of Counsel.*

[Before the Treasury Department of the United States in the matter of the petition of the American Manganese Producers' Association for an embargo against the importation of Russian manganese]

REPLY BRIEF OF AMERICAN MANGANESE PRODUCERS' ASSOCIATION

The brief heretofore submitted by us was the result of many weeks of profound research. It presents practically every impartial, pertinent fact and statement pertaining to the dumping of Russian manganese ore in the United States.

We have before us the amazing brief submitted by the American Iron & Steel Institute. In it we find no reply to the arguments, facts, and figures presented in our original memorandum. On the contrary, throughout the brief we find the words "allegations," "charges," "disingenuousness," "rodomontade"; "What there is of truthful statement in the brief is mostly irrelevant, and what is relevant is largely untrue;" "There is no evidence to discuss;" "There is nothing in the way of proof;" "old stuff;" "complete failure on the part of complainants to furnish any proof of their charges;" "greatly exaggerated;" "wild assertions;" "absurdly untrue;" "insinuations;" "innuendoes;" "demonstrably false;" and the like.

As a treatise embodying every conceivable form of ill-tempered denial it deserves great commendation. But while the abovementioned utterances pervade the entire brief, never in any instances are any of these heated denials supported by facts.

It is well, indeed, for a criminal when accused of crime to shout as loudly as possible that his accusers are liars, that they are making "wild assertions," that they are guilty of "insinuations and innuendoes," that they "greatly exaggerate," that "there is no evidence to discuss," that "there is nothing in the way of proof," and the like. But such assertions become meaningless when sticking out of the pocket of the thief is the very loot which he is accused of stealing; and when requested to take the stand in his own behalf, refuses so to do on the ground that it would tend to incriminate him.

In response to definite facts and figures, the American Iron & Steel Institute yells "liar," but submits absolutely no proof to sustain its assertions. On the contrary, to the great silence heretofore maintained by Amtorg and the soviet, is now added the silence of the American Iron & Steel Institute.

On page 9 of the brief submitted by the American Iron & Steel Institute, is the statement that they desire "to adhere closely to the exact question that is pending before the Treasury Department." This exact question is, of course, "Is Russia dumping manganese ore in the United States?"

There is no data in the institute's brief on this question. There is a reference to the previous tariff fight. There is a schedule showing the imports as far back as 1904. It might just as well have shown, in closely adhering "to the exact question" pending before the Treasury Department, that in nationalizing its women the soviet showed what a kind and loving people they are.

We ask the Treasury Department to find one pertinent statement in the brief of the American Iron & Steel Institute which is relevant to the question pending before it.

It is significant to note that, although we proved by public records, by the affidavit of one who worked in the Tchiaturi mines, and by the statements of Russian officials themselves that the cost of production of Russian ore was $23.97 a ton and that it is being sold for $12.50 a ton to this country, c. i. f. Atlantic ports, there is not a single word in the institute's brief controverting the proofs submitted by us on this point.

We have proved that anything sold at less than cost of production constitutes dumping. Certainly, the institute's contention that, since Russia is dumping in all other countries of the world by selling at less than "fair value," she can likewise dump in this country by selling at less than "fair value," is wholly contrary to the letter and spirit of the antidumping law.

It is incongruous to assert that it was the intent of Congress to permit American industry to be destroyed simply because industry in other countries is likewise being destroyed. On the contrary, section 201 (a) specifically forbids such a situation.

The construction of the antidumping act urged on page 4 of the institute's brief would render the law meaningless. There are two definite and specific sections of the law, to wit, section 201 (a) and section 201 (b).

At best, even if we assumed, without conceding, that the interpretation of the law as contended by the institute is correct, it would apply only to section 201 (b) and not to 201 (a).

Section 201 (b), however, applies only to preliminary, summary embargo based on belief, suspicion, or information presented to the appraiser. Such preliminary embargo under section 201 (b) must, in any event, await final determination of the Secretary of the Treasury, based, not upon the grounds set forth in 201 (b), but on those set forth in 201 (a). Hence, where, as here, a final and complete embargo is requested, not based on appraiser's belief or suspicion, but based on the finding of the Secretary of the Treasury "after such investigation as he deems necessary" (which investigation has been made and hearings in the course thereof held), section 201 (a) alone controls, as it controls in any case where final embargo is to be applied. For section 201 (b) expressly says that the appraiser shall withhold his appraisement report "until the Secretary has made public his findings as provided in subdivision (a) in regard to such merchandise." The final action in any case must, therefore, be taken by the Secretary under 201 (a).

We may, therefore, completely disregard section 201 (b) even though, under the circumstances of this case, a preliminary embargo under section 201 (b) should be granted.

We find under section 201 (a) that only two things need be proved:

1. "That an industry in the United States is being, or is likely to be injured, or is prevented from being established by reason of the importation into the United States of a class or kind of merchandising"; and

2. "That merchandise of such class or kind is being sold or is likely to be sold in the United States or elsewhere at less than its fair value."

As to the first requirement, it has been definitely proved that the domestic manganese industry, because of Russian dumping, has been demoralized and ruined. That the mines have been shut down and all operations suspended. This situation is not denied by the Steel Institute.

As to the second requirement, we have shown that the production cost of Russian ore is $23.97 per ton (which the Steel Institute does not deny), and that its sales price in the United States is $12.50 per ton c. i. f. Atlantic ports (which the Steel Institute, in effect admits). A price of almost 50 per cent less than cost of production can not, under any circumstances, be considered a fair value.

Congress, in defining the most prejudicial sales price, to wit, cost of production, has decreed that even on this item a profit of 8 per cent must be included. Certainly, merchandise which is being sold at 50 per cent less than its cost of production, and at a price which ruins an industry throughout the world, is being sold at less than its fair value.

The contention of the institute is that "if the foreign market value is less than the price charged in the United States, there is no dumping," but the antidumping act itself vitiates this contention. The selling price of Russian ore in the United States is, we have shown, less than the fair value. If the selling price in foreign countries is even less than the price in the United States, such foreign selling price is, of necessity, much less than the fair value.

Section 201 (a), which controls the decision in this case, says that dumping is committed if the foreign merchandise "is being sold * * * in the United States or elsewhere at less than its fair value." "Elsewhere" can only mean foreign countries. Thus section 201 (a) specifically declares dumping to exist if merchandise is sold at less than fair value, not only in the United States but in foreign countries as well. Hence, the institute, by showing that the price of Russian ore in foreign countries is less than the

price in the United States, shows that Russian ore is being sold at less than fair value not only in the United States but elsewhere, and hence shows the very evidence necessary to bring the situation squarely within the provisions of section 201 (a).

The institute has thus confirmed our contention that under section 201 (a) of the antidumping act Russia should be embargoed.

The institute contends that the statement on page 34 of our brief, of an estimate of 742,000 gross tons of manganese ore as the importation of 1930, of which 346,178 tons are expected to be from Russia, is "greatly exaggerated." These figures for the first six months were furnished by the United States Bureau of Foreign and Domestic Commerce, and we submit that coming from this impartial governmental source the figures should be accepted as correct.

Let us assume, without conceding, that only 3,000 tons of manganese ore came from Russia during the month of October, 1930, as claimed by the institute. If so, it is probably due to the fact that in August the request for an embargo was first presented. With the feeling of guilt of dumping unquestionably in the minds of the soviet officials, and with the premonition that the requested embargo, because of dumping, would be granted against them, they probably cut down their exports of manganese ore to the United States.

On page 4 of the institute's brief is the statement that "it is our desire to present to the department all the information on the subject that is available." If the brief of the institute is supposed to set forth all the information that is available, it is, indeed, a sorry commentary on the knowledge of the institute with reference to the question presented.

Without any proof to support it, without any facts to substantiate it, without any logic or argument to corroborate it, the institute says that they "unhesitatingly affirm that there is no dumping of manganese ore into this country from Russia or any other country."

Such an affirmation may be considered proof in a radio-broadcast trial in Russia. But it does not constitute proof in a case such as this, where an American industry is faced with annihilation at the hands of an international brigand, and where American industry and American labor is being subjected to unwarranted, unjustified assault by the only nation which could perpetrate it; a nation unrecognized by our Government and declared by our State Department to be unworthy of official relationship with us.

Despite the fact that many millions of dollars have been invested in the American manganese industry, and despite the fact that during the war the American manganese industry helped to save American participation in the war from being futile, the insitute, in its brief, has the blatant effrontery to assert (p. 7) that there is no manganese industry in the United States. They base this strange assertion on their contention that in 1929 only 6.95 per cent of the American consumption of manganese was furnished by domestic producers.

If great potential production was small, it was due to the fact that the American steel industry refused to purchase from the domestic producers. Naturally, it would have been foolhardy to increasingly produce a product which could not be sold. We assert again that the steel companies bought abroad the identical manganese at higher prices than that which it might have bought from American producers at lower prices. This statement the institute's brief (p. 8) denies in the following language:

"No one can believe that American business men in a highly competitive industry would pay any more than the market price for any article or material no matter where it came from."

We agree that the American steel industry is made up of "business men." It is to be noted, however, that despite the very great use of adjectives in the brief of the institute, the adjectives "patriotic" and "idealistic" do not modify the words "business men."

The denial of the Steel Institute of this particular point is, unfortunately, not borne out by the facts.

On page 137 of the Tariff Hearings before the Senate Finance Committee the following testimony (under oath) appears:

"Mr. ADKERSON. No; but in this way—that the tariff of $11.20 per ton would be effective to domestic ores. As a matter of fact, it has not been. The domestic miners have not received the protection granted by the 1-cent tariff.

"For instance, I will make it plain in this way: According to the figures as given by the Tariff Commission under manganese ore as to the price the steel people have paid for foreign manganese during the 5-year period ending December 31, 1928, the steel makers of this country paid on an average of 68 cents a unit for foreign ores. During the same period of time there is not one instance that we know of where domestic operators producing high-grade ore, and ore running even higher grade than the best foreign ore, have received a price greater than 60 cents per unit. There is a differential of 8 cents per unit against domestic products and in favor of foreign products, which, of course, has held back domestic production.

"Senator KING. Why should they pay more for foreign than for domestic manganese ore?

"Mr. ADKERSON. That is a question we have been trying to get an answer for since the tariff has been on.

"Senator KING. Have you sought an explanation from those who purchased the manganese ore?

"Mr. ADKERSON. I have heard it said that——

"Senator KING. Have you sought one from those who did the purchasing?

"Mr. ADKERSON. Yes, I have; and the explanations are to the effect that productions are small, and that they had rather pay a larger price for larger tonnages of foreign ore. It must be remembered that manganese is an infant industry, and a production of 400,000 tons per year can not come forward overnight. We believe that in the spirit of helping to develop American industry and extend the markets for the domestic industry, we should be granted the same price as is paid for foreign ores, but even in instances where the domestic tonnages have been in cargo lots equal to some of the cargo lots of foreign ores, that same differential applied, so that that explanation does not hold good even when you have a large tonnage."

And on page 160 is the following sworn testimony:

"I wish to call the committee's attention to a comparison of the foreign and domestic prices on manganese ores for a period of seven years beginning 1922 and ending 1928. Basing my statement on United States Tariff Commission figures the average price paid for foreign ore, delivered at Pittsburgh, Pa., was 68 cents per unit. The highest price paid for domestic ore of a commensurate grade, delivered at Pittsburgh, Pa., was 60 cents per unit. This difference figured in dollars value on a grade of ore such as we produce amounts to $4.48 per ton against us as an American producer.

"Figured in tariff protection terms, it amounts to three-quarters of the tariff protection we are entitled to."

It is apparent, therefore, that based on the figures of the United States Tariff Commission, the average price paid for the foreign ore delivered at Pittsburgh, Pa., was 68 cents per unit, and the highest price paid for domestic ore of a commensurate grade, was 60 cents per unit.

Furthermore, we annex hereto two letters of the Bethlehem Steel Co., dated May 14, 1930, and March 17, 1926, respectively, showing that the Bethlehem Steel Co. was not interested in the purchase of domestic manganese ore, irrespective of price.

We have, thus, shown that the statement objected to by the steel institute is true. We can, perhaps, show why steel paid 8 cents more per unit, when it was unnecessary so to do.

The reasons may be summed up as follows:

First. That the steel industry might argue before Congress that there was little or no manganese produced in the country, and hence, a tariff was unnecessary. (This they did argue on the tariff hearings.)

Second. That there was no American industry to protect. (This statement is made on page 7 of the institute's brief.)

Third. That if the steel industry was not buying, even if there were a domestic industry, it would soon collapse.

Fourth. That in buying from Russia to help the soviet establish gold credits in this country, it could at the same time prevent the progress of the domestic industry.

Fifth. That it could eventually purchase at a much cheaper price due to Russian necessity and the ability of Russia to sell at any price.

Thus, while for a short period of time paying 68 cents per unit instead of 60 cents, it is now paying 25 cents per unit plus tariff and freight instead of 60 cents. Certainly it is good business to pay a little more for a little while to get something much cheaper for a great while, even though this profit to the steel industry necessarily means ruin to the manganese industry.

There is another statement in the institute's brief on page 3, that during the tariff hearings there was a confession of inability to meet foreign competition, "without any hint whatever of dumping on the part of foreign countries"; and that the argument there was as to tariff, whereas the present woes are due to dumping.

We prefer to assume that our learned adversary, in making this statement, commits unintentional error rather than deliberate misstatement. For if one refers to the exact pages mentioned, to wit, page 131 of the Senate Finance Committee hearings, the following sworn testimony will be found:

"Senator KING. May I interrupt you there, Mr. Adkerson? I was in Russia. I was at the oil fields at Baku, and at the Donuslaff coal mines, where they produce coal. It costs $6 in gold to mine and put at the tipple 1 ton of coal. I was all through the Ural Mountains and noticed their mining processes there. One miner in the United States would mine as much as half a dozen in Russia. I may be in error. It may have improved greatly since I was in Russia, but the cost of production in Russia, because of their antiquated methods and because of the inefficiency, and because of the general paralysis of the Government and the people, are very much greater than they are in the United States. That would be my judgment.

"Mr. ADKERSON. That may be true; but, at the same time, the ores are underselling the American ores in the domestic market, and also underselling some of the other ores from other foreign countries."

On page 139 of the same hearings there is as follows:

"Mr. ADKERSON. The duty of 1 cent per pound has proved insufficient in many cases, particularly so in view of the uncertainty of the world market for manganese. One cause of the price uncertainty is the necessity of the Soviet Government, which is striving to barter manganese for other materials and manufactures sorely needed in that country. I am not able to confirm Senator KING's inference that these ores are being dumped upon our markets, but the facts are clear that the sale of these ores is pushed for the purpose of establishing dollar credits rather than for the purpose of making a profit on the ore mined.

"Senator KING. Mr. Witness, I did not intend to convey the impression—and I do not think my language, properly interpreted, conveys the impression—that soviet ores were dumped upon this market. What I intended to say, from my investigations when I spent several months in Russia, in the mining regions, in the Ural Mountains, in the coal districts, in the oil districts, and in the Caucasus Mountains where these manganese mines are, was that labor there was so inefficient, and the methods of production were so antiquated, that the cost of production was very much greater than it was in America. I called attention to the fact that to put a ton of coal at the tipple cost, I have forgotten whether it was $6 in gold or $8 in gold, and you can see the disparity in prices. I have no idea as to the price at which they are selling their manganese ores, and when I was there a German company had the concessions for the mining of the manganese ores in the western part of the Caucasus Mountains there, close to the Black Sea. I did not intend to convey that impression.

"Mr. ADKERSON. My inference was that the cost of production there would be as high as, if not higher than, it was here, whereas at the same time they are underselling us in the markets.

"Senator KING. I think you are justified in inferring from what I said that I believed the cost of mining and the cost of production of any commodity in Russia was greater than it was in the United States because of the inefficient methods employed.

"Mr. ADKERSON. That the cost of production would be greater than it is in the United States?

"Senator KING. That certainly was the case when I was there, and I said there might have been some modification in the past few years, and still I think that the cost of producing oil and the cost of producing coal and the various minerals in Russia is greater than in the United States, all other things being equal, because of the inefficiency of the methods that are employed.

"Mr. ADKERSON. Would not that constitute dumping that material within the American market?"

Hence, it will be seen that even during the tariff hearings the American manganese producers showed the probability of injury from Russian dumping.

In the face of all the proof submitted by us in our original brief, no contrary proof has been shown.

On the question of the Amtorg default at the hearings there is complete silence.

On the attitude of our State Department there is complete silence.

On the question of national defense there is complete silence.

On our extended discussion and correct interpretation of the law there is simply set forth a contrary viewpoint, unsupported by reason or logic, and which in any event is inapplicable.

On the question of Russia's production cost there is complete silence.

On the question of the original contract between W. A. Harriman & Co. and the soviet there is complete silence.

On the statements of various trade papers, including even the prosteel publication, Daily Metal Trade, which admits Russian dumping, there is complete silence.

As to the statement of Mr. Mikadze that Russian costs are higher now than they were previously, there is complete silence; and in answer to all these definite figures, facts, proof, and logic the institute makes one solitary statement, unsupported, uncorroborated, and unconfirmed, that "there is no dumping of manganese ore into this country from Russia."

The quotations of prices referred to in our adversary's brief are, as pointed out in our original brief, meaningless, since they are the prices established by Russian dumping activities; hence, fictitious prices, which must be disregarded under the provisions of the antidumping act.

In our adversary's brief, on page 7, again appears the statement that "if the Russian ore were cut off there would be no diminution of importations, and there would be no advantage whatever to the domestic manganese industry."

The statement may be correct. If the statement is correct, why is the American Iron and Steel Institute fighting the cause of Russia? If there is to be no diminution of imports and it can obtain its products from other countries, why does it fight the cause of Russia?

As stated in our original brief, we have no quarrel with any manganese-producing country in the world other than Russia, and it is against Russia that we urge the enforcement of our antidumping law.

Certainly it is absurd to argue that a statute should not be enforced as against a country violating it, because it is claimed that an identical injury might be inflicted by other countries not violating the law.

If Russia is violating the antidumping act, as unquestionably she is, the law should be enforced against Russia.

That importations from the Gold Coast of Africa and Brazil would still continue to hurt the domestic-manganese industry is no argument to sustain the refusal of the enforcement of our laws against Russia.

If Russia has been dumping—as has been proved—the law should be enforced. That is the only question before this department.

We are confident that an American governmental department will be guided in a decision of the magnitude presented by the manganese petition by facts, figures, logic, and statements from competent authority, rather than by meaningless adjectives, ill-tempered and uncorroborated utterances of denial, and deliberate silence as to all important facts.

Respectfully submitted.

BARRON, RICE & ROCKMORE,
Attorneys for the American Manganese Producers' Association.
BERNARD S. BARRON, *Of Counsel.*

Mr. ODDIE. Mr. President, Mr. J. Carson Adkerson, president of the American Manganese Producers' Association, on December 10, 1930, addressed a letter to Assistant Secretary Lowman, which I submit for the RECORD, and in which he called particular attention to the possible loss of tariff revenue by the Treasury Department if it failed to suspend the liquidation of manganese ore entries. To this letter Mr. Lowman replied on December 27, 1930, 17 days afterwards, that he was accumulating the necessary evidence but without having taken any action in suspending the liquidation of entries. Sometime during the hearings on the Kendall bill prohibiting the importation of commodities produced by convict, forced, or indentured labor, before the Ways and Means Committee of the House, Assistant Secretary Lowman made statements to the effect that the steel mills of the United States would have to close down if an embargo were to be placed on Russian manganese ores. In the brief of the American Iron and Steel Institute filed with the Treasury Department on September 9, 1930, the following statement was made:

The point of all this is that if there are any additional burdens by way of duty on manganese ore from any one of the world's producers, or if there were a complete embargo of manganese ore from any of them (Russia, Brazil, India, and Africa), or from all of them except one, that one would be able to supply the entire demands of the American market.

Assistant Secretary Lowman's statement, therefore, was, first of all, not founded on fact and, in the second place, was decidedly unfair and hostile to the American manganese industry. This statement of Assistant Secretary Lowman's was made the subject of correspondence by Mr. Adkerson in a letter of February 16, 1931, and Assistant Secretary Lowman's reply of the same date. This correspondence is herewith presented for the RECORD.

The VICE PRESIDENT. Without objection, the correspondence will be printed in the RECORD.

The correspondence referred to is as follows:

DECEMBER 10, 1930.

Hon. SEYMOUR LOWMAN,
Assistant Secretary of the Treasury,
Washington, D. C.

MY DEAR MR. LOWMAN: Confirming my conversation with you of yesterday, will state that full information has been submitted the department showing the cost of Russian ores, cost, insurance, and freight Atlantic ports, at $23.97 per ton; whereas this ore is being sold at $12.50 per ton. The margin in favor of dumping is so wide that there can be no particle of doubt.

Soviet ores are still pouring into the United States. The act provides that in case dumping is suspected to be or about to be done, the Treasury Department has the right of withholding the assessment of the duty until an investigation is made and the dumping duty added. This gives the Treasury Department the right to collect the added dumping duty from the time the assessment is withheld. If the assessment is not held up the Treasury Department has no right under the law to go back and collect duties to which it is now entitled on the ores arriving from Russia.

There can be no doubt, from the evidence submitted, that dumping is being done. There can be no reasonable objection by the soviets or anyone else to withholding the assessment of the duty if, as they claim, dumping is not being done. Therefore, it is incumbent upon the Treasury Department to place itself in position to collect dumping duties to which the department is entitled while it is completing its investigation as to just exactly what the added dumping duty should be. This will give the soviets or any others ample opportunity to disprove dumping, if it is possible for them to do so.

Therefore, we earnestly ask that you withhold the assessment and collection of the present duties on soviet manganese ores as promptly as is possible.

Yours sincerely,

J. CARSON ADKERSON, *President.*

TREASURY DEPARTMENT,
Washington, December 27, 1930.

Mr. J. CARSON ADKERSON,
President American Manganese Producers' Association,
Metropolitan Bank Building, Washington, D. C.

SIR: Reference is made to your letter of December 10, 1930, regarding the alleged dumping in the United States of Russian manganese ores.

The manganese case is being considered in the Bureau of Customs and it has been found necessary to make further investigations in the United States and abroad. These investigations have been ordered and are in progress.

As soon as the necessary evidence has been gathered and considered, which it is hoped will be in the near future, decision will be rendered and you will be advised in the premises.

By direction of the Secretary:

Respectfully,

S. LOWMAN, *Assistant Secretary.*

AMERICAN MANGANESE PRODUCERS' ASSOCIATION,
Washington, D. C., February 16, 1931.

Hon. SEYMOUR LOWMAN,
Assistant Secretary of the Treasury,
Treasury Department, Washington, D. C.

MY DEAR MR. LOWMAN: According to press reports and your testimony before the Ways and Means Committee, you are credited with making the statement to the effect that in case an embargo is placed against Russian manganese the steel mills in the United States would have to close down.

This statement is not in accordance with the evidence before the Treasury Department in connection with the antidumping appeal against Russian ores.

The brief of the American Iron & Steel Institute filed before the Treasury Department September 9, 1930, in opposition to the soviet embargo, states as follows:

"The point of all this is that if there are any additional burdens by way of duty on manganese ore from any one of the world's producers, or if there were a complete embargo of manganese ore from any of them (Russia, Brazil, India, and Africa), or from all of them except one, that one would be able to supply the entire demands of the American market."

According to the final figures from the United States Bureau of Foreign and Domestic Commerce, the total manganese imports from Russia during the year 1930 were 225,888 gross tons of ore, containing 112,174 gross tons of metallic manganese.

The manganese producers in the United States are to-day ready and willing to immediately accept definite contracts for the delivery, during the next 12 months, of a total tonnage of domestic manganese ore equal to the total tonnage imported from Russia during the year 1930. Shipments can begin immediately from plants which have been completed, and which are now ready to supply this demand, but which are idle due to soviet dumping. The average grade of ore from these plants will be equal if not superior to the average grade of ore imported from Soviet Russia. The price under which domestic producers will contract will not exceed the average price shown by the United States Tariff Commission as having been paid by the steel industry for foreign ores during the 5-year period (January 1, 1924, to January 1, 1929) prior to the start of soviet dumping.

The time has come for American people to insist that facts from American citizens and American industries, and not falsehoods from Russian Bolsheviks, be accepted and considered by our own Government departments. It is up to the Government departments and the steel industry to accept this challenge as final and call on the manganese producers to deliver these contracts, with bond for their faithful performance, or such American industries as are now in an unholy alliance with Soviet Russia should forever remain silent.

Yours very truly,

J. CARSON ADKERSON, *President.*

TREASURY DEPARTMENT,
Washington, February 16, 1931.

Mr. J. CARSON ADKERSON,
American Manganese Producers' Association,
Metropolitan Bank Building, Washington, D. C.

DEAR MR. ADKERSON: I have your communication in which you point out the fact that wide publicity has been given to a statement made by me before the House Ways and Means Committee upon a hearing on the so-called Kendall bill, dealing with convict, forced, and indentured labor, in which I was represented to have said that if an embargo was put on Russian manganese ore our steel mills would have to close down. It was developed at the hearing that a little more than 50 per cent of the manganese ore consumed in this country is of Russian origin. In 1929 something like 10 per cent of our consumption of manganese ore was of domestic production. Prior to that time, except for a brief period during the World War, when consumption was stimulated, the amount of domestic ore used was around 5 per cent.

My statement to the effect that our steel mills would have to close down without Russian manganese was based on present production of American manganese ore, and did not take into consideration the fact that the American manganese producers claim to have facilities for producing all the manganese ore required for American consumption. I have no personal knowledge of the capacity of American producers, and based my statement on the sources of manganese now consumed in this country.

Very sincerely yours,

SEYMOUR LOWMAN,
Assistant Secretary.

Mr. ODDIE. Mr. President, Hon. Andrew W. Mellon, Secretary of the Treasury, on February 24, 1931, issued a decision that a finding of dumping with respect to manganese imported from the Soviet Republic of Georgia, Union of Socialist Soviet Republics, was not justified and declined to issue such a finding. I submit this decision for the RECORD.

The VICE PRESIDENT. Without objection, the decision will be printed in the RECORD.

The decision referred to is as follows:

(T. D. ——)

ANTIDUMPING—MANGANESE ORE FROM THE SOVIET REPUBLIC OF GEORGIA, UNION OF SOCIALIST SOVIET REPUBLICS

The Secretary of the Treasury finds that the issuance of a finding of dumping covering manganese ore imported from the Soviet Republic of Georgia, Union of Socialist Soviet Republics, is not justified.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., February 24, 1931.

To Collectors of Customs and Others Concerned:

Upon complaint of the American Manganese Producers' Association, investigation has been made of allegations that manganese ore produced in the Soviet Republic of Georgia, Union of Socialist Soviet Republics, has been and is being dumped on the United States market contrary to the provisions of the antidumping act of 1921.

After an extended investigation and careful consideration of all the evidence presented by and on behalf of the parties in interest, I have reached the conclusion that a finding of dumping with respect to manganese ore imported from the Soviet Republic of Georgia, Union of Socialist Soviet Republics, is not justified and must decline to issue such a finding.

(Signed) A. W. MELLON,
Secretary of the Treasury.

Mr. ODDIE. Mr. President, the evidence presented by the American Manganese Producers Association to the Treasury Department clearly demonstrates that manganese ores since June have been sold at less than one-half of their cost of production in Russia, estimated on a normal basis, excluding capital charges and the 8 per cent profit which are included under the provisions of the antidumping act of 1921. Were an investigation to be made of the administration of the antidumping act of 1921 it is probable that information would be disclosed showing that the failure of the Treasury Department to suspend liquidation of manganese-ore entries when their attention was first called to the possibility of soviet manganese ores being dumped on the American market may have caused a considerable loss of revenue to the Government, to say nothing of the heavy damage which has been done to the American manganese industry, forced into idleness by soviet dumping. Certainly the Treasury Department had everything to gain and nothing to lose by suspending the liquidations of manganese-ore entries until it could determine the amount of the additional dumping duty to be assessed. Having failed to suspend the liquidation of entries, however, it is impossible now for the Government to go back and assess additional dumping charges. The antidumping act of 1921 provides that even if dumping is suspected to be taking place or about to take place, an order suspending the liquidation of entries should be made so that it would not require any more information than that notice which was submitted in my letter of August 2, 1930, to the Assistant Secretary of the Treasury in order to justify the Treasury Department to act in the premises.

I believe that an investigation made of the administration by the Treasury Department of the antidumping act of 1921 with reference to the importation of manganese ore from the Union of Soviet Socialist Republics of Russia would show that the act has been violated and the intent and policy of Congress to protect American industry through the antidumping act of 1921 wholly disregarded.

A news item from the Wall Street Journal of February 14, 1931, under the title "Mellon Interests in Bethlehem Steel" reads as follows:

Entrance of the Mellon interests in Bethlehem Steel is considered of vast importance to the company. Because of the acquisition of the McClintic-Marshall Co. the Mellon interests will receive a large block of stock in Bethlehem. In addition, it is contended in Pittsburgh that considerable accumulation of Bethlehem has taken place for the account of the Mellons. The belief is general that representatives of these important interests will be added to the board of directors of Bethlehem, probably at the annual meeting in April.

During the tariff debate on the manganese schedule information was placed in the record originating in the Bureau of Foreign and Domestic Commerce showing that

the value of manganese ore imports into the United States averaged 68 cents per unit of 22.4 pounds of metallic manganese for the 5-year period ending December 29, 1929. At 68 cents per unit the amount paid by the steel interests for foreign manganese was 8 cents more per unit than the highest price paid for domestic ore. It seems evident that the steel interests were willing to pay this additional price for foreign ore in order to prevent the development of the domestic manganese industry and to nullify the tariff protection which was afforded that industry in the 1922 tariff act, in spite of the fact that domestic ores are of equal, if not superior, quality to foreign ores. This again shows a very unfair attitude toward the development of the domestic manganese industry and a hostility that one would not expect from the steel industry, which has prospered from the benefits that have come to it from our tariff laws. During the consideration of the 1930 manganese tariff it was stated that Leonard A. Buck, the son of C. A. Buck, vice president of the Bethlehem Steel Corporation, was reported to be the manganese-ore agent of the Union of Soviet Socialist Republics in the United States.

The War Department on two occasions, the more recent being at the convention of the American Manganese Producers' Association during the past year, emphasized the importance of developing the domestic manganese industry to the defense of the Nation. It is quite natural that the Soviet Government would desire to make the development of the manganese industry in the United States impossible. The Hon. F. H. Payne, Assistant Secretary of War, made an address before the convention of the American Manganese Producers' Association on November 10, 1930, which I ask unanimous consent to have printed in the RECORD.

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

The address is as follows:

[Address of Hon. Frederick H. Payne, The Assistant Secretary of War, Third Annual Convention, American Manganese Producers' Association, Washington, D. C., November 10, 1930]

A few decades ago there would have been something novel in the idea of a War Department official seeking the assistance of a group of industrialists in the development of a project connected with the national defense. Not until the World War had been raging for some time did we fully realize that modern conflict demands as much efficiency in productive activity at home as it does destructive activity on the battlefield.

In the same measure that armies have come to depend upon intricate weapons and special machinery for victory in battle, so have nations become dependent for success in war upon the industrial organization that produces these machines and weapons.

Most of the articles essential to an army in battle are noncommercial in nature. They are special appliances that are of use to us only in war. Peace-time demand for them by our little standing Army is so insignificant that we can not afford to maintain establishments equipped to fabricate them. This means that if we should suddenly be faced with a great emergency suitable manufacturing facilities would have to curtail production of commercial articles, and begin the fabrication of essential munitions of war. To effect such a change within a single factory is no simple process. When the whole industrial fabric of the Nation is affected, and the situation is further complicated by the necessity for speed under emergency conditions, the need for prior study and preparation on the problem are easily understood.

In the War Department my office is charged by law with the responsibility for adequate industrial preparation.

Industrial preparation consists in taking all practicable steps in time of peace to facilitate the change from peace to war production and to sustain the industrial effort throughout a war. Based upon possible military operations, we make estimates of the amounts and types of munitions we would need in war. For each essential item we search out a number of existing facilities that could most easily begin its manufacture in war, and each of the establishments so selected is informed of the task the Government will expect it to perform. We develop specific policies to govern all Government purchasing agents—so that there will be no confusion, interference, and competitive bidding between them.

As we contemplate further the difficulties to be met in assuring prompt production in war, our attention is naturally attracted toward the question of availability of the essential elements of production.

Having determined upon the approximate amounts of munitions needed, we can roughly translate these requirements into raw materials, labor, money, and transportation. Each factory that will produce an article the Nation needs must be assured of an adequate supply of these things. In some cases the problem involved is simply one of proper distribution of available supplies. In other cases, an interruption of sea communications would produce actual shortages in essential raw materials, and have a most serious effect on our production program. We will have to make the best use of what we have—use substitutes wherever possible—discover new sources of supply within our own country—and initiate strict conservation programs.

To do all these things in war will demand a governmental control of all national resources. An essential part of industrial planning is the devising of suitable machinery to assist the President in war in exercising these emergency controls.

Of the raw materials necessary to us in war, none is more important than manganese. The problem of providing an adequate supply is aggravated by the fact that we largely rely upon foreign sources to meet our demands in this material. Consequently, it is easy to see why we are so interested in the activities of the American Manganese Producers Association.

We take a deep interest in the efforts of the domestic manganese producers to develop processes that would enable the United States to utilize its large deposits of low-grade ore and be at least partially self-sustaining in this respect. The existence of an organization such as the American Manganese Producers Association implies a mobilization of the Nation's manganese resources and makes available a direct means of contact with the industry. The association has shown that it is a live, active body; in other words, a "going concern." As such, it can be of the greatest assistance to the War Department in developing a national industrial program for the Nation's use should we unfortunately be thrust into war.

I wish to assure you that I have enjoyed this opportunity to explain briefly the functions of my office, to thank you for the cordial and cooperative attitude of your association toward the War Department, and to express a hope for the continuation of these friendly relations.

Mr. ODDIE. Mr. President, the business relationship between the steel interests of the United States and those of the Union of Soviet Socialist Republics, therefore, becomes a very important factor in the national welfare and in the national interest I believe should be fully investigated by a Senate committee. I send to the desk a resolution which I will ask to have read and acted upon at this time.

The VICE PRESIDENT. The resolution will be read.

The resolution (S. Res. 484) was read, as follows:

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized and directed to investigate the following matters during the sessions and recesses of the Seventy-first and Seventy-second Congresses:

(a) The reported consolidation of the Bethlehem Steel Corporation and the McClintic-Marshall Co. with a view to determining the exact connection therewith of the so-called Mellon interests, together with the extent of the control of such consolidated corporation by said Mellon interests.

(b) The relationship of the United States Steel Corporation and/or the Bethlehem Steel Corporation to the Amtorg Trading Corporation and/or the Union of Soviet Socialist Republics, together with any and all contracts that may exist between said companies and said Amtorg Trading Corporation and/or the Union of Soviet Socialist Republics relative to the sale of manganese ore for delivery in the United States and/or the sale of steel or steel products made in the United States for delivery in the Union of Soviet Socialist Republics.

(c) The business relationship of C. A. Buck, vice president of the Bethlehem Steel Corporation, and his son, Leonard A. Buck, the so-called agent of the Union of Soviet Socialist Republics, in the sale of manganese ore mined in Russia and exported to the United States.

(d) The activities of the United States Steel Corporation, the Bethlehem Steel Corporation, the American Iron and Steel Institute, and the Amtorg Trading Corporation (including the activities of the firm of Simpson, Thatcher & Bartlett, legal counsel of such corporation) in opposing the administration of the antidumping act of 1921 for the protection of the American manganese industry from the dumping of manganese ore by the Union of Soviet Socialist Republics.

(e) The administration of the antidumping act of 1921 by Hon. Andrew W. Mellon, Secretary of the Treasury; Hon. Seymour Lowman, Assistant Secretary of the Treasury in charge of customs; and Hon. F. X. A. Eble, Commissioner of Customs, with particular reference to the dumping of manganese ore in the United States by the Union of Soviet Socialist Republics.

Such committee shall report to the Senate from time to time and submit a final report not later than January 1, 1932.

The expenses of the investigation authorized by this resolution, which shall not exceed $10,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

Mr. ODDIE. Mr. President——

The VICE PRESIDENT. Under the law, the resolution will be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

AMENDMENT OF COPYRIGHT LAW

The Senate resumed the consideration of the bill (H. R. 12549) to amend and consolidate the acts respecting copyright and to permit the United States to enter the Conven-

tion at Berne for the Protection of Literary and Artistic works.

The VICE PRESIDENT. The clerk will state the first amendment of the committee.

Mr. DILL. Before that is done, Mr. President——

The VICE PRESIDENT. Will not the Senator permit the first amendment to be stated?

Mr. DILL. No; one of the Senators desires to have the bill read formally, and to have the amendments taken up as they are reached. I think that is the proper course.

The VICE PRESIDENT. The bill will be read.

Mr. DILL. I desire, however, to suggest the absence of a quorum, because the Senator to whom I refer asked that that be done in his absence.

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

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

Ashurst	Fletcher	La Follette	Shipstead
Barkley	Frazier	McGill	Shortridge
Bingham	George	McKellar	Smith
Black	Gillett	McMaster	Smoot
Blaine	Glass	McNary	Steck
Blease	Glenn	Metcalf	Steiwer
Borah	Goff	Morrison	Stephens
Bratton	Goldsborough	Morrow	Swanson
Brock	Gould	Moses	Thomas, Idaho
Brookhart	Hale	Norbeck	Thomas, Okla.
Broussard	Harris	Norris	Townsend
Bulkley	Harrison	Nye	Trammell
Capper	Hastings	Oddie	Tydings
Caraway	Hatfield	Partridge	Vandenberg
Carey	Hayden	Patterson	Wagner
Connally	Hebert	Phipps	Walcott
Copeland	Heflin	Pine	Walsh, Mass.
Couzens	Howell	Pittman	Walsh, Mont.
Cutting	Johnson	Ransdell	Waterman
Dale	Jones	Reed	Watson
Davis	Kean	Robinson, Ark.	Wheeler
Deneen	Kendrick	Robinson, Ind.	Williamson
Dill	Keyes	Schall	
Fess	King	Sheppard	

The VICE PRESIDENT. Ninety-four Senators have answered to their names. A quorum is present. The bill will be read for action on the amendments.

Mr. HEBERT rose.

The VICE PRESIDENT. Does the Senator from Rhode Island desire to discuss the bill?

Mr. HEBERT. Mr. President, I promised that I would yield to the Senator from New Mexico [Mr. CUTTING] to address the Senate upon the provisions of the bill before it is taken up for action; so I yield to him for that purpose.

Mr. CUTTING obtained the floor.

Mr. NYE. Mr. President——

Mr. CUTTING. I yield to the Senator from North Dakota.

REPORT OF SELECT COMMITTEE ON CAMPAIGN EXPENDITURES

Mr. NYE. I desire to give notice that as soon as possible after the Senator from New Mexico has completed his remarks, I shall send to the desk and ask to have read a report from the Select Committee on Campaign Expenditures.

REPORTS FROM COMMITTEE TO AUDIT AND CONTROL THE CONTINGENT EXPENSES OF THE SENATE

Mr. DENEEN. Mr. President——

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

Mr. CUTTING. I yield, provided I do not lose the floor.

Mr. DENEEN. I desire to make some reports from the Committee to Audit and Control the Contingent Expenses of the Senate. With the Senator's permission, I should like to ask unanimous consent for their present consideration. If there is any debate upon them, they will be sent to the calendar.

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

Mr. CUTTING. I yield with that understanding.

Mr. DENEEN. I ask that the resolutions may be read and considered immediately in order.

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

CONTINUING THE INVESTIGATION OF LOBBYING

The Chief Clerk read Senate Resolution 475, submitted by Mr. CARAWAY on the 26th instant, which had been reported from the Committee to Audit and Control the Contingent Expenses of the Senate with an amendment, on page 1, line 6, after the word "exceed," to strike out "$2,000," and insert "$3,000," so as to make the resolution read:

Resolved, That the subcommittee of the Committee of the Judiciary appointed under Senate Resolution No. 20 is hereby authorized and empowered to pursue its investigation under said resolution during the recess of Congress and to make its final report at the first session of the Seventy-second Congress. The expenses not to exceed $3,000, to be paid out of the contingent fund of the Senate.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution? The Chair hears none. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The resolution, as amended, was agreed to.

JULIA E. HAMMOND FOSTER AND OTHERS

The Chief Clerk read Senate Resolution 472, submitted by Mr. WATSON on the 26th instant, which had been reported from the Committee to Audit and Control the Contingent Expenses of the Senate without amendment, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay out of the contingent fund of the Senate to Julia E. Hammond Foster, Elizabeth Hammond Van Wagoner, Addie Hammond Budd, Moses Hammond, and Matilda Worden, next of kin and dependents of John Hammond, late a messenger of the Senate under supervision of the Sergeant at Arms, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. JONES. Mr. President, I desire to ask if that is the usual provision. I thought six months' compensation was the usual provision.

Mr. DENEEN. The rule is that if the employee has served any time, his heirs are entitled to six months' compensation. If they have served 25 years, the rule is to pay them one year's compensation. This gentleman served 25 years.

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

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

CONTINUING EMPLOYMENT OF A NIGHT WATCHMAN

The Chief Clerk read Senate Resolution 471, submitted by Mr. WATSON on the 25th instant, which had been reported from the Committee to Audit and Control the Contingent Expenses of the Senate without amendment, and it was considered by the Senate and agreed to, as follows:

Resolved, That Senate Resolution No. 269, agreed to June 2, 1930, authorizing and directing employment of a night watchman by the Secretary of the Senate, to be paid out of the contingent fund of the Senate, hereby is continued in full force and effect until otherwise provided by law.

UNEMPLOYMENT INSURANCE SYSTEMS

The Chief Clerk read Senate Resolution 483, submitted by Mr. WAGNER to-day, which was reported from the Committee to Audit and Control the Contingent Expenses of the Senate favorably, without amendment, as follows:

Resolved, That there is hereby established a select committee to be composed of 3 Senators, of whom 2 shall be from the majority political party and 1 shall be from the minority political party, to be appointed by the President of the Senate.

The committee is authorized and directed to make a general study of the unemployment-insurance systems in use by private interests in the United States and by the foreign governments, with a view to determining (1) the manner in which such systems were instituted and are now being operated, (2) the cost involved and the results achieved under each system, (3) the relief, if any, afforded by each such system during the economic depression of 1930, (4) the condition of each such system on July 1, 1931, with particular regard to the manner in which it survived the economic depression of 1930, and (5) the relative State, Federal, or private responsibility in connection with any such systems. The committee shall report to the Senate on or before December 7, 1931, the results of such study, together with its recommendations for necessary legislation.

For the purposes of this resolution the committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places, to employ such experts and clerical, stenographic, and other assistants, to require

by subpœna, or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths and to take such testimony, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee, which shall not exceed $10,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

Mr. JONES. For what purpose is this committee to be created?

Mr. WAGNER. To study the subject of unemployment insurance.

Mr. JONES. I did not hear anything in the reading of the resolution to indicate the subject of the investigation.

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

The resolution was agreed to.

SENATORIAL CAMPAIGN EXPENDITURES

Mr. CUTTING. Mr. President, does the Senator from North Dakota desire to present his report at the present time? If so, I will yield for that purpose.

Mr. NYE. I would be glad to do so at this time if the Senator will yield.

Mr. CUTTING. I yield.

Mr. NYE. The reading of the report will require perhaps 20 or 25 minutes.

Mr. President, I send to the desk a report concerning the investigation made by the Select Committee on Senatorial Campaign Expenditures in Nebraska, and ask that it be read down to the summary of evidence, and that the summary of evidence may be inserted in the RECORD. I also ask that the report be printed and laid upon the desk of each Senator, and at the convening of the Senate on Monday I shall make some brief remarks concerning it.

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

The Chief Clerk read as follows:

[Senate Report No. 1824, Seventy-first Congress, third session]

SENATORIAL CAMPAIGN EXPENDITURES, 1930, NEBRASKA

Mr. NYE, from the Select Committee on Senatorial Campaign Expenditures, submitted the following report (pursuant to S. Res. 215):

The Select Committee on Senatorial Campaign Expenditures, 1930, appointed pursuant to Senate Resolution 215, submits the following report on the senatorial primary and general election in the State of Nebraska for the year 1930:

The campaign expenditures by or on behalf of all candidates in the Nebraska senatorial primary and general election of 1930, so far as they have been reported or disclosed by the investigations of the committee, were as follows:

	Primary	General election
REPUBLICAN		
George W. Norris (Senator)	$2,775.38	$2,372.57
In behalf of Senator Norris:		
Labor	3,963.27	3,413.95
Judson King and others	2,015.70	
W. M. Stebbins	19,304.28	
Beatrice F. Craig—withdrew; no report filed		
Aaron Read	97.22	
Geo. A. Williams—withdrew	50.00	
S. R. McKelvie—Filed by petition; did not accept; no report filed		
DEMOCRAT		
Gilbert M. Hitchcock	150.00	29,997.07
In behalf of G. M. Hitchcock:		
Hitchcock Republican Club		12,724.60
Frank B. Johnson		499.68
E. B. Stephenson		3,173.76
Jennie Callfas	2,600.00	
AGAINST SENATOR NORRIS AND NOT COVERED ABOVE		
Robert H. Lucas		752.52
Loyal Republican Club	216.13	
Walter W. Head, straw poll	4,000.00	
W. M. Stebbins, amount contributed to induce "Grocer" George W. Norris to file candidacy	850.00	

A casual view of the foregoing statement may lead to the conclusion that the campaign expenditures in Nebraska were not excessive. Such a conclusion would be justified by comparison with some other States. It is, however, of interest to note the difference in the amount of expenditures by or on behalf of leading candidates in this State. The primary and general election were orderly and free from such corrupt practices as fraudulent registration, employment of "repeaters," manipulation of ballots, and illegal counting of votes.

The committee, however, encountered throughout its Nebraska investigation and hearings a widespread condition of concealment, evasion, and deception. If the attitude of these witnesses, including men of supposedly high standing in their communities, could be regarded as typical it would indicate a grave decay of political morality. There would, in fact, appear to be widespread belief that acts which are wrong in the conduct of a business, in social or private life, are entirely justifiable in the conduct of political campaigns and in the protection of those who direct them. This attitude on the part of witnesses made it difficult for the committee to discover the truth. Its investigations were prolonged and the expense greatly increased by the will to conceal rather than reveal facts. It was necessary to summon scores of witnesses and extract the truth bit by bit from their unwilling lips, whereas one or two witnesses, had they been truthful in early appearances before the committee, could have revealed all that was unearthed by weeks of patient investigation. Not only were individual witnesses evasive or reluctant, but open attempts at intimidation were practiced to suppress the truth.

THE ANTI-NORRIS CONSPIRACY

In spite of the obstacles of evasion and perjury encountered by the committee, its investigations and hearings in Nebraska resulted in the disclosure of practices which appear to be as reprehensible as any of the better-known forms of fraud and corruption. They are the more sinister because, if the plans exposed by this committee had been successfully carried out, it would have resulted in completely thwarting or nullifying the will of the voters of Nebraska.

Because of the cunning with which every step was carried out and the willful perjury of witnesses, two of whom are already under Federal indictment, the committee has been unable to unravel all the threads in this complex plot. It has, however, been able to establish the principal facts and identify many of the principal actors, even if the "master minds" which conceived and directed it have not yet been fully revealed.

The purpose of the scheme, as admitted by those who played a principal part in it, was to make it impossible for the voters of Nebraska who favored the reelection of Senator GEORGE W. NORRIS to register their will in such a manner that the votes cast in his behalf could be certainly identified and counted for him.

To understand fully the extent and character of this conspiracy it is necessary to review briefly a series of events and circumstances, some of which may have been entirely proper in motive and conduct, but which are closely interrelated by reason of the identity of certain of the principal actors in each phase of the series.

THE SECRET STRAW VOTE

The first step in this series of events was the secret "straw vote" conducted to determine the strongest candidate to oppose Senator NORRIS. This poll was financed at an expense of $4,000 by Walter W. Head, chairman of the board of Omaha National Bank, chairman of the board of Nebraska Power Co., president of Foreman-State National Bank of Chicago, and director of many other corporations, now resident in Chicago although retaining his citizenship in Nebraska. According to the testimony of Samuel R. McKelvie, member of the Federal Farm Board and former Governor of Nebraska, there was an understanding with Head that if this straw vote should indicate that McKelvie would be the strongest opponent of Senator NORRIS, he would become a candidate.

The actual conduct of the poll was intrusted to Victor Seymour, an experienced Nebraska politician who had been a leader of the McKelvie forces at the Republican National Convention. Seymour was provided with funds by a somewhat circuitous process. Walter W. Head furnished Victor B. Smith, vice president of the Omaha National Bank, with funds with which the latter purchased drafts on New York and Chicago banks. These drafts were sent to Robert DeVoe, Lincoln lawyer, who in turn delivered them to Seymour, who deposited them in his name rather than that of any organization or committee. Elaborate precautions were exercised also to disguise the character of Seymour's office and to shroud his operations in a veil of secrecy.

The taking of this straw vote was begun as early as January, 1930, but much to the displeasure of Seymour and others connected with it, it revealed that Senator NORRIS was the choice of the voters of Nebraska. By the latter part of March, according to the testimony of Victor B. Smith, a financial associate of Head, "the poll itself confirmed the opinion that Senator NORRIS was way in the lead of any possible opponent." The poll was accordingly closed some time between the 5th and 10th of April. Nevertheless Seymour continued his operations and retained the use of this office until some time in July.

The character of Seymour's activities during this period of nearly three months after the straw vote was completed and prior to the filing of "Grocer" Norris's candidacy has not been revealed. The testimony shows, however, that in this office were held the conferences between Stebbins and Seymour and between Hugh Drake and Seymour in which preliminary arrangements were made for the filing of the "Grocer" Norris's candidacy.

THE "GROCER" NORRIS CANDIDACY

At about the same time that this straw vote indicated the impossibility of defeating Senator NORRIS by any form of legitimate opposition, a search was instituted throughout the State of Nebraska to find persons bearing the same or a similar name who might be induced to file as candidates for the Senate with the object of confusing the voters and making it impossible to de-

termine for which George W. Norris they were voting. This is the testimony of W. M. Stebbins, whose candidacy for the Senate was initiated as early as September, 1929, and who testified under oath that he personally supplied at least the initial funds necessary to procure the filing of "Grocer" George W. Norris, of Broken Bow, as a candidate against Senator GEORGE W. NORRIS. Whether Seymour conducted or participated in this canvass of duplicate candidates has not been determined, but the fact that Stebbins selected Seymour as his go-between in the dealings with the grocer would indicate that he did.

The admitted purpose of this filing by a second George W. Norris was to force Senator NORRIS to withdraw from the Republican primary and run as an independent candidate. Mr. McKelvie testified that he personally had sought to force such a withdrawal by the issuance of public statements. The testimony also indicates that if Senator NORRIS had withdrawn from the Republican primary to run as an independent, the grocer would also have withdrawn and filed independent so that the confusion would be continued in the general election.

At least four George Norrises were located in the State of Nebraska, but the grocer of Broken Bow appears to have been the only one who was legally entitled to file under exactly the same name as the Senator. According to the testimony of Stebbins, reports regarding the intention of filing the name of "Grocer" Norris were current in certain political circles as early as April, 1930.

STATE TREASURER STEBBINS ASSUMES RESPONSIBILITY

W. M. Stebbins, then State treasurer of Nebraska and a rival candidate for the Republican senatorial nomination, assumed responsibility for inspiring and financing the "Grocer" Norris candidacy, although he testified at the same time that he felt he had been "double-crossed." After three months of discreet silence, this confession was made by Stebbins, only when the committee's agent had traced the Liberty bond used in the transaction to his bank. He stated that he had voluntarily gone to Seymour whom he knew only slightly and believed to be politically unfriendly, and asked him to ascertain whether "Grocer" Norris could be induced to file for the Senate. Hugh H. Drake, a member of the State railroad commission, whose campaign for reelection was threatened by the grocer's reported filing for that post, also saw Seymour and cooperated in inducing Norris to withdraw from the race for the commission nomination and file for the Senate.

The actual procurement of the filing of "Grocer" Norris's candidacy for the Senate was accomplished through Victor Seymour on or about June 29. This occurred at a conference in Kearney, Nebr., participated in by Victor Seymour; Hugo H. Drake, a member of the Nebraska Railroad Commission, who was running for reelection; Oscar A. Drake, a brother; and A. Paul Johnson, an attorney of Broken Bow, who was representing "Grocer" Norris. The filing fee of $50 for the senatorial candidacy was furnished by Seymour to Johnson in cash during the course of this conference and was in due course placed in the hands of Norris. Seymour, upon his appearance before this committee at the beginning of its hearings, had testified under oath that he had no connection whatever with the senatorial campaign. This testimony was given less than a month after the incidents referred to above had taken place.

Seymour, according to the testimony before the committee, was furnished this $50 by Stebbins, and, in addition, received from him a liberty bond of $500 denomination, which he transmitted to Norris through Johnson, as well as $300 in cash, the disposition of which does not appear in evidence.

The filing of this application for the senatorial nomination in consideration of the pecuniary inducement set forth above appears clearly to be a violation of the Nebraska statute (32-2138 Compiled Statutes of Nebraska, 1929), which provides:

"It shall be unlawful for any person to * * * commit any * * * fraud or wrong tending to defeat the result of a primary election * * * offer to accept and receive or accept and receive, any money or valuable thing in consideration of his filing or agreeing to file, or not filing or agreeing not to file, nomination papers for himself as a candidate for nomination at any primary election; offer to accept or receive any money or accept or receive money or any valuable thing in consideration of his withdrawing his name as a candidate for nomination at such primary election. * * *

"Any person who shall offer or, with knowledge of the same, permit any person to offer for his benefit any bribe to a voter to induce him to sign any election or nomination paper or any person who shall accept any such bribe or promise of gain of any kind in the nature of a bribe as a consideration for signing the same, whether such bribe or promise of gain in the nature of a bribe be offered or accepted before or after such signing * * * shall be guilty of a misdemeanor.

"Any person committing any of the acts herein declared unlawful shall be deemed guilty of a misdemeanor and upon conviction thereof be punished by imprisonment in the county jail not less than one nor more than six months.

"Any act declared an offense by the general laws of this State concerning caucuses and elections shall also, in like case, be an offense in all primaries, and shall be punished in the same form and manner as therein provided, * * *."

THE FLAW IN THE CONSPIRACY

As a result of this inducement, "Grocer" Norris prepared his application as a candidate for the Senate and paid his filing fee of $50 on July 2, 1930. The application was not actually placed in the mails, however, until the morning of July 3, and, being registered, did not reach the office of secretary of state until the morning of July 5. As July 4, a holiday, was the closing date under the Nebraska law for the filing of such applications, this slight error in the time of mailing was the only flaw in the conspiracy. Secretary of State Frank Marsh, who was testified to have been a frequent visitor at Seymour's office, accepted the application as being technically filed on the date it was mailed. But Chief Justice Goss, of the Supreme Court of Nebraska, after a hearing at which all parties were represented, held that the application must be actually in the office of the secretary of state within the filing date, and, upon this basis, rejected the application of "Grocer" Norris as invalid.

"Grocer" Norris, immediately after mailing his application, gave up his job, left Broken Bow, and, after stopping with his brother in North Platte long enough to secure an advance upon the bond which he had received from W. M. Stebbins through Seymour, went secretly to Estes Park, Colo. He remained there under cover for several days, later returning secretly to Nebraska about the time that the contest of his application was being judicially determined.

Although the committee has been unable to determine that "Grocer" Norris received anything in addition to the $50 filing fee and the $500 Liberty bond, the fact that his attempted senatorial candidacy made it necessary for him to resign from a position as manager of a chain grocery store, paying a compensation of approximately $4,200 a year, would appear to indicate beyond question that he must have been promised or did receive a consideration considerably in excess of $500. This view is corroborated by the statement of "Grocer" Norris to one of the witnesses that "there would be big money in it."

During the primary campaign the opposition to Senator NORRIS charged him and his friends with engineering the filing of the grocer's candidacy to gain "sympathy" for himself. Stebbins's publicity agent issued a number of statements to this effect, and Stebbins himself in his speeches brazenly charged Senator NORRIS with the political trick for which he (Stebbins) now assumes responsibility and which had been paid for with his money. The language used by Stebbins in a radio speech was as follows:

"Both myself and my supporters have denounced the Broken Bow affair * * * as a scheme framed by long-time friends and political supporters of Senator NORRIS to win for him sympathy, using his cousin as, perhaps, the unwitting tool of their evil design. * * * He who would profit politically by the violation of an election law is no better than the bootlegger who profits by the violation of the Volstead Act."

Both Senator NORRIS and the "grocer" deny any relationship, so Stebbins's statement that they were cousins only emphasizes his deliberate campaign of duplicity and deceit.

The investigation of the committee into the circumstances surrounding the filing of "Grocer" George W. Norris's candidacy was greatly impeded by the persistent evasion of the principal witnesses. Two of these, namely, George W. Norris, of Broken Bow, and Victor Seymour, have been indicted for perjury by the Federal grand jury. The testimony of other witnesses, including Hugh H. Drake, member of the State railroad commission, and his brother, Oscar A. Drake, who had knowledge of, if they did not participate in, the "Grocer" Norris conspiracy, was characterized by persistent evasion, while Frank Marsh, secretary of state of Nebraska, was party to a deliberate attempt to intimidate Miss Alton, one of the principal witnesses before the committee, with a view to compelling this young girl to impeach her own testimony. This attempt at intimidation bordered upon, if it did not constitute, contempt of the Senate as defined in the Federal statutes.

SEYMOUR'S EMPLOYMENT BY REPUBLICAN SENATORIAL COMMITTEE

After Victor Seymour had completed the taking of the anti-Norris straw vote in Nebraska and had failed in his abortive attempt to procure the filing of "Grocer" Norris's candidacy for the United States Senate, he was appointed assistant vice chairman of the Republican senatorial committee upon the recommendation of Albert F. Dawson, who was its executive secretary, to take charge of the Denver office of that organization. The jurisdiction of the Denver office included the State of Nebraska. The Republican senatorial committee, therefore, must assume the responsibility for placing in a key position in the Nebraska Senator's candidacy and campaign one of Senator NORRIS's bitterest political enemies. The inference can not be avoided that he was selected as part and parcel of the plan of members of his own party to defeat the Republican candidate. Later when Seymour's part in the procurement of "Grocer" Norris's candidacy was revealed before this committee he was permitted to resign from this position.

THE NEBRASKA TAXPAYERS LEAGUE

The so-called "power issue" appeared in the Nebraska campaign not only by reason of the outstanding position of Senator NORRIS on that question but also because important initiative measures were voted upon at the general election. The committee was led into an investigation of some phases of this controversy by reason of the charge broadcast through advertisements in the name of the Nebraska Taxpayers League that some one representing himself to be an agent of the committee had sought to intimidate the president of the league.

The charge was false and absurd, but a brief investigation revealed that this advertisement as well as all other activities of the Nebraska Taxpayers League were paid for or expected to be paid for by the public utilities through their attorneys or agents. The interest of the committee was likewise aroused by the fact

that the same devices of willful duplication and concealment of funds encountered in the "Grocer" Norris conspiracy were found here.

The device of duplication was resorted to with the obvious intent of confusing the voters with reference to the municipal ownership initiative measure, generally known as the Sorenson bill. A similar measure was initiated in the name of the Nebraska Taxpayers League, which was identical in form and language, except for a single sentence which completely altered its intent and effect. They were as nearly identical as the names of the two George W. Norrises.

Although upon the admission of its president, William F. Adams, the so-called taxpayers' league had no dues-paying members and had raised no funds of its own, widespread advertising and use of the radio was conducted in its name at considerable expense. These expenses were in large part being carried by Bernhard McNeny, an attorney, but the testimony clearly showed that it was expected that they would eventually be paid by Thorne Browne, of the National Electric Light Association, or some other public-utility representative.

THE $10,000 M'KELVIE FUND

Samuel R. McKelvie, member of the Federal Farm Board and former Governor of Nebraska, states that on July 21, 1930, he placed in the hands of one Max V. Beghtol funds amounting to $10,000 to be expended at Beghtol's discretion in support of Stebbins, the only prominent candidate remaining in opposition to Senator NORRIS. Prior to that date McKelvie had held long-distance conversation with Seymour on July 5 (8 minutes), July 8 (14 minutes), and July 10 (14 minutes). McKelvie was himself a senatorial candidate until July 18, his name having been filed by petition.

The method of handling this $10,000 fund, contributed by a high Federal official, merits attention. According to McKelvie's testimony, the entire amount was placed in Beghtol's hands to be used in the campaign against Senator NORRIS in accordance with his own discretion. Not a dollar of it, however, appears in the reports filed on behalf of Stebbins or any other candidate as being contributed by either McKelvie or Beghtol. On the contrary, $2,500 appears in the report of Stebbins as having been contributed by Charles T. Knapp with the designation "personal and miscellaneous contributions."

According to Knapp's testimony, Beghtol, on a visit to Chicago, gave him his personal check for $2,500, which was deposited in the Harris Trust Co. to the account of Charles T. Knapp & Co., and Knapp in return gave Beghtol a check of the Charles T. Knapp & Co., in the amount of $2,500, payable to Charles T. Knapp and indorsed by him in blank. This check was in turn contributed to the Stebbins campaign fund, of which E. B. Stephenson was treasurer. Thus the identity of the real contributor, McKelvie, was completely concealed. A further concealed contribution out of this fund is said to have been made in the name of F. C. Foster. McKelvie testified that the balance of the $10,000 fund, amounting to $7,150, was retained by Beghtol until after the November election, when it was applied to the payment of a note previously given by McKelvie to Knapp for the purchase of bank stock.

This transaction violates the spirit, if not the letter, of the Nebraska election law in two particulars: First, the amount contributed was in excess of the legal limitation of $1,000 from any individual (32-2022, Compiled Statutes of Nebraska, 1929). The use of the designation "personal and miscellaneous contributions" in connection with the Knapp contribution would indicate a knowledge of this provision and a desire to evade it. Second, McKelvie did not report the making of this contribution to the clerk of the county, as provided by the Nebraska law (32-2023, 2024, 2027, supra), requiring every individual contributing in excess of $250 to make such a report.

CONCEALED CONTRIBUTIONS OF NATIONAL COMMITTEEMAN

A similar case of concealment of large contributions also occurred in the case of Charles A. McCloud, Republican national committeeman for Nebraska. He likewise contributed to the Stebbins fund an amount in excess of $1,000, but concealed its source by giving his own funds to various individuals, taking their checks for the respective amounts, and sending these alleged contributions to E. B. Stephenson, treasurer of the Stebbins fund.

This transaction appeals to the committee as violative, in several particulars, of the Nebraska election laws. The analogy is close between this and both the McKelvie and Lucas incidents as is also the circumstance of both Mr. Lucas and Mr. McCloud, officially members of the Republican National Committee, secretly plotting to effect the defeat of their party's candidate.

THE EXPENDITURES OF ROBERT H. LUCAS

The final episode in the plans to defeat Senator NORRIS was the secret expenditure of some $4,000 by Robert H. Lucas, executive director of the Republican National Committee, in connection with the circulation of scurrilous literature in Nebraska and other States. Mr. Lucas testified that these expenditures, which were sought to be concealed by the employment of a fictitious name, were his own, although the records of the bank show that funds of the Republican National Committee were pledged as security for the loan used in the payment of the printing bill. The total expenditures of Lucas for such literature, ordered from the publishers of the Fellowship Forum, of Washington, D. C., amounted to $4,237.27, of which $752.52 was allocated to the anti-Norris campaign. Lucas testified that prior to sending this literature he conferred regarding the Nebraska situation with Samuel R. McKelvie and E. B. Stephenson, treasurer for the Stebbins primary campaign as well as for the Hitchcock Republican Club. At this time Senator NORRIS had been designated as the Republican nominee by the voters of Nebraska and Senator FESS, chairman of the Republican National Committee, had publicly declared that NORRIS and all other Republican candidates would receive the support of his committee.

VIOLATION OF FEDERAL CORRUPT PRACTICES ACT

It would appear that Mr. Lucas violated the spirit, if not the letter, of the Federal corrupt practices act of 1925, particularly section 306, reading as follows:

"SEC. 306. Every person (other than a political committee) who makes an expenditure in one or more items, other than by contribution to a political committee, aggregating $50 or more within a calendar year for the purpose of influencing in two or more States the election of candidates, shall file with the clerk an itemized detailed statement of such expenditure in the same manner as required of the treasurer of a political committee by section 305."

Section 305 provides that reports of such expenditures shall be filed with the clerk at certain periods which are not pertinent here, and also between the 10th and 15th days, and on the 5th day preceding the date of a general election, and also on January 1. Mr. Lucas's expenditures, admittedly for the purpose of influencing elections in Nebraska, West Virginia, Kentucky, Montana, North Carolina, Ohio, Delaware, Massachusetts, and Indiana, were incurred shortly before the 15th day preceding the election. Reports, therefore, should have been made for the three periods cited above.

Section 314, providing penalty for violation of this act, read as follows:

"SEC. 314. (a) Any person who violates any of the foregoing provisions of this title, except those for which a specific penalty is imposed by sections 312 and 313, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(b) Any person who willfully violates any of the foregoing provisions of this title, except those for which a specific penalty is imposed by sections 312 and 313, shall be fined not more than $10,000 and imprisoned not more than two years."

The testimony of the witnesses Blackwell (Rec. 827), Stengle (Rec. 847), and Johnson (840-920) indicates a deliberate effort to keep this transaction secret. The fact that Lucas paid the publisher the $4,000 in cash when it was his admitted custom to pay his bills by check, as well as the use of a fictitious name to conceal the transaction, strongly corroborates this testimony. Search of the records of the Clerk of the House fails to disclose any report in the premises by Mr. Lucas and he testified that none was filed there as provided by law. After this transaction was exposed by the investigations of this committee and after Mr. Lucas had been examined under oath and had admitted that he had filed no report (Rec. 870, Lucas), he filed a report with the Secretary of the Senate under date of December 22, 1930. This was not a compliance with the statute which definitely prescribes that the reports of individuals and treasurers of committees shall be filed with the Clerk of the House, and in no degree mitigates the failure to file upon the two previous prescribed dates.

The only conclusion which the committee is able to reach in respect of this incident is that Mr. Lucas attempted to conceal the transaction, designedly failed to report as required by the Federal corrupt practices act, and is chargeable with a willful violation under section 314, paragraph (b).

GENERAL CONCLUSION

How far the various methods outlined above were interrelated and constituted successive stages of a single conspiracy are yet to be determined. After the major facts became known, two of the principal figures in the conspiracy, "Grocer" Norris and Victor Seymour, were in process of indictment for perjury and were, therefore, not available as witnesses. The committee has been impressed, however, by the fact that all these activities have been actuated by the common motive of accomplishing the defeat of Senator NORRIS by fair means or foul; have been carried out by agents whom the record shows were in frequent communication; and have been characterized by the common features of concealment of funds, employment of fictitious names, and elaborate precautions to prevent either the actors or the source of the funds from being publicly disclosed.

Recommendations for legislation designed to curb or prevent the recurrence of the evils exposed by this investigation will be presented by the committee in due course. This is reserved for its final report, in connection with which it proposes to submit to the Senate within the limits of the Federal jurisdiction such measures as may seem appropriate upon mature consideration to cope with the evils disclosed by all its investigations.

GERALD P. NYE, *Chairman.*
PORTER H. DALE.
C. C. DILL.
ROBERT F. WAGNER.

SUMMARY OF EVIDENCE

The following is presented as a summary of the principal points developed in the hearings of the committee in connection with its investigation of senatorial campaign expenditures in Nebraska. These hearings were held at Broken Bow, Nebr., July 19, 1930; Lincoln, Nebr., July 21, September 22, 23, 24, and 25; Omaha, Nebr., October 22, 23; Lincoln, Nebr., November 17, 18,

and 19; Chicago, Ill., November 20; Washington, D. C., December 19, 20, and 22, January 6, 7, 13, 16, and 26, 1931.

In the course of these hearings 97 witnesses were examined, some of them upon several occasions, in an attempt to ascertain the facts regarding the senatorial primary and general election in the State of Nebraska.

THE SECRET "STRAW VOTE"

This was a "straw vote," "poll," or "survey" to determine the relative standing of prospective senatorial candidates. The poll was taken by a ticket listing all of the prominent potential candidates for the Republican nomination, to wit; GEORGE W. NORRIS (incumbent Senator), Samuel R. McKelvie, (former governor), Arthur J. Weaver (governor), George A. Williams (lieutenant governor), W. M. Stebbins (State treasurer), and Aaron Read. The ticket was prepared to show first and second choices, and the poll showed GEORGE W. NORRIS "in the lead of any possible opposition." (Rec. 408, Smith. The page references refer to the preliminary page proof and may differ slightly for pages beyond page 500.) The exact result was never made public and is not material.

The taking of this "straw vote" was conducted by Victor Seymour, a Nebraskan, who had been active in State and national politics for more than 30 years. He has held various appointive offices and in 1928 led the McKelvie forces at the Republican National Convention in support of the Hoover ticket. (Rec. 438, Stebbins.) Seymour is shown by the testimony of several witnesses to have handled the negotiations which led "Grocer" Norris to file as a candidate for the Senate, transmitted to him the money to pay his expenses, drafted his announcement and arranged for the employment of his attorney. (See testimony of Stebbins, Johnson, Norris, Hugh, and Oscar Drake, and Miss Alton.)

He was later appointed assistant vice chairman in charge of the Denver office of the Republican senatorial committee, but was permitted to resign when testimony before the campaign expenditures committee exposed his connection with the "Grocer" Norris candidacy and revealed his perjury as a witness before the committee. (Rec. 854, Dawson.)

This poll was financed by Walter W. Head, long prominent in Nebraska Republican politics, and later nationally prominent, having been either recommended or considered as both national chairman and national treasurer. Mr. Head is chairman of the board of Omaha National Bank, the largest banking institution in Nebraska, chairman of the board of Nebraska Power Co., president of the Foreman-State National Bank of Chicago, director in New York Life Insurance Co., Chicago & North Western Railroad, and a "number of other prominent corporations." (Rec. 485, Head.) He is also president of Boy Scouts of America, chairman of finance committee of Y. M. C. A., and an officer or director of several other character-building, religious, charitable, or philanthropic organizations. (Rec. 485, Head.) Although now making his headquarters in Chicago, he is a citizen of Nebraska and maintains legal residence in Omaha.

Mr. Head's testimony is not quite specific as to the inspiration of the poll. According to Mr. McKelvie, however (Rec. 796, McKelvie), Head importuned him to run against Senator NORRIS and agreed to undertake the survey to determine if McKelvie were the logical candidate to run against Senator NORRIS, in which event McKelvie agreed to become a candidate. Head agreed to assume the expense of this survey up to $5,000 (Rec. 408, Smith), but only expended $4,000, $3,500 of which was drawn on or before April 2, 1930. At this point he directed that the poll cease, it not being entirely clear whether he was dissatisfied with the method of conducting the poll or its result. Seymour claimed that this termination was not in accordance with his agreement and complained to Victor B. Smith, vice president of Mr. Head's Omaha bank, who gave Seymour another $500 on Head's account and on June 16 loaned him an additional $1,000 on his personal unindorsed note. (Rec. 408, Smith.)

Mr. Head transmitted the moneys to Mr. Smith, who in turn bought drafts on New York and Chicago banks and sent them to Robert Devoe, Lincoln attorney, who had arranged with Mr. Head for the employment of Mr. Seymour. (Rec. 408, Smith.) Devoe then delivered the drafts to Seymour, who deposited them in the First National Bank of Lincoln under his own name, and checked against them as needed.

The taking of the poll, and its results, were not made public, and apparently every effort was made to keep the matter secret. The stenographer in the office was instructed to tell visitors Mr. Seymour was attorney for an eastern trust company, and the fact that the office had any connection with politics was concealed. (Rec. 348, Alton.)

However, Mr. William E. Murray, an employee of the Republican National Committee, and acting secretary thereof (Rec. 839, Murray), knew something of Mr. Seymour's activities, as he was in Nebraska during this time on a political mission and spent considerable time in Seymour's offices (Rec. 345, Alton). Murray was posing as a newspaper man, and made at least one report from Seymour's office on the senatorial situation. (Rec. 346, Alton.)

The "straw vote" was practically completed during March and was definitely terminated between April 5 and 10, 1930. Head, who had already contributed $3,500 between January 27 and April 2, stated that he would not be further responsible, but under the insistence of Seymour advanced an additional $500 on June 9. (Rec. 408, Smith.)

Nevertheless the office was kept open until August and a stenographer was employed until July 1. On at least one occasion, however, the stenographer was not paid until after the 15th because the check "from the East" did not arrive. (Rec. 341, Alton.) Whether Seymour had some other source of income after Head withdrew his financial support is not disclosed.

The committee has likewise been unable to ascertain the character of Seymour's activities after the straw vote was completed early in April and before he undertook to procure the filing of "Grocer" Norris's candidacy during the latter part of June. Stebbins, who furnished Seymour with the money used to induce the grocer to file, testified that in April, or perhaps as early as March, the State was canvassed to discover duplicate candidates. (Rec. 425, Stebbins.) He also stated that "long prior to the time that my campaign started it was rumored that Mr. Norris of Broken Bow would be a candidate for the United States Senate if sufficient subscriptions were made to my campaign fund." (Rec. 423, Stebbins.)

Whether Seymour was concerned in this canvass that resulted in the discovery of "Grocer" Norris has not been determined, but the fact that Stebbins went to him when he became interested in having the duplicate filing made would indicate that he had.

THE "GROCER" NORRIS CONSPIRACY

Upon June 26, 1930, one George W. Norris, manager of a chain grocery store in Broken Bow, Nebr., perfected his application for State railway commissioner, with the treasurer of Custer County, Nebr. Upon July 2, 1930, he perfected his application with the same officer, for the office of United States Senator. (Rec. 7–8, Dady.) The first application was not filed with the secretary of state, but the latter, that for Senator, was sent to the secretary, reaching his office on the morning of July 5, 1930. (Rec. 362, Thomas.)

Both of these applications were sworn to by Norris in the office of A. Paul Johnson, attorney, of Broken Bow. (Rec. 20 and 23, Johnson.) On the evening of July 2 "Grocer" Norris handed a registered envelope to Walter Schnable, mail clerk in the local post office, requesting the same be withheld from train No. 44 of the Chicago, Burlington & Quincy, July 2, and that registration be not completed until too late to go on that train. (Rec. 12, Schnable.) This envelope contained Norris's application for a place on the Republican ballot as United States Senator in the pending primary election, and was addressed to the secretary of state at Lincoln. (Rec. 12–13, Schnable.)

Local inquiry develops that had this letter been forwarded on train 44 it would have, in the regular course, been delivered to the office of the secretary of state early July 3. As it was, although it arrived in Lincoln on the afternoon of the 3d, it did not reach the secretary of state's office until the morning of July 5.

On the evening of the 3d of July, Norris left Broken Bow, by automobile, having previously resigned his position.

Diligent search for Norris and investigation by the committee's agents failed either to locate Norris in time for the committee's first hearings in Nebraska, July 19 and 21, or to disclose the circumstances surrounding his filing.

These circumstances were prima facie suspicious. He had filed in exact duplication of the filing of the incumbent Senator, GEORGE W. NORRIS, and under the Nebraska law no designation could be placed on the ballot to differentiate one from the other; to add to the complication, local requirements are that names shall be rotated in various congressional districts. It would have been manifestly impossible for a voter, even the two George W. Norrises, to have determined for which he proposed to vote, and was to all intents and purposes a complete disfranchisement of every voter desiring to vote for either. The grocer had never been active in politics, and these things, with his mysterious disappearance, forced the conclusion that his filing was fraudulent and corrupt and a matter for the attention of this committee.

The committee's agents in the first instance, and the committee itself in formal hearings with witnesses under oath, were met with evasion, equivocation, and even positive denial of knowledge in the premises on the part of persons whom the committee had every reason to believe were actually informed, if not participants, in the matter.

This attitude has continued throughout the Nebraska hearings, and two individuals have already been indicted by a United States grand jury at Lincoln for perjury before the committee.

Following the receipt of "Grocer" Norris's application for place on the Republican primary ballot, one Robert Smith, of Omaha, Nebr., protested his filing on the ground that it was received after the last date set by the Nebraska law. This proceeding before the secretary of state on July 15, was decided in favor of "Grocer" Norris upon the theory that his application had been placed in the mails within the statutory period. On appeal to the Nebraska Supreme Court, the decision was reversed by Chief Justice Goss and the application for place on the ballot denied upon the ground that the application must be physically in the office of the secretary of state to satisfy the statute.

All of the influences behind the grocer's filing are not yet developed upon the record. Sufficient facts, however, have been disclosed to show the filing was not in good faith, was inspired, procured, and paid for by interests intending to embarrass and defeat the incumbent Senator NORRIS, and disfranchise what voters wished to vote for him.

The grocer, Norris, had at one time conducted a grocery store in Kearney, Nebr. Hugh Drake, railroad commissioner and candidate for reelection, was also from Kearney, and knew the grocer, if not intimately, at least well. Oscar Drake, brother of Hugh, was a practicing attorney in Kearney, and also knew the grocer. I. D. Beynon, an attorney in the State banking department, was also

from Kearney, knew the grocer, and was apparently interested in his railroad commissioner candidacy.

W. M. Stebbins, State treasurer, was an active candidate for the Republican senatorial nomination. Others were the incumbent Senator NORRIS, Aaron Read, George A. Williams, and Beatrice Craig, by application, and Samuel R. McKelvie, by petition. Candidates by application had until July 18 to withdraw while the candidate by petition must, to secure place on the ballot, signify his acceptance by that date, which Mr. McKelvie did not do; and other candidates withdrawing, and the grocer being eliminated by judicial decision, Mr. Stebbins became the final candidate in opposition to the incumbent.

It developed that the immediate considerations for the grocer's filing were the payment of his filing fee of $50, and a United States Liberty (bearer) bond for $500. The committee secured the number of this bond and traced it to a Lincoln, Nebr. bank. The officers of the bank were reluctant to furnish any banking information excepting under subpœna and formal hearing, and were therefore informed subpœna would be issued for the next hearing before the committee.

Almost immediately thereafter, and following the committee's announcement of date of the next hearing, Mr. Stebbins published a statement in the Nebraska papers, assuming responsibility for procuring the grocer to run. Stebbins stated he paid the filing fee of $50; he also advanced an additional $300 in cash in connection with the grocer's candidacy. (Rec. 422, Stebbins.)

Both money and bond were handed to Seymour by Stebbins, for transmittal to the grocer (Rec. 427, Stebbins), and the $50 filing fee and the bond were received by the grocer through Attorney Johnson (Rec. 300, Johnson), who in turn received them from Seymour.

Drake insists his sole interest was to induce the withdrawal of Norris as railroad commissioner, and that he had nothing to do with the filing for Senator. It is not entirely clear, however, how he came to select Seymour, Stebbins's agent, to accompany him, as he did, in Seymour's car, with the expressed intention of seeing the grocer. (Rec. 634, Drake.) Nor is it entirely clear why Stebbins selected Seymour as his agent to negotiate with the grocer. Seymour was not friendly to his candidacy and their acquaintance was slight. (Rec. 428, Stebbins.) Also as Seymour was in charge of the poll conducted on account of Head's interest in McKelvie, the inference is that Seymour was a McKelvie supporter, and not primarily interested in Stebbins's candidacy. Stebbins states he had no conferences with Drake regarding the grocer. (Rec. 440, Stebbins.) Drake states he went to Seymour on the suggestion of Stebbins. (Rec. 605, Drake.)

Stebbins testified, in this general connection that it looked to him as though he "had been double crossed." (Rec. 433, Stebbins.) While Drake, speaking to the same point, said he believed he was brought into it as the "victim of a plot." (Rec. 625–630, Drake.)

However, both Stebbins and Drake were in conference with Seymour on June 28, whether together or otherwise is not disclosed; but on that day Seymour and Drake left together in Seymour's car to see the grocer, as a result of which trip the grocer was induced to withdraw as candidate for railroad commissioner, become a candidate for the United States Senate, and was furnished with the $50 filing fee and $500 bond.

Seymour apparently never met the grocer, his negotiations being conducted through A. Paul Johnson, of Broken Bow, at a conference in the Fort Kearney (Nebr.) Hotel upon June 29, the day following the trip of Seymour and Drake from Lincoln. At this conference, Seymour, Johnson, and the two Drakes were present, and the $50 filing fee was produced in the presence of at least Hugh Drake. (Rec. 612, Drake.)

Neither Hugh Drake nor his brother, Oscar Drake, impressed the committee by frankness in their testimony. A representative of the committee called upon each of them very early in the investigation and each failed to give him any information concerning Seymour's participation, or of the Fort Kearney Hotel conference. An honest statement on the part of either would have saved the committee much time and money; Oscar Drake, excused at the hearing of October 22–23, on condition that he be available at the hearing of November 17, not only did not present himself for further questioning, but could not be located by the United States marshal with subpœna. Hugh Drake's manner of testifying is best illustrated by the remark of Senator DALE.

"* * * if the committee is smart enough to think up some question that they can catch you on you are willing to be caught, but you don't propose to be caught * * *." (Rec. 635, Drake.)

The testimony of Hugh and Oscar Drake is widely as variance upon many material points, and the committee can not avoid the conclusion that if the two Drakes were not party to the procurement of "Grocer" Norris, they did at least have a guilty knowledge.

The reason for Johnson's participation or interest in the grocer's filing is not entirely clear on the record; he was present at the Fort Kearney Hotel conference, and personally delivered the $50 filing fee and $500 bond (received from Seymour) to Norris; the grocer's two applications for place on the ballot were sworn to in his office. On the other hand, the evidence is that he stated he would advise the grocer not to be a candidate for any office whatever. (Rec. 618–636–637, Drake.) "Grocer" Norris, and not Johnson, was expected at the conference at the Fort Kearney Hotel, in person (Rec. 638, Drake), but apparently the grocer asked Johnson to go in his stead. The record is not clear that either "Grocer" Norris or Johnson expected to find Seymour there, or anyone else other than the two Drakes.

While the committee has not been able to locate definitely any funds used in the procurement of "Grocer" Norris's candidacy except the $850 furnished by Stebbins, the fact remains that Norris had a good job as manager of a chain grocery which paid him about $4,200 a year and which he knew he would have to resign as soon as he became a candidate for the Senate. It is unreasonable, therefore, to believe that the $500 Liberty bond which he personally received would have constituted a sufficient inducement. On the contrary he stated in the presence of one witness that "there would be big money in it." (Rec. 294, Johnson.) That such "big money" would have been forthcoming if "Grocer" Norris had been permitted to remain on the ballot, not only to compensate him but to conduct a vigorous campaign in his behalf, appears therefore to be an inescapable conclusion.

THE M'KELVIE FUND

One William M. Stebbins, then State treasurer of Nebraska, was the final candidate in the Republican primary against Senator Norris. Among the contributions to his campaign fund was one of $2,500 on July 28, listed as being from "Chas. T. Knapp (personal and miscellaneous contributions)," and, on July 29, one of $250, listed as being from "F. C. Foster." (Rec. 327.)

It developed that both of these were from funds advanced by Samuel R. McKelvie, member of the Federal Farm Board, and until July 18 a candidate by petition in the senatorial primary. Mr. McKelvie, on July 21, 1930, gave one Max V. Beghtol, Lincoln attorney, his checks for $3,500 on Munsey Trust Co., Washington, and $6,500 on Continental National Bank, of Lincoln, Nebr., a total of $10,000 (Rec. 799–800, McKelvie), with instructions to Beghtol to use any or all of the money as he saw fit to assist in financing the campaign of Mr. Stebbins (Rec. 800, McKelvie).

None of this money was directly contributed in the name of McKelvie, but Beghtol made a trip to Chicago and gave Charles T. Knapp, president of Continental National Bank, of Lincoln, Nebr., and a real-estate operator in Chicago, Ill., upon July 25, 1930, his, Beghtol's, personal check for $2,500. Knapp deposited this, and in turn gave Beghtol the check of Charles T. Knapp & Co., 105 West Adams, Chicago, for $2,500, payable to and indorsed by Charles T. Knapp, which Beghtol in turn delivered to E. B. Stephenson, treasurer of the Stebbins senatorial primary campaign committee. (Rec. 787, Knapp.)

The witnesses are not entirely clear as to why this juggling of checks was carried out. Mr. McKelvie (Rec. 805) states that he did not care whether or not the contribution became public. Mr. Knapp (Rec. 787) suggests it was thought due to McKelvie's public position, and that it would be a waste of money, it would be better to make the contribution indirectly.

It appears Beghtol used only $2,850 of this $10,000 for the Stebbins primary campaign. (Rec. 800, McKelvie.) Besides the $2,500 previously mentioned, Beghtol stated to an agent of the committee, that he had given an additional check for $350 to F. C. Foster, an attorney at Lincoln, Nebr., to contribute to the Stebbins campaign. However, the statement of contributions credits Mr. Foster with only $250. As neither Beghtol nor Foster has been before the committee the discrepancy has not been explained.

Mr. McKelvie states the $10,000 was his own money and that it was not donated or advanced by anyone else. He further states Mr. Beghtol advised him he had applied the unusued balance, $7,150, to a note for $10,000 which he, McKelvie, owed Mr. Knapp for bank stock purchased some years prior. (Rec. 801, McKelvie.)

It is of record that Seymour and McKelvie were occasionally in telephonic communication, to wit, May 28, July 5, July 8, and July 10, 1930. Mr. McKelvie's memory is not clear as to the nature of these calls, but believes they were in reference to his desire to secure employment for Seymour. It does not appear just what this appointment was, nor whether it was the appointment Mr. Seymour afterwards secured with the Republican senatorial committee at Denver. (Rec. 810–811, McKelvie.)

Mr. McKelvie's name had been presented by petition as a candidate for the Senate; he had until July 18 to accept a place on the ballot, but did not do so. Mr. E. P. Brown, of Lancaster County, Nebr., made the petition filing for Mr. McKelvie. (Rec. 797, McKelvie.) Mr. Brown was a frequent visitor to the Seymour office, was there a great deal of the time, and seemed to be a part of the office organization. (Rec. 350, Alton.)

THE M'CLOUD CONTRIBUTION

During the Stebbins's primary campaign, E. B. Stephenson, Lincoln banker and insurance man, was treasurer of his committee. Mr. Stephenson urged or solicited Mr. Charles A. McCloud, of York, Nebr., for a campaign contribution. McCloud was the Nebraska Republican national committeeman. He opposed Senator NORRIS, but on account of his position with the national committee was reluctant to contribute openly. McCloud furnished the Stebbins chest with between $800 and $1,200, the exact amount being doubtful, but he believes it to be about $1,100. (Rec. 648, McCloud.) He concealed the source of this money by giving his own funds to various individuals, taking their checks for the respective amounts, and sending them to Mr. Stephenson. (Rec. 644, McCloud.) He states this was at no one's suggestion, but that he was contributing his own money, was national committeeman, and was trying to conceal it. (Rec. 645, McCloud.)

NEBRASKA TAXPAYERS LEAGUE

The committee's inquiry into the activities of the Nebraska Taxpayers League was occasioned by the publication on the morning of November 4, 1930, of a large advertisement in the daily papers throughout Nebraska stating in effect that men representing themselves as connected with the Committee on Senatorial Campaign Expenditures had called upon William F. Adams (Rec.

541, Adams), head of the Taxpayers League, and had coerced him into signing an affidavit wherein he repudiated certain literature (Rec. 569, Binfield) that had previously been sent out under his name as head of the Nebraska Taxpayers League. The testimony reveals that this advertisement was prepared by Morris Jacobs, of Bozell & Jacobs, advertising agents and publicity men for the Nebraska Power Co., at the dictation of Bernard McNeny, an attorney of Red Cloud, Nebr., and in the office of Thorne Browne (Rec. 527, 652, Jacobs), secretary of one division of the National Electric Light Association, and a secretary of an association of electric-light companies in Nebraska (Rec. 775, Browne). McNeny and Browne assumed responsibility for the payment of this advertising. (Rec. 762, McNeny; 783, Browne.)

The Nebraska Taxpayers League was organized in February, 1930; Adams called this organization meeting at the instance of McNeny, and it was attended by these two and three other persons. (Rec. 543, Adams.) Adams testified that the league was to have been financed probably by membership assessment, but they had never reached that point before expenditures were made for radio broadcasting and newspaper advertising and that those items were paid for by McNeny. (Rec. 544, Adams.)

Adams stated that the purpose of the organization was to lend itself against all measures that were going to increase taxation. (Rec. 544, Adams.) However, the only activity in which it did engage seems to have been its opposition to the so-called Sorenson power measure. In this opposition the policies of the league were dictated by McNeny, who worked in close cooperation with representatives of the power interests in Nebraska. (Rec. 761-762, McNeny.)

The so-called Sorenson measure derived its name from Attorney General C. A. Sorenson, of Nebraska, chairman of the Peoples Light & Power Association, who drafted the measure in the form of a petition bill, known as proposition 324, to be voted on at the general election held on November 4, 1930. The measure allowed publicly owned light and power plants to extend their lines into the country, so as to serve neighboring farmers. (Rec. 545, Adams.)

Soon after the petitions were circulated for this proposition it developed that petitions were being circulated for two other measures, one of which was so nearly identical in its terms with proposition 324 as to cause confusion comparable to that caused by the filing of Grocer Norris as a candidate for the Senate. These two latter measures were known as propositions 322 and 326. Proposition 326 employed the identical language and form of the so-called Sorensen measure except that the provision was made that before any municipality could extend its lines to serve rural patrons such proposed extension would have to be approved at a special election for the purpose. (Rec. 561, Beals.)

It developed that the petitions for propositions 322 and 326 were circulated by and under the direction of Frank P. Corrick. He stated he was doing the work for Nebraska Taxpayers League and was employed by McNeny and Adams. (Rec. 764, Corrick.) Corrick was to get $1,000 for his work. (Rec. 765, Corrick.) McNeny contributed $500 and among the other contributors was Thorne Browne, hereinabove mentioned. (Rec. 765, Corrick.) Adams stated that Corrick attempted to get Adams to accept $250 of the amount McNeny contributed and return it again to Corrick as a donation from Nebraska Taxpayers League. (Rec. 571, Madgett; 768, Corrick.) Adams refused to do this. Among other contributors to the fund was George A. Lee, an attorney for the Iowa-Nebraska Power Co. (Rec. 766, Corrick.)

The committee called Adams and other witnesses regarding the use of its name in connection with the alleged intimidation and clearly developed the fact that there was no substantial basis for the published charge. (Rec. 568-571, Binfield.)

THE LUCAS EXPENDITURES

Following Senator NORRIS's primary victory certain "regular Republicans" organized the Nebraska Hitchcock Republican Club, but apparently its object was not so much in behalf of Gilbert M. Hitchcock, the Democratic nominee, as against Senator NORRIS. E. B. Stephenson, a life-long "regular" Republican, formerly treasurer of the Stebbins committee, became its treasurer, and was at all times the driving force behind its operations.

Robert H. Lucas, executive director of the Republican National Committee, some time after the primary, conferred with Samuel R. McKelvie and states that McKelvie was apprehensive that Senator NORRIS would be reelected with the Democratic vote, although great numbers of regular Republicans were going to support Hitchcock. (Rec. 860, Lucas.) Stephenson was expected in Washington by McKelvie, who arranged to have him meet Lucas. Lucas, McKelvie, and Stephenson did in fact meet and discuss senatorial situation, and later Lucas and Stephenson had a further discussion. (Rec. 860, Lucas.)

Lucas promised Stephenson active support in the campaign against Senator NORRIS. (Rec. 861, Lucas.) Mrs. Lulah Andrews, director Bureau of Industrial Housing and Transportation, of the Department of Labor, and former vice chairman of the Nebraska Republican State Committee, also discussed the senatorial situation with Lucas, from an anti-NORRIS standpoint. (Rec. 860, Lucas.)

Following these conferences, Lucas, on or about October 18, 1930 (Rec. 923, Johnson), ordered $4,237.27 of pamphlets, cartoons, and other literature from the Independent Publishing Co., of Washington, D. C.; of this $752.52 worth of literature was specifically directed against Senator NORRIS. This consisted of a barroom cartoon suggesting Senator NORRIS favored the return of the saloon, a facsimile of an alleged letter purporting to come from a Tammany organization urging Democratic support of Senator NORRIS, and a booklet made up of reprints and editorials from hostile papers. (Rec. 825, Exhibits C, D, E, Blackwell.)

The balance of the above-mentioned literature was sent to other States in support of Republican candidates. That sent to Nebraska is the only instance where Lucas used it in opposition to a Republican nominee.

This transaction was shrouded with the utmost secrecy. The staff in charge of the execution and billing of the work were kept in ignorance of the real source of the work, but were told instead that the Nebraska order came from one John M. Fetters, of Omaha, Nebr. No person of this name could be located. They were also told the item was paid for by Fetters in cash, and it was so carried in the printing company's records. Finally, Charles F. Stengle, an executive of the publishing company, testified (Rec. 835, Stengle) that he was compelled to violate confidences in testifying truthfully, and that the order had been placed by Mr. Lucas, who had instructed that the order be placed in the name of Fetters (Rec. 835, Stengle) and that the finished order be shipped to E. B. Stephenson, treasurer of the Hitchcock Republican Club in Lincoln.

It developed that the apparent intent was to keep Lucas's part in the transaction even more secret than the records of the publishing company indicated, as even the listing of the item in the cashbooks of the publisher was a slip, and done by the bookkeeper under a misapprehension. (Rec. 929, Johnson.) No charge was made upon the books for either stock or labor used in this job, it being absorbed in the printing of a newspaper, the Fellowship Forum, also done by this firm.

Mr. Lucas also had the Nebraska literature sent directly by the publishing company to about 3,000 precinct committeemen in Nebraska, by mail, using the headquarters' list of the Republican National Committee. (Rec. 870, Lucas.) The cost of envelopes, postage, addressing, folding, and inserting the literature was not charged to the job, but was apparently absorbed in the general costs of the publishing company.

Lucas claimed that he paid the printing bill, aggregating $4,237.27, out of his own funds, and that he borrowed $4,000 with which to do it. (Rec. 865, Lucas.) He states:

"* * * I was very willing to make my personal contribution * * * and I couldn't do that through the committee and be entirely proper * * *."

However, upon October 23, 1930, a special fund of $40,000 of the Republican National Committee was placed under the control of Mr. Lucas in the Commercial National Bank of Washington under the following conditions:

COMMERCIAL NATIONAL BANK,
Washington, D. C.

GENTLEMEN: I am handing you herewith check payable to the order of the Commercial National Bank, $40,000, to open an account in the name of the Republican National Committee, special, J. R. Nutt, treasurer. Please honor checks on this account signed by Robert H. Lucas, executive director, and also my signature as treasurer, either one. Just one signature required.

I am placing this special account with you for the convenience of Mr. Lucas, who will handle everything in connection with it.

Yours very truly,

J. R. NUTT, *Treasurer.*

(Rec. 880, Cooper.)

The note given by Mr. Lucas after the publishing company had demanded payment in connection therewith the following memorandum, a part of the bank's record pertaining to the loan:

DECEMBER 3, 1930.

The undernoted securities hypothecated with note for $4,000 due January 2, 1931, have been received from and will be held subject to the order of Robert H. Lucas, side collateral, guaranteed by letter Republican National Committee, authorizing the withholding of $4,000 in special account. (Initialed by custodian.) (Rec. 887, Cooper.)

The letter above mentioned is as follows:

COMMERCIAL NATIONAL BANK,
Washington, D. C., December 3, 1930.

GENTLEMEN: You are requested to loan to Mr. Robert H. Lucas, $4,000 to be evidenced by his personal note, dated to-day, payable 30 days after date, and in consideration of your making said loan, which Mr. Lucas may, in his own discretion, renew from time to time, either in full or curtail, hold $4,000 of the balance on your books in the special account of the Republican National Committee as security.

Very truly yours,

REPUBLICAN NATIONAL COMMITTEE,
By ROBERT H. LUCAS.

(Rec. 877, Cooper.)

The treasurer of the Republican National Committee, Mr. J. R. Nutt, states the $40,000 fund was placed at Mr. Lucas's disposal exclusively for use in congressional contests (Rec. 935, Nutt), and that Lucas had exceeded his authority in pledging any part of it for the loan (Rec. 938, Nutt), and that Lucas did not advise him of the transaction. When he did learn of it, through the press, he personally loaned Lucas the necessary funds to take up the note. (Rec. 943, Nutt.)

In respect to the pledge, Mr. Nutt says:

"I don't think the security amounts to a snap of your finger. I don't think they had any, because there was not anyone that had the right to pledge that account for any purpose." (Rec. 943, Nutt.)

The fact can not be avoided, however, that Mr. Nutt's orders to the bank placed the account at Mr. Lucas's disposal without re-

striction or condition of any kind; on the contrary, the bank was specifically advised that Mr. Lucas "will handle everything in connection with it." With such broad discretion vested in Mr. Lucas in connection with the supreme position he apparently occupied as executive director of the Republican National Committee, and the bank being under no notice as to the specific character or purpose of the fund, it is difficult to avoid the conclusion that Lucas, under the power conferred upon him in Treasurer Nutt's letter, had power to pledge the funds of the Republican National Committee as security for the loan.

WIRE TAPPING

The committee was to some extent harassed by one Charles E. Matson, attorney, of Lincoln, Nebr., who charged wire tapping by a person representing himself to be a Government agent; several letters were written by Mr. Matson to the committee on this subject, each of which he gave to the press. An investigation of the incident was immediately undertaken by the committee's representative in company with the assistant United States district attorney, and the allegation was found to be without foundation. Mr. Matson's charges carried one of an impersonation of a Federal officer. The district attorney presented this charge to the United States grand jury, which dismissed it.

Mr. Matson, although charged with knowledge that the committee had made an investigation of the matter, and that the United States district attorney had also investigated, carried his campaign to the point of writing the Vice President of the United States, which letter was also given to the press by Matson. (Rec. 749, Matson.) However, Mr. Matson admitted he was inspired to write the Vice President by an agent of Mrs. RUTH HANNA McCORMICK, and produced a letter from one of her representatives. (Rec. 749, 757, Matson.)

Mr. Matson's specific charge in his letter to the Vice President that—

"Certainly, the conduct of Senator NYE in ignoring information I tendered him in Nebraska * * * tends to degrade the entire Senate in the estimation of the people"—

has absolutely no foundation in truth or in fact. Mr. Matson himself never interviewed any of the persons whom he claims had knowledge of the alleged wire tapping (Rec. 751, Matson), but he did know that both the United States district attorney and a representative of the committee had investigated the matter.

While the committee does not complain of any charge, however wild and unfounded, the publication of the above charge, with its natural inferences, can only be considered as a deliberate attempt to harass, annoy, and degrade the committee in the opinion of the public, and an unwarranted interference in the conduct of its duties as prescribed by Senate Resolution 215.

ATTEMPTED INTIMIDATION OF WITNESS

Miss Esther Marie Alton, who was secretary for Mr. Seymour during the "straw poll" and who typed "Grocer" Norris's candidacy announcement, appeared before the committee as witness. (Rec. 281–341, Alton.) It was her testimony which definitely connected Seymour with the Norris candidacy.

She testified (Rec. 285, Alton) that Frank Marsh, secretary of state for Nebraska, among others, was a visitor at the offices of Seymour. Following this testimony, Mr. Marsh called on Senators NYE and DALE and complained of this testimony, but at the same time admitted that he had been a visitor there. (Rec. 359.)

Upon November 14, 1930, Mr. Marsh, with William M. Byrkit and Minor S. Bacon, called upon Miss Alton at her place of employment in Lincoln, and attempted to coerce her into signing an affidavit the effect of which would have been to impeach the testimony she had previously given before the committee respecting Mr. Marsh. Miss Alton was told that "there was danger of her later being arrested for perjury * * * if she didn't sign the affidavit." (Rec. 533, Bacon.)

Mr. NYE. Mr. President, there have been so many inquiries with relation to the plans of the committee as to its report covering the Pennsylvania investigation that I feel it proper at this time to advise the Senate that the committee fully intends to have its report upon that question before the Senate on Monday next.

PRINTING OF EXECUTIVE JOURNAL

Mr. SHIPSTEAD. From the Committee on Printing I report back favorably with an amendment Senate resolution 477, and ask unanimous consent for its immediate consideration. I call the attention of the Senator from Montana to the resolution.

The VICE PRESIDENT. The resolution will be read.

The Chief Clerk read the resolution (S. Res. 477) submitted by Mr. BORAH on Thursday, February 26, 1931, as follows:

Resolved, That the entire Executive Journal from the end of the Fifty-seventh Congress, special session, the date to which said proceedings have already been printed and published by order of the Senate, to the end of the Seventy-first Congress, third session, be printed under direction of the Secretary of the Senate, with a suitable index to each volume, and that 500 copies be printed.

Resolved, That the injunction of secrecy be not removed therefrom until said printing has been completed, nor until so ordered by the Senate.

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

Mr. WALSH of Montana. I have no objection to the consideration of the resolution, but I have an amendment I wish to offer to it.

Mr. McNARY. I should like to inquire of the Senator from Minnesota if the resolution has been acted on by the Committee on Printing?

Mr. SHIPSTEAD. I polled the committee on reporting the resolution.

Mr. McNARY. I should like to have the amendment read.

The VICE PRESIDENT. First the Chair will inquire if there is objection to the consideration of the resolution at this time? The Chair hears none, and the resolution is before the Senate. The amendment reported by the Committee on Printing will be stated.

The CHIEF CLERK. In line 10, after the word "completed," it is proposed to strike out the word "nor" and to insert the word "or," so as to read:

Resolved, That the injunction of secrecy be not removed therefrom until said printing has been completed or until so ordered by the Senate.

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

The amendment was agreed to.

Mr. WALSH of Montana. I offer an amendment.

The VICE PRESIDENT. The amendment proposed by the Senator from Montana will be stated.

The CHIEF CLERK. It is proposed to add at the end of the resolution the following:

Provided, however, That the counsel in any proceeding instituted pursuant to Senate Resolution No. 415, or any person deputed by any of them for that purpose, may have access to and the right to take copies of any portion of the said journal and to use the same in such proceeding.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Montana.

Mr. FESS. Mr. President, I should like to ask if this resolution includes the Journal up to the end of this session?

Mr. FLETCHER. I think it does; the resolution itself so provides.

Mr. FESS. My inquiry is inspired by the objections to the approval of the Journal of the last few days.

Mr. SHIPSTEAD. It was the intention that the resolution should cover the Journal up to the end of the present session.

Mr. LA FOLLETTE. Mr. President, may I inquire whether the adoption of the resolution will result in the approval of the Journal which has not yet been approved?

The VICE PRESIDENT. The resolution relates to the Executive Journal.

Mr. LA FOLLETTE. Then I withdraw any objection.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Montana.

The amendment was agreed to.

The resolution, as amended, was agreed to.

UNITED STATES AS PARTY DEFENDANT

The VICE PRESIDENT. The Chair lays before the Senate a concurrent resolution coming from the House of Representatives and calls the attention of the Senator from Montana to it. The concurrent resolution will be read.

The Chief Clerk read the concurrent resolution (H. Con. Res. 52), as follows:

Resolved by the House of Representatives (the Senate concurring), That the report of the committee of conference on the disagreeing votes of the two Houses on the bill of the House (H. R. 980) to permit the United States to be made a party defendant in certain cases, heretofore agreed to by the two Houses, be amended by adding at the end of the amendment agreed to in the report the following new section:

"SEC. 7. This act shall not apply to any lien of the United States held by it or for its benefit under the Federal reclamation laws."

Mr. WALSH of Montana. I ask that the concurrent resolution be referred to the Committee on the Judiciary.

The VICE PRESIDENT. The concurrent resolution will be referred to the Committee on the Judiciary.

MISSISSIPPI RIVER BRIDGE AT NEW BOSTON, ILL.

Mr. BROOKHART. Mr. President, on February 17 a bill was passed providing for a bridge across the Mississippi River at New Boston, Ill., into Iowa. There is a defect in that bill in that it is not according to the form which is being followed by the committees of the House and the Senate, respectively. There is no way to get such a bill through at this session unless it be repassed in the Senate and sent to the House for their calendar call on Monday evening. I, therefore, ask unanimous consent that I may introduce the bill in the form as reported to the House and that it may be considered at this time.

The VICE PRESIDENT. Is this an ordinary bridge bill?

Mr. BROOKHART. It is in the usual form; yes.

The VICE PRESIDENT. Is there objection?

There being no objection, the bill (S. 6266) authorizing D. S. Prentiss, R. A. Salladay, Syl F. Histed, William M. Turner, and John H. Rahilly, their heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge across the Mississippi River at or near the town of New Boston, Ill., was read twice by its title, and by unanimous consent was considered, ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Haltigan, one of its clerks, announced that the House had passed without amendment the bill (S. 5904) relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes.

HOUSE BILLS REFERRED

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

H. R. 778. An act for the relief of Jeannette Weir;

H. R. 834. An act for the relief of John W. Barnum;

H. R. 1709. An act for the relief of Hedwig Grassman Stehn;

H. R. 4242. An act for the relief of Fred W. Boschen, lieutenant colonel, Finance Department, United States Army;

H. R. 5314. An act for the relief of W. A. Blankenship;

H. R. 7175. An act for the relief of Arthur A. Burn, sr., and J. K. Ryland;

H. R. 7520. An act for the relief of the estate of Clarendon Davis;

H. R. 7798. An act for the relief of Mrs. Lawrence Chlebek;

H. R. 8172. An act for the relief of William T. Roche;

H. R. 8585. An act for the relief of Maj. Thomas J. Berry;

H. R. 8998. An act for the relief of Dr. Luis H. Debayle;

H. R. 9526. An act for the relief of G. Carroll Ross;

H. R. 10888. An act for the relief of Margaret V. Pearson;

H. R. 11189. An act for the relief of Fritz Zoller;

H. R. 11464. An act for the relief of Charles A. Holder;

H. R. 11839. An act for the relief of Galen E. Lichty;

H. R. 12158. An act authorizing the Secretary of the Treasury to refund to the so-called assistant directors in the public schools of the District of Columbia, divisions 10–13, all that portion of their salaries erroneously and illegally deducted and withheld under the provisions of the act of June 20, 1906;

H. R. 12184. An act for the relief of C. B. Bellows;

H. R. 12239. An act for the relief of Lela B. Smith; and

H. R. 12679. An act for the relief of Kenneth G. Gould; to the committee on Claims.

H. R. 654. An act for the relief of Nelson M. Holderman;

H. R. 4536. An act for the relief of John S. Stotts, deceased;

H. R. 4799. An act for the relief of James Johnson;

H. R. 4858. An act for the relief of Margaret Thomkin;

H. R. 6763. An act for the relief of Albert G. Dawson;

H. R. 7525. An act for the relief of Elizabeth J. Edwards;

H. R. 7943. An act for the relief of Stuart L. Ritz;

H. R. 8848. An act for the relief of Daniel W. Seal;

H. R. 8858. An act for the relief of Elizabeth Moncravie;

H. R. 9816. An act for the relief of Thomas F. Gibbons;

H. R. 9866. An act for the relief of Walter G. Harrell;

H. R. 12781. An act to authorize the Secretary of War to donate certain bronze cannon to the Maryland Society Daughters of the American Revolution, for use at Fort Frederick, Md.; and

H. R. 12918. An act to amend the national defense act of June 3, 1916, as amended; to the Committee on Military Affairs.

H. R. 15984. An act to amend an act entitled "An act to provide for the creation of the colonial national monument in the State of Virginia, and for other purposes," approved July 3, 1930; to the Committee on Public Lands and Surveys.

AMENDMENT OF COPYRIGHT LAW

The Senate resumed the consideration of the bill (H. R. 12549) to amend and consolidate the acts respecting copyright and to permit the United States to enter the Convention at Berne for the Protection of Literary and Artistic Works.

Mr. CUTTING. Mr. President, in view of the elaborate analysis of the bill made by the Senator from Rhode Island [Mr. HEBERT], I merely intend to direct a few remarks to the speech made yesterday afternoon by the Senator from Washington [Mr. DILL].

I want to say, in the first place, that I have great sympathy with the objections which the Senator from Washington voiced against the bill as it came from the House. It seemed to me that the bill in that form was very severe and probably unjustifiably severe toward the innocent infringer. I fully agree with the Senator from Washington in his desire to amend the bill so as to protect the interests of the innocent infringer, which, in the long run, do not conflict with the interests of the authors and composers of our country.

As has been repeatedly stated, the reason for haste in passing this legislation is the necessity for entering the International Copyright Union before August 10, 1931. On the other hand, I do not feel that the sole justification for this legislation is the desire to enter into the union. I have a good deal of sympathy with what the Senator from Washington said yesterday afternoon, when he stated:

> I am not particularly impressed that because other countries, with their kind of government, their customs, their censorships, and their paternalistic systems, with their social arrangements, with their commercial and industrial methods, may have a certain system that we should adopt that system.

If the facts were as implied in that sentence of the Senator's, I should be entirely in sympathy with him; but, to my mind, the reverse is the fact. We have lagged behind other nations in the progress which they have made with regard to copyright laws. Even if there were no necessity to join the Berne convention at this time, I should still hold that the provisions of this bill were more advantageous not only to the authors and composers but to the people of this country in general than the provisions which exist under the present law.

The Senator from Washington stated that he had repeatedly asked that anyone should give him one good reason for the adoption of a system of automatic copyrights. I wonder whether the question should not be put the other way. The Senate realizes that practically every other civilized nation on the face of the earth is operating to-day under the automatic-copyright provision, and most of them have been doing so for some time. The Soviet Government, the Senate will understand, is an exception to all rules of this kind. In Russia there is no such thing as private property, and therefore there is no copyright of any kind. With that exception, I think the United States and Siam and, perhaps, a few minor powers are about the only ones who are now operating under the antiquated system of compulsory registration.

Moreover, it seems to me that the automatic provision is in itself a natural and just provision.

A man who creates a literary work or a work of art has a distinct natural right to the product of his labor. When a man who owns certain materials makes a chair or a table out of them, he owns the piece of furniture. He is not obliged to register, or give notice to any one, or mark it with his name, in order to be protected in his rights.

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

Mr. CUTTING. Yes; I yield to the Senator from Washington.

Mr. DILL. The Senator, of course, does not mean that to be taken as a reason why a person should not mark copyrighted material that can not be bought and sold and can not be reproduced without paying a royalty.

Mr. CUTTING. No. I am just trying to get down to bedrock, to see what the reason is for the provision which has been adopted in this country, and used to be adopted in other countries, for the registration of this material. In other words, it seems to me that the question is rather "Is there any good reason for the registration system?" than "Is there any good reason for the automatic copyright?"

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

Mr. CUTTING. I yield to the Senator.

Mr. DILL. How does the Senator expect the public to know that there is a monopoly in being, and when the monopoly will expire, if there is no registration or notice?

Mr. CUTTING. If the Senator does not object I would rather come to that a little bit later in my argument.

Mr. DILL. How can they distinguish the new creation from those already in the public domain without registration and notice? I am speaking from the public standpoint, now, as against the standpoint of complete monopoly.

Mr. CUTTING. Mr. President, if the Senator does not object, I should like to answer that question a little later on; but as long as the question of monopoly has been brought up, I might say that I do not think copyright legislation creates a monopoly in the usual sense of the word. It seems to me there is a very great distinction between the monopoly created by a patent, for instance, and the system created by a copyright.

A patent creates a real monopoly. A man who has invented something and patents it prevents the public from using it. He may create a strangle hold on that particular thing if it is an invention which has to be used by manufacturers. On the other hand, he may decide not to put it on the market at all and put it to no use. In either case, he has complete control over the idea. If somebody else independently should think of the same idea, he has no right to manufacture an article which embodies it.

A copyright is something entirely different. It merely preserves the rights which the author originally had in the work which he created. It does not bar other people from using the same idea. It merely bars them from using the particular form which the author used. It is a matter of the actual form and not the substance. There is even some justification for the extreme position which was taken by Mark Twain and a great many others that for that reason copyrights should be perpetual. Of course, that is not feasible under our Constitution; but the actual passage of a copyright statute, it seems to me, is a limitation of a natural right rather than the creation of a monopoly. It is taking away from the exclusive right which a man had before his work was published.

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

The PRESIDING OFFICER (Mr. FESS in the chair). Does the Senator from New Mexico yield to the Senator from Washington?

Mr. CUTTING. I do.

Mr. DILL. It is not the right which the man has when he creates his work that is a monopoly as much as it is the right that the law gives him when he publishes it, when he reproduces it, when he vends it among the people of the country where the law is effective. That is a monopoly granted specifically by the statute, and without the statute he would not have any such monopoly; and that monopoly runs against the public. Since the public must pay the added expense of it, I again ask: Why should he not put his name upon it, and why not register it?

Mr. CUTTING. If this right runs against the public, it runs equally whether his name is on the work or not. The only question as to which the public is in doubt is whether this particular man owns the right or some other individual owns it. The members of the public are aware that they do not own it.

Mr. DILL. That is exactly true; and, because that is true, it is doubly important that the public shall know whose copyright it is, and when that copyright ends.

Mr. CUTTING. In a general way I agree with the Senator, and I think his amendment protecting the innocent infringer is quite right. I should like, however, to get back to the point I was discussing when I started out; namely, how this kind of legislation originated.

Mr. DILL. I do not want to interrupt the Senator further, other than to say this: I can not sit silent and allow to go unchallenged the argument that because somebody creates something, the Government is under obligation to give him a private monopoly in the manufacture and sale and vending of that work. I maintain that the Government is under no obligation except that which follows a privilege granted; and when it does that, he owes something to the public against whom the monopoly runs.

I shall try not to interrupt the Senator again.

Mr. CUTTING. Of course, what the Senator says is quite obvious, stated in that way. The Government is under no obligation. The Government, when it was first founded, placed in its Constitution this particular provision because it thought it of general public benefit; but I am trying to get back to the original foundation of legislation of this sort.

On looking up the matter I find that this copyright legislation traces its origin really to the printing press. After the invention of printing the unlimited autocracies which existed at that time were alarmed at the spread of printed matter, and they insisted that printers should have licenses before they could print works. They started the copyright system at that time. The Crown in Great Britain gave itself the copyright on a great many works, such as the Bible and the Prayer Book and the statutes and law reports, and it limited very strictly the right of anyone else to print matter of any sort at all. The laws became more and more complicated, and were codified in the time of Queen Anne in 1709; and that is where the provision was originally found that books, in order to be copyrighted, must be registered.

The statute of 1709 was copied almost verbatim in the first American statute of 1790. It is only in that sense that the system can be called an American system. It is true that prior to the statute of 1790 some of the Colonies had passed legislation in conformity with the statute of Queen Anne; but this legislation requiring registration in order to maintain a man's right in his own work was adopted in 1709, when Great Britain had legislation which permitted the burning of witches. This system is no more an American system than the system of witch burning could be called an American system.

The nations which adopted it at that time have, with practically no exceptions other than our own, rejected it. They have found that it did not work. They have substituted the automatic provision in its place.

The Senate is not asked to adopt legislation of this kind because other nations have adopted it, but because the experience of other nations have shown that it is a better system than the system which they rejected, and which we are now asked to reject.

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

Mr. CUTTING. I yield to the Senator from Michigan.

Mr. COUZENS. I wonder if the Senator, at that point, could tell us just why the past system has not worked. Just in what respect has it not worked, outside of international relations?

Mr. CUTTING. It leads to almost unlimited complications in border-line cases, where the smallest error in registration may create an impossible situation.

I want to explain to the Senator that even under the pending legislation registration will be the rule rather than the exception. This measure does not prevent anyone from registering. On the contrary, the registration provisions are there. They will be used by practically everyone who sets any particular value on his work. The difference is that the failure to register will not deprive a man of the original right which he had in his work.

The Senator from Arkansas [Mr. ROBINSON] yesterday asked what I considered a very pertinent question. He was discussing the 70-year limit on the copyright, the increase of the time limit to 70 years; and he said:

> Assuming that a work is published in 1931, and 69 years later some one, without any notice, and without any information other than the knowledge that he himself did not write the book, which he undoubtedly would have, infringed a copyright, and the owner of the copyright brought suit. How would he establish that the suit was within the limitation of 70 years?

Of course, under the situation imagined by the Senator from Arkansas, it probably would be impossible for that man to establish the fact of his copyright. When he brings suit, the first thing he has to establish is that he has a copyright in this particular work. If he can not establish that, as this man undoubtedly could not, his case would be thrown out at once. The man who really values his product will have it registered, whether under this system or some other.

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

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

Mr. CUTTING. I do.

Mr. DILL. Does not the Senator think that there are those who might not register a copyright for the very purpose of being able to bring suit and make a great deal of trouble and get a settlement where otherwise they would collect very small fees?

Mr. CUTTING. The case mentioned by the Senator from Arkansas [Mr. ROBINSON] was the case of a man who had been dead for some 30 or 40 years, and whose family had no record as to when the work had been published. I see that the objection which the Senator from Washington now states might lie against the bill as it came from the House, but I am favoring the amendment suggested by the Senator from Washington on that point.

Mr. DILL. I appreciate that.

Mr. CUTTING. After that has been adopted, the only thing this man can do, if he has not registered or has not given notice, is to enjoin the copier; and I think, with that provision in it, that there is not much danger of any serious disturbance.

Mr. FLETCHER. Mr. President, may I inquire from the Senator what the author has to do in order to establish that he has a copyright? How does he establish that he has a copyright?

Mr. CUTTING. He can prove that by any means in his power. If he has registered, of course, that is sufficient proof. If he has not registered, he will have to prove it in some other way; but, under the amendment proposed by the Senator from Washington, if he has not registered he can not collect any damages. He can merely enjoin the copier from taking his work in the future.

There are one or two minor matters I should like to speak about, as long as I have the floor.

This bill contains in section 28 a provision that no American citizen may buy an English edition of a book published in both countries without the permission of the American publisher.

A great deal of objection has been raised to that, and I think justly. I do not believe in limiting the right of the American buyer to that extent, in view of the fact that in many cases the English book is an entirely different book, and has different matter in it. But I am convinced that an amendment to that section would imperil the whole legislation.

Mr. DILL. Mr. President, why does the Senator say that an amendment to the section which would prevent an American citizen from buying an English edition of a book without the permission of the American publisher would imperil the legislation?

Mr. CUTTING. Because this legislation, as it is now proposed, constitutes a compromise between so many different interests, that I feel—in fact, I may say I know—from what I have heard from well-informed people in all parts of this Capitol, that such an amendment would have no chance of remaining in the bill under any circumstances, and that it might endanger the chances of passing the legislation, which, as the Senator realizes, ought to be passed now.

My position is this, that the immediate thing now is to get into the International Copyright Union. That is the only reason for haste. It is not the only reason for this legislation, but it is the principal reason for passing the legislation at the present time.

If the legislation does not work out as well as some of us hope that it will, we can always provide amendments of that sort at future sessions of the Congress.

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

Mr. CUTTING. I yield.

Mr. DILL. I have not very much sympathy with the argument that we can not put this or that amendment on the bill because it would imperil the bill. I do not think it is half so important that we shall get into the International Copyright Union as it is that we shall pass a bill that will be fair to the American people. I am not concerned so much about the different factions around here as I am in the protection of the interests of the American public. What is there about permitting a man to order a book direct from the English publisher, or the French publisher, or anybody else, a single copy, that is so dangerous that it would overturn this legislation?

Mr. CUTTING. The argument made against it is that the books ordered abroad are cheaper, and that if the American public realized that fact they would all, presumably, buy their books abroad, and it would take away that amount of business from the American manufacturer and the American laborer. I am not saying I am in sympathy with that argument, but I am saying that it is an argument which is very potent, and one which, I think, would destroy the chances of the passage of the bill at the present time. I would rather amend that section later on and get into the union at the present time.

I will state to the Senator that if we were not in the last days of the session, I might take a very different view of this particular matter.

Mr. DILL. Of course, the Senator knows that it is simply ridiculous to say that the American people would buy all their books abroad, ordering them directly, if they are limited to one copy each. That is simply ridiculous. I want to say, frankly, that I feel less informed about this book section than about any other part of the bill. I have not been able to understand fully all of the provisions and their effects, because I have had only a short time to consider the bill. But I am rather impressed by the Senator's judgment. I had hoped American citizens might have the right we now have, to get a single copy abroad if we wanted it. The American public should still have some rights in this country, even if there are composers and publishers.

Mr. CUTTING. Personally, I should much prefer the bill in that form.

Mr. DILL. I wish the Senator would offer an amendment to that effect.

Mr. CUTTING. I have made up my mind not to offer an amendment along that line, because both the Senator in charge of the bill and the people who know most about the parliamentary situation assure me that such an amendment would gravely imperil the success of the bill as a whole.

The Senator from Rhode Island [Mr. HEBERT] has devoted an enormous amount of time to this legislation. The bill has been amended and substantially liberalized in the Committee on Patents. The committee has suggested a great many amendments which I hope will be agreed to. The Senator in charge of the bill is prepared, no doubt, to accept one or two other amendments from the floor. But I beg friends of the legislation to follow the Senator from Rhode Island in the recommendations which he makes as to individual amendments, because I fear that at this late date

that is the only way we are going to accomplish the purposes which friends of this legislation have in mind.

Mr. DILL. Mr. President, I just want to say, in response to that, that the Senator from Rhode Island might be wrong. I do not want the Senate to follow the Senator from Rhode Island just on the mere ipsi dixit of the Senator from New Mexico. I have great respect and regard for the Senator from Rhode Island, but I differ from him on some things, and I would not be an independent thinker if I did not. I think the Senator from Rhode Island is wrong as to some provisions of the bill.

Mr. HEBERT. Mr. President, I suggest that we proceed with the reading of the bill by sections, and that we consider the committee amendments to the sections as they are reached, all the way through the bill. Thereafter we can take up other amendments to the various sections of the bill.

Mr. DILL. Does the Senator think we ought to have a whole section read, or just have subsections read?

Mr. HEBERT. I think we ought to have a whole section before us, because one subsection hinges on another.

Mr. DILL. Some of these sections are quite long, four or five pages long, and it seemed to me that it might be better to take it up by subsections. But I have no objection to the suggestion.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the clerk will read.

The Chief Clerk proceeded to read the bill.

The first amendment of the committee was on page 2, line 14, to strike out the word "or" and to insert "and/or," so as to read:

To dramatize and/or make a motion picture with or without sound and/or dialogue of said work if it be a nondramatic work.

The amendment was agreed to.

Mr. KING. Mr. President, having been detained in a committee meeting, I am not acquainted with what progress has been made with the bill. May I ask the Senator what explanation was offered in regard to the provision on page 1, beginning with the first paragraph? It reads as follows:

That copyright throughout the United States and its dependencies is hereby secured and granted to authors, subject to the provisions of this act, without compliance with any conditions or formalities whatever, from and after the creation of their work and for the term hereinafter provided, in all their writings—

And so forth.

Is it the Senator's understanding that under this bill a copyright may be obtained without "any formality whatever," without filing with an agency of the Government an application for copyright? May a person entertain a thought, not expressed or written, for an indefinite period and secure the protection afforded by a copyright?

Mr. HEBERT. Mr. President, I discussed that matter quite at some length yesterday. The junior Senator from Washington [Mr. DILL] also explained it, and just now the junior Senator from New Mexico [Mr. CUTTING] went over it a third time.

Mr. KING. I regret that some Senators, I among them, have been in committees and were not able to be here during the entire session yesterday.

Mr. HEBERT. I will say, briefly, for the information of the Senator, that immediately a work is created, and without complying with any formality whatsoever, the author or artist or composer obtains copyright in that work.

There is one step further. When he seeks to get damages for an infringement of that copyright, as the Senator will see when we reach an amendment which is proposed further on in the bill, he must comply with giving notice or with registration before he can recover damages for infringement. This provides automatic copyright.

Mr. KING. This is an attempt to engraft upon our copyright system something which prevails in the Old World, as I understand.

Mr. HEBERT. Mr. President, it is intended to bring our legislation respecting copyrights up with that in force in practically all the civilized countries on the globe.

Mr. KING. Might it not be better to have the other countries bring their copyright systems up to ours?

Mr. DILL. Mr. President, I want to call attention to the fact that when the South American countries met and proposed an American copyright arrangement one of the things proposed at that meeting was that the owner of a copyright shall be registered. That is the American plan, as outlined at the Central American meeting two or three years ago. So that it is hardly accurate to say that it operates in all the world simply because these countries of the various unions recognize it.

Mr. KING. Mr. President, this bill, as Senators who have examined it know, is comprehensive in its scope and all-embracing in its purpose. It covers 54 pages of printed matter, and deals with existing legislation on copyrights, and repeals existing laws. It is affirmed that it is a consolidation of all laws bearing upon copyrights. I am inclined to regard with some little concern—I will not say suspicion—upon measures which aim at the consolidation of a large number of former acts, some of which may date back for a century. I have not, for lack of opportunity, given this bill the attention which its importance demands. I doubt whether a dozen Senators have read its many provisions or clearly understand its provisions. I confess that I do not understand its meaning or what effect it will have upon the matters with which it is supposed to deal.

I have had many letters and telegrams in opposition to the bill from my own State as well as from other States. In order that Senators may understand the concern in the minds of many, I am going to take the liberty of reading a few of these telegrams and letters. It is my thought that as we read the various sections of the bill the objections indicated in these letters and telegrams, if they have any merit, may be fully canvassed, and amendments adopted to meet them.

MEMORIAL TO THE SECOND DIVISION, AMERICAN EXPEDITIONARY FORCES

Mr. FESS, from the Committee on the Library, reported favorably S. J. Res. 233, to provide for the erection of a suitable memorial to the Second Division, American Expeditionary Forces, with an amendment, and submitted a report (No. 1821) thereon.

Mr. REED. Mr. President, this is a joint resolution to allow the Second Division Association, at its own expense, without expense to the United States, to build a memorial in the city of Washington at such point as may be approved by the Public Buildings Commission of the District.

I hope the joint resolution may be passed, because, although a similar measure is on the House calendar, it will be difficult for them to reach it and act on it unless it is first passed by the Senate.

It is urged by General Harbord, who is the president of the association of the veterans of the Second Division. All of us are familiar with the glorious record that division made in France, and I think all of us are in sympathy with their desire to erect a suitable memorial here.

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

There being no objection, the Senate proceeded to consider the joint resolution, which had been reported with an amendment, on page 1, line 10, to strike out the words "along the north side of B Street NW., a short distance east of Seventeenth Street" and to insert in lieu thereof the words "in the District of Columbia," so as to read:

Resolved, etc., That the Director of Public Buildings and Public Parks of the National Capital be, and is hereby, authorized and directed to grant permission to the Second Division Memorial Association, American Expeditionary Forces, through Maj. Gen. J. G. Harbord, United States Army, retired, president, or his successors in office, for the erection as a gift to the people of the United States on public grounds in the District of Columbia, a memorial to the Second Division: *Provided*, That the design and location for the memorial shall be approved by the National Commission of Fine Arts: *Provided further*, That such monument shall be erected under the supervision of the Director of Public Buildings and Public Parks of the National Capital and that the United States shall be put to no expense in or by the erection of said monument.

The amendment was agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

PROPOSED RELIEF OF UNEMPLOYMENT

Mr. WHEELER. Mr. President, I ask unanimous consent out of order to introduce a joint resolution and to have it read.

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

The joint resolution (S. J. Res. 261) for the relief of unemployed persons in the United States, was read the first time by its title, and the second time at length, as follows:

Resolved, etc., That there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $100,000,000, to be expended by the President in such manner as he shall determine, for the relief of unemployed persons throughout the United States.

Mr. WHEELER. Mr. President, I desire to ask for the immediate consideration of the joint resolution. I assume there will be no objection to it because of the fact that it merely appropriates the money to be turned over to the President of the United States to be used in his discretion. In other words, if it is not necessary to use any of the money, then the President of the United States, of course, will not use it.

I want to call attention to the fact that we are about to adjourn for a period of nine months, that we have enacted legislation for the purpose of assisting the drought-stricken farmers and other farmers throughout the United States who have no money; but nothing has been done at this session of Congress, and nothing has been offered to be done at this session of Congress, for the relief of unemployment throughout the United States, for the relief of persons who are unemployed through no fault of their own and who are willing and anxious to obtain employment.

I appreciate the fact that this comes at a late hour in the session. Nevertheless, I realize that if the Republican Party and the President of the United States have no objection to it, we could at least appropriate the money and turn it over to the President of the United States to be used by him in his discretion in the event that the unemployment situation during the absence of Congress gets to a point where it is necessary for the Government to step in and take a hand.

This morning I was talking with a gentleman from the State of Massachusetts who told me of conditions in New England. He stated that in the mill towns of Lowell, Lawrence, and Haverhill there is a tremendous lot of unemployment and suffering, that people who own property are unable to pay their taxes, and that some of the cities themselves are actually going into bankruptcy. Not only is that the situation throughout Massachusetts and in some other New England States, but it is likewise true in most of the industrial centers throughout the country. In the coal regions of the United States a great many coal miners are out of employment and the local communities are unable to look after them. The coal companies themselves in some instances are very near bankruptcy.

I can see no objection and can not see why anyone should have any objection to turning this money over to the President of the United States to be used only in his sound discretion. I hope under these circumstances that there will be no objection.

Mr. MOSES. Mr. President, may I ask the Senator a question?

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

Mr. WHEELER. Certainly.

Mr. MOSES. Did the Senator say in the first sentence of his statement that he assumed there would be no objection to the present consideration of the joint resolution?

Mr. WHEELER. I assumed there would be none if the Senator from New Hampshire did not object.

Mr. MOSES. I want to say that the assumption was unwarranted, because I object.

The VICE PRESIDENT. The Senator from New Hampshire objects.

Mr. WHEELER. Mr. President, I ask unanimous consent to have inserted as a part of my remarks a poem by Berton Braley, an American writer, entitled "The Bread Line."

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

The poem is as follows:

THE BREAD LINE

By Berton Braley

Well, here they are—they stand and stamp and shiver
Waiting their food from some kind stranger hand,
Their weary limbs with eagerness aquiver,
Hungry and heartsick in a bounteous land.

Yes; here they are—with gaunt and pallid faces,
With limbs ill-clad and fingers stiff and blued,
Shuffling and stamping on their pavement places,
Waiting and watching for their bit of food.

We boast of vast achievements and of power,
Of human progress knowing no defeat,
Of strange new marvels every day and hour—
And here's the bread line in the wintry street.

Ten thousand years of war and peace and glory,
Of hope and work and deeds and golden schemes,
Of mighty voices raised in song and story,
Of huge inventions and of splendid dreams.

Ten thousand years replete with every wonder,
Of empires risen and of empires dead;
Yet still, while wasters roll in swollen plunder,
These broken men must stand in line—for bread.

SENATOR FROM ALABAMA

Mr. SHORTRIDGE. Mr. President, will the Senator from Utah yield to enable me to submit a resolution?

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from California for that purpose?

Mr. KING. I do.

Mr. SHORTRIDGE. At the request of the Committee on Privileges and Elections I submit the following resolution and ask that it be immediately considered.

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

Mr. KING. If it provokes no discussion.

Mr. SHORTRIDGE. I do not think it will.

Mr. KING. Very well; I yield.

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

The resolution (S. Res. 485) was read, as follows:

Whereas on the 24th day of February, 1931, the Senate referred to the Committee on Privileges and Elections the pending contest between J. Thomas Heflin and John H. Bankhead involving the question whether the said Heflin or the said Bankhead, or either of them, is entitled to membership in the United States Senate as a Senator from the State of Alabama: Now, therefore, be it

Resolved, That the Committee on Privileges and Elections is hereby authorized to hear and determine said contest and to take such evidence as it may deem proper in order to determine the questions involved, and certify its conclusions to the Senate.

Said committee is authorized by itself or by any subcommittee to investigate the questions aforesaid, and shall have authority to act by or through such agents or representatives as it may see fit to designate.

Said committee or any subcommittee thereof shall have power to issue subpœnas and require the production of all papers, books, documents, or other evidence pertinent to said investigation, and said committee or any subcommittee thereof may sit during the sessions of the Senate and during any recess of the Senate or of the Congress, and to hold its sessions at such places as it may deem proper.

It shall have authority to employ clerks and other necessary assistance and to employ stenographers at a cost not to exceed 25 cents per 100 words, and to cause to be taken and recorded all evidence received by the committee, and to have said evidence printed for the information of the Senate.

The Sergeant at Arms of the Senate and his deputies and assistants are hereby required to attend the said Committee on Privileges and Elections or any subcommittee thereof, and to execute its directions.

The chairman of the committee and each and every member thereof is hereby empowered to administer oaths and generally have such powers and perform such duties as are necessary or incident to the exercise of the powers and duties imposed by this resolution.

Said committee shall report to the Senate at the earliest practicable date.

The cost of investigations and proceedings in pursuance of the foregoing to be paid out of the contingent fund of the Senate and not to exceed $25,000 in addition to any unexpended balance of the sum previously appropriated in Senate Resolution 467.

Mr. DILL. Mr. President, may I ask the Senator from California a question? Has the Senator consulted either of the Senators from Alabama about this matter?

Mr. SHORTRIDGE. Yes; both Senators from Alabama have been consulted.

Mr. DILL. And are they satisfied with it?

Mr. SHORTRIDGE. Yes.

Mr. DILL. I note there is no authority given the committee to seize ballot boxes or to count ballots.

Mr. SHORTRIDGE. There was a resolution passed heretofore giving full power to the committee to take possession of ballot boxes and their contents, and with the resolution now before us full power will be given to the committee or subcommittee to take possession of all necessary papers, books, and paraphernalia bearing upon the question at issue.

Mr. DILL. I asked the question only because neither Alabama Senator is present.

Mr. MOSES. Mr. President, if the Senator will permit me, the Committee on Privileges and Elections have just met, and there were present both sitting Senators from Alabama and the Senator elect from Alabama, and this proceeding was agreed upon at the meeting of the committee.

Mr. KING. Mr. President, may I say to the Senator from Washington that the committee, of which I am the ranking Democratic member, have canvassed the matter. The contestant and the contestee were present and the program suggested by the Senator from California and the Senator from New Hampshire was agreed upon. There was the utmost unanimity. I see no objection to the adoption of the resolution.

The VICE PRESIDENT. The Chair would suggest that the resolution provides for an appropriation out of the contingent fund of the Senate. Therefore under the law the resolution must go to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. KING. I suggest to the Senator from California that the resolution be referred to the Committee to Audit and Control with the request that they report it back this afternoon or early Monday morning.

Mr. DENEEN. Mr. President, the Committee to Audit and Control adjourned for the session on yesterday, but I shall call a meeting this afternoon.

Mr. KING. May I ask the Senator from Illinois if he can conceive of any objection to the execution of the will of the Senate in making the necessary appropriation contemplated?

Mr. DENEEN. None at all. We have to consider whether there are sufficient funds to pay the probable obligation.

Mr. SHORTRIDGE. Mr. President, may I ask the Chair if the rule is mandatory?

The VICE PRESIDENT. It is the law.

Mr. SHORTRIDGE. If it is the law, of course the resolution must be referred to the committee named.

The VICE PRESIDENT. The resolution will be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. DENEEN subsequently reported favorably, without amendment, the foregoing resolution from the Committee to Audit and Control the Contingent Expenses of the Senate, and it was considered by unanimous consent and agreed to.

AMENDMENT TO COPYRIGHT LAW

The Senate resumed consideration of the bill (H. R. 12549) to amend and consolidate the acts respecting copyright and to permit the United States to enter the Convention of Berne for the protection of literary and artistic works.

Mr. KING. Mr. President, the measure before us is one of great importance and with which I doubt not most of the Senators are in sympathy; that is, the main purposes which are sought to be accomplished have the approval of most Members of the Senate. It is a measure, however, because of its magnitude and the ground which it covers, which necessarily will excite in the minds of legislators some little apprehension as to whether important provisions may have been eliminated or there may be some hidden or covert, not intentional, provision that will result in trouble in the future.

I confess I am anxious to do anything that will afford full and complete protection to those who are giving to our country and to the world books and the products of their genius. I am particularly interested in that fact because, as I am just advised—sotto voce—some Members of the Senate, and one of them is the distinguished Senator from New Hampshire [Mr. MOSES], have become literary stars and have had their writings published in important magazines. Of course, it is important to protect the writings of literary Senators. We have so few who reach that high station that it is important that we shall afford them the fullest protection possible.

Mr. TYDINGS. Mr. President, may I ask the Senator a question?

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

Mr. KING. I yield.

Mr. TYDINGS. If I correctly understand the first provision in the bill, the speech of any Senator made in the Senate would be automatically copyrighted. Am I right in that assumption?

Mr. KING. Not being the interpreter of the bill, I will have to appeal to the distinguished Senator from Rhode Island [Mr. HEBERT], but I fancy that if a Senator should make a speech in front of the building it would be automatically copyrighted.

Mr. DILL. Mr. President——

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

Mr. KING. I yield.

Mr. DILL. The law forces copyright on everything that anybody produces of a literary nature—forces it on them.

Mr. KING. Mr. President, I rose merely for the purpose of calling attention to a number of communications which I have received, in order that as we proceed with the discussion of the bill these objections, whether meritorious or otherwise, may be considered, and if they lack merit we may understand that fact from the explanations made, or if they are meritorious and commend themselves to the proponents of the measure, then suitable amendments may be made to the bill.

I will say frankly, Mr. President, that I have had few objections to any measure that would afford ample protection to our writers and composers. I think there is a general feeling that they should be protected, but there are apprehensions as to the effect of this bill. Objections have been urged to the automatic feature of the bill; I have had many letters in which it is stated that from the beginning of the Government down to the present time, whenever there was any emendation of the copyright law, and efforts were made to have the copyright automatically given, objection was made, and the proponents of that proposition met with defeat. I confess that I am not now "sold"—to use the vernacular of the street—to the proposition that there should be automatic copyright.

The Senator has just suggested that we should have that in order to raise ourselves up to—did he say civilization or culture?—the standard at least of the civilized world? My friend from Washington indicated that Latin America did not accept such standards. May I say in passing, not for the purpose of being facetious, that if it is so important that we integrate ourselves with the rest of the civilized world, why not join the League of Nations? Why not promptly accept the World Court? Why not cooperate with the rest of the world in other things, economical and political?

Mr. DILL. Mr. President——

Mr. KING. I yield to the Senator.

Mr. DILL. Neither the League of Nations nor the World Court would require us to change our laws in order to get into them.

Mr. KING. That is a very pertinent remark. We may join the League of Nations without changing our laws, we may preserve our nationality and all of the vigor and power

of this great Republic; but we have, as I understand, to change our statutes in order to get into the International Copyright Union for which this bill provides. I shall have to be converted, Mr. President, to the theory of automatic copyright before I shall be willing to vote for that provision of the bill.

However, Mr. President, to return to a few of the communications which I have received, I hope that my friend from Rhode Island will take cognizance of them, so that, as I indicated a moment ago, if they lack merit I may be so advised, and if they have merit that we may address ourselves to proper amendments to the pending measure.

I have a letter here from one of the distinguished citizens of my State. It bears the date of January 6, 1931, and reads:

With further reference to H. R. 12549, known as the Vestal bill, there is inclosed herewith a copy of the bill with some suggested changes and some questions regarding various parts of the bill. It has been necessary to go over these matters rather hurriedly in order to get the copy back to you in time for consideration before the bill comes up. Some other items may have been overlooked and some changes proposed may not be in proper form.

Among other things, you will note that on page 3, lines 24 and 25, and page 4, lines 17 and 18—

He may not have had the print of the bill that we have before us, may I say to the Senator? I am not sure as to that—

certain words are stricken for the reason that performance can not be had without incurring expense which must be paid. The proceeds from entrance fees are used solely to defray expenses of performance and maintenance or upkeep of buildings used for religious and charitable purposes and not for profit. Why, then, the provision which reads as follows: "Unless a fee is charged for admission to the place where the music is so used"?

Where is the distinction between paying pew rent in a church, taking up collection, paying fees levied by charitable institutions, and charging a fee for admission to a musical entertainment given in a church building?

May I ask the Senator from Rhode Island—and I am asking for information—whether the bill as amended or as the committee proposes to amend it meets that criticism of my friend?

Mr. HEBERT. I suggest to the Senator that he withhold the reading of the letters he has received until we reach those parts of the bill to which they relate. Then we can take all of the objections up at one time. We not only will save time but we shall proceed in an orderly manner by doing that. Many amendments have been suggested to me, and I assume that many of those to which the Senator refers are included in the ones I have. I should be very glad to give attention to them when they are reached in the consideration of the bill.

Mr. KING. The Senator's suggestion would be a proper one under ordinary circumstances, and it may be proper now, but where a Senator receives letters that address themselves to half a dozen or more provisions of the bill, and the recipient is not entirely familiar with those provisions, he may not, as those provisions are reached, be able to assemble the points in the letters and present them in a focused way with reference to the particular amendment under discussion. My thought was that by challenging attention to these matters they would be in the mind of the Senator and in the minds of the Senate so that their merit or lack of merit could be understood in advance.

Mr. HEBERT. Mr. President, I want to be gracious to the Senator and do everything I can——

Mr. KING. I am sure of that.

Mr. HEBERT. To give him the benefit of any information which I have been able to gather from my study of this measure, but it is difficult at best to follow it in an orderly way. If, when we have gone over the amendments, the amendments which are proposed in the letters addressed to the Senator have not been taken care of, I shall be very glad to refer back to any part of the bill and give them due consideration.

Mr. KING. I appreciate the courtesy of the Senator, and perhaps that will be the wiser way, although—as I have indicated—I can not recall all the suggestions and the parts of the bill to which they are addressed, and I felt that by presenting these important objections to the Senate as the various provisions were reached, Senators might have in mind the criticisms which have been made and we might more intelligently discuss the provisions.

However, before proceeding further, I ask that the letter from which I have just quoted may be printed in the RECORD in full.

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

SALT LAKE CITY, UTAH, *January 6, 1931.*

Hon. WILLIAM H. KING,
United States Senate, Washington, D. C.

DEAR SENATOR: With further reference to H. R. 12549, known as the Vestal bill, there is inclosed herewith a copy of the bill with some suggested changes and some questions regarding various parts of the bill. It has been necessary to go over these matters rather hurriedly in order to get this copy back to you in time for consideration before the bill comes up. Some other items may have been overlooked and some changes proposed may not be in proper form.

Among other things, you will note that on page 3, lines 24 and 25, and page 4, lines 17 and 18, certain words are stricken for the reason that performance can not be had without incurring expenses which must be paid. The proceeds from entrance fees are used solely to defray expenses of performance and maintenance or upkeep of buildings used for religious and charitable purposes and not for profit. Why, then, the provision which reads as follows: "Unless a fee is charged for admission to the place where the music is so used"? Where is the distinction between paying pew rent in a church, taking up collection, paying fees levied by charitable institutions, and charging a fee for admission to a musical entertainment given in a church building?

The question as to the time of expiration of copyright (pp. 9, 12, 13, 15) is important. To protect copyrighted work for 28 years with right of renewal for a like period is altogether unreasonable. Patents are only allowed for 17 years.

The question of differentiating property right from copyright (p. 7, sec. 6) "in any material reproduction of the work," is a dangerous and objectionable right. In comparing this with an invention, when a person buys a patented article, he pays whatever right as well as property the patentee may have in the article. He is then entitled to use it as he pleases. If the article is desirable the increased demand for it pays the patentee and manufacturer well. Why should not the same rule apply to the copyrighted work? The public presentation of any musical composition of merit increases the demand and consequent sales of copies of such composition. This has been repeatedly evidenced by radio stations where they have produced musical compositions that were entirely unknown, although copyrighted. As a result of the production of such compositions over the radio the demand for such compositions has increased tremendously with consequent profit to the copyright owners.

Should this provision not be considered sufficient, then some such addition as the following should be required: That any copyrighted work such as a musical or dramatic composition shall specify on the cover the terms and conditions to be fulfilled by any persons performing or using such work.

As the law stands at present, and as this bill would contemplate, the copyright owner can hold the owner of a radio station or hall liable at heavy cost for any copyrighted production used over such station or in such hall, whereas such owner is placed at great disadvantage in being held so liable. Why should not the performer be held liable, and why should not any such copyrighted work be required to specify the terms or restrictions on their use?

Again, the threatening of lawsuits for damages on account of infringement of copyright has placed radio stations entirely at the mercy of copyright owners and has led to the requirement that they pay licenses, arbitrarily fixed by the copyright owners. One group controlling certain copyrights compels the stations to pay certain heavy fees. Another group may control certain other works and fix any license they desire. Yet, under present conditions the station may use few, if any, of these works. A person may buy a piece of copyrighted music and yet be barred from singing it over the radio and probably also from singing it in a hall. The burden should properly be lifted from the owners of radio stations and halls and placed upon the copyright owners to give proper notice on the copyrighted work itself as to condition of use, and to hold the performer responsible.

Again there is a serious question as to the desirability of entering the International Copyright Union as provided in this bill, because, among other things, it only enlarges the difficulties already encountered as above stated, in addition to other troubles.

Finally, it would appear that in view of the already extended privileges enjoyed by copyright owners, there ought to be some means of regulation or review by the Federal Government as to license charges fixed by copyright owners to those who perform such works.

Your able influence in regard to these matters discussed herein will be greatly appreciated.

With kind wishes, I am sincerely yours,

SYLVESTER CANNON.

Mr. HEBERT. Mr. President, I think the Senator will find that the objections contained in the letters which he has received affect at most only three or four provisions of the bill, and there will be no difficulty whatever to follow

those as we go along in considering the amendments proposed by the committee.

Mr. KING. May I ask the Senator if he considers that the question of automatic copyright has been sufficiently answered and has been disposed of, because I wanted to challenge the attention of the Senate to an able brief or memorandum which I find in the hearings and to which my attention was called only this morning? I have not had time to read all of it, but I think it presents an intelligent and learned discussion of the question of automatic copyright as well as other questions included in this measure.

Mr. HEBERT. Mr. President, throughout the hearings held by our committee I am safe in saying that the unanimous opinion of those most conversant with the subject of copyrights was that we should have automatic copyright. It was the unanimous opinion of all those who appeared before the committee that we should enter the International Copyright Union. I am not familiar with the statement to which the Senator refers and which he says is published in the report of the hearings if it opposes the automatic copyright feature of this bill, for I do not recall having heard anybody at our hearings oppose that feature of the bill.

Mr. KING. I am rather astonished at that statement in view of the numerous protests which have come to me concerning the alleged evils of the automatic copyright.

May I say to the Senator that his judgment of course upon these specific matters is entitled to the highest weight, for the reason among other things, first, his superiority in the comprehension of this subject, for he has been studying it with all its complicated features for weeks, if not months, and therefore, being a good lawyer, his opinion, well matured, is entitled to great consideration at the hands of the Senate.

Mr. HEBERT. I thank the Senator for the delicate compliment which he is kind enough to pay me. I take it the Senator is aware that the main purpose of this bill is to enable the United States to join the International Copyright Union. The bill is here at this time, and there is urgency for its consideration and passage, because the United States, if it is going to enter the International Copyright Union, must do so before August next; that is, it must enter the Berlin convention as modified by the convention of Berne. It is universally thought among authors and composers and publishers that we ought to enter the International Copyright Union. In order to go into that union it is absolutely essential that we modify our copyright laws so as to provide for automatic copyrights, because that is a condition that is required, a condition precedent to our admission to the Berlin convention.

Mr. KING. Mr. President, is it made a condition precedent to our entering the union that we shall have automatic copyrights?

Mr. HEBERT. It is a condition. The Berlin convention has that provision in its constitution.

Mr. KING. Yes; I am familiar with that; but why is it so imperative that we join the union? I appreciate the fact that it gives our composers and authors privileges in other nations. We get the benefit of their copyright laws; and yet, as I understand, there are reciprocal benefits and advantages which may be enjoyed under existing laws or treaties or both.

Mr. HEBERT. Mr. President—

Mr. GEORGE. Mr. President, will the Senator from Utah yield to me?

The VICE PRESIDENT. Does the Senator from Utah yield and if so to whom?

Mr. KING. I yield first to the Senator from Georgia.

Mr. GEORGE. I ask the Senator from Utah if he will yield so that I may ask the Senator from Rhode Island, who has the bill in charge, a question.

Mr. KING. I yield for that purpose.

Mr. GEORGE. I understand that, as the Senator has explained, one of the main purposes now is to put the United States in position to adhere to the Berne agreement or convention, and I further understand the Senator to say that the automatic copyright is a necessary condition precedent.

Mr. HEBERT. That is true.

Mr. GEORGE. I desire to ask the Senator a question.

Suppose we pass the legislation and ratify the Berne convention, and an American publishing house, for instance, has gone to great expense to issue a particular work of art or literature—if the assumption be not too far-fetched; I am sure it is applicable in some cases—and the foreign producer then comes into the American court to impose a penalty, or, if no penalty is imposed, to prevent the publishing house from producing that particular work of art or literature, upon the ground that it is infringing a copyright which has not yet expired. There being no provision for the registration of that copyright in the United States, the American citizen would be virtually helpless to defend the action; would he not?

The question is, How would the American citizen meet the allegations of the foreign composer or artist who claimed that his copyright had not yet expired?

Mr. HEBERT. Mr. President, the Committee on Patents, in its consideration of this measure, agreed upon an amendment, which will be voted upon, to provide that as a condition precedent to a recovery of damages there must be notice or there must be registration.

Mr. GEORGE. Oh, yes; but suppose no damages are asked, but the foreign composer or artist comes in and merely asks the court of equity to restrain the publication or the reproduction of this particular work of art or piece of literature, and he relies upon the fact that under the automatic copyright law which we are now asked to enact his copyright has not expired. What possible chance would the American citizen, who may have gone to a great deal of expense have to combat the evidence, to repel the claim—in other words, to defend the action? Although there be no damages recoverable unless he has registered or given notice of an unexpired copyright, it would be quite as effective if the courts should restrain the American publisher.

The point I am trying to get over to the Senator is that it seems to put our citizens at a tremendous disadvantage. It may be true that our citizens might go into a foreign court and assert a like right against a foreign publisher; but that is rather poor compensation or recompense for the publishing house in this country that has gone to very great expense in order to produce or to reproduce a particular work of art or particular bit or piece of literature. To have the foreign producer, or the alleged foreign producer, come into the court of equity and ask that he be restrained on the ground that he has a copyright in that article or in that product, which has not expired, would put upon the American publisher an almost impossible burden.

The Senator recalls, and it is a fact, that even in our tariff matters it is almost impossible to ascertain what the foreign cost of producing an article is. In many, many instances we have been utterly unable to find what it is; and when we send one of our citizens into a foreign country to fortify his position with evidence which he can get nowhere else on earth except in the foreign country, we virtually have put him at the mercy of any one who can with any show of equity say, "I have a copyright upon this article or this product which has not expired."

I have great sympathy with the purpose of the bill; but it seems to me that we are going quite too far in this automatic copyright provision, even if we leave the foreign producer, the person asserting the copyright, power under the court of equity actually to restrain any one in the United States from publishing or reproducing any work of art or literature.

Mr. HEBERT. Mr. President, I can not conceive such an extreme situation as the Senator describes; but again let me say that under an amendment which we have proposed to the bill, first, there must be either notice or registration before one can recover damages.

Mr. GEORGE. Yes; but that relates to damages only; and the damage is quite as tangible and sometimes very much more important if a person is merely stopped from doing something which he thinks he has a right to do.

Mr. HEBERT. If the Senator will let me conclude——

Mr. GEORGE. Yes; I want the Senator to conclude.

Mr. HEBERT. In addition to that, where, as in the case cited by the Senator, anyone has made an expenditure or contracted for the expenditure of money, and he proves that to the satisfaction of the court before which a case for infringement is pending, then, in lieu of an injunction which would do irreparable injury to such a person under those circumstances, the plaintiff may be relegated to his statutory damages, which in the main are negligible. So I think, perhaps, the apprehension which the Senator has will be pretty well taken care of by this amendment.

Mr. GEORGE. Let me ask the Senator, Is there any provision in this amendment that the plaintiff shall be relegated to statutory damages and shall not have the remedy of injunction?

Mr. HEBERT. Oh, yes. In order to recover damages, he must——

Mr. GEORGE. I am not talking about recovering damages. I am talking about the exercise of the equitable jurisdiction of the court.

Mr. HEBERT. Very well. If the person who is charged with the infringement has expended money for carrying on the work or has entered into a contract and assumed a liability for carrying on the work, then, in lieu of an injunction restraining that alleged infringer from proceeding with his work, he may be held to pay statutory damages, not exceeding $2,500 in any one case.

Mr. GEORGE. Is that a provision of the bill?

Mr. HEBERT. That is a provision which the committee has proposed by way of amendment to the bill.

Mr. GEORGE. But not that he shall be relegated to the recovery of statutory damages?

Mr. HEBERT. Oh, yes; it is mandatory in that case.

Mr. GEORGE. That would seem to answer my question, then.

Mr. HEBERT. If he be an innocent infringer, the Senator understands.

Mr. GEORGE. I understand; if he be an innocent infringer in the sense that he had no actual knowledge, and there had been no registration of the copyrighted production.

Mr. HEBERT. That is true.

Mr. DILL. Mr. President——

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

Mr. KING. Just one moment. Does the Senator from Rhode Island desire to make any further statement?

Mr. HEBERT. No; I have concluded my statement.

Mr. KING. I yield to the Senator from Washington.

Mr. DILL. I want to say to the Senator from Georgia that the very same attorneys who pleaded so earnestly that we should have no copyright registration, and no notice, came to us after this bill was reported and told us what a terrible plight they would be in if they happened to produce in a motion picture something that had no notice of copyright upon it, and that they must have protection here in the form of being allowed, at their own option, to pay damages rather than take an injunction. These were the same attorneys who had argued so earnestly that a copyright notice and a copyright registration were useless and worthless; but they were arguing from the standpoint of buying copyright. When, however, it came to the standpoint of defending their own actions against infringement, they were the first to rush forward for protection, for fear that without notice and without registration they could not protect themselves.

It is the finest example that could be had of the difference of viewpoint when you are on the side of one who is having something copyrighted and when you are on the side of the individuals who constitute the public who may be sued for infringement of copyright.

So this very proposal has been agreed upon by members of the committee since the bill was reported, and the Senator from Rhode Island [Mr. HEBERT] has been authorized to report it.

Mr. GEORGE. I thank the Senator for his statement, which is most illuminating. Even if that amendment should be adopted, however, in the case which I have supposed of the expenditure of considerable money by an American publishing house, let us say, the foreign producers who would claim a copyright yet unexpired might come into equity and ask for an injunction against the production of the article; and then, as I understand, if the amendment now suggested be agreed to, the American producer would have the right to elect to pay the statutory damage—$2,500, let us say, for each production, or whatever amount it may be fixed at—or else suffer the injunction to go against him.

The point I have tried to make is simply this, and those who are urging this law will probably discover it later—that whenever the foreign producer who asserts that he is the owner of a copyright yet unexpired comes into the courts in this country, either to pursue his equitable remedy or to recover the statutory damage, the American infringer or alleged infringer will find himself utterly unable to go into the foreign country to gather the evidence to meet the issue. He simply will have to submit upon proofs brought by the litigant.

Mr. HEBERT. Mr. President, according to all the information that was adduced before our committee, that would never occur, because there is nothing better known than the publications of copyrighted works. We are told—and those who told us are familiar with the trade of publishing and with the sale of books and periodicals and their preparation—that very, very seldom does it happen that there is an infringement of a copyrighted work.

Mr. GEORGE. That may be true, but the Senator must bear in mind that this bill now is breaking down all the safeguards that have thus far safeguarded those who did not wish to infringe, because we have always had registration laws. We have always required them to register there.

Mr. HEBERT. I foresaw that the Senator was going to refer to the fact that we always have had registration. That is true in part only; and I shall proceed to explain to the Senator why it is true in part only.

A magazine, we will say, is published containing 100 articles, each article under its own title. The magazine publishes at its masthead, or on its editorial page, or on the front cover of it "Copyright registered," and that covers every one of the 100 articles in the publication. Neither the Senator from Georgia nor I nor anyone else alive could ever go through the files of the Copyright Office and find all of the articles that have been copyrighted in that way. There is no way to trace them. So, after all, it will be readily seen that the registration of copyrights is not such a protection as it would seem upon the surface until it is investigated and examined.

Mr. GEORGE. That may be true, Mr. President, but the point I am trying to make is that the effect would be to give to a foreign litigant against a citizen of the United States a right of action, of some character or kind, when that foreign litigant is required to do nothing in the United States, and when he relies solely upon evidence of transactions which occur outside of the United States. That would be putting our own citizens to a tremendous disadvantage if any possible case should arise. It may be true, as the Senator says, that a case would rarely arise. When and if one does arise, it will work a very serious hardship.

Mr. HEBERT. Mr. President, those who are most concerned about the very question which the Senator raises here are entirely satisfied with the provisions of this bill and are most desirous of its enactment.

Mr. GEORGE. Yes; but I understood the Senator from Washington to say that in the first instance some representatives appeared here and wanted the injunction feature to remain in, and insisted upon it, but after the report of the bill considered the effects of that kind of legislation they came here and said, "It would be disastrous to us if in lieu of the injunction we can not elect to pay a statutory damage."

Mr. HEBERT. No; either the Senator from Washington was in error, or the Senator from Georgia misunderstood him.

Mr. DILL. Mr. President, what I said was this, that these men came to us and earnestly pleaded against any require-

ment of notice or registration, saying it was useless and worthless, but when we put in the bill provision that there be no provision for damages, but only for an injunction, and they began to see the defendant's side of it, they became frightened at their danger from the lack of provision for notice or registration, and then asked for this provision to protect them when they might have their money invested.

Mr. GEORGE. I misunderstood the Senator.

Mr. KING. Mr. President, I regret that I am compelled to attend a conference on an important bill, one of the few bills carrying a large appropriation undisposed of. But I want to read a few sentences from the testimony to which I referred a moment ago bearing upon the question under discussion.

I may say to the Senator from Rhode Island that the thought of cooperating with foreign countries in matters relating to the welfare of the people of all nations does not frighten me. I voted for the entry of the United States into the League of Nations, and shall vote for our adherence to the World Court. I believe in the utmost cooperation, consistent with the maintenance of the prerogatives and independence of this Republic. I hope to see the day when there will be more fraternity among nations, more of a spirit of amity and world association to deal with international problems. So I have no objection to this measure, as I understand its provisions, merely because it contemplates the United States becoming a member of the International Copyright Union. I can see some advantages which are to be derived from a copyright union which protects American citizens here and abroad. But if adhering to such union results in no benefits to American producers, our authors, and permits any discrimination against them or places them in any disadvantageous position then I should look upon it with disfavor.

The testimony to which I refer is found in the Senate hearings, pages 250 to 260, and although I have hastily examined the memorandum there appearing, I believe it contains a rather critical and, as I read it, a fair interpretation of some of the provisions of this bill and an indication of its implications.

The memorandum was prepared by John D. Myer, of Philadelphia, for the Victor Talking Machine Co., of Philadelphia, and was submitted by John W. Ziegler, with the consent of Mr. Myer and the Victor Talking Machine Co.

It may be that this is a biased view, that the writer represents one line of thought which may not deal with the entire subject in a comprehensive manner.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Chaffee, one of its clerks, announced that the House insisted upon its amendment to the bill (S. 255) for the promotion of the health and welfare of mothers and infants, and for other purposes, disagreed to by the Senate; agreed to the conference requested by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PARKER, Mr. COOPER of Ohio, and Mr. RAYBURN were appointed managers on the part of the House at the conference.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 10672) to amend the naturalization laws in respect of posting of notices of petitions for citizenship, and for other purposes, requested a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. JOHNSON of Washington, Mr. CABLE, and Mr. Box were appointed managers on the part of the House at the conference.

The message further announced that the House had passed a bill (H. R. 778) for the relief of Jeanette Weir, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to a concurrent resolution (H. Con. Res. 53), in which it requested the concurrence of the Senate, as follows:

Resolved by the House of Representatives (the Senate concurring), That during the remainder of the present session of Congress the engrossment and enrolling of bills and joint resolutions by printing, as provided by an act of Congress, approved March 2, 1895, may be suspended, and said bills and joint resolutions may be engrossed and enrolled by the most expeditious methods consistent with accuracy.

REGULATION OF ADVERTISING IN THE DISTRICT—CONFERENCE REPORT

Mr. BLAINE. I call up the conference report on Senate bill 4022, which I ask may be read.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4022) to regulate the erection, hanging, placing, painting, displaying, and maintenance of outdoor signs and other forms of exterior advertising within the District of Columbia, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendment numbered 8.

That the Senate recede from its disagreement to the amendments of the House numbered 1, 2, 4, 5 6, 7, and 9, and agree to the same.

Amendment numbered 3: That the Senate recede from its disagreement to the amendment of the House numbered 3, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the said amendment insert "(in so far as necessary to promote the public health, safety, morals, and welfare) control, restrict, and "; and the House agree to the same.

ARTHUR CAPPER,
W. L. JONES,
WILLIAM H. KING,
Managers on the part of the Senate.

F. N. ZIHLMAN,
ALBERT R. HALL,
MARY T. NORTON,
Managers on the part of the House.

The PRESIDING OFFICER (Mr. FESS in the chair). The question is on the adoption of the report.

Mr. ROBINSON of Arkansas. Mr. President, I ask the Senator from Wisconsin to state what results the report carries.

Mr. BLAINE. Mr. President, the report itself is not of very great consequence. It is the bill that is of special consequence. The report does not change the bill very much.

Mr. ROBINSON of Arkansas. The Senator will recall that on a former occasion it was suggested that some provision carried in the report was of doubtful validity. Has that been eliminated?

Mr. BLAINE. Mr. President, that has not been eliminated. This bill was presented for consideration of the Committee on the District of Columbia at a time when I was absent. After it had been reported out, I called the attention of the corporation counsel to the probability of the invalidity of the bill on account of a provision giving power to the District Commissioners to regulate the placing of signs on private property.

The view then taken by the corporation counsel was that the insertion of the words " in so far as necessary to promote the public health, safety, morals, and welfare " might bring the bill within the Constitution and thereby it would be a valid enactment.

I called attention to the fact that the question had nothing to do with the public health, morals, safety, or welfare, but would have only to do with the esthetic taste of individuals.

Mr. ROBINSON of Arkansas. That can not be regulated by the police power.

Mr. BLAINE. That can not be regulated under the police power. The conference report does not change that language of the original bill. I see no objection to agreeing to the conference report; but that has nothing to do with the matter I have been discussing.

Mr. KING. Mr. President, I confess that my attention was diverted, and I did not gather the point the Senator was making. I was one of the conferees on this matter, and if the Senator takes the position that the validity would be challenged upon the ground of its constitutionality, it

seems to me we ought to consider it before the conference report is either agreed to or rejected.

Mr. BLAINE. Mr. President, the challenge I suggested does not go to the changes made by the conferees. It goes to the original bill. I will just read the provision; it is very brief. It is as follows:

That the Commissioners of the District of Columbia be, and they are hereby, authorized and empowered after public hearings to make and to enforce such regulations as they may deem advisable (in so far as necessary to promote the public health, safety, morals, and welfare) to control, restrict, and govern the erection, hanging, placing, painting, display, and maintenance of all outdoor signs and other forms of exterior advertising on public ways and public space under their control and on private property within public view within the District of Columbia, and such regulations as may be promulgated hereunder shall have the force and effect of law.

That is valid. The phrase "and on private property within public view" would give them power to control the display of signs on private property in public view.

Mr. ROBINSON of Arkansas. Mr. President, the question arises, What is the extent of the police power with reference to the erection of a sign which is not indecent or immoral, or objectionable from any standpoint of that character, when it is raised and maintained on private property? In other words, is it within the power of the legislative department to say that an executive authority may decide that a sign erected on some one's vacant lot, which can be looked at by the public, an advertisement, shall not be erected because it endangers the public health, morals, or safety? It has no relationship actually to the question of public morals, health, or safety.

Mr. BLAINE. It has no relationship to those questions.

Mr. KING. Mr. President, as I recollect, the corporation counsel, Mr. Bride, suggested an amendment to the bill, either the House bill or the Senate bill, by the insertion of the words "against public morals."

Mr. BLAINE. The insertion of several words, "public health, safety, morals, or welfare." My suggestion was that a sign placed on private property which would intercept the view of pedestrians, or others using the street, so as to endanger the life and safety of individuals, could be regulated.

Mr. ROBINSON of Arkansas. Certainly.

Mr. BLAINE. But that signs on private property which had nothing to do with those questions, which merely had to do with the æsthetic taste of individuals, were not subject to regulation by anybody, not even Congress.

Mr. KING. Suppose a sign erected upon private property were concededly immoral or indecent. Then could it not be dealt with?

Mr. BLAINE. That is not even under consideration now. There was no complaint on that score.

Mr. ROBINSON of Arkansas. There is no question about the erection of signs such as those referred to by the Senator from Utah. The purpose aimed at is to prevent advertisements on private property in places where they do not look well, where they are not pleasing to the eye, but where they do not in any sense endanger the safety of the public.

Mr. BLAINE. Personally, I was very much interested in the enactment of a bill which would preserve the scenic beauty in the District of Columbia, and in going as far as Congress could go in that direction. But I felt that this matter was not perhaps given the full consideration it ought to have had. I am not criticizing anyone, because there has been so much work to do in the Committee on the District of Columbia.

Mr. ROBINSON of Arkansas. It does not appear to me that the language of the bill is invalid. The bill itself, as it is now presented, is a valid exercise of police power because it does not authorize the prevention of advertisements which are objectionable merely because they obstruct the view, but it is limited to a proper exercise of the police power. The point is that in the exercise of power conferred by the act the executive authorities will not be able to do the things they might wish to accomplish.

Mr. BLAINE. I see no objection to the adoption of the conference report.

Mr. KING. May I say to the Senator from Wisconsin that even if the view which he is expounding is correct, under the well-known principle that a law invalid in one respect may be valid in other respects, if the validity of that part of the act were challenged in case an attempt were made to enforce it, it would not affect the rest of the act.

Mr. ROBINSON of Arkansas. The validity of the act is not affected at all, as I see it.

Mr. BLAINE. Only the power of the commissioners would be challenged, as I see it.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

The report was agreed to.

SURVEY OF COOPERATIVE CREDIT LAWS AND SYSTEMS

Mr. DENEEN. Mr. President, from the Committee to Audit and Control the Contingent Expenses of the Senate I report back favorably, with an amendment, the resolution (S. Res. 408) submitted by Mr. BROOKHART on January 31, 1931, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. ROBINSON of Arkansas. Let it be reported.

The Chief Clerk read the resolution, as follows:

Resolved, That in order to provide for a more effective use and control of credit for cooperative enterprises as distinguished from competitive, the Committee on Banking and Currency of the Senate, or a duly authorized subcommittee thereof be, and is hereby, empowered and directed to make a complete survey of the cooperative credit laws and systems and a full compilation of the essential facts and to report the result of its findings as soon as practicable, together with such recommendations for legislation as the committee deems advisable. The inquiry thus authorized and directed is to comprehend specifically the desirability of a cooperative banking system with respect to the use of its facilities for curbing and preventing speculation and encouraging and developing cooperative organization.

For the purpose of this resolution the committee, or any duly authorized subcommittee thereof, is authorized to hold hearings, to sit and act at such times and places during the sessions and recesses of the Seventy-first and succeeding Congresses until the final report is submitted, to employ such clerical and other assistants, to require by subpœna or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, and make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee, which shall not exceed $15,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

Mr. BINGHAM. Will not the Senator let it go to the calendar?

Mr. DENEEN. I thought the Senator from Iowa [Mr. BROOKHART] was in the Chamber. He promised to be here. I think he just stepped out for a moment. I told him I would ask for immediate consideration of the resolution.

Mr. ROBINSON of Arkansas. Has the resolution been considered by a committee?

Mr. REED. Yes; it was considered by the Committee on Banking and Currency and then by the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. ROBINSON of Arkansas. I take it that a favorable report was made?

Mr. REED. There was a favorable report with an amendment by the Committee on Banking and Currency, and without amendment by the Committee to Audit and Control.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. McNARY. Mr. President, inasmuch as we shall have a call of the calendar on Monday and two Members of the Senate stated they would like to have an opportunity to consider this resolution before that time, I shall object to its present consideration.

The PRESIDING OFFICER. Objection is made and the resolution will go to the calendar.

COST OF PRODUCTION OF LACES AND LACE FABRICS

Mr. BINGHAM. Mr. President, day before yesterday I submitted a resolution (S. Res. 476) rescinding the action of the Senate on Senate Resolution 311, which I introduced at a previous session of the Congress, directing the Tariff Commission to investigate the cost of production of laces, lace fabrics, and lace articles. As I understand it there is

no objection to rescinding the previous resolution. I therefore ask that Senate Resolution 476 be now considered.

The PRESIDING OFFICER. Is there objection?

There being no objection, the resolution (S. Res. 476) was read, considered, and agreed to, as follows:

Whereas the United States Tariff Commission was directed by Senate Resolution 311, under the authority conferred by section 336 of the tariff act of 1930, and for the purposes of that section, to investigate the differences in the costs of production of the following domestic articles and of any like or similar foreign articles: Laces, lace fabrics, and lace articles: Therefore be it

Resolved, That such direction as to laces, lace fabrics, and lace articles be hereby rescinded.

The preamble was agreed to.

UNEMPLOYMENT IN TENNESSEE AND ARKANSAS

Mr. McKELLAR. Mr. President, I should like to have read at the desk a telegram addressed to William Green by the Memphis Trades and Labor Council.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the clerk will read, as requested.

The Chief Clerk read as follows:

MEMPHIS, TENN., *February 26, 1931.*

WILLIAM GREEN,
President American Federation of Labor,
Washington, D. C.:

Whereas there are thousands of unemployed workingmen in Tennessee and Arkansas in dire distress without adequate food, clothing, and shelter, searching for an opportunity to work in an almost hopeless quest in order to keep life in the bodies of their wives and children; and

Whereas there is in the Memphis, Tenn., area a United States Government operation under the auspices of the United States Army Engineering Department that employs thousands of workers on the Mississippi projects that is practically permanent in character and who are compelled to work a minimum of 10 hours a day, and in many instances longer; and

Whereas there is, or appears to be, no desire on the part of the resident Engineers of the United States Army to apply the 8-hour day to these Government operations and thus relieve the tenseness of the unemployed situation in Tennessee and Arkansas, as well as many other Mississippi communities where conditions are equally distressful: Therefore be it

Resolved, That on this the 12th day of February, the anniversary of the birth of Abraham Lincoln, the Memphis Trades and Labor Council, in regular meeting assembled, does hereby petition the President of the United States, Hon. Herbert Hoover, to order the application of the 8-hour day to the improvement on and about the Mississippi River, and this order to continue until there is imminent fear of loss of life or property by reason of floods and the order will then be inoperative: And be it further

Resolved, That these resolutions acquaint the President with the fact that this river revetment and improvement is not comparable to emergency or flood danger as the Mississippi is at its lowest ebb in years, and if haste is required the application of three 8-hour shifts would be both humane and, we believe, economical to all concerned as well as conforming to the Borah-Hughes Federal 8-hour law.

MEMPHIS TRADES AND LABOR COUNCIL,
E. E. BARNUM, Jr., *Secretary.*

GEORGE WASHINGTON—ADDRESS BY THOMAS CAMPBELL WASHINGTON

Mr. McKELLAR. Mr. President, I ask unanimous consent to have printed in the RECORD a very interesting address delivered by Thomas Campbell Washington, great-great-great-grandnephew of George Washington, over the National Broadcasting Co. network Monday night, February 23, on the subject "George Washington—His Farewell Address, and Its Applicability to Present-day Conditions."

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

GEORGE WASHINGTON—HIS FAREWELL ADDRESS AND ITS APPLICABILITY TO PRESENT-DAY CONDITIONS

It is a great pleasure for me to accept the invitation of the National Broadcasting Co. to discuss my illustrious great-great-great granduncle.

In the many observations concerning George Washington during this period of the one hundred and ninety-ninth anniversary of his birth there have appeared articles in hundreds of publications treating of most every phase of the life and works of that most patriotic father of this Nation.

The same is true of the hundreds of speeches which have been delivered in the past few days in connection with this notable national holiday. In all these discussions, however, I do not think there has been sufficient emphasis placed on that most priceless document, the farewell address, which our first President delivered in September, 1796, before he laid down the reins of government. I have, therefore, taken as the subject of my remarks this evening George Washington, His Farewell Address and Its Applicability to Present-day Conditions. In choosing this subject modesty forbids that I do more at present than bow in reverent homage to that historic document.

I know of no state paper in all our archives that is of greater service for our boys and girls to study deeply and learn by heart.

You can call it our code of national morality—our treatise on the etiquette of international relations—the parting warning of a parent to the heirs of his accumulated riches and wisdom—call it what you will—its observance by our people has, undoubtedly, preserved the independence and prosperity of this Nation up to the hour when apparently its holy counsel fell on ears unfamiliar to our traditional sentiments. I only wish it were George Washington, or at least the spirit of George Washington, that were speaking to you over this great radio network to-night. I am sure he would reaffirm to you his beliefs in the present-day application of the doctrines and counsels he so patriotically set forth on his retirement to private life.

In composing this farewell address, General Washington was mindful of his 40 years' experience as soldier and statesman, as well as of the old tradition by which his concept of nationality had been defined and founded: In war and peace, he and his companions had established a Government deriving all its just powers from the consent of the people organizing it, the very opposite of other foreign systems, which held mankind as merely cannon fodder in wars of aggression by one royal family upon the territory of another royal family. It happens that our Nation, like a distinct and homogeneous family of self-governing and independent individuals, maintains its peace and self-respect by avoiding interference in the domestic affairs of its neighbors. And our own peace and prosperity will be disturbed only when we allow our neighbors to impose their peculiar and destructive customs upon us.

You will understand the full significance of this farewell address if you get this notion of a happy family in your mind; you will realize the absurdity of throwing open your doors and allowing every family in the neighborhood to break into your parlor, or your kitchen, and upset everything by their abuse of one another and their mutual rivalries to get away with your best pieces of furniture. If you take sides with one of these invaders against the others, all the rest will combine against you, and the chances are that the one you have befriended will become offended by your imprudence and join with his former rivals in plundering you.

Such a condition is not purely imaginary. There are men and women, not only in Soviet Russia but right here in this country, who are so internationally minded that they would destroy our national family solidarity and make all our children the product of international promiscuous concubinage. They have the affrontery to tell you that if Washington were living he would be a leader of such "advanced ideas" of national enfeeblement and "universal brotherhood." The idea is preposterous. To impute to Washington's sublime ideal of the national family a concept of "brotherhood" arising from unrestrained and universal lust among disintegrating nations is a vile insult to his memory. Yet there are many who would have us do just that.

Washington would no more think of exposing his country to such an infamy than he would the virtues of that Mount Vernon family which he held sacred in his heart of hearts.

I am quite certain that if Washington were alive and speaking to you to-night he would reiterate these words of counsel and advice with greater power and emphasis than he did on that memorable day in September, 1796.

I am often told by many of our statesmen of the difficulties they encounter from agents of foreign nations who are constantly reminding them of Washington's position in our international relations. My notion of what Washington would reply is taken from his Farewell Address, and is in this language:

"Against the insidious wiles of foreign influence, I conjure you to believe me, fellow citizens, the jealousy of a free people ought to be constantly awake; since history and experience prove that foreign influence is one of the most baneful foes of republican government. * * * Real patriots who may resist the intrigues * * * are liable to become suspected and odious; while the tools and dupes usurp the applause and confidence of the people to surrender their interests."

Let me quote a little more from this important pronouncement of Washington. * * * I think we all can listen to it with profit to ourselves and credit to our country:

"The great rule of conduct for us, in regard to foreign nations, is, in extending our commercial relations, to have with them as little political connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. Here let us stop.

"Europe has a set of primary interests, which to us have none, or a very remote relation. Hence, she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics, or the ordinary combinations and collisions of her friendships or enmities.

"Our detached and distant situation invites and enables us to pursue a different course. If we remain one people, under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon, to be scrupulously respected; when belligerent nations,

under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation, when we may choose peace or war, as our interest guided by justice, shall counsel.

"Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor, or caprice?

"It is our true policy to steer clear of permanent alliance with any portion of the foreign world."

I have been reading to you a portion of the Farewell Address. To my mind this Farewell Address should be brought before the people and considered deeply. This is particularly true to-day. Those same nationalistic jealousies which have been the cause of wars of the past are just as much a source of war-breeding developments to-day as ever.

If there ever was a time in the history of this country when the philosophy of Washington, as set forth in his Farewell Address, provided insurance for us against wars, that time is to-day. In the spirit of peace and good will it is a bond to preserve the health and prosperity of this Nation both for ourselves and for our children. I urge upon you, my friends of the air, to read again Washington's Farewell Address and consider deeply the need for its observance at this time.

I thank you for the pleasure of speaking to you.

I thank the National Broadcasting Co. for the courtesy they have extended me. Good-night.

AMENDMENT OF COPYRIGHT LAW

The Senate resumed the consideration of the bill (H. R. 12549) to amend and consolidate the acts respecting copyright and to permit the United States to enter the Convention of Berne for the Protection of Literary and Artistic Works.

Mr. KING. Mr. President, when I was interrupted I was directing attention to testimony found in the Senate hearings. I desire to read a few paragraphs from the same.

Mr. KEAN. Mr. President, before the Senator proceeds let me state that the distinguished Senator from Utah spoke about the Victor Talking Machine Co. at Philadelphia. It happens to be located in Camden, N. J.

Mr. KING. I simply read from the hearings, where it is stated that the company referred to was domiciled in Philadelphia. Of course, I would not detract from the glory that belongs to Camden in having the Victor Talking Machine Co. located there.

I read from the hearings:

The issue presented by the Vestal bill is whether the present American method of extending international copyright on a basis of reciprocity, which permits full enforcement of the domestic law of each nation, is to be continued, or whether this policy is to yield to the European method of adopting and enforcing uniformity in the law among nations regulating the grant of copyright. Reciprocity fully protects the monopoly rights of American authors in the foreign countries entering into such relations with the United States and at the same time it involves no surrender of our domestic policy relative to the conditions imposed upon the grant of copyright.

If the writer is accurate in this statement, it would appear that there was no necessity for the legislation or at least a portion of the legislation contemplated by the bill before us.

Such uniformity, on the other hand, in so far as it would excuse foreigners from the duties imposed on American authors, would require a sacrifice of the policy of our own law and result in a discrimination against the American author and in favor of the foreign applicant. How vital that sacrifice would be can only be truly appreciated after a thorough consideration of the sources and the history of American legislation dealing with the duties of the applicant for copyright, and particularly with regard to the requirements of registration, deposit of copies, and notice of copyright claim.

Another consideration bearing directly upon the proposal to unite this country with the nations of Europe in the copyright union will be found in the dissimilarity between the American concept of legal monoply as applied to copyright and the concept of many European nations. Juristic opinion in Europe has tended to regard copyright as a natural monopoly and has inclined to favor a liberal policy by the state in favor of the monopolist and against the public—a tendency not in harmony with the American viewpoint or the American Constitution.

In the present state of world unrest proposals of change are familiar enough. It is well to remember, however, before consenting to the changes in this country's domestic policy which membership in the International Copyright Union would require, that there is no emergency to justify such a step at the present time, and that our present copyright relations with the foreign powers afford alike justice to the foreign author and protection abroad to the American. Presumably the conservatism of America will hesitate long before accepting the supposed necessity for this departure from our domestic policy in the grant of copyright—a policy to which we now turn for consideration.

The first section of the original copyright act (act of May 31, 1790) provided that copyright should subsist "for the term of 14 years from the time of recording the title thereof in the clerk's office, as is hereinafter directed." The same section further provided that the copyright proprietor or his executors or administrators or assigns might enjoy a further term of protection of 14 years "provided he or they shall cause the title to be a second time recorded and published in the same manner as hereinafter directed," etc.

In section 3 the act declares that no person shall be entitled to its benefit—where publication had previously occurred—"unless he shall first deposit, and in all other cases unless he shall before publication deposit a printed copy of the title of such map, chart, book, or books in the clerk's office of the district court where the author or proprietor shall reside." The clerk is then directed to record the same forthwith, and the proprietor is required within two months from the date thereof to publish a copy of such record for four weeks in some newspaper printed in the United States. The author or proprietor is further required by section 4 to deliver to the Secretary of State, within six months after publication, a copy of the map, chart, or book, which copy is to be preserved in the Secretary's office.

Thus we find at the very threshold of copyright history in this country the recognition of the principle of requiring registration as a means of notifying all members of the public of the grant of each individual monopoly, and deposit of copies to provide a public record of copyright in published works. Weil says of these requirements:

"The object sought by compelling registration is that third persons, by inquiry, may ascertain whether or not any proposed acts or works would violate any existing statutory copyright. The primary object of requiring the deposit of copies is that the subject matter of works in which copyright is claimed may be made public and available for purposes both of information and of avoiding infringement. A purely secondary object is the enrichment of the Library of Congress." (Weil Copyright Law, 1917, p. 310.)

It will be observed that we are now demolishing the structure erected in the very first copyright act enacted by the Congress of the United States and perpetuated in each succeeding act, including the act of 1909, which was enacted after a long, careful, and thorough investigation. I believe the act of 1909 not only attempted to protect both the authors and composers, but also the public.

Mr. TRAMMELL. Mr. President——

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

Mr. KING. I yield.

Mr. TRAMMELL. The only reason that has been given for it—or, I will say, excuse, because it is not a reason—is to try to make our law conform to foreign law or at least to a foreign agreement among authors and copyrighters in foreign countries. There is no sound American reason which has been given here as to why we should abandon this principle of recording the copyright which has prevailed for 100 years in America.

Mr. KING. I am trying to discover a reason, but am still somewhat in the dark.

Mr. TRAMMELL. Nor have I found where the committee gives or attempts to give a reason—merely an excuse.

Mr. KING. The writer from whom I read states that under a system of reciprocity American authors may be protected abroad in their productions, and foreign authors protected in the United States.

I continue reading:

To demonstrate how continuously Congress has pursued the policy of requiring registration of copyright and deposit of copies, and has successively applied these requirements, with the further requirement of notice of copyright, to the new fields of protection that have from time to time been recognized, we will now briefly survey the subsequent copyright legislation.

I will ask leave, Mr. President, to insert in the RECORD, without reading, a number of paragraphs in which this writer reviews the various acts of Congress, all of which support the contention that from the beginning Congress has adhered to the policy of opposing automatic copyright and requiring registration. The writer of this statement also refers to a number of decisions by the courts of the United States, districts courts, as I recall, and one or two decisions of the Supreme Court in support of the propositions which he is expounding.

The PRESIDING OFFICER. Without objection, the matter identified by the Senator from Utah will be printed in the RECORD.

The matter referred to is as follows:

In the next copyright enactment of Congress, the act of April 29, 1802, which extended copyright to the arts of designing, engraving, and etching, the same stringent requirements of registration written into the act of 1790 were repeated, and in addition all copyright proprietors were required to give notice of their claim by causing, if a book, the "copy of the record * * * to be inserted at full length in the title-page or in the page immediately following," with corresponding requirements as to maps and prints. (Secs. 1 and 2.)

GENERAL REVISION OF THE COPYRIGHT LAW

This requirement as to notice of copyright continued in all subsequent legislation and a conspicuous feature of our copyright law has come before the Federal courts and its purpose has been interpreted and clearly stated. In Sarony *v.* Burrow Giles (C. C. S. D. N. Y. 1883; 17 Fed. 591, aff. Ill. U. S. 53), the court, dealing with an infringement of a copyrighted photograph, said:

"The object of the statute was to give notice of the copyright to the public; to prevent a person from being punished who ignorantly and innocently reproduces a photograph without knowledge of the protecting copyright."

So, in Bentley *v.* Tibbals (223 Fed. 247, C. C. A. 2d Cir., 1915), the court said:

"The only object of the notice required by the statute is to give notice of the copyright to the public. It is given to the public to prevent any person from making himself subject to the penalties imposed for violation of the copyright without knowledge of the copyright. And when the notice is printed on the title-page or on the page immediately following it of the book copyrighted there is no possibility of the public being misled as to what matter is copyrighted" (p. 253).

And in Steacher Lithographic Co. *v.* Dunston Lithograph Co. (D. C. W. D. N. Y. 1916, 233 Fed. 601, 603):

"The purpose in requiring publication or (probably intended for 'of') notice of copyright is to prevent innocent persons from suffering the penalty of the statute for reproduction of a copyrighted article."

In 1831, when for the first time musical compositions were accorded protection, we find the same requirements of registration, deposit of copies, notice of copyright, and newspaper publication repeated. (Act of Feb. 3, 1831, secs. 1–5.) Section 4 of the act prescribes that the author or proprietor must further cause a copy of his work to be delivered to the clerk of the district court within three months after publication, and that—

"* * * it shall be the duty of the clerk of each district court, at least once in every year, to transmit a certified list of all such records of copyright, including the title so recorded, and the dates of record, and also all the several copies of books or other works deposited in his office according to this act, to the Secretary of State, to be preserved in his office."

In other sections of the same act infringements are defined strictly with reference to their occurrence after the recording of the title of the copyrighted work.

In 1834 a short but important supplementary act provided for the recording of the transfer or assignment of copyrights in the office where the original copyright had been deposited and recorded, prescribing that failure to record within 60 days would invalidate the assignment as against any purchaser or mortgagee without notice. (Act of June 30, 1834.)

In 1846 the author or proprietor was required within three months after publication to deliver one copy of his work "to the librarian of the Smithsonian Institution and one copy to the Librarian of Congress Library." (Act of August 10, 1846.)

In 1856 copyright in a play was extended to cover the dramatic or performing rights therein. The act in effect required of the proprietor the same duties as a condition for the protection of performing rights as has theretofore been prescribed for other copyrights. (Act of August, 1856.)

In 1859 the removal of all copies theretofore deposited in the Department of State, "together with all the records of the Department of State," to the Department of the Interior was required. (Act of February 5, 1859.)

In 1865 copyright was extended to photographs and the previous requirements of registration, deposit of copies, and notice of copyright made applicable with regard to this species of property. (Act of March 3, 1865.) It was further provided that a printed copy of every copyrighted work should be transmitted by the proprietor, within one month after publication, to the Library of Congress at Washington, with the provision for demand for such delivery by the Librarian, where the proprietor failed to transmit. (Secs. 2 and 3.)

The amendatory act of 1867 provided in its first section a penalty of $25 for failure of any proprietor to deliver to the Library of Congress a printed copy of his work. (Act of February 18, 1867.)

In the revision of 1870 (approved July 8, 1870) "all records and other things relating to copyrights and required by law to be preserved" were placed under the control of the Librarian of Congress, and all copies theretofore deposited in the Department of the Interior were required to be removed to the Library of Congress. (Sec. 85.) Registration of the work was henceforth to be made with the Librarian (sec. 90), who was required to make an annual report to Congress "of the number and description of copyright publications for which entries have been made during the year" (sec. 85).

Provisions for the grant of copyright follow those in the previous acts, vesting such copyright "upon complying with the provisions of this act" (sec. 86), the same to run for 28 years "from the time of recording the title thereof" (sec. 87), with provision for renewal for 14 years upon a second recording and newspaper advertisement of same (sec. 88). Notice of copyright is also similarly prescribed (sec. 97), as is the registration of assignments (sec. 89).

By this act the proprietor of every copyrighted book or other article was required to mail to the Librarian of Congress at Washington within 10 days after its publication "two complete printed copies thereof, etc." (Sec. 93.) This statutory requirement came before the Federal court for interpretation in Carte *v.* Evans (27 Fed. 861, 863, C. C. Mass. 1886); the court stating:

"* * * as the object of the registration is to give notice to the world that the author or proprietor has acquired the exclusive right of publication, the inference is that by 'two complete printed copies' is meant two printed copies with the title corresponding with the registered title and that for the purpose of identification the registered title shall be substantially reproduced on the title page of the published book."

The revision of the copyright law in 1873 contained a substantial reenactment of the previous requirements relative to registration, and of deposit of copies and notice of copyright.

The grant of copyright is again made to depend "upon complying with the provisions of this chapter" (Rev. Stat., sec. 4952), which include the requirements that before publication a printed copy of the title of the book or other article, etc., shall be delivered to the Librarian of Congress, and within 10 days after publication, two copies of the work deposited in the mail addressed to the Librarian of Congress. (Rev. Stat., sec. 4956.) The same secondary term of copyright for 14 years is granted "upon recording the title of the work or description of the article so secured a second time, and complying with all other regulations in regard to original copyrights, etc."; and the proprietor must publish a copy of the record in one or more newspapers in the United States for the space of four weeks. (Rev. Stat., sec. 4954.) The act provides further that:

"No person shall maintain an action for infringement of his copyright unless he shall give notice thereof in inserting in the several copies of every edition published, on the title-page or the page immediately following, if it be a book; or if a map, chart, musical composition, print, cut, engraving, photograph, painting, drawing, chromo, statue, statuary, or model or design intended to be perfected and completed as a work of the fine arts, by inscribing upon some portion of the face or front thereof, or on the face of the substance on which the same shall be mounted, the following words: 'Entered according to the act of Congress, in the year ——, by A. B., in the office of the Librarian of Congress, at Washington.'" (Rev. Stat., sec. 4962.)

Other provisions of the act deal with the duty imposed on the librarian of recording the copyright data which he receives.

The amendment of the copyright law enacted in 1891 is particularly significant here in view of the fact that six years previous the Berne convention had completed its labors and launched the International Copyright Union. As before noted, section 13 of this amendatory act contains our first legislative sanction of international copyright. It is significant that in thus extending protection to the works of foreigners this country made its grant of copyright to such foreigners dependent upon full compliance by each foreign applicant for copyright with all the requirements of our law, including that of registry, deposit of copies, and notice of copyright. Section 13 of the act begins with the sweeping words, "This act shall only apply to a citizen or subject of a foreign state or nation," and continues with the statement of the contingencies in which foreigners are entitled to avail themselves of the protection of our law. The intention to impose on such foreigners the same requirements that are imposed upon our own citizens applying for copyright is clear and unequivocal and the regular practice has been for each foreign author to register and deposit copies in the same way as our own citizens. (One exception only need be noted to this rule. The act of March 28, 1914, excused the foreign author who had published abroad and was entitled to copyright in this country from depositing more than one copy of his work, where the native author was required to deposit two. The reason for this relaxation in the rule requiring deposit was apparently due to a desire to lessen the greater burden and expense imposed on the foreigner in shipping certain deposited works from a distance.)

In this act of 1891 the grant of copyright is again made to depend "upon complying with the provisions of this chapter" (sec. 1), and the author is given his secondary term of 14 years "upon recording the title of the work or description of the article so secured a second time, and complying with all other regulations in regard to original copyrights, etc." (Sec. 2.) Important provisions of this amendatory act relate directly to the subject of registry. The Librarian of Congress is required to furnish the Secretary of the Treasury with copies of the entries of titles of all books and other articles, etc., and the Secretary of the Treasury is directed "to prepare and print, at intervals of not more than a week, catalogues of such title entries for distribution to the collectors of customs of the United States and to the postmasters of all post offices receiving foreign mails, and such weekly lists, as they are issued, shall be furnished to all parties desiring them at a sum not exceeding $5 per annum." (Sec. 4 of act; Rev. Stat., sec. 4953.) In this provision we see an extension of the policy of providing the public with adequate means of securing copyright information.

There is nothing of importance here to be noted in the further acts of Congress relative to copyright until the revision of 1909,

now the basic law on the subject of copyright in this country. (Act of March 4, 1909.)

The provisions of the former law governing registration and deposit of copies are repeated in the act of 1909, but in a different form. It was found convenient to provide for the actual securing of copyright upon the publication of the work with the stipulated copyright notice affixed thereto. Previous to the passage of this act and since the revision of 1870 (sec. 97 thereof) the insertion in copies of the copyrighted work of a notice of copyright had been required as a condition precedent to the right in the copyright proprietor to bring suit against an infringer. By the act of 1909 the publication of the work with notice of copyright affixed thereto was made a condition precedent to the granting of copyright itself. (Sec. 9.) The requirement that copies of the copyrighted work should be deposited was again repeated in the act of 1909, but for the first time failure to deposit was made the subject of penalty and loss of the right to sue for infringement. (Sec. 12.) While under this act failure to deposit copies "in the copyright office or in the mail addressed to the register of copyrights" would not in theory prevent the vesting of copyright in the proprietor, nevertheless such copyright, as a practical matter, would be worthless in view of the disability of the proprietor to enforce his rights in the courts.

"No action or proceeding shall be maintained for infringement of copyright in any work until the provisions of this act with respect to the deposit of copies and registration of such work shall have been complied with." (Sec. 12.)

The provision for the recovery of penalties for failure to deposit copies is found in section 13:

"Should the copies called for by section 12 of this act not be properly deposited, as herein provided, the register of copyrights may at any time after publication of the work, upon actual notice, require the proprietor of the copyright to deposit them, and after the said demand shall have been made, in default of the deposit of copies of the work within three months from any part of the United States, except an outlying Territorial possession of the United States, or within six months from any outlying Territorial possession of the United States, or from any foreign country, the proprietor of the copyright shall be liable to a fine of $100 and to pay to the Library of Congress twice the amount of the retail price of the best edition of the work and, the copyright shall become void."

The time-honored policy of requiring from each copyright proprietor a full registration of the data concerning the grant of copyright to him is thus again enforced, though in slightly different form in the act of 1909.

By section 56 of the register of copyrights is required to "fully index all copyright registrations and assignments" and to "print at periodic intervals a catalogue of the titles of articles deposited and registered for copyright, together with suitable indexes" and further "at stated intervals" to "print complete and indexed catalogues for each class of copyright entries." Copies of these current printed catalogues are then made available to the public. (Sec. 57.)

ISLE ROYALE NATIONAL PARK, MICH.

Mr. VANDENBERG. Mr. President, will the Senator from Utah yield to me for a matter which I shall immediately withdraw if it requires any debate?

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

Mr. KING. If I have the consent of the distinguished Senator from Rhode Island, I shall not object.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. VANDENBERG. The Committee on Public Lands and Surveys has unanimously reported the bill (S. 6221) to provide for the establishment of the Isle Royale National Park, in the State of Michigan, and for other purposes. The report has behind it the enthusiastic support of the Department of the Interior and the National Park and Planning Commission. A similar bill has been reported to the House. The Senate committee has adopted a very appropriate amendment which was suggested by the Senator from Montana [Mr. WALSH]. Therefore, an agreement will have to be reached between the two Houses, and unless action shall be taken to-day I can not hope for that conference. Therefore, I ask unanimous consent for the present consideration of the bill. I am sure there will be no debate, because there is entire agreement on the bill.

The PRESIDING OFFICER. Is there objection?

Mr. BLEASE. I regret very much that I shall have to object. I myself have a bill providing for the establishment of a park at King's Mountain, S. C., which I have been trying to have considered by the Senate for some time. While I do not like to make an objection of this kind, I do not think we ought to establish parks at various other places in the country and then refuse to establish a park at a place where occurred a battle which the War Department itself says is second to no battle in our history except that of Saratoga. I think if any more parks are to be created, we certainly should have a chance to have one established at Kings Mountain in the State of South Carolina.

The PRESIDING OFFICER. Objection is made.

ST. DAVID, PATRON SAINT OF WALES

Mr. KING. Mr. President, the junior Senator from Pennsylvania [Mr. DAVIS] desires to occupy the floor for a few moments, and, with the consent of the Senator from Rhode Island, I yield to him.

The PRESIDING OFFICER. Does the Senator from Utah yield the floor?

Mr. KING. No.

Mr. DAVIS. I shall not ask the floor if the Senator from Utah has to yield it.

Mr. KING. If I lose the floor, I shall endeavor to get it again.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania.

Mr. DAVIS. Mr. President, to-morrow, March 1, will be St. David's Day, and Welshmen the world over, together with liberty-loving people of every nation, will observe the event in commemoration of the patron saint of Wales, who was a pioneer advocate of the doctrine of "liberty, justice, and humanity for the common people of the world," which he expounded back in the Dark Ages, when the absolute right of kings and the nobility was most firmly established and when expressed opposition to this principle of government meant torture and death on the axman's block.

However, St. David escaped this fate, and his inspirational message of liberty rang down through the years, to be culminated in such epochal documents as the Magna Charta, which was wrung from King John at Runnymede, the American Declaration of Independence, and the Constitution of the United States.

Celebrations in honor of St. David will be held in far-flung regions of the world to-night and to-morrow, but nowhere on the face of the earth will the saint's anniversary day be observed with more spontaneous acclamation than in the Principality of Wales itself, where formal and impromptu ceremonies will be held from Llanfairpwllgwyngyllgogerychwryndrobwllllandysiliogogogoch in the north to Pontllanfraith in the south, and many a toast and many a time-honored song will be offered to the memory of valiant St. David.

St. David's spirit fired the spark of liberty in the heart of Wales, and that gallant little nation fanned the flame of freedom until it spread to far-removed regions of the world, and particularly to the thirteen original States, upon which group this great Republic is founded.

But Wales gave more than the spirit of liberty to America. The homeland of St. David also gave its blood, brain, brawn, and energy to the cause of our national freedom and the economic and cultural progress of our Nation. Welsh blood flowed in the veins of Thomas Jefferson, author of the Declaration of Independence; John Adams and John Quincy Adams, Monroe, Harrison, Garfield, and Abraham Lincoln, the latter of whom traced his Welsh ancestry through his mother's side of the family.

Furthermore, 18 men of Welsh blood signed the Declaration of Independence, and Robert Morris, of Welsh ancestry, placed his fortune on the altar of liberty, so that the armies of Washington could carry on their fight against tyranny.

Chief among the Welshmen, who aided the cultural progress of our great Republic, we find the names of the following notables: John Harvard, who established Harvard University; Elihu Yale, founder of Yale University; the Rev. Morgan Edwards and Dr. Samuel Jones, who founded Brown University; John and Samuel Phillips, founders of Phillips Exeter and Andover Academies, and Colonel Williams, for whom Williams Academy is named. And last, but not least, Roger Williams, outstanding exponent of national tolerance, who founded no college but who taught the world the beneficial influences of fair play, religious lib-

erty, and freedom of thought and speech in the colony he founded and which he named Providence, as a mark of gratitude and appreciation for the Divine guidance he had received in the project.

Furthermore, much of the economic progress made by our Nation can be credited to the brain and brawn of Welshmen, who were pioneer developers of our iron, steel, and coal industries.

Mr. President, time does not permit further enumeration of our Nation's notables, who were linked by blood ties to Wales. In every crisis faced by our Nation from the American Revolution down to the World War, men of Welsh blood served our country in varied rôles of duty, some in high Government positions, and others on the battlefields and battleships. All of this, however, has been graphically set forth long ago on the floor of this hallowed Senate Chamber by a noted colleague of other days—the Hon. John Sharp Williams—who said that no other Nation on earth had done more for the development and the progress of our Nation than the valiant Principality of Wales, far across the Atlantic.

In conclusion, may I not suggest that St. David's day offers a fine opportunity for every American of Welsh ancestry to brush up his ideals on honest patriotism, love of liberty, and respect for the laws of our land, and to stand foursquare on the principles which were set forth at the birth of our Republic, namely the protection of life and property, the right of contract, and the right of free labor. Moreover, they can renew in their hearts the silent pledge that representative government shall not perish. They can summon to their aid in this regard, those homely virtues that were summed up by the ancient Druids and St. David in the motto of the Gorsed: "Y Gwir Yn Erbyn Y Byd," or "the truth against the world."

Mr. BLEASE. Mr. President, on last Sabbath day a lady who was born in the country of which the Senator from Pennsylvania has spoken celebrated her eighty-third birthday. She has lived in South Carolina since she was a small child. She is a good woman. She has rendered great service to her country in times of peace and war; and her children, both boys and girl, have been of credit to the State of South Carolina. I refer to Mrs. Kate A. Coates, of Helena, S. C. I ask to have inserted as part of my remarks the following article.

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

[From the Columbia (S. C.), State, of Friday, February 27, 1931]

CELEBRATES BIRTHDAY

NEWBERRY, February 26.—Mrs. Kate A. Coates, of Helena, Newberry County, celebrated her 83d birthday Sunday. A large number of her friends visited her during the day, taking remembrances. In spite of her advanced age, Mrs. Coates is very active and gives the impression of being much younger.

Mrs. Coates was born in Wales, England, and came to this country with her parents, Mr. and Mrs. Daniel Jones, while a small child. One sister, Emma Field, was born on board the ship and was named by the captain after the ship. She has a half-sister, Mrs. Maggie Bishop, in Laurens, and two children, Jesse Coates, of Virginia, and a daughter, Mrs. Nellie Coates Davis, who lives with her mother.

POSTING OF NOTICES OF CITIZENSHIP PETITIONS

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. 10672) to amend the naturalization laws in respect of posting of notices of petitions for citizenship, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

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

The motion was agreed to; and the Presiding Officer appointed Mr. JOHNSON, Mr. REED, and Mr. KING conferees on the part of the Senate.

MONONGAHELA RIVER, FAYETTE CITY, PA.

Mr. REED. Mr. President, there is on the Senate Calendar Senate bill 6232, providing for the construction of a bridge across the Monongahela River at or near Fayette City, Pa. A similar bill is on the House Calendar except that the House has stricken out sections 3 and 4 as found in the Senate bill. It will be impossible to reach it, I am told, unless the Senate bill can be messaged over to the House to-day. I do not understand why that is so, but that is represented to me to be the situation. I ask unanimous consent that we may consider the Senate bill, amend it according to the House bill, and then pass it. It is approved by the War Department and by the committee, of course.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (S. 6232) granting the consent of Congress to the counties of Fayette and Washington, Pa., either jointly or severally, to construct, maintain, and operate a toll bridge across the Monongahela River at or near Fayette City, Pa., which was read, as follows:

Be it enacted, etc., That the consent of Congress is hereby granted to the county of Fayette, Pa., or its board of county commissioners, their successors or assigns, and/or to the county of Washington, Pa., or its board of county commissioners, their successors or assign, to construct, maintain, and operate a bridge and approaches thereto across the Monongahela River, at a point suitable to the interests of navigation, at or near Fayette City, Pa., in accordance with the provisions of an act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906, and subject to the conditions and limitations contained in this act.

SEC. 2. If tolls are charged for the use of such bridge, the rates of toll shall be so adjusted as to provide a fund sufficient to pay the reasonable cost of maintaining, repairing, and operating the bridge and its approaches under economical management and to provide a sinking fund sufficient to amortize the cost of the bridge and its approaches, including reasonable interest and financing cost, as soon as possible under reasonable charges, but within a period of not to exceed 25 years from the completion thereof. After a sinking fund sufficient for such amortization shall have been so provided, such bridge shall thereafter be maintained and operated free of tolls, or the rates of toll shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair, and operation of the bridge and its approaches under economical management. An accurate record of the costs of the bridge and its approaches, the expenditures for maintaining, repairing, and operating the same, and of the daily tolls collected, shall be kept and shall be available for the information of all persons interested.

SEC. 3. The right to sell, assign, transfer, and mortgage all the rights, powers, and privileges conferred by this act is hereby granted to the county of Fayette, Pa., or its board of county commissioners, their successors, and assigns, and/or the county of Washington, Pa., or its board of county commissioners, their successors and assigns; and any public agency or corporation to which or any person to whom such rights, powers, and privileges may be sold, assigned, or transferred, or who shall acquire the same by mortgage foreclosure or otherwise, is hereby authorized and empowered to exercise the same as fully as though conferred herein directly upon such corporation or person.

SEC. 4. The rights, powers, and privileges conferred by this act upon the county of Fayette, Pa., or its board of county commissioners, their successors or assigns, and/or upon the county of Washington, Pa., or its board of county commissioners, their successors or assigns, are hereby declared to be conferred upon the two counties or their boards of county commissioners, their heirs, successors or assigns, either jointly or severally.

SEC. 5. The right to alter, amend, or repeal this act is hereby expressly reserved.

Mr. REED. I move to amend the bill by striking out sections 3 and 4.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Pennsylvania.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ISLE ROYALE NATIONAL PARK, MICH.

Mr. HEBERT obtained the floor.

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

Mr. HEBERT. I yield to the Senator from Michigan.

Mr. VANDENBERG. The Senator from South Carolina [Mr. BLEASE], to whom I have explained the difference in the Isle Royale bill, has agreed to withdraw his objection; and I ask unanimous consent for its present consideration.

The PRESIDING OFFICER. The clerk will read the bill for the information of the Senate.

The Chief Clerk read Senate bill 6221, to provide for the establishment of the Isle Royale National Park, in the State

of Michigan, and for other purposes, which had been reported from the Committee on Public Lands and Surveys, with amendments.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

Mr. BLAINE. Mr. President, reserving the right to object, I should like to see the bill that is now before the Senate disposed of, so that we may take up the bill relating to oleomargarine. If everybody gets unanimous consent to consider other measures during the discussion of the copyright bill, I can very clearly appreciate that there will be no opportunity to give any consideration whatever to the oleomargarine bill. So I think we ought to stay here to-night until we finish this bill and complete the important legislation that is before the Senate. I am disposed to begin now to object to every proposed unanimous-consent agreement.

Mr. VANDENBERG. Will not the Senator begin objecting immediately after this item?

The PRESIDING OFFICER. Objection is made.

AMENDMENT OF COPYRIGHT LAW

The Senate resumed the consideration of the bill (H. R. 12549) to amend and consolidate the acts respecting copyright and to permit the United States to enter the Convention at Berne for the Protection of Literary and Artistic Works.

Mr. HEBERT. I ask that we proceed with the reading of the bill as previously arranged; and then, if any question is raised as to the amendments proposed by the committee——

Mr. KING. Mr. President, I yielded to the Senator from Pennsylvania [Mr. DAVIS]. I understood he had the consent of the Senator from Rhode Island [Mr. HEBERT]. Then several others intervened.

The PRESIDING OFFICER. The Chair will recognize the Senator from Utah, although he yielded the floor.

Mr. KING. Yes; I did, but——

Mr. McNARY. Will the Senator yield a moment for an inquiry?

Mr. KING. I want to complete the reading of several paragraphs from the memorandum to which I was calling attention, because, as the matter is now, it leaves the statement incomplete.

Mr. McNARY. Mr. President——

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

Mr. KING. I yield.

Mr. McNARY. May I inquire whether an order has been made to read the text of the bill, or just the committee amendments?

The PRESIDING OFFICER. To read the text of the bill, upon the suggestion of the Senator from Rhode Island [Mr. HEBERT].

Mr. McNARY. Would not the Senator from Rhode Island be willing to amend his proposition by simply omitting the reading of the text and reading the committee amendments first?

Mr. HEBERT. Most assuredly, Mr. President. That was done at the specific request of the Senator from Utah.

Mr. GEORGE. Mr. President, I should be compelled, most reluctantly, to object to that.

Mr. HEBERT. I do not know but that there are other Senators on the other side who insisted upon the reading of the bill; and then I suggested that we limit ourselves to reading a section at a time.

Mr. DILL. Mr. President, it is useless to think that we can rush this bill by that method. This is a complete revision of the copyright law. I want to see a law passed; but there is nothing wrong about asking that this bill be read and taken up and amended as the Senator has secured consent to have done. The Senator from Utah [Mr. KING] suggested it, and I am in favor of it. I think we ought to legislate here in a deliberative way, because this proposed legislation affects every household in America. We might just as well understand that this is a legislative bill.

Mr. KEAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield?

Mr. KING. I yield, but I do not want to lose the floor.

Mr. KEAN. A parliamentary inquiry: I understood that the Senator from Utah yielded the floor when he yielded to the Senator from Pennsylvania [Mr. DAVIS] to make a speech. Then the Presiding Officer recognized the Senator from Rhode Island. Is that correct?

The PRESIDING OFFICER. That is correct; and the Senator from Rhode Island yielded the floor, and the Senator from Utah was recognized.

Mr. KING. The Senator from Rhode Island can not hold the floor. If he wants to speak, I shall be glad to yield.

I think the Senator from New Jersey is rather ungracious in commenting upon the fact that I yielded to the Senator from Pennsylvania. The Senator from Pennsylvania came and asked me if I would yield to him, and I said that if it met with the approval of those on the other side, and particularly the Senator from Rhode Island, I would yield. I did it as an accommodation to Senators upon the other side of the Chamber, including the Senators from Pennsylvania and my friend from Rhode Island. I want to be courteous to all Senators; but if, when a Senator is courteous and yields to other Senators, he is to be criticised for so doing, he may hesitate in the future as to the course to be pursued.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. KING. Mr. President, I am anxious to proceed with this bill and have it fairly considered and then acted upon.

I was calling attention to the criticism of this able legal writer of some of the provisions of the bill; and I yielded, as I stated a moment ago, to the Senator from Pennsylvania. I desire now to resume.

The author of the memorandum discusses the various copyright laws enacted since the beginning of our Government. I omitted, however, in the interest of brevity, his discussion of many of these enactments. I come now to the conclusion:

The revision of 1909 was not materially affected for consideration here by the amendatory acts of August 24, 1912, March 2, 1913, March 28, 1914, and December 18, 1919, which, therefore, need not be discussed.

Nor need we deal in this memorandum with the second and fourth Pan American conventions, ratified, respectively, in 1908 and 1910, whereby the United States sought to establish copyright relations with the Republics of Central and South America, as neither of these conventions have been made effective, due to failure of Congress to pass enabling legislation. It is interesting, however, to note that at the Fifth International Conference of American States which met last year at Santiago, Chile, there was adopted at the instance of the delegation from the United States, a resolution which is described in the recently published report of this conference, as follows:

"The delegation of the United States presented to the committee a resolution inviting the Governments which had not ratified the convention (the fourth Pan American) to do so, and furthermore, recommending to the Governments of all the American states *that the necessary steps be taken for the registering of the authors in each country and that such registration be given adequate publicity in order that merchants and other interested persons may know that such works are under the protection of the convention.*" (Italics ours.) (From p. 27 of the report by the American delegates to the Secretary of State.)

It is thus clear that the policy of maintaining a full and authoritative record of the grant of copyright has been continuous throughout the history of our country, and is applied to-day with equal force to foreign authors as to native authors.

Then follows a discussion of the adverse results that would follow our adherence to the union. I shall not take the time of the Senate to read, at the present time at least, the rest of this able exposition of the subject under consideration. I ask unanimous consent to print as part of my remarks the residue of the memorandum.

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

The matter referred to is as follows:

ADVERSE RESULTS THAT WOULD FOLLOW OUR ADHERENCE TO THE UNION

Besides the objection in principle to exempting foreigners from the requirements imposed by our law upon American authors,

there are grave practical inconveniences to which the native American would be subjected if this country were to adhere to the copyright union. The usefulness of the Library of Congress as affording a complete and reliable record of all grants of copyright in this country would at once be destroyed. The value of an official record of the grant or conveyance of any property lies in the dependence which the public is able to place in it as an authoritative record of all grants or conveyances. When exceptions are made by a government to its requirements for registry in such a record, the record instantly loses its character of completeness and can no longer be relied upon.

The exception of the large class of foreign authors from the requirements of registry at the Library of Congress would mean not only the exclusion of an official record of all grants of monopoly made by this country to foreigners under the union, but it would confuse the record of grants of monopoly to our own citizens. A book, for instance, by an American author and published in this country, but without compliance with the requirements of our law as to notice of copyright, registration, etc., and hence apparently in the public domain, would, nevertheless, be entitled to full protection here if the work had had its first publication in another convention country. The result might well be to mislead the public, naturally relying upon the copyright records here in connection with such works. Of course, the fact that the work had been first published in the foreign country—which was therefore the country of origin under the union—would not appear; nor could that fact be readily ascertained and verified.

However, it would be in connection with works of foreign authors that the most serious difficulties would result from our adherence to the union. There would be no public record in this country—as at present through registration—of the nationality of the foreign author, nor would such nationality, if it could be ascertained unofficially by investigation or otherwise, be of controlling effect in determining, as under the reciprocity proclamations, such author's right to protection here for his works. The determining factor would be whether the first publication of any given work had occurred in a convention country irrespective of whether the author was a citizen or subject of such country or living there at the time, and his nationality, if ascertained, would at most give only a clue as to where such first publication of the work most likely occurred. But the running down of such a clue would be a difficult and probably a time-consuming and expensive process, and if it did not lead to reliable facts regarding the first publication of the work, it might be necessary to pursue the international investigation in the various other convention countries in order to develop definitely the copyright status of the work.

Furthermore, the possession of a copy of the work from abroad bearing an indication of publication in a country of the union would merely furnish a similar clue and international investigation would still be necessary to determine legally whether that was the first publication of the work, and, if not, whether the first publication of the work had actually occurred in some other convention country so as to entitle the work to protection here.

Perhaps there might be indications on such a printed copy pointing to the author's being a Russian. As Russia is not a member of the union, and aside from the union has never enjoyed reciprocal copyright relations with the United States, the conclusion might then be drawn that the work was not entitled to protection in this country. Such a conclusion, however, would not be justified; for, as we have pointed out, not only are the works of natives of any of the countries which are members of the union protected, but the same protection is accorded the works of an author of any nationality who publishes the same for the first time in any one of the union countries. Thus, the Russian author in question might have first published his work in the Republic of Switzerland, although no indication of such origin might appear on the printed work itself, and in this event the unauthorized use of such work in this country would subject the American user to an infringement suit in our courts. So that one result of our entering the union would be that Russians, citizens of a country with whom the United States holds no intercourse, might, under the conditions just stated, secure copyright protection here, while American citizens would be denied protection in Russia.

Similarly, the natives of other nonunionist countries which do not have reciprocal copyright relations with the United States, and whose laws fail to give adequate protection to works of American authors, might be thus enabled to take advantage of the situation to gain protection here.

Another serious obstacle in the path of inquiry with regard to ownership in this country of any given foreign work would be the possibility that it might have been assigned after publication of the work, with no indication of such assignment nor the name of the assignee appearing on the work itself to afford even a clue to such ownership. In some cases not one but many assignments, by operation of law or otherwise, might have occurred by the time the American citizen desired to acquire or use the work. When it is borne in mind that the Berlin convention contains not only no provision for the registration of assignments but does away with all formalities, it would seem that the requirements of our own law on this subject (see secs. 42–46, act of March 4, 1909) would, in the event of our adhering to the union, have no application to assignments abroad of works first published in other unionist countries. The hardship thus imposed upon American citizens is obvious.

These are embarrassments which, of course, would be shared by all members of the public desiring to use any foreign work the copyright status of which they were concerned with. Adherence to the union would open a wide door to fraud of many kinds, and the American user, put to the necessity of investigation, would find that task more difficult than at present and perhaps impossible and be thereby discouraged from using a work which if in the public domain the law intended he should be free to use. Even under the carefully considered provisions of the existing copyright law in this country, it has been found that frauds have been perpetrated upon the public.

An illustration of this is found in the case of Bong *v.* Campbell Art Co. (214 U. S. 236). The suit was for infringement of copyright in a work of art which had been painted by one Hernandez and the rights in which had been assigned by him to the plaintiff, who had copyrighted the work relying upon the representation by Hernandez that he was a subject of Spain. Thus it was claimed that the work was copyrightable in the United States by virtue of the reciprocal copyright proclamation with Spain. In the course of the litigation, however, it developed that Hernandez's claim to Spanish allegiance was false and that he was in reality a citizen of Peru, a country whose citizens had "no right of copyright" in the United States. The plaintiff in relying upon the apparently bona fide representations of Hernandez had thus been fooled into purchasing alleged rights in this country which in reality did not exist.

To the difficulties of determining the copyright status of any known foreign work would be added the multiple dangers of innocent infringement of unknown foreign works. Our accession to the union would at once introduce into this country a vast body of copyright property of foreign origin, unknown to our citizens and unascertainable.

As under the union all of the intellectual works recognized by the Berlin convention would be protected here, many different industries and professions in this country would be confronted with the danger of unwittingly infringing such foreign copyrights.

Likewise in those classes of literary and artistic property now recognized alike by the law of the union and of this country there would be increased danger of innocent infringement. The users of foreign works are, of course, not confined to the book publishers. With all the contemporary literature of Europe and in the case of many countries that of several generations past protected in the United States, as it would be under the union, the opportunity of discovering therein a basis for the claim of copyright infringement is given an alarming extension and strong incitement afforded to the unscrupulous litigant, a danger against which the producer will be unable to effectively guard.

Under the present practice in this country it is a comparatively simple matter to determine in advance the prima facie copyright status of a foreign work it desires to mechanically reproduce and the name and address of the copyright proprietor with whom it must deal. Inquiry at the Library of Congress affords information as to whether or not a given work is duly registered, and if so, a certified copy may be obtained of the certificate of registration "* * * to contain the name and address of said claimant, the name of the country of which the author of the work is a citizen or subject, and when an alien author domiciled in the United States at the time of said registration, then a statement of that fact, including his place of domicile, the name of the author (when the records of the copyright office shall show the same), the title of the work which is registered for which copyright is claimed, the date of the deposit of the copies of such work, the date of publication if the work has been reproduced in copies for sale or publicly distributed, and such marks as to class designation and entry number as shall fully identify the entry * * *." (Amendatory act of March 2, 1913.)

Certified copies of the records as to assignments of copyrights can also be obtained. Moreover, the law at present provides that searches of the copyright office records will be made and the results reported by that office at nominal rates. The advantages of this system are apparent, and would to a large extent be lost upon accession by the United States to the union.

The sponsors of the proposed legislation which would involve the United States in the perplexities of this European convention have no concern, apparently, for those members of the American public who would thereby be subjected to great and unavoidable danger of infringement claims by foreigners. Great business enterprises in this country which have hitherto been enabled to reproduce for the American public, on the stage, on the moving-picture screen, on piano rolls, on talking-machine records, or on the radio the popular works of European authors and composers are now invited to discontinue this branch of their production or to operate it with no official record as a guide to the status and proprietor of such foreign works, and hence at the peril of being misled and subjected to continuous infringement claims.

There is no essential difference in this connection between the patent and copyright monopolies. No more reason exists for excusing foreign copyright proprietors from the requirements of our law as to notice of copyright, registration, and deposit of copies of their protected works than for excusing the foreign patent monopolist from the filing in Washington of his application for patent monopoly in the United States.

In article 2 of the International Convention for the Protection of Industrial Property (signed at Paris March 20, 1883; modified at Brussels December 14, 1900), to which the United States has adhered, the subject of international protection is dealt with as follows:

"The subjects or citizens of each of the contracting states shall, in all the other states of the union, as regards patents, industrial designs or models, trade-marks, and trade names, enjoy the advantages that their respective laws now grant, or shall hereafter grant, to their own subjects or citizens.

"Consequently they shall have the same protection as the latter and the same legal remedy against any infringement of their rights, *provided they observe the formalities and conditions imposed on subjects or citizens by the internal legislation of each state.*" (Italics ours.)

By virtue of Article IV of the same convention (as modified by the additional act signed at Brussels), the owner of a patent or trade-mark in any one of the contracting States is given a right of priority during a specified period in all the other States to secure protection therein. The period so prescribed for patents with respect to inventions is 12 months; and for industrial designs or models, and also for trade-marks, the period is 4 months. The only result of this provision, in so far as it affects international patent rights, however, is to allow the patent owner a specified period within which to make application in foreign countries and by complying with their formalities and requirements to secure for himself the same protection that is accorded citizens of those countries. No one else by prior application during the period in question can prevent such owner from perfecting his monopoly in the other member countries if he complies with the requirements of their respective laws.

It is obvious that under that convention the foreign inventor seeking monopoly in the United States is relieved from none of the requirements of our domestic laws; nor is it likely that any future modification of such convention will ever result in placing him, with regard to the securing of patent rights in the United States, in a more favorable position than the American citizen. Mere production and public use of an invention, or even publication of a description thereof, say in Switzerland, would never be accepted as the basis upon which patent protection would be automatically extended to the invention in this country. One can readily conceive of the outcry that would greet the proposal to admit foreign inventors to the privileges of American monopoly without any necessity on their part of formally applying for patent and making their rights a matter of official and public record. In the face of such a proposal every American manufacturer would be threatened with the danger of unavoidably infringing some foreign invention of which he had no knowledge or means of knowledge except the difficult, expensive, and uncertain means of investigation abroad, and would thus be left exposed to the attacks of foreign competitors and subjected to infringement suits in our own courts against which it might be impossible to establish any defense.

And if it be conceded, as it must be, that this country would never consent to foreign inventors enjoying a patent monopoly in this country without public record of their claims, on what ground can the grant of a similar monopoly to foreign copyright proprietors without registration be justified?

THE DANGER OF UNDULY EXTENDING MONOPOLY

The proposed legislation ignores the interests of the public in the subject of monopoly. The enjoyment of patent and copyright monopoly in this country to-day flows from the Federal Constitution and the laws enacted under it. The purpose inherent in the grant of monopoly in each of these branches of intellectual property is clearly expressed in the Constitution itself. Congress is there given the power "to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." (Art. I, sec. 8.) The grant of monopoly is thus subordinated to the clearly expressed purpose with which Congress is to act in authorizing such grants, and the grants are further to be only "for limited times."

Our Government has never since been unmindful of the fact that monopoly, being a grant against the public, should be carefully limited in accordance with the established principles of the law and should not be extended beyond the bounds of a just necessity. As Macaulay said in his address in the House of Commons on the Talfourd copyright bill, "Copyright is monopoly and produces all the effects which the general voice of mankind attributes to a monopoly." So Mr. Justice Matthews, in Butterworth *v.* United States (112 U. S. 50), after quoting the provisions of the Constitution above referred to, said, with reference to the patent law:

"The legislation based on this provision regards the right of property in the inventor as the medium of the public advantage derived from his invention; so that in every grant of the limited monopoly two interests are involved, that of the public, who are the grantors, and that of the patentee."

Pursuant to the principle of making available to the public the beneficial use of such intellectual works, Congress, in its first copyright and patent enactments in 1790, and ever since, has not only narrowly limited the period of monopoly but prescribed that every author or inventor desiring to secure monopoly rights should take the initiative and comply with certain formalities effecting an official record of each grant and work protected.

In the member countries of the union, on the contrary, international copyright vests automatically in the author or composer upon the mere production or first publication of his work. No declaration of his desire to enjoy a period of exclusive use of his work is required. The monopoly is thrust upon him.

Furthermore, the absence of any requirement under the law of the union for the printing of a notice or claim of copyright on each copy of the protected work would inevitably result in the unwarranted extension of the owner's monopoly and an indefinite exclusion of his work from the public domain. For where the published work contains no notice of copyright and no date to mark the beginning of the period of protection, the subject of monopoly is not earmarked, and members of the public, being without information from which to determine the expiration of the monopoly, would be slow to use what the law intended should be open to their use. Moreover, as there would be no official record of the grant, a claimed date of expiration could not be readily verified. Thus monopoly conceived under such a law would tend in practice to become unlimited.

Finally, as under the union, the deposit of copies of foreign works will no longer be required in this country in connection with copyright protection, the future collection of these works at the Library of Congress would be curtailed, and the American public denied the benefit of official copies for reference there during the period of the monopoly and for purposes of use and exploitation of the work when this period expires.

In the theory of our law the consideration for the grant of limited monopoly is that the public should have the free use of the author's work upon the expiration of the period of protection, and it is clear that this consideration will be withheld, or at least its purpose will be impaired, if foreign works are to be granted protection in the United States, but no public record made thereof and no requirement exacted that the work should be disclosed through publication here and that copies circulated here should bear the customary notice of copyright, including the year from which the term of monopoly runs. Copyright on such a basis would not tend to carry out the underlying object expressed in the Constitution—"to promote the progress of science and useful arts"—nor would it mean the securing of protection "for limited times" only; for the copyrighted work, being in the nature of a secret monopoly, would tend to secure for itself an indefinite term of protection, extending perhaps far beyond the period prescribed by law. Such a condition of the law, favoring the monopolist at the expense of the public, would be repugnant to the basic principles of our Government.

The radical character of the proposed legislation is indeed such as might call in question its constitutionality. This is a question, however, which lies beyond the scope of the present memorandum.

One further feature of the proposed legislation must be noted as particularly menacing to the public interest. Instead of limiting the effect of the new law to works produced in foreign countries after the date of our accession to the union, the bill proposes that upon that accession copyright shall at once extend in this country to all works in which foreign copyright subsists at such date.

A work of foreign origin can now secure copyright in the United States, if otherwise entitled thereto, only by first or simultaneous publication, or the equivalent of simultaneous publication, in this country. Our courts and those of Great Britain have consistently held that where a work is first published abroad it is thereby rendered publici juris and available to the public in all countries where simultaneous publication or the equivalent has been omitted, and any subsequent publication in one of those other countries will not restore the author's rights, which have been lost to the public there. (Among the authorities so holding, the following may be noted: Universal Film *v.* Copperman, 212 Fed. 301; Savage *v.* Hoffman, 159 Fed. 584; Daly *v.* Walrath, 40 N. Y. App. Div. 220; Bouccicault *v.* Wood, 2 Biss. (Ill.) 34; Clementi *v.* Walker, 2 Barn. & Cr. 861; Guichard *v.* Mori, 9 L. J. Ch. O. S. 227; Jeffreys *v.* Boosey, 4 H. L. C. 852; Bouccicault *v.* Delafield, 1 Hem. & M. 597; Bouccicault *v.* Chatterton, 5 Ch. D. 267; Page *v.* Townsend, 5 Sim. 395.) This is undoubtedly true under our copyright act of 1909, the word "publication" in the clause in section 9 providing "that any person entitled thereto by this act may secure copyright for his work by publication thereof with the notice of copyright required by this act," clearly meaning publication in this country and not abroad. (See discussion of this point in Weil, pp. 270–286.)

Under our existing copyright law, therefore, every copyrightable work which has been first published in any foreign country and not simultaneously published in the United States has fallen into the public domain and become available for use and exploitation by the American public. The advocates of our accession to the union now propose that the American public be deprived of its rights in such works, and that copyright protection be automatically conferred at this late date on the vast number of such works for the benefit of the foreign authors and composers and their assignees. The great wealth of foreign material still untouched by American hands is to be lifted out of the public domain and given over to monopolistic ownership.

This was the very thing which our Congress, in its revision of the copyright law in the act of 1909, sought to guard against when in section 7 thereof they stipulated:

"That no copyright shall subsist in the original text of any work which is in the public domain, or in any work which was published in this country or any foreign country prior to the going into effect of this act and has not been already copyrighted in the United States * * *."

The present Congress, however, is asked to reverse this policy and to advance the interests of the foreign authors at the cost of the American public and to increase the drastic effect of the proposed legislation by making it retroactive as to all foreign works uncopyrighted here which have not actually been made the subject of use by American citizens.

The objections to the enactment into law of the proposed bill are thus seen to rest on fundamental grounds. The advantages which membership in the union offers to American citizens are nebulous. By the reciprocal copyright relations already established with other nations under our existing law a just and wide protection to American authors is afforded in foreign countries,

and nothing vital to adequate protection would be gained by our adherence to the union.

Advocates of adherence to the union have beclouded the issue with argument directed to the agreeable theme of world-wide uniformity in the grant of international copyright, uniting the authors of the world in a common fraternity of privilege. Such argument when applied to America is beside the question. By section 8 of the act of 1909, as formerly by section 13 of the copyright act of 1891, the President, at any time when investigation discloses that the just demands of reciprocity have been complied with by any foreign country with whom no copyright relations then exist, may proclaim that citizens of that country are entitled to all the privileges of American law, and such foreigners may therefore, by complying with the practical requirements of publication with notice of copyright, of registration, and of deposit of copies, place themselves on a parity with American authors. What more can foreigners justly ask of this country?

The extension of the right to copyright in this country to citizens of foreign countries not now enjoying the same, while not objectionable in principle, does not demand or warrant the extreme means proposed—involving incalculable loss and hardship to the American public and the advancement of foreigners to a more favorable copyright status than that of our own citizens—but should proceed in accordance with our own existing law and established policy.

Mr. KING. For the present, Mr. President, that is all I care to say.

REPORT OF COMMISSION ON SOCIAL SERVICE OF SOUTHERN BAPTIST CONVENTION

Mr. SHEPPARD. Mr. President, I submit for publication in the RECORD the Twenty-second Annual Report of the Commission on Social Service of the Southern Baptist Convention, made at the seventy-fifth session of that convention at New Orleans, La., May 14 to 18, 1930.

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

TWENTY-SECOND ANNUAL REPORT OF THE COMMISSION ON SOCIAL SERVICE OF THE SOUTHERN BAPTIST CONVENTION

As usual your commission limits its report to a few of the many things which might appropriately be dealt with in a report on social service. Necessarily the report must come within reasonable limits, and necessarily, therefore, many things that might be dealt with must be omitted. Only those things which for the time being seem most important and vital can be considered.

BROADCASTING PRIVILEGES

Immediately following the adoption of the last annual report of your commission the following resolutions were offered by John S. Ramond, of Louisiana, and adopted by the convention:

"Whereas reports in the public press indicate that the Federal Council of Churches in America announced at a recent convention their purpose and plan to secure contracts with radio broadcasting stations and organizations whereby no church service can be broadcast without the approval of the council; and

"Whereas such control of radio church services would be inimical to our church and denominational broadcasting services; therefore, be it

"*Resolved*, That we request our social service commission to look carefully into this matter and, if the facts justify, to make a vigorous protest to the Federal Radio Commission in our behalf."

In pursuance of this instruction the chairman of your commission took up this matter by correspondence with the editor of the Presbyterian paper, on whose editorial the resolutions were based, and also by personal conference with one of the chief officers of the Federal Radio Commission in Washington City. The correspondence with the editor revealed the fact that possibly the editorial was not so securely founded on fact as at first the editor had thought. The conference with the officer of the Federal Radio Commission brought from him the statement that the Federal commission has no control over broadcasting stations or companies, except to license them and to revoke licenses if in any case the broadcasting privilege should be abused by the use of improper or indecent language or by broadcasting matter not proper to be put "on the air"; that when a station or company is once licensed the Federal commission has no voice as to who shall use it or as to the manner of its use, except within the limits indicated; that the Federal commission had no knowledge or information to the effect that the Federal Council of Churches was planning such monopoly as had been suggested and that such monopoly would hardly be possible if attempted.

GREATER USE OF THE RADIO BY SOUTHERN BAPTISTS SUGGESTED

Our experience in looking into the foregoing matter has directed our attention to the fact that our Baptist people are not making as much use of the radio as we believe they should. It is good that a very considerable number of our churches have stations or broadcasting privileges over local stations, either for all their services or a part of them. But a larger number, if possible, should "go on the air." The radio is one of the largest factors in our present-day life. Instantly at any moment any bit of information, all the way from the most serious, heart-moving appeal of the gospel to the advertisement of tooth paste, can be conveyed to millions who "listen in." Surely our churches and pastors ought to make the most of this most modern and most powerful and most appealing means of communication.

It is not the function of the Commission on Social Service to suggest plans for the general promotional work of the convention, which work has been intrusted to the executive committee. With no thought of going out of its sphere your commission would express the hope that the executive committee, or whatever promotional agency the convention may at any time set up, may think it expedient and find it possible to establish a great central broadcasting station over which the work of the convention may be broadcast, accompanied by a deeply spiritual and a mightily appealing religious service. The hundreds of thousands of Baptist homes which have receiving sets could immediately be informed of, and in large measure enlisted in, the plans and tasks of this convention and of the progress of the Lord's work throughout the world. Surely our Baptist people would be more interested in such a program and in a "Southern Baptist hour on the air" than in the disgusting jazz and tawdry advertisements which daily pollute the air. It may well be doubted whether Southern Baptists can so well invest elsewhere the amount of money necessary for the establishment of such a station or the rental of the broadcasting privileges for an hour each day, or at least two or three times a week, from some station already in operation.

INDUSTRIAL RELATIONS

The partial reports which have been published of the recent United States census show that more and more the South is becoming industrialized. All of the industrial towns and cities show decided gains in population, while the purely rural and agricultural sections, and even towns supported wholly by agriculture, with few exceptions, show losses. This mass movement from the farm to the town and city, like all other mass movements, is fraught with tremendous consequences. Mass movements are not always easily understood and they are practically beyond our control. Much might be said concerning the effect of this movement on our church life, both in the town and the country, and upon our whole social order. One thing is certain—we are rapidly being confronted with all of the problems of evangelization and of industrial justice which are ever attendant upon rapid industrial development and characteristic of large industrial centers.

In its annual report submitted at the last annual session of that body, the Commission on Social Service of the Georgia Baptist Convention included a section devoted to industrial relations which, in the judgment of your commission, is so wise, sane, and just that portions of it are quoted and made a part of this report. We quote from this report both because it so happily and so well expresses our own views and what we believe to be the views of this convention, and also as indicating that our Baptist people are coming to be interested and alert about these matters and are demanding that the spirit of justice and good will shall prevail in the conduct of industries. Capital and labor must each see the interests and rights of the other; employer and employee must cooperate together and serve each other in the spirit of the golden rule; the mandates of the Christian religion must prevail in our whole social order if we are to have social peace and prosperity.

We quote from the Georgia Baptist Commission on Social Service, as follows:

"An underwage is a fruitful mother of poverty, disease, immorality, and crime. Long hours, low wages, docile labor is an economic mistake. A man's wage should be enough to support himself and his family in reasonable comfort. A wage that will not furnish a decent living for a man and his family is a social wrong. A fair wage to the workmen who produce it is a legitimate item in the sales price of any commodity; and the consuming public is willing that it be included, as in justice it ought to be.

"This commission recognizes the inalienable right of labor to organize, to bargain collectively, and to be represented at the council table by representatives of their own choosing. Capital and labor have equal right in organization. A lone workman is not on an equal trading basis with a big mill owner; he is helpless. The good wages that obtain in nearly all lines of industry are due to the work and influence of American organized labor.

"The religious forces of the South and of the Nation are standing for a shorter workday for mill operatives, for better wages, 'a fair day's wage for a fair day's work,' for the elimination of 'stretch-out system,' for the protection of the older children, and for the gradual and complete elimination of night work for women and children.

"In this connection we are glad to note that many of the leading textile industries have foreseen the necessity and the duty of considering the rights and welfare of employees as of paramount importance in the administration of their mills. * * *

"We strongly commend the justice and the wisdom of generous consideration for the personal and family welfare of mill operatives. We can not forget that the millions dependent on their labor in the mills of the South are predominantly Baptist people.

"In the most Christian spirit we urge these considerations upon our southern mill owners We are firmly convinced that in the long run they would be promotive of industrial prosperity and industrial justice as well."

LYNCHINGS DECREASE BY ONE

In keeping with its custom, the Tuskegee Institute, Tuskegee, Ala., has kept a record of the number of lynchings which occurred in the United States for the year 1929. A letter from the president of the institute, dated December 31, 1929, gives the following statement of facts:

Ten persons were lynched during the year 1929, 1 less than the number for 1928, 6 less than the number for 1927, 9 less than the number for 1926, and 7 less than the number for 1925. Six of the persons lynched were taken from the hand of the law, 5 from

jail, and 1 from officers of the law outside the jail. There were 27 instances in which officers of the law prevented lynching, 3 of these in the Northern States and 24 in the Southern States. In 24 cases the prisoners were moved and special care taken to see that they were not harmed. In 3 other instances armed forces were used to quiet mobs. Twelve white men, 20 negro men, and 2 negro women were saved from death at the hands of mobs. Of the 10 persons lynched last year 7 were negro and 3 were white. The offenses were as follows: 3 for raping, 2 for writing insulting notes, 1 for murder, 1 for wounding a man in a quarrel, and 2 for wounding officers; 1 not reported. The States in which the lynchings occurred are as follows: Florida, 4; Kentucky, 1; Mississippi, 1; Tennessee, 1; and Texas, 3.

We rejoice to note that the number of lynchings for the year shows a decrease of one over the previous year. But we shall not be satisfied until this foul blot is entirely removed from the garments of our civilization. Under our form of government and the guaranties of our Constitution, both Federal and State, every individual, no matter with what crime charged, is entitled to a fair and impartial trial under constituted authority, and punishment is not to be administered except by the due processes of law. As long as this sacred and fundamental principle is violated our civilization is in jeopardy. Mob law is no law; mob law is anarchy; mob law brings utter confusion and chaos. It will be observed that every one of the lynchings which occurred in 1929, occurred within the bounds of this convention. This very fact lays upon our Baptist people a heavy responsibility. Law must be upheld; lynchings must be stamped out. It lies largely within the power and influence of the Baptists of the South to create a respect for law and for the orderly processes of justice that will make lynchings impossible and to secure for every individual of whatever color, or of whatever station in life, the sacred rights which are guaranteed under constitutional and orderly government.

PROGRESS IN WORLD PEACE

Tuesday, April 22, the Naval Disarmament Conference between Great Britain, Japan, France, Italy, and the United States, the five great naval powers of the world, which had been in session in London for three months, came to a close and the treaty which had been agreed upon was signed by the representatives of these five powers. From published reports it appears that this conference did not accomplish all that we had hoped for, nor all that ought to have been possible, in view of the fact that all of the governments represented in the conference have ratified the Briand-Kellogg treaty renouncing war and pledging all signatories thereto to use only peaceful means in the settlement of international disputes or differences. But war has long been rooted in the thinking of the world, and it will require time to remove all feelings of suspicion and fear, and securely to establish the spirit of peace among all the nations.

While the conference did not accomplish all that we hoped for, apparently it did accomplish much. As this report is prepared, the terms of the treaty have not been published. But the President has given to the press a statement summarizing what he considers the results of the conference and the benefits that will come from the treaty. According to the President's statement, the treaty brings a perfect understanding between Great Britain, Japan, and the United States as to the matter of naval construction and removes the possibility of competition in the naval program of these three great naval powers. The President estimates that the actual money saving to these three countries will be $2,500,000,000, of which the United States will save $1,000,000,000. The President points out that under the terms of this treaty the United States will have to spend within the next six years between $550,000,000 and $650,000,000 to attain parity with Great Britain, whereas on the basis of the Geneva conference in 1927, the United States Government would have been compelled to spend between $1,400,000,000 and $1,640,000,000 within a similar period to have reached parity with Great Britain. The President points out that the removal of competitive naval construction will remove attendant fears, suspicion, and international friction.

Some questions between France and Italy were left unsettled and will be matters of further conference and negotiations. But in the judgment of your commission, the London conference marks another long stride toward permanent world peace. We can not but express the hope that the United States Senate will promptly ratify the treaty as submitted to it by the President. We are morally certain that the great bulk of public opinion in the United States utterly detests and abhors war and zealously espouses the cause of peace. In the free, frank, and open discussions which are had in international conference the cause of world peace will find one of its best supports and means of promotion. It would utterly misrepresent the spirit of the United States of America if the United States Senate should fail to ratify or even quibble about ratifying any international treaty which both in its purpose and in its terms is calculated to reduce the likelihood of war and to promote the spirit of fraternity and peace among the nations of the world.

PROHIBITION ENFORCEMENT

The enforcement of national prohibition is making steady progress in spite of the news and editorial columns of the wet press and in spite of the hue and cry of the wets. The Commission on Law Enforcement and Observance appointed by the President, after months of study and survey, has made a partial report recommending the enactment of a few laws calculated, in the judgment of the commission and of the President, to strengthen the hands of the administration and to make enforcement more effective. This recommendation was passed on by the President to Congress. The laws proposed are as follows: First, the transfer of the functions of detection and prosecution of prohibition cases from the Treasury Department to the Department of Justice; second, a measure to provide relief from congestion in the courts; third, extension of Federal prisons and a more adequate parole system and other modern treatment of prisoners; fourth, reorganization of the border patrol in order to consolidate various agencies so as effectually to prevent illegal entry both of aliens and goods; fifth, an adequate prohibition enforcement law for the District of Columbia.

On April 28 the President sent a special message to Congress reciting the progress made toward the enactment of each of these measures and appealing to Congress for speedy enactment of the proposed legislation. It ought to be considered the least that Congress could do to enact promptly all legislation necessary to aid and make effective the efforts of an administration honestly seeking to uphold and enforce the Constitution and laws of our Nation and to conserve the best in the economic and moral life of our people. Your commission would express the earnest hope that Congress may heed this special appeal of the President and speedily enact the desired legislation.

LET THE STATES DO THEIR DUTY

The one great hindrance which has handicapped national prohibition ever since its enactment 10 years ago has been the attitude of the States. States which already had State prohibition, immediately upon the enactment of national prohibition, slackened their efforts for the enforcement, even of their own laws; other States that were wet assumed the attitude either of noncooperation with the Federal Government or of open defiance. This, too, in spite of the concurrent power clause in the eighteenth amendment. As citizens we should see to it that the dry States do their duty, both in the matter of enforcing their own laws, in the exercise of the concurrent power conferred upon them by the eighteenth amendment, and in cooperation with and support of the Federal Government. If the States which were already dry will do their duty the Federal authorities will be free to devote themselves mainly to the enforcement of the law in the rebellious wet States. In this contest between the Government of the United States of America and those States which have set up a modern "whisky rebellion," it is earnestly to be hoped and confidently to be expected that the Federal power may prevail, and that our system of National Government under which the Federal Constitution and Federal law are supreme in all matters with which they deal, shall not break down. Our system of Government is now undergoing a test, if not a crisis. If the authority and powers of the United States may be openly challenged and defied by any State when the Constitution of the United States has been amended in the regular and orderly way and by the exercise of the sovereignty and power of each State acting in its own capacity through its own constituted legislature, as provided in the Constitution, then our Union of States will fall to pieces and we shall have confusion and ruin.

"GOOD FIGHTING ALL ALONG THE LINE"

In the language of the Confederate officer to the Confederate soldier of whom the lamented J. B. Gambrell, one of our greatest soldiers in this warfare and many years a member of this commission, used to tell, "There is good fighting all along the line." It may well be doubted whether the forces of lawlessness have ever before been so rampant, so defiant, and so insolent as they are at present. They are multiplying organizations and amassing huge sums of money. They are openly defiant of law and the officers of the law; they are insolent toward all constituted authority; they stop at nothing and scruple at nothing in their efforts to destroy law and order and to besmirch and blacken the names of public officials, of ministers of the gospel, of the churches, of the Anti-Saloon League, of the Woman's Christian Temperance Union and of all other individuals and organizations standing for law enforcement and law observance. If any of our people were lulled to sleep or carried away with the delusion that the fight against liquor was all over and that the lawless element would quietly submit to the will of the people and to the authority of government they have had a rude awakening and a sad disillusionment. Perhaps more than ever before we have come to a time to try men's souls in this cause which has its countless martyrs and may have many others before the day of final victory.

OPEN DEFIANCE ADVOCATED—ARMED REBELLION HINTED

As illustrating the extremes of unreason, fanaticism, and desperation to which the advocates of liquor are now driven, we cite two instances:

Representative JAMES M. BECK, of Pennsylvania, made an address in New York on April 13. He is quoted by the press as saying, "That revolt against the eighteenth amendment 'involves no disrespect to the Constitution of the father.'" In other words, a Member of Congress of the United States, sworn to uphold the Constitution of the United States, declares openly for defiance of the Constitution. In this Mr. BECK is only one of a type and represents the attitude of the defiant liquor element in Congress and out.

Henry H. Curran, president of the Association Against the Prohibition Amendment, on Wednesday, April 16, testified before a committee of the Senate investigating the lobbying activities of various and sundry organizations. In reporting the testimony of Mr. Curran a Washington dispatch says: "Asked if he would favor 'armed revolution' against the prohibition law, Curran replied that 'we will cross that bridge when we come to it.' He

added that there already was 'armed revolution' so far as some of the prohibition officers were concerned."

Thus it appears that Mr. Curran and his organization have in their minds armed rebellion as an ultimate step which they may take in their fight against the Constitution and laws of the United States, and that Mr. Curran regards the faithful and sacrificial efforts of law enforcement officers as on a plane with "armed revolution." We can not believe that in this Mr. Curran represents a majority of American citizens who, for one reason or another, are opposed to national prohibition. Of one thing we are certain, if it should come to that, and if the Constitution and laws of our Government could not be vindicated and upheld in any other way than by force, the spirit of American patriotism would not fail.

WET AND DRY HEARINGS

The wets always seize upon the meeting of Congress as a time and opportunity favorable to agitation and propaganda, because when Congress meets the ear of the people is turned toward Washington. Many bills are introduced in Congress for the modification or repeal of the eighteenth amendment or of the national prohibition code, for which bills the proponents have no hope of their ever being reported out of committee, much less of their being enacted into law. These bills are introduced solely for the purposes of agitation and propaganda. Many such bills have been introduced in the House of Representatives of the present Congress and referred to the Committee on the Judiciary. The chairman of this committee, Mr. GRAHAM, a dripping wet, without the authority of the committee or any action by the committee, ordered public hearings to be held on these bills. In a thoroughly unjudicial and partisan address in opening the hearings, in which he denounced prohibition, Chairman GRAHAM said it was proposed in these hearings to give those opposed to prohibition an "open forum" in which to present their side of the case to the American people. Such a conception of the purpose and function of high legislative committees need not be commented upon. The hearings lasted from February 12 to April 23. The wets made their usual amount of noise. It is enough to say that every argument presented by the wets was answered overwhelmingly by the drys and that, in addition, a great array of facts, scientific, industrial, commercial, and moral, was presented by the drys in support of the existing order. The hearings were staged by the wets as a means of wet propaganda. It is sufficient to say that they received much more than they asked for or desired.

STRAW BALLOTS

One of the approved methods of the wets for keeping up agitation is the straw ballot. It may be that some engage in this sort of thing without distinctively wet motives; if so, they are misguided, and their methods none the less irresponsible and foolish. The most pretentious and extensive effort in this field has recently been put on by an enterprising public journal which vehemently protests its own impartiality; and yet many of the comments made by this periodical on the figures of its poll seem to have a wet slant. The whole method is foolish and subject to serious question. Perhaps the highest motive that could be accorded such a performance would be to say that the journal saw an opportunity for a nation-wide advertising scheme and circulation campaign and was willing to commercialize a great moral cause for its own financial profit. To ask people to vote on whether they would have our laws so changed as to allow what the Constitution plainly forbids is to ask them to vote on nullification, and this is no compliment to the patriotism of the American people. The compilation of three or four million anonymous straw ballots from chosen lists, mainly in big wet centers, can not in any degree be regarded as expressing the solemn conviction of the American people on a great question of public policy on which they have repeatedly expressed themselves at the ballot box. It is sufficient to add that in 1922 this same public journal took a straw ballot on prohibition and almost immediately following that several of the States which had been listed as dripping wet by this journal gave overwhelming dry majorities in the regular election.

Concerning the futility and ineffectiveness of such straw ballots we quote the Atlanta Constitution, which, like many of our papers in the large centers, has recently been fighting prohibition tooth and claw, and which recently attempted to put on a straw ballot itself. In an editorial on Wednesday, May 7, the Constitution says, "Whether the people are a majority for the policy of amendment or want a new treatment of liquor problems can not be assumed from straw votes or even from court decisions. Hence the country must accept the congressional elections as the best barometer of public sentiment. As long as Congress is dry by decisive majorities in the Senate and House one must believe that the people want prohibition and want it enforced to the limit."

Others may have their straw ballots; the friends of prohibition, sobriety, and good government will have their ballot at the ballot box in November and will elect Senators, Representatives, governors, and other public officials unhesitatingly committed to the perpetuation and enforcement of our prohibition laws.

THE NATIONAL PROHIBITION SURVEY

A young man came down recently from New York to Atlanta and took elaborate offices under the name of the National Prohibition Survey. He has announced that the organization is backed by impartial men in New York and Chicago; that the plan will be to send a questionnaire to every voter in the United States; that the survey is to be entirely neutral and impartial and will cost the modest sum of $7,000,000. Apportionments have been made, or will be made, to each State, which will be expected to raise its quota; governors and others prominent in public affairs, will be asked to serve on the advisory board; Georgia's quota is $45,037.60.

The character and objective of this organization can readily be seen by the questions to be submitted and by the fact that gentlemen in New York and Chicago come to Atlanta, the largest city in the Southeast and in the heart of the dry South, to put on their benevolent and unselfish campaign in the interest of humanity. Among the questons to be submitted to the voters are these: "11—Would you approve a national referendum after a presidential election? 12—Do you believe in State rights on the liquor question?" If these gentlemen were reasonably well informed as to the principle of our Government, they would know that there can be no such thing as a national referendum on this or any other provision of the Constitution and laws of the United States. Doubtless they do know this and know that all talk about a national referendum is intended to undermine one of the most fundamental principles of the Government of the United States. The Government of the United States is not a government of direct powers in which the voice of a popular majority controls; it is a government of States; it is a government of derived or delegated powers.

All of the hue and cry about a national referendum has as its motive the desire to give New York, Chicago, and other centers of drink and crime the power to break down State rights and State sovereignty in determining all questions of Constitution and law under our Federal system. And yet in the next breath those who raise this hue and cry extol State rights. We already have exercised State rights in the settlement of the liquor question. The highest expression of State rights is the act of the sovereign States in amending the Constitution of the United States. The States have acted and in their sovereignty they have said that the commercialized liquor traffic shall be banished forever from this Republic.

Our people will not be fooled or trapped by "the National Prohibition Survey," or any of the so-called neutral and impartial movements devised by our friends in New York and Chicago "to find a satisfactory solution of the liquor problem." There is no neutral ground in this war. It is "war to the knife and the knife to the hilt" between the forces of sobriety and orderly Government on the one hand and the forces of liquor and lawlessness on the other. A safe rule is to ignore all irresponsible straw ballots and movements and not to be overmuch influenced by what appear to be the returns of such ballots or movements, but to do full duty at the polls and see to it that nobody but patriots are on guard.

THE POLICY OF INTIMIDATION

The policy of intimidation is now one of the choice weapons of the wets. If they can browbeat and intimidate the preachers and churches; if they can successfully and securely brand as "lobbyists" and political corruptionists groups and organizations of good citizens who seek the enactment and enforcement of laws for the suppression of evil and the promotion of public morality, they expect to have easy sailing in their efforts to defy and break down all such laws. If we are a set of cowards, we will yield to their onslaughts and surrender before their attacks; if we are men and patriots we will assert our rights, repulse their attacks, and courageously and successfully defend the cause of good government and of laws enacted for the promotion of the peace and moral welfare of the people.

THE RIGHT OF PETITION VERSUS LOBBYING

Concerning the right of petition versus lobbying, we quote a statement issued a few weeks back by the National Conference of Organizations Supporting the Eighteenth Amendment. This statement is prepared by the chairman of your commission and expresses the conviction of your commission and the conviction we believe of our Baptist people in general and of all good citizens. It is as follows:

"The improper use of money or influence in any form by selfish and sinister persons or organizations for corrupt ends with the public servants of the people, whether legislative, judicial, or executive, can not be too strongly condemned or too promptly uncovered and punished. On the other hand, the right of petition and remonstrance is happily and securely embodied in the bill of rights, is one of the prime marks distinguishing a democracy from an autocracy or oligarchy, and is one of the foundation stones and safeguards of our Republic. To characterize the exercise of this right as lobbying in no way alters or abrogates the right as one of the guaranties of our liberties. Honest, patriotic, public-spirited citizens, both as individuals and by groups and organizations, have the inalienable right to make their will concerning any matter of public policy known to their public servants.

"It will be a sad day for us and will mark the day of the decline, if not the doom, of our Government when our public servants are too weak to resist the corrupt and corrupting lobbyist who would turn them aside from the path of duty and right, or when they are too proud to hear and consider the judgment, will, and desires of good and honest citizens and organizations properly and appropriately expressed.

"Citizens and organizations of worthy, patriotic, and unselfish motives and purposes, who seek the good of the people and of the Republic have nothing to cover or to conceal and nothing to fear from the searchlight of publicity whenever turned on. Let those who would turn on the searchlight be sure that it is so

directed as to reveal the activities and organizations which are openly committed to a course of defiance of and rebellion against the established policies of the Government and who would make barter of the health, happiness, and prosperity of the people."

REAL LOBBYING—INCLUDING AN ATTACK ON THE SUPREME COURT

While the lawless liquor element are seeking to brand preachers and churches and all other supporters of the law and order as "lobbyists," they themselves persistently carry on their nefarious, under-cover work and engage in lobbying of the worst and most offensive and corrupting character. At a recent session of the Senate lobby committee there were produced and read three letters which were written in 1929 by Thomas W. Phillips, of Pennsylvania, a director of the Association Against the Eighteenth Amendment. In an editorial headed "An astounding story," the Religious Herald, of May 1, comments on this episode as follows:

"Two of these [letters] were addressed to Justice Stone, of the Supreme Court, and a third to the late Justice Sanford, the letters to Stone, dated April 2 and 9, and the one to Sanford, March 30. They consisted largely of an attack on the prohibition law. Mr. Phillips is represented as saying that the Association Against the Prohibition Amendment had nothing to do with his letters, but Mr. Henry H. Curran, president of the association, declared that he approved them.

"Senator ROBINSON of Indiana said: 'It is the most amazing thing I have ever heard of. You are lobbying directly to the United States Supreme Court, apparently to influence that great court in its decisions. I have never heard of such a thing in a good many years of the practice of law.' Some notion of the impropriety of the correspondence may be gathered from this paragraph which occurs in the letter to Justice Sanford: 'I have but little doubt that if the judiciary lies down on its job and follows the mob along the lines of least resistance our form of government is doomed.' Or from these paragraphs addressed to Justice Stone: 'It is indeed unfortunate that so many men in public life, especially those who have served for years and years in Congress, in executive positions, and on the bench, become for all practical purposes out of touch with the busy workaday world. * * * In order to give you perhaps a new slant as to how some men are thinking and talking, a few days ago in the course of my conversation with an exceptionally keen young attorney, I ventured to remark that there were very many serious and far-reaching constitutional questions relating to the eighteenth amendment and enforcement measures that have never been submitted to the Supreme Court.' His comment took the form of a question, 'Do you have any idea that the Supreme Court, as now constituted, would have the moral courage to go into this question thoroughly?'

"The fact is that the whole business of the Association Against Prohibition seems to be in the control of a group of very rich men, and their representatives and associates evidently act under the impression that nothing that they do is likely to be called into question. We confess that we are not intimately acquainted with the rules of procedure which obtain between outsiders and our courts, but we had always supposed that any attempt to influence the decisions of our judges, save through the prescribed methods and under due legal form, was a grave impropriety. But of course, these extremely wealthy gentlemen are beyond the reach of the law, as they imagine, and the men whom they hire are similarly arrogant. Up to this time certainly the wets are fully welcome to all the results which have followed their attempt to bring their affairs to the attention of the public."

MEETINGS AND WORK OF THE COMMISSION

Your commission has had one meeting during the year, aside from the meeting held in New Orleans for the approval of this report. In keeping with the instructions of the convention the Sunday school board has defrayed the necessary expenses of the commission, for which we are deeply grateful. Throughout the year, as heretofore, the chairman has given as much time in the field of social service as he could do without neglecting his regular duties. Much of this has been possible without expense to the commission because of the chairman's connection with the Anti-Saloon League of America and the National Conference of Organizations Supporting the Eighteenth Amendment.

WORK OUGHT TO BE ENLARGED

It is perfectly clear to your commission that, in view of the present tense situation in our fight for the permanent and complete success of prohibition and in view of the many other things which need to be done in the field of social service, we ought to enlarge and strengthen our work. Several times in the past the convention has authorized the commission to make personal approach and appeal for funds adequate for a reasonable social-service budget and to employ some one to give all his time to the work. The commission has hesitated to take this step because of the pressing needs of other interests and the crowded condition of our denominational program. At one time the convention took specific action instructing the promotional commission to put a percentage in the budget for this work. But in the press of things the instruction of the convention was not carried out.

Many of our people have funds that they would cheerfully and gladly contribute to this work, but which they will not contribute to anything else. Some way should be found by which your commission could have at least a modest budget, adequate to the establishment and maintenance of permanent headquarters and to the employment of a wise and capable man to give all his time to the work, to the employment of necessary stenographic help, and to the creation of a leaflet literature that would set out the work of social service in harmony with our Baptist views and interpretations of the doctrines of the New Testament.

RECOMMENDATIONS

The commission recommends that the convention make the following declarations:

I. Concerning industrial relations

1. That we recognize the right of labor to organize and engage in collective bargaining.
2. That we recognize the right of laborers who may not wish to join a labor organization to employment.
3. That we believe in a fair, living wage for all who toil in factory and mine.
4. That we favor a day of not more than 9 hours and a week of not more than 49½ hours.
5. That we are opposed to the employment in factory or mine of children under 15 years of age, and we are opposed to all night work for women and minors.
6. That we favor good sanitary housing conditions for all factory and mine workers, such as will properly protect both the health and morals of their families.
7. That the teachings and spirit of the Gospel ought to control in all industrial relations and that they offer the only happy and peaceful solution of all our industrial problems.

II. Concerning law enforcement and observance

1. That the President of the United States, the governors of the several States, and all other public officials, executive and judicial, are entitled to the unwavering support of all citizens in all their honest and faithful efforts for the enforcement and observance of all law.
2. That we hereby pledge such support on our own part and appeal to all of our fellow Baptists and fellow citizens to give such support to all faithful public servants.

III. Concerning public office and elections

1. That we declare public office to be a public trust, to be held and administered only in the best interest and for the highest welfare of all the people.
2. That no person is worthy of public office who is not socially minded and does not believe in the enactment of such laws as will promote the moral welfare of the people, or who does not believe in the enforcement and observance of all laws.
3. That we recognize the right of all to advocate a change in any provision of our Constitution and laws, but, in the language of the President, which we quote with approval, "Our whole system of self-government will crumble either if officials elect what laws they will enforce or citizens elect what laws they will support. The worst evil of disregard for some law is that it destroys respect for all law. For our citizens to patronize the violation of a particular law on the ground that they are opposed to it, is destructive of the very basis of all the protection of life, homes, and property which they rightly claim under other laws."
4. That we are in no sense concerned with party politics nor with the fate or future of any political party. But in all great moral questions we are deeply concerned, both as citizens and Christians, no matter how they may become related to politics or questions of Government.
5. That, as we have frequently done heretofore, we declare our intention and purpose not to support for President of the United States, Senator, Representative, governor, or other officer of high and responsible position any candidate who is hostile to or does not openly and frankly support our present prohibition laws, but to seek the defeat of any such candidate no matter what party label he may wear.

IV. Concerning pending legislation

That your commission be authorized to urge upon Congress the speedy enactment of the several legislative measures recommended by the President in keeping with suggestions of the President's Commission on Law Enforcement and Law Observance.

AMENDMENT OF COPYRIGHT LAW

The Senate resumed the consideration of the bill (H. R. 12549) to amend and consolidate the acts respecting copyright and to permit the United States to enter the Convention at Berne for the Protection of Literary and Artistic Works.

The PRESIDING OFFICER. The question is on the amendment of the committee.

Mr. DILL. What is the amendment?

The PRESIDING OFFICER. The amendment will be restated.

The CHIEF CLERK. On page 2, line 17, it is proposed to strike out the words "or physical action."

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

The PRESIDING OFFICER. The clerk will call the roll.

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

Ashurst	Fletcher	La Follette	Shipstead
Barkley	Frazier	McGill	Shortridge
Bingham	George	McKellar	Smith
Black	Gillett	McMaster	Smoot
Blaine	Glass	McNary	Steck
Blease	Glenn	Metcalf	Steiwer
Borah	Goff	Morrison	Stephens
Bratton	Goldsborough	Morrow	Swanson
Brock	Gould	Moses	Thomas, Idaho
Brookhart	Hale	Norbeck	Thomas, Okla.
Broussard	Harris	Norris	Townsend
Bulkley	Harrison	Nye	Trammell
Capper	Hastings	Oddie	Tydings
Caraway	Hatfield	Partridge	Vandenberg
Carey	Hayden	Patterson	Wagner
Connally	Hebert	Phipps	Walcott
Copeland	Heflin	Pine	Walsh, Mass.
Couzens	Howell	Pittman	Walsh, Mont.
Cutting	Johnson	Ransdell	Waterman
Dale	Jones	Reed	Watson
Davis	Kean	Robinson, Ark.	Wheeler
Deneen	Kendrick	Robinson, Ind.	Williamson
Dill	Keyes	Schall	
Fess	King	Sheppard	

The PRESIDING OFFICER. Ninety-four Senators have answered to their names. There is a quorum present.

The reading was resumed, the next amendment of the committee being on page 2, line 17, after the word "words" to strike out the words "or physical action"; on line 20, after the word "work" and the comma, to strike out the word "or," and insert the words "and/or," and in line 22 to strike out the words "or physical action," so as to read:

(c) To dramatize and/or make a motion picture with or without sound and/or dialogue of said work if it be a nondramatic work; or to convert said work into a nondramatic or dramatic work expressed in words if it be a dramatic work in the form of a motion picture with or without sound and/or dialogue; or into a novel or nondramatic work, and/or motion picture with or without sound and/or dialogue, if it be a drama expressed in words.

Mr. TRAMMELL. Mr. President, as the bill passed the House, the words "or physical action" were in the text, and the Senate committee proposes that physical action shall not be subject to copyright.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments were agreed to.

The reading was resumed, the next amendment of the committee being on page 3, line 3, after the word "produced," to insert the word "reproduced," so as to read:

(d) In the case of a musical composition, to arrange or adapt said work, to perform said work publicly for profit or to make any arrangement or setting thereof or of the melody thereof in any system of notation or any form of record in which the thought of an author may be recorded and from which it may be read, broadcast, produced, reproduced, performed, exhibited, or represented.

The amendment was agreed to.

The reading of the bill was continued through the word "purposes," line 20, page 3, the last provision read being as follows:

That nothing in this act shall be construed to prohibit the performance of copyright musical works by churches, schools, and/or fraternal organizations, provided the performance is given for charitable or educational or religious purposes.

Mr. THOMAS of Oklahoma. Mr. President, on page 3, line 18, after the word "schools," I move that the words "agricultural fairs" be inserted. In support of that amendment I submit a telegram just received from Ralph T. Hemphill, manager of the Oklahoma State Fair and secretary of the International Association of Fairs and Expositions. I ask that the same be read.

Mr. HEBERT. Mr. President, let me say to the Senator that that amendment is not in order at this time. We are now considering only committee amendments. I know about the amendment which the Senator has just proposed, and I have reason to believe that the members of the committee would not object to it at the proper time.

Mr. THOMAS of Oklahoma. Then I ask unanimous consent that the amendment may be considered at this time.

Mr. HEBERT. I object.

The PRESIDING OFFICER. The Chair will state that he is informed that the request to proceed with the Senate committee amendments first was not granted.

Mr. DILL. Oh, yes, it was.

Mr. HEBERT. We were to proceed first with committee amendments.

Mr. DILL. That is correct. I am in favor of the amendment of the Senator from Oklahoma, but I do not think we should start in taking up individual amendments. If we do that, I want to offer an amendment on page 2. I did not do so because I understood the committee amendments would be taken up first.

Mr. MOSES. Mr. President, there are other Senators who have amendments to offer in exactly the same situation with the Senator from Oklahoma.

The PRESIDING OFFICER. The Chair was informed by the clerks at the desk that the request was made that committee amendments be taken up first, but was not granted. The Chair will put the request again.

Is there objection to proceeding with committee amendments first? The Chair hears none, and it is so ordered.

Mr. THOMAS of Oklahoma. Mr. President, I ask unanimous consent that the telegram in support of the amendment I have offered be incorporated in the RECORD in connection with the few remarks I have just made.

The PRESIDING OFFICER. Is there objection?

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

OKLAHOMA CITY, OKLA., *February 27, 1931.*

Senator ELMER THOMAS,
Senate Chamber, Washington, D. C.:

Understand bill has passed House and reported by Senate provided for collection of royalties by American Society of Authors, Composers, and Publishers and exempting schools, churches, and fraternal organizations, but not agricultural fairs. We urge that "agricultural fairs" be included for exemption.

RALPH T. HEMPHILL,
Manager Oklahoma State Fair,
and Secretary International Association
of Fairs and Expositions.

Mr. THOMAS of Oklahoma. I ask that the amendment may be ordered printed so that it will be ready when it is in order.

The PRESIDING OFFICER. The amendment will be printed. The clerk will continue the reading.

The CHIEF CLERK. On page 3, line 20, after the word "purposes," the committee proposes to insert a colon and the following provision:

And provided further——

Mr. HEBERT. Mr. President, I offer a substitute for the amendment proposed by the committee.

Mr. DILL. Let the amendment of the committee be read.

The PRESIDING OFFICER. The clerk will read.

The CHIEF CLERK. The committee proposes, on page 3, line 20, after the word "purposes," to insert a colon and the following:

And provided further, That the use of a machine, instrument, or instruments serving to reproduce mechanically and/or electrically such work or works shall not be deemed a public performance for profit unless a fee is charged for admission to the place where such reproduction or rendition occurs.

The Senator from Rhode Island offers the following as a substitute for the committee amendment:

Provided, That when a fee for public performance has already been paid by or on behalf of the operator or owner of a coin-operated machine or an instrument or parts of instruments serving to reproduce mechanically a musical work, except where such reproductions are transmitted by wire or wireless broadcasting, said owner or operator shall not be deemed to infringe by a public performance for profit by the operation thereof unless a fee is charged for admission to the place where such reproduction or rendition of the copyrighted work occurred.

Mr. DILL. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DILL. The Senator offers a substitute for the committee amendment. I propose to offer amendments to the committee amendment to perfect it.

The PRESIDING OFFICER. To perfect a substitute?

Mr. DILL. To perfect the amendment proposed by the committee in the bill. I ask whether or not my amendments are not in order to be voted on before the substitute is voted on?

The PRESIDING OFFICER. The Senator is correct; the perfecting amendments would be voted on first.

Mr. DILL. Then I want to offer a perfecting amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The CHIEF CLERK. The Senator from Washington offers the following: On page 3, line 22, to strike out the words "mechanically and/or electrically," and after the word "works," to insert the words "except for wire or wireless broadcasting," so that the committee amendment will read:

And provided further, That the use of a machine, instrument, or instruments serving to reproduce such work or works except for wire or wireless broadcasting, shall not be deemed a public performance for profit unless a fee is charged for admission to the place where such reproduction or rendition occurs.

Mr. HEBERT rose.

Mr. DILL. Mr. President, does the Senator want to discuss his amendment first?

Mr. HEBERT. Yes.

Mr. DILL. Very well.

Mr. HEBERT. Mr. President, the amendment in this section affects the production of disks and records for musical instruments of various kinds. Under the existing law the owner of a copyright in a musical composition, if he permits the producer of any record to make use of his copyrighted composition, to transcribe it upon a record or a disk, must of necessity permit any other manufacturer of like records to make use of it in the same way, and upon its use in that way the producer of the record is called upon to pay to the composer a royalty of 2 cents per record. That is the existing law.

That 2-cent limit of royalty has been eliminated by the provisions of this bill. There is no longer any limit which may be charged by a composer for the use of his work for reproduction upon a record or upon a disk. It occurred to the members of the committee that under those circumstances it should not be prohibited to the owners of musical instruments, player pianos, electrically operated Victrolas, and the like, to make use of the records without paying a royalty where no fee is charged for admission.

We learned, in the course of our hearings, that in some instance a drug-store owner who used one of these slot machines for reproducing music upon a record was called upon to pay a royalty to the owner of the copyright in the composition that was played.

Mr. DILL. Mr. President, the Senator is incorrect in that statement. I think he does not mean to be, but the present law specifically exempts the coin-operated machines from payment of any royalty.

Mr. HEBERT. Where it is done for profit, it does not exempt them.

Mr. DILL. I will read the provision of the law to the Senator, if he has any doubt about it. It is as follows:

The reproduction or rendition of a musical composition by or upon coin-operated machines shall not be deemed a public performance for profit unless a fee is charged for admission to the place where such reproduction or rendition occurs.

Mr. HEBERT. Mr. President, it is a fact that the statement was made at our hearings that the owners of drug stores were called upon to pay for the use of the coin-operated machines for reproducing records in their stores.

Inasmuch as we have removed from the law the maximum 2-cent royalty charge upon records, the committee believed that the amendment which I now propose should be incorporated in the bill. The amendment is satisfactory not only to the Society of Authors and Composers, which comprises some 90 per cent of all of the music writers of the country holding copyrights, but it is also satisfactory to the manufacturers of the coin-operated machines.

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

Mr. HEBERT. I yield.

Mr. DILL. What evidence has the Senator that this is satisfactory to the manufacturers of coin-operated machines?

Mr. HEBERT. The same evidence that I have about many of the things concerning this bill, the testimony of people who have come before us, and the statements made to me by people who are interested in the bill.

Mr. DILL. I remind the Senator that when those men were before the committee, they did not agree to the amendment proposed by the Senator. They agreed to the amendment proposed by me, with the exception of the words "electrically" and "wire and wireless broadcasting." I want to know what evidence the Senator has to present that this is satisfactory to Mr. Capehart or Mr. Brokmeyer, the two men who appeared before the committee in that matter.

Mr. HEBERT. I repeat that I am relying upon the statements which have been made to me by representatives of the manufacturers. A majority of the committee were likewise satisfied that the amendment should be adopted and for that reason I am presenting it at this time.

Mr. TRAMMELL. Mr. President, may I ask the Senator from Rhode Island a question? I should like to ask the Senator if the 2 cents additional tax on some one that uses the record is not in the nature of a double taxation? The author or musician sells the right to the manufacturer; he produces the records and he has paid the copyright tax for the privilege of using them. Then if somebody else reproduces upon a mechanical machine they also have to pay a tax. It is a double taxation. Who pays it? The public pays it—is not that true?

Mr. HEBERT. The purpose of the amendment is to avoid the so-called double taxation.

Mr. McNARY. Mr. President, I ask unanimous consent that when the Senate finishes its business to-day a recess be taken until 11 o'clock Monday morning.

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

Mr. DILL. Mr. President, I want the Senate to understand the difference between the amendment presented by the Senator from Rhode Island [Mr. HEBERT] and the amendment presented by myself, which, with the exception of a few words, is exactly the wording presented by the men who came here to have the amendment put in the bill.

I want to call attention to the fact that the hearings disclose that Mr. Capehart, who is a manufacturer of a coin-operated machine, made the principal argument before the committee, and on page 40 of the hearings he suggested the amendment which he desired inserted in the bill. I will read it.

That the use of a machine or instruments serving to reproduce mechanically and/or electrically such work or works shall not be deemed a public performance for profit unless a fee is charged for admission to the place where such reproduction or rendition occurs.

That is the amendment which the committee adopted, word for word; the identical amendment we put in the bill. After the bill was reported to the Senate a member of the House Committee on Patents came and talked with us and called attention to the fact that the word "electrically" might enable the owners of discs which were manufactured with music on them—that is, phonograph records or music rolls produced electrically—to broadcast them over the radio without paying anything for it.

That was not the intention of the committee nor the purpose of Mr. Capehart or Mr. Brokmeyer. When the committee submitted it to me in the first instance, I said I was willing to accept it, because I did not want anything in the bill that would take away from the composer the right to charge a radio station for reproduction of his music. But when I come to examine with some care the wording of the amendment, I find, or believe I find, a difference.

Before I leave this point let me say that the language of the amendment presented by Mr. Brokmeyer, who is the man representing the drug-store people, is almost identically the same thing. I want to read that:

Provided the reproduction or rendition of a musical composition by or upon a coin-operated machine or on parts of instruments serving to reproduce mechanically the musical work shall not be deemed a public performance for profit unless a fee is charged for admission to the place where such reproduction or rendition occurs.

With the exception of the word "electrically," Mr. Brokmeyer's amendment is in exact wording with Mr. Capehart's amendment, and no one has shown me any evidence that either one of them will be satisfied with the proposal

brought here by the Senator from Rhode Island [Mr. HEBERT], which he says has their indorsement.

Mr. WATSON. Mr. President, I thought there was a time when the Senator from Washington himself acquiesced in this matter?

Mr. DILL. I did because I thought all it did was to take out the word "electrically"; but I find it is an entirely different amendment, and I want to analyze it.

Mr. WATSON. My understanding is that the manufacturers of this particular kind of machine want the amendment.

Mr. DILL. Not in the language presented here. Show me any evidence from any man that wants this wording. This is wording which has been improvised since those men were here.

Mr. WATSON. I think I can furnish the evidence.

Mr. DILL. Even if they were satisfied, I am not satisfied and I want to show why. The amendment provides—

That when a fee for public performance has already been paid by or on behalf of the operator or owner of a coin-operated machine or instruments or parts of instruments.

What does that mean? It means that a record for phonographic use for which no fee can be charged, or a music roll for which no fee can be charged, must be a record upon which the manufacturer has paid a license in behalf of the operator. Does the Senator see the difference? For the ordinary record he simply pays a fee for reproduction, but under this amendment he must pay not only the fee for reproduction, but an additional fee on behalf of the operator. Therefore we have two kinds of records, one on which the fee for the operator has been paid, and another kind on which the fee for the operator has not been paid.

How did this system originate? The law of 1909 provided that whenever these musical compositions were placed upon a record the owner of the copyright should receive but 2 cents, and therefore another clause was inserted that he might receive additional compensation when that record was reproduced for profit, because otherwise he was limited to 2 cents; but now in this bill we are taking off the 2 cents. He can charge 5 cents a record; he can charge 10 cents a record; he can charge 50 cents a record; he can charge $1 a record; he can charge $5 a record; he can charge any price he pleases. I think that principle is sound, but having given the composer the right to charge any fee he may want to charge before he allows his music to go upon a record, I want to be sure that people may operate those records upon a phonograph without paying another fee unless there is an admission charged.

The amendment proposed by the Senator from Rhode Island is of doubtful meaning. It is almost certain to lead to two kinds of records being produced. There is no evidence here showing that the men who are afflicted and hurt by the bill as it came from the House are in favor of it. Their own testimony was that they wanted a provision in the law which would protect them just as they are now protected. I want to read the wording of the present statute to show how simple and clear it is:

The reproduction or rendition of a musical composition by or upon coin-operated machines shall not be deemed a public performance for profit unless a fee is charged for admission to the place where such reproduction or rendition occurs.

That is so simple and so plain that even a layman can not misunderstand it. In the amendment now presented, however, there was no provision about phonographs, and so the composers have gone to the little corner drug store which has a phonograph record playing there to attract the attention of people, and have said "You are reproducing this music for profit and you must pay us a license fee." The drug-store people have said, "No, we do not get any profit out of this." The reply has been, "Yes, you do. You draw trade and you are liable for $250 statutory damages every time that you run a record in this place. You must pay us a royalty license fee for a year," and so the drug-store people have been held up for $250 or $500 or whatever the traffic would bear.

I do not want to prevent the composer from getting a fair return on his music when it is put on these records, but I want to stop this multiplicity of fees.

Speaking of the amendment which I have offered, it is in practically the same wording as the present law except that I have added the provision for instrument or instruments, and I have made it impossible to reproduce a phonograph record over the radio without paying for it. Let me make the comparison:

That the reproduction or rendition of a musical composition by or upon coin-operated machines shall not be deemed a public performance for profit unless a fee is charged.

There is a provision that "the use of a machine, instrument, or instruments serving to reproduce such work or works shall not be deemed a public performance for profit unless a fee is charged. I have left out the words "except in case of broadcasting" to make my language clear. The provision in the statute is clear and unambiguous and can not be misunderstood. That is what I want to have in the bill now before us, a provision that is clear, that is unambiguous, that can not be misunderstood, and that will result in but one kind of record being placed upon the market. The composer is not denied the right to charge any amount he wants on the record. Under the present law he was limited to 2 cents, but even then Congress limited it to coin-operated machines. They never dreamed that anybody would go to a little corner drug store or cigar store and hold up those dealers for fees because they might happen to attract some business or some attention in this way. To cure that practice it is proposed by this amendment to make it impossible for the composer to charge a fee unless there is an admission fee charged by the drug store or other store.

I submit that we are going a long way in this matter of fees. We give a copyright holder of music the right to charge a fee on printed matter. We give him the right to charge for reproduction of his music anywhere. We give him the right to charge for recording his music on a record or any kind of music roll, and we allow him to charge anything he pleases. Then we say unless the reproduction from the record or music roll is made in a place where admission is charged, he shall not charge another fee, but he can still charge another fee if there is admission charged.

The amendment of the Senator from Rhode Island is involved and of doubtful meaning. I want to read it:

Provided, That when a fee for public performance has already been paid by or on behalf of the operator or owner of a coin-operated machine, or an instrument or parts of instruments serving to reproduce—

See the difference? In the one case where a machine for reproduction of music rolls is used there is a charge for any record that is made. In the case of the amendment of the Senator from Rhode Island there must be specific proof to the effect that fee for the man who will operate the machine has been paid. Thus we will have two kinds of records, two kinds of music rolls, one on which the fee has been paid for the operator and one on which the fee has not been paid.

The gentlemen who came before the committee and gave us their evidence in the hearings as I have read them asked to be freed from paying any additional fee unless they charged admission.

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

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Illinois?

Mr. DILL. I yield.

Mr. GLENN. As I understand the situation, the Senator's proposed amendment to the amendment of the Senator from Rhode Island would make it possible for the copyright owners to charge a fee where the records are used for broadcasting purposes.

Mr. DILL. Yes.

Mr. GLENN. That is practically the only difference, is it not?

Mr. DILL. That is the difference between my amendment and what the men who came here and asked for the amendment wanted; but the amendment of the Senator

from Rhode Island allows an additional fee to be charged on behalf of the operator. The operator is the man who puts the nickel in the machine and makes it run. Thus they propose to get an additional fee which they can not get under the present law when they are limited to 2 cents. Being limited to 2 cents on their rolls to-day they can not collect any fee on behalf of the operator of a coin-operated machine. The Senator from Rhode Island comes here with an amendment which proposes taking off the limit of 2 cents and letting them charge anything they please, letting them charge another fee on behalf of the operator of the coin machine. I submit it is unfair, it is unjust to put an additional burden upon the public and upon the use of these operated machines. First, I want my own amendment adopted to the committee amendment, and then I hope the Senate will reject the proposed substitute of the Senator from Rhode Island.

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

Mr. DILL. I yield.

Mr. TRAMMELL. It seems to me that this would be a pretty effective aid to the radio, as it would put machines of this character out of business. Would it not probably have that effect?

Mr. DILL. No; I do not think so. I put in the reference to the radio for the reason that I did not want any doubt about the use of a phonograph record in a radio station being freed from charges. I want to give the copyright owners the privilege of charging the radio station if it uses phonograph records; and that is why I have put the provision in the amendment. That was not in the amendment suggested by those who proposed this legislation.

Mr. TRAMMELL. The point I had in mind is that the amendment leaves it unrestricted, without a maximum charge for phonograph records. They can charge more, and can put the owners of the music out of business, and have it go over the radio.

Mr. DILL. That is possibly true.

Mr. TRAMMELL. Giving the radio people an opportunity to manipulate it for the purpose of putting out of business mechanical devices reproducing music.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Washington to the amendment proposed by the committee. [Putting the question.] The Chair is in doubt. All those in favor of the amendment will rise and stand in their places until counted.

The Senate proceeded to divide.

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

The PRESIDENT pro tempore. On this question the yeas are demanded. Will the Senator permit the Chair to announce the result of the division?

Mr. DILL. Very well.

The PRESIDENT pro tempore. The amendment to the amendment is agreed to.

Mr. SHORTRIDGE. Has the Senator the right to withdraw his demand for the yeas and nays?

The PRESIDENT pro tempore. The demand had not been sufficiently seconded.

The Senator from Rhode Island offers as a substitute for the committee amendment an amendment, which will be stated.

The CHIEF CLERK. On page 3, line 20, section 1, it is proposed to strike out the provision in italics and substitute therefor the following:

Provided, That when a fee for public performance has already been paid by or on behalf of the operator or owner of a coin-operated machine, or an instrument or parts of instruments serving to reproduce mechanically a musical work, except when such reproductions are transmitted by wire or wireless broadcasting, said owner or operator shall not be deemed to infringe by a public performance for profit by the operation thereof unless a fee is charged for admission to the place where such reproduction or rendition of the copyright work occurs.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the committee in lieu of the committee amendment as amended.

Mr. VANDENBERG. Mr. President, I should like the attention of the Senator from Rhode Island so that I may clear up, if possible, what seems to be a difference of opinion respecting the intent of the language. The Senator from Washington, as I understand, declares that under the terms of the proposed substitute it would be possible to collect an additional fee on a coin-operated machine. Is that the statement of the Senator from Washington?

Mr. DILL. No; to collect an additional fee on the record to be used in a coin-operated machine in behalf of the operator.

Mr. VANDENBERG. I should like the opinion of the Senator from Rhode Island on that question.

Mr. HEBERT. This will not impose any fee whatever upon the operator of the coin-operated machine.

Mr. DILL. Provided that the manufacturer has paid for the operator. The Senator's own amendment says to provide.

Mr. HEBERT. Most assuredly. Somebody has got to be paid for the right to use a man's composition on these records, and, if the manufacturer does not pay, then the operator should. That is right in line with——

Mr. DILL. Mr. President——

Mr. HEBERT. If the Senator will permit me to continue for a moment, that is right in line with the argument of the Senator from Washington, that we are taking away the limit that may be charged for the use of these compositions on records for the reproduction of music and allowing the composer to charge 5 cents or 10 cents or $5, as the Senator himself put it. Now he wants to limit the composer again, and more seriously than he was limited under existing law.

Mr. DILL. Will the Senator yield for a question?

Mr. HEBERT. I have concluded.

Mr. DILL. I want to call the Senator's attention to the fact that under the present law all that the man who puts his music on a coin-operated roll can get is 2 cents; but he can not get anything at all on behalf of the coin-operated machine. Now, we have taken off the 2 cents, but the Senator wants to allow the composer to charge an additional fee because the machine is to be coin operated. We not only have no limit on the amount he can charge for putting it on in the first place, but we are going to allow him to have a second fee on behalf of the operator. That is the wording of the Senator's amendment. I simply want to leave the composer free to charge anything he pleases, and once the record or roll has been made let it be used anywhere and by anybody, unless an admission fee is charged. The Senator's amendment means that a record or a roll can not be used any place, even though no admission is charged, unless a royalty has been paid on behalf of the operator. That is what his amendment provides. Thus we have two kinds of record, one where a fee has been paid on behalf of the operator and one on which a fee will not be paid on behalf of the operator.

Mr. TRAMMELL. Mr. President, I think this amendment provides a system of double charge, and would result in a great imposition upon people who might use the records and reproduce them on mechanically operated machines. They would be constantly annoyed and held up for the payment of fees that probably had already been paid through the manufacturer. The manufacturer buys the records and he sells the records and that should end it, unless the records are used for a performance where fees were charged. This amendment contemplates that the manufacturer has to pay for that, and, in addition, the operator of the machine has to pay for it unless the manufacturers pay it for him.

Mr. President, who has to pay these fees? Ultimately it is the public, and I think when we are dealing with a copyright law that a little consideration at least should be given to the public interest. I never had occasion to study this bill to any considerable extent until last night, and when I read it I did not find anything in the way of protection to the public, but the idea of favoritism and discrimination in the interest of the author and the manufacturers of these different products was very apparent. The public has to pay the freight. It is proposed to adopt an amendment that authorizes a double fee or a double charge or a double tax on the people, without any maximum limit

as to the charge that can be made. Under the present law there is a maximum limit. If we adopt the amendment the public will have the bill to pay. In other words, the proponents of this proposition, who would inflict this double charge upon the people of the country or the public, are not satisfied with giving the owners protection under the copyright law to the extent of selling their records once and receiving fees for them once, but they desire also to give them an opportunity to double the expense to the public by the payments on the records.

If under the law we extend to the producers protection and a monopoly to the extent of the original sale of the product, why should not the purchasers have a right to sell it and have it used? That is what it is purchased for; that is what the manufacturer purchases it for. He does not purchase it for the purpose of destruction or for the purpose of keeping it in his house or in his place of business. He purchases it to sell; but though he does that, he has no right to sell for use in connection with mechanically operated machines even where a fee is not charged.

I want to deal encouragingly and beneficently with the producers, but, on the other hand, I want to give a little protection to the man who pays the fiddler—and that is the public. I see no reason for building up a double fee against him, as this amendment contemplates.

CLASSIFICATION OF CERTAIN OFFICIAL MAIL MATTER

Mr. PHIPPS submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the joint resolution (H. J. Res. 357) classifying certain official mail matter 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 amendment.

L. C. PHIPPS,
GEO. H. MOSES,
KENNETH MCKELLAR,
Managers on the part of the Senate.

A. D. SANDERS,
CLYDE KELLY,
JAMES M. MEAD,
Managers on the part of the House.

The PRESIDENT pro tempore. The question is on agreeing to the conference report.

The report was agreed to.

FIVE CIVILIZED TRIBES

Mr. FRAZIER. Mr. President, there is on the calendar an Indian bill which the department is very anxious to have passed. Objection has been made to it for several days. The objections have been overcome by an amendment which I desire to offer.

I ask unanimous consent that Order of Business 1734, Senate bill 6169, which extends for 25 years the time of restriction of the Five Civilized Tribes of Oklahoma, be taken up at this time.

The PRESIDENT pro tempore. Is there objection?

Mr. BLAINE. Mr. President, a few moments ago I suggested that I would not consent to unanimous-consent agreements. However, so little has been done for the Indian, and so much has been done to him, that if this bill proposes to do something for him I can overcome my feelings with respect to other matters.

The PRESIDENT pro tempore. Is there objection?

There being no objection, the Senate proceeded to consider the bill (S. 6169) to extend the restrictive period against alienation of any interest of restricted heirs of members of the Five Civilized Tribes, and for other purposes, which was read, as follows:

Be it enacted, etc., That all funds and other securities now held by or which may hereafter come under the supervision of the Secretary of the Interior belonging to restricted members of the Five Civilized Tribes of Indians of one-half or more Indian blood, including heirs born since March 4, 1906, shall remain subject to the jurisdiction of said Secretary until April 26, 1956, subject to expenditure in the meantime for the use and benefit of the individual Indians to whom such funds and securities belong, under such rules and regulations as the said Secretary may prescribe: *Provided*, That restricted and tax-exempt lands belonging to members of the Five Civilized Tribes, acquired by inheritance or otherwise by persons of one-half or more Indian blood, including heirs born since March 4, 1906, shall after April 26, 1931, remain restricted and tax-exempt until April 26, 1956, unless the restrictions are removed in the meantime in the manner prescribed by existing law.

SEC. 2. That the attorneys provided for under the act of May 27, 1908 (35 Stat. 312), shall have the right to appear and represent any restricted member of the Five Civilized Tribes before the county courts of any county in the State of Oklahoma, or before any appellate court thereof, in any manner in which said restricted Indians may have an interest and no conveyance of any interest in land of any full-blood Indian heir shall be valid unless approved in open court after notice in accordance with the rules of procedure in probate matters adopted by the Supreme Court of Oklahoma, and said probate attorneys shall have the right to appeal from the decision of any county court approving the sale of any interest in land to the district court of the district of which the county is a part.

Mr. FRAZIER. I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The CHIEF CLERK. On page 2, beginning with the word "*Provided,*" in line 2, strike out down to and including line 9, and insert:

Provided, That where the entire interest in any tract of restricted and tax-exempt land belonging to members of the Five Civilized Tribes is acquired by inheritance, devise, gift, or purchase, with restricted funds, by or for restricted Indians, such land shall after April 26, 1931, remain restricted and tax-exempt during the life of and as long as held by such restricted Indians, but not longer than April 26, 1956, unless the restrictions are removed in the meantime in the manner provided by law: *Provided further*, That such restricted and tax-exempt land, held by any one, acquired as herein provided, shall not exceed 160 acres: *And provided further*, That all minerals, including oil and gas, produced on or after April 26, 1931, from said lands so acquired, shall be subject to all State and Federal taxes as provided in section 3 of the act approved May 10, 1928 (45 Stat., 495).

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from North Dakota.

Mr. THOMAS of Oklahoma. Mr. President, I offer an amendment to the amendment just suggested by the chairman of the committee, to come at the end of his amendment.

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

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

And provided further, That the Secretary of the Interior, under such rules and regulations as he may prescribe, is hereby authorized and empowered to approve trust agreements relating to restricted funds or other restricted property; and in the event any such trust agreement is annulled, canceled, set aside, or held to be void, the principal, together with all interest due, shall revert to the control and supervision of the Secretary of the Interior.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Oklahoma to the amendment proposed by the Senator from North Dakota.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ATTENDANCE OF SENATORS

Mr. WATSON. Mr. President, as we all know, we are approaching the end of the session; and, as usual on such occasions, many Members of the Senate are anxious to get away. Several Members have been to me to ask whether or not it is necessary that they remain until the session actually closes.

I am making this statement now for the purpose of urging all Senators to remain here until the 4th of March at 12 o'clock, when an adjournment shall be had. The appropriation bills that might necessarily force an extra session have been passed. All of us hope for the passage of the deficiency bill; but the Senator from Washington [Mr. JONES], the chairman of the Appropriations Committee, in-

forms me that it will not be possible for him to submit the conference report on that bill until Monday morning. Of course, we want it passed if there be any way of passing it.

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Indiana yield to the Senator from Idaho?

Mr. WATSON. I do.

Mr. BORAH. Is the Senator in a position to advise the Senate as to the possibilities or probabilities of an extra session of the Senate?

Mr. WATSON. Mr. President, I have had several conversations with the President about that, covering many weeks. I am assured that if the appropriation bills are passed, and no necessity appears of Congress meeting again in extra session, there will be no special session of the Senate. This has been said several times.

Mr. BORAH. Do I understand that the Senator is stating that by authority?

Mr. WATSON. On one occasion the President said—I do not like to repeat conversations with the President, but this is a public matter——

Mr. BORAH. I do not particularly care to have the Senator repeat what the President said; but when the Senator says there will be no special session of the Senate, I should like to know whether or not he speaks by the authority of the President.

Mr. WATSON. I speak with such assurance from the only source that could call a special session of the Senate that I am entirely satisfied there will be none.

AMENDMENT OF COPYRIGHT LAW

The Senate resumed the consideration of the bill (H. R. 12549) to amend and consolidate the acts respecting copyright and to permit the United States to enter the Convention of Berne for the Protection of Literary and Artistic Works.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the committee in lieu of the amendment as printed in the bill.

The amendment to the amendment was rejected.

The amendment of the committee, as amended, was agreed to.

Mr. BORAH. Mr. President, I am about to move for an executive session unless there is some reason why I should not do so.

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

Mr. BORAH. I yield.

Mr. HEBERT. I had hoped that we might proceed with the consideration of the bill now before the Senate. I find that many Senators are anxious to secure a recess; and I wish to be reassured whether the motion which the Senator from Idaho proposes will displace the bill that is now before us.

Mr. BORAH. No.

The PRESIDENT pro tempore. Oh, not at all.

THE CALENDAR

Mr. VANDENBERG. Mr. President, will the Senator yield to me for an inquiry?

Mr. BORAH. Yes.

Mr. VANDENBERG. I should like to ask the Senator from Oregon [Mr. McNARY] when, in his judgment, we are going to have an opportunity to take up the calendar?

Mr. McNARY. Mr. President, I express the hope that that may be done Monday evening.

EXECUTIVE SESSION

Mr. BORAH. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business in open session.

EXECUTIVE MESSAGES

Messages in writing from the President of the United States transmitting nominations were communicated to the Senate by Mr. Latta, one of his secretaries, which messages were referred to the appropriate committees.

REPORTS OF COMMITTEES

Mr. PHIPPS, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters, which were placed on the Executive Calendar.

Mr. WALSH of Montana, from the Committee on the Judiciary, reported favorably the nomination of Luther B. Way, of Virginia, to be United States district judge, eastern district of Virginia, to succeed D. Lawrence Groner, appointed an associate justice of the Court of Appeals, District of Columbia, which was placed on the Executive Calendar.

Mr. JOHNSON, from the Committee on Commerce, reported favorably the following nominations in the Coast and Geodetic Survey, which were placed on the executive calendar:

Aid, with relative rank of ensign in the Navy:

Ernst Erbert Stohsner, of California, vice John Laskowski, promoted.

Chester Joseph Beyma, of Wisconsin, vice Ross A. Gilmore, promoted.

TREATIES

The Senate, as in Committee of the Whole, proceeded to consider Executive II (70th Cong., 2d sess.), being a convention relating to the organization of the Pan American Union adopted at the Sixth International Conference of American States, which assembled at Habana, Cuba, from January 16 to February 20, 1928, which was read, as follows:

To the Senate:

To the end that I may receive the advice and consent of the Senate to ratification, I transmit herewith a certified copy of the English text of a convention relating to the organization of the Pan American Union, adopted at the Sixth International Conference of American States, which assembled at Habana, Cuba, from January 16 to February 20, 1928.

I invite the attention of the Senate to the accompanying report of the Secretary of State, in which the new features of this convention are recited.

CALVIN COOLIDGE.

THE WHITE HOUSE, *February 13, 1929.*

The PRESIDENT:

The undersigned, the Secretary of State, has the honor to lay before the President, with a view to its transmission to the Senate to receive the advice and consent of that body to ratification, if his judgment approve thereof, a certified English text of the convention relating to the organization of the Pan American Union adopted at the Sixth International Conference of American States, which assembled at Habana, Cuba, from January 16 to February 20, 1928.

This convention was not signed as a separate instrument, but was included in the final act of the conference which was signed on the part of all the governments represented at the conference. A certified copy of this final act in the Spanish language, furnished by the Government of Cuba, is submitted herewith.

This project regulates in conventional form the organization and functions of the Pan American Union. It entrusts to that union no function of a political character. In fact, the convention specifically states in article 6 that both the governing board and the Pan American Union shall discharge the duties assigned by the convention, subject to the condition that they shall not exercise functions of a political character. The convention, however, provides a new departure from the procedure heretofore observed regarding treaty formalities, in that it makes the union the depositary of the ratifications of the treaties, conventions, and other acts signed at an international conference of American states, and entrusts the union with the duty of notifying signatory states of the deposit of ratifications. The union would thus be given a diplomatic status to the extent that it is made the medium of communications between governments in so far as concerns ratifications of Pan American conventions. No objection to this is perceived.

Other new features of the convention are:

1. Heretofore the governing board of the union in whom the government of the union was vested, consisted of the diplomatic agents of the American Republics accredited to the United States, with the Secretary of State of the United States chairman ex officio. Article 3 of the convention vests the government of the union "in a governing board composed of the representatives that the American governments may appoint" and provides that the board shall elect its chairman and vice chairman annually. By this article a government's representation on the board is not restricted to its diplomatic representative at Washington, but that government may appoint whom it pleases, and the chairmanship of the board becomes an elective office, the Secretary of State of the United States being no longer ex officio chairman of the board.

It appears from the report of the American delegation to the conference that in the general discussions that preceded the detailed consideration of the articles of the convention, the delegation of the United States declared that any plan of organization that might be agreeable to the delegations of the other Republics would be entirely acceptable to the Government of the United States; that this Government had no desire that it should be given special privileges in the organization of the Union, that the Secretary of State did not wish for any position of prominence on the governing board; and that his only desire was to be considered a colleague and coworker of the other members of the board in advancing the purposes for which the institution was established.

2. That the governing board shall "fix the status of the members of the staff, determining their salaries and conditions of retirement" (article 10); and

3. That "the contracting States may withdraw from the Pan American Union at any time, but shall pay their respective quotas for the period of the current fiscal year." (Article 12.)

All the provisions mentioned above are likewise contained in a resolution (a copy of which is attached hereto) adopted by the conference, which provides that they shall remain in force pending the approval of the convention by all the Republics of the American Continent. This resolution therefore put into immediate effect the changes in the method of appointing members of the governing board, the declaration that neither the governing board nor the Pan American Union shall exercise functions of a political character, the provision relating to the determination of the conditions of retirement of the members of the staff, and the provision that the States members of the Union may withdraw from the organization at any time, but they shall pay their respective quotas for the period of the current year.

Respectfully submitted.

FRANK B. KELLOGG.

DEPARTMENT OF STATE,
Washington, February 12, 1929.

CONVENTION

[Pan American Union]

Their Excellencies the Presidents of the Republic of Perú, Uruguay, Panamá, Ecuador, Mexico, Salvador, Guatemala, Nicaragua, Bolivia, Venezuela, Colombia, Honduras, Costa Rica, Chile, Brazil, Argentina, Paraguay, Haiti, Dominican Republic, the United States of America, and Cuba, through their respective plenipotentiary delegates, have agreed upon the following convention, which shall be signed in the manner provided for in the final article:

The American Republics, whose moral union rests on the juridical equality of the republics of the continent and on the mutual respect of the rights inherent in their complete independence, desirous of promoting efficaciously the increasing conciliation of their economic interests and coordination of their social and intellectual activities, and recognizing that relations between peoples are regulated by law as well as by their legitimate individual and collective interests;

Agree to continue their joint action of cooperation and solidarity by means of periodic meetings of the International Conferences of American States, as well as by means of organs established by virtue of international agreements, and through the Pan American Union which has its seat in Washington and whose organization and functions shall be regulated by the present convention, in the following terms:

ARTICLE 1. ORGANS OF THE UNION OF THE AMERICAN STATES

The Union of the American States strives for the fulfilment of its object through the following organs:

(a) The International Conference of American States;

(b) The Pan American Union under the direction of a Governing Board with its seat in the city of Washington;

(c) Every organ that may be established by virtue of conventions between the American states.

Each state enjoys, as of right, representation at the conferences and on the Governing Board.

ARTICLE 2. THE INTERNATIONAL CONFERENCES OF AMERICAN STATES

The conferences shall meet at periodic intervals. The Governing Board of the Pan American Union shall determine the date on which they shall meet, provided that in no case shall a longer period than five years elapse between conferences, except in case of force majeure.

ARTICLE 3. GOVERNING BOARD

The government of the Pan American Union shall be vested in a Governing Board composed of the representatives that the American governments may appoint. The appointment may devolve upon the diplomatic representatives of the respective countries in Washington.

Besides his own country, a member of the Governing Board may serve as special representative of one or more countries, in which case such representative shall have as many votes as countries represented.

The Board shall elect its Chairman and Vice Chairman annually.

ARTICLE 4. EXECUTIVE OFFICERS

The Governing Board shall appoint the following officers:

A Director General, who shall have charge of the administration of the Pan American Union, with power to promote its most ample development in accordance with the terms of this convention, the regulations and the resolutions of the Board, to which body he shall be responsible.

The Director General shall attend, in an advisory capacity, the meetings of the Governing Board, of the committees appointed by the Board, and of the International Conferences of American States for the purpose of giving such information as may be required. The necessary expenses shall be paid out of the funds of the Pan American Union.

An Assistant Director, who shall act as secretary of the Governing Board.

The Director General shall prepare the internal regulations by which the various divisions of the Pan American Union shall be governed, in accordance with the provisions of the present convention, and shall submit them to the Governing Board for approval.

The Director General shall present to the Governing Board annually, at the regular session of the Board in November, a detailed budget for the ensuing fiscal year.

The Director General shall submit to the consideration of each conference of the American Republics a detailed report on the work carried out by the Pan American Union during the period preceding the meeting of the conference.

The Director General shall appoint, with the approval of the Governing Board, the personnel necessary to the work of the Pan American Union, endeavoring as far as possible to distribute the positions among nationals of the countries members of the Union.

ARTICLE 5. MAINTENANCE OF THE PAN AMERICAN UNION

The Governing Board of the Pan American Union shall determine the quota which is to be paid by each of the governments members of the Union for the maintenance of the Pan American Union. But increases in the budget of the Pan American Union exceeding by more than twenty-five per cent the budget of the preceding year shall be approved by the unanimous vote of the Government Board, the representatives being given time to consult their respective governments. The quota shall be determined on the basis of the latest official statistics of population in possession of the

Pan American Union on the first day of July of each year. The budget shall be communicated to the governments members of the Union before the first day of the ensuing calendar year, with an indication of the quota which each country shall pay, such payments to be made before the first of July of that year.

The Governing Board shall elect from among its members a committee charged with examining, on the dates determined by the Board, the accounts of the expenditures of the Union, in conformity with the provisions established by the regulations and the opinion of three experts to be appointed for the purpose.

ARTICLE 6. FUNCTIONS OF THE PAN AMERICAN UNION

Both the Governing Board and the Pan American Union shall discharge the duties assigned by this convention subject to the condition that they shall not exercise functions of a political character.

The functions of the Pan American Union are:

1. To compile and distribute information and reports concerning the commercial, industrial, agricultural, social, and educational development as well as the general progress of the American Republics.

2. To compile and classify information referring to the conventions and treaties concluded among the American Republics and between these and other states, as well as to the legislation of the former.

3. To assist in the development of commercial, industrial, agricultural, social, and cultural relations, the study of the problems of labor and the furtherance of a more intimate mutual acquaintance between the American Republics.

4. To act as a Permanent Commission of the International Conferences of American States; to keep their records and archives; to assist in obtaining ratification of the treaties and conventions; to carry out and facilitate the execution of the resolutions adopted by the International Conferences of American States, within the limits of its powers; and to prepare in agreement with the governments the program of the International Conferences of American States, and submit to the conferences a project of regulations.

5. To perform such other functions entrusted to it by the Conference or by the Governing Board, by virtue of the powers conferred upon it by this convention. Whenever a state believes that its vital interests are involved in a question, or that an obligation may thereby be imposed upon it, such state may require that the resolution of the Board be adopted by unanimous vote.

6. The Governing Board may promote the meeting of international conferences of experts to study problems of a technical character of common interest to the countries members of the Union, and to this end may request the governments to appoint experts to represent them at these conferences, which shall meet at the place and time determined by the Board.

To carry out the purposes for which the institution is organized the Governing Board shall provide for the establishment of such administrative divisions or sections within the Pan American Union as it may deem necessary.

ARTICLE 7. DEPOSIT AND EXCHANGE OF RATIFICATIONS

The instruments of ratification of the treaties, conventions, protocols, and other diplomatic documents signed at the International Conferences of American States shall be deposited at the Pan American Union by the respective representative on the Governing Board, acting in the name of his government, without need of special credentials for the deposit of the ratification. A record of the deposit of the ratification shall be made in a document signed by the representative on the Board of the ratifying country, by the Director General of the Pan American Union, and by the Secretary of the Governing Board.

The Pan American Union shall communicate to all the states members of the Union, through their representatives on the Board, the deposit of the ratification.

ARTICLE 8. COMMUNICATION OF OFFICIAL DOCUMENTS TO THE PAN AMERICAN UNION

The governments of the countries members of the Union shall transmit to the Pan American Union two copies of the official documents and publications which relate to the purposes of the Union, as far as the internal legislation of the respective countries may permit.

ARTICLE 9. COOPERATION BETWEEN OFFICIAL PAN AMERICAN ORGANIZATIONS

For the purpose of coordinating the results of the work of other official Pan American organizations, and of establishing relations of close cooperation between them, the program of work and the development of their activities shall, as far as possible, be the subject of agreement between their directive bodies and the Governing Board of the Pan American Union.

The governments members of the Union which may not have an efficient organ for the study and investigation of Pan American affairs, shall establish a committee composed of persons of experience in such matters, or an office attached to the ministry of foreign affairs entrusted with Pan American affairs.

These committees or offices shall have the following duties:

(a) To cooperate with their respective governments to obtain ratification of treaties and conventions, and to the carrying out of the agreements adopted by the International Conferences of American States;

(b) To furnish the Pan American Union promptly with the information it may need in the preparation of its work;

(c) To present to the Union through the proper channels such projects as they may consider useful to the purposes of the Union.

ARTICLE 10

The Governing Board of the Pan American Union shall prepare the regulations and fix the status of the members of the staff, determining their salaries and conditions of retirements.

ARTICLE 11

All correspondence and matter transmitted through the mails to the Pan American Union, which bears the frank used by the Union, and all correspondence or matter transmitted by the Pan American Union, shall be carried free of charge by the mails of the American Republics.

ARTICLE 12

The contracting states may withdraw from the Pan American Union at any time, but shall pay their respective quotas for the period of the current fiscal year.

ARTICLE 13

This convention can not be modified except in the same manner in which is was adopted.

ARTICLE 14

The present convention shall be ratified by the signatory states, and is open to the signature and ratification of the states represented at the Conference that may not have been able to sign.

The President of the Conference, through the Government of the Republic of Cuba, shall send to the governments represented at the Conference an authenticated copy of the present project of convention in order that, if the governments approve, it may receive their adhesion. For this purpose, the governments that adhere to the convention shall authorize their respective diplomatic or special representatives in the city of Habana to sign the convention. All the states having signed, the convention shall be submitted by each government for ratification.

The present convention shall become effective when all the states represented at the Conference receive notice that all the ratifications have been deposited with the Pan American Union, and that the adhesions and ratifications of the twenty-one American Republics have been received.

In witness whereof, the delegates sign and affix their seals to the present convention.

Perú: Jesús M. Salazar, Víctor M. Maúrtua, Luis Ernesto Denegri, E. Castro Oyanguren.

Uruguay: Varela, Pedro Erasmo Callorda.

Panamá: R. J. Alfaro, Eduardo Chiari.

Ecuador: Gonzalo Zaldumbide, Victor Zevallos, C. F. Alfaro.

Mexico: Julio García, Fernando González Roa, Salvador Urbina, Aquiles Elorduy.

Salvador: J. Gustavo Guerrero, Héctor David Castro, Ed. Alvarez.

Guatemala: Carlos Salazar, B. Alvarado, Luis Beltranena, J. Azurdia.

Nicaragua: Carlos Cuadra Pazos, Máximo H. Zepeda, Joaquín Gómez.

Bolivia: José Antezana, A. Costa du R.

Venezuela: Santiago Key Ayala, Francisco G. Yanes, Rafael Angel Arraiz.

Colombia: Enrique Olaya Herrera, R. Gutiérrez Lee, J. M. Yepes.

Honduras: F. Dávila, Mariana Vázquez.

Costa Rica: Ricardo Castro Beeche, J. Rafael Oreamuno, A. Tinoco Jiménez.

Chile: Alejandro Lira, Alejandro Alvarez, C. Silva Vildósola, Manuel Bianchi.

Brazil: Raúl Fernandes, Lindolfo Collor.

DECLARATION OF THE DELEGATION OF ARGENTINA

The Argentine delegation declares, pursuant to express instructions of its Government, that it approves and will sign the project of convention; but that it now wishes to formulate the reservation that it regrets that the economic principles which it upheld in the committee have not been included in this convention.

Argentina: Laurentino Olascoaga, Felipe A. Espil, Carlos Alberto Alcorta.

Paraguay: Lisandro Díaz León, Juan Vicente Ramírez.

Haiti: Fernando Dennis.

Dominican Republic: Fraco. J. Peynado, Tulio M. Cestero, Jacinto R. de Castro, Elías Brache, R. Pérez Alfonseca.

United States of America: Charles Evans Hughes, Noble Brandon Judah, Henry P. Fletcher, Oscar W. Underwood, Morgan J. O'Brien, James Brown Scott, Ray Lyman Wilbur, Leo S. Rowe.

Cuba: Antonio S. de Bustamante, Orestes Ferrara, E. Hernández Cartaya, Arístides de Agüero Bethencourt, M. Márquez Sterling, Néstor Carbonell.

Certified to be the English text of the convention on Pan American Union as contained in the final act signed at the closing session of the Sixth International Conference of American States.

FRANK B. KELLOGG,
Secretary of State of the United States of America.

RESOLUTION

[Pan American Union]

The Sixth International Conference of American States, *Resolves:*

That the Pan American Union continue to be governed by the resolutions in force, until the states members of the Union resolve otherwise, with the following modifications:

1. The government of the Pan American Union shall be vested in a Governing Board composed of the representatives that the American Governments may appoint. The appointment may devolve upon the diplomatic representatives of the respective countries at Washington.

2. The Director General shall appoint, with the approval of the Governing Board, the personnel necessary to the work of the Pan American Union, endeavoring as far as possible to distribute the positions among the nationals of the countries members of the Union.

3. Neither the Governing Board nor the Pan American Union shall exercise functions of a political character.

4. The Governing Board of the Pan American Union shall prepare the regulations and fix the status of the members of the staff, determining their salaries and conditions of retirement.

5. The States members of the Union may withdraw from the Union at any time, but shall pay their respective quotas for the period of the current fiscal year.

Mr. BORAH. Mr. President, the effect of this treaty is to put in permanent form the organization of the Pan American Union. It seeks to accomplish what we have heretofore accomplished by resolutions passed at different times. I only desire to call attention to one paragraph in the treaty, which says:

Both the governing board and the Pan American Union shall discharge the duties assigned by this convention, subject to the condition that they shall not exercise functions of a political character.

In other words, it creates the Pan American Union purely as a ministerial organization.

Mr. FLETCHER. Mr. President, are all the Central and South American countries members of the Pan American Union?

Mr. BORAH. Practically so. I have the names of the countries here, if the Senator wishes to have them.

Mr. FLETCHER. That is not necessary. The Senator might put them in the RECORD.

Mr. BORAH. The treaty will go in the RECORD, and it shows what they are.

Mr. FLETCHER. Very well.

The PRESIDENT pro tempore. If there be no amendment to be proposed, the treaty will be reported to the Senate.

The treaty was reported to the Senate without amendment.

The PRESIDENT pro tempore. The question is on the resolution of ratification, which will be read.

The Chief Clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of Executive II, Seventieth Congress, second session, a convention relating to the organization of the Pan American Union adopted at the sixth international conference of American States which assembled at Habana, Cuba, from January 16 to February 20, 1928.

The PRESIDENT pro tempore. The question is, Shall the Senate advise and consent to the ratification of the treaty? [Putting the question.] Two-thirds of all the Senators present having voted in the affirmative, the Senate advises and consents to the ratification of the treaty, and the injunction of secrecy is removed.

Mr. BORAH. Mr. President, the next number on the Executive Calendar relates to the subject matter which we are dealing with here by legislation. I ask that it go over until that matter is disposed of.

The PRESIDENT pro tempore. The next treaty will be passed over.

POSTMASTERS

Mr. PHIPPS. Mr. President, I ask that Calendar No. 2094, Camden, Tenn., and Calendar No. 2435, Allendale, S. C., go over without prejudice.

The PRESIDENT pro tempore. Without objection, that order will be made.

WISCONSIN

The Chief Clerk read the nomination of Bernard A. McBride to be postmaster at Adams, Wis.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

DIPLOMATIC AND FOREIGN SERVICE

The Chief Clerk read the nomination of Laurits S. Swenson, of Minnesota, to be envoy extraordinary and minister plenipotentiary to the Netherlands.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of George C. Hanson to be consul general.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

THE JUDICIARY

The Chief Clerk read the nomination of Louie W. Strum to be United States district judge, southern district of Florida (additional position).

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

Mr. FLETCHER. Mr. President, this judge is very much needed, and has been for some months. He is approved by both Senators from Florida, and was unanimously approved by the subcommittee of the Committee on the Judiciary and

by the full Committee on the Judiciary. There is no opposition on record. I ask unanimous consent to waive the rule about two subsequent executive sessions, and that the President be notified with regard to this action.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Florida that the President be notified of the action taken in the confirmation of Judge Strum? The Chair hears none, and the President will be notified.

The Chief Clerk read the nomination of Jose Abad Santos, of the Philippine Islands, to be associate justice, Supreme Court of the Philippine Islands.

Mr. BINGHAM. I ask that this nomination and the next two may go over.

The PRESIDENT pro tempore. Without objection, the nominations will go over without prejudice.

Mr. KING. Mr. President, I hope that at the next executive session of the Senate these nominations will be taken up.

The Chief Clerk read the nomination of William N. Cromie to be United States marshal, northern district of New York, vice Clarence W. Weaver.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

CUSTOMS SERVICE

The Chief Clerk read the nomination of Robert E. Lee Pryor to be appraiser of merchandise, customs collection district No. 18, Tampa, Fla.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

POSTMASTERS

Mr. PHIPPS. I ask that the nominations of the remaining postmasters be confirmed en bloc.

Mr. BLACK. I object, Mr. President.

Mr. PHIPPS. Was objection made to any one of those included in the list?

Mr. BLACK. Yes; I object. I have had one on file with the committee for some time. I did not know that the nomination had been reported here.

Mr. PHIPPS. If it refers to the nomination in Alabama that might go over without prejudice, but it should not disturb the others.

Mr. BLACK. I have no objection to the others.

Mr. HEFLIN. Mr. President, I should like to have a vote on the postmaster in Alabama. He was appointed about a month ago, and the matter was held up by my colleague. I have had quite a number of telegrams from the people down there wanting to know why he was not confirmed. He is eligible. He is assistant postmaster now. I should like to have a vote by the Senate. I do not think the nomination ought to be held up until my term expires. I want the Senate to decide what it will do about the matter.

Mr. PHIPPS. Mr. President, I merely report for the committee that the customary rule of the committee was observed. The nomination was held for a length of time at the request of the junior Senator from Alabama; and then the junior Senator from Alabama was notified by letter that, unless charges were filed within a period of time, the nomination would be reported favorably by the committee. Not hearing from the Senator from Alabama, that action was taken. The name was reported favorably by the committee.

Mr. BLACK. I object.

Mr. HEFLIN. Mr. President, I move the confirmation of Mr. Day to be postmaster at Decatur, Ala.

The PRESIDENT pro tempore. The pending question, anyway, is, Does the Senate advise and consent to this nomination?

Mr. BLACK. Mr. President, the nomination, I think, will not be voted on this afternoon. I may state to the Senate that, if this goes over until next week, I may agree to withdraw my objection. I knew only a few moments ago that it had been reported. I had stated to the committee that I had an objection to it. Objections have come to me about this gentleman. In the letter I received there was no statement made as to when the committee would meet. I ask that the nomination may go over until next week.

Mr. PHIPPS. The period of time in which charges might be filed was stated in the letter, and no charges have been filed. Would the Senator be willing to have this name passed upon at the next executive session, which probably will be on Monday?

Mr. BLACK. Mr. President, I may state to the Senator that unless I receive information of a definite nature I do not expect to prevent the confirmation before the 4th of March, but I am not ready at present to take up the matter. I did not know the name was on the calendar. I did not know it had been reported—had no idea that it had been reported.

Mr. PHIPPS. The only notice we could give the Senator was certainly given.

Mr. BLACK. May I ask the Senator when the committee met and acted on this nomination?

Mr. PHIPPS. There was no hearing on it. Simply the rule of the committee was followed in placing the nomination on the calendar when no charges had been filed against the nominee. May I ask the senior Senator from Alabama if he would be willing to allow the nomination to go over without prejudice?

Mr. HEFLIN. If my colleague will agree that we may dispose of it at the next executive session, I shall not insist on it.

Mr. BLACK. I do not make any agreement that I will be willing to dispose of it then. I do not know whether I shall be or not. I state this to the Senator from Colorado: That when the secretary of the committee talked to me about the matter I stated that when it came up before the committee I wanted to present the facts in connection with the appointment. It is an appointment where a man who had been postmaster 16 years has been displaced for no reason on earth, except, as stated to me, because he was a Democrat. No other reason is given. I have asked if there were any other reasons. I can get no other idea as to why this man who has served 16 years should be displaced except that. I desire to present the facts to the committee.

Mr. HEFLIN. Mr. President, may I just say that this man my colleague speaks of has been twice appointed to this position by Republican Presidents, and he was known by people down there to have been a Republican, or in sympathy, and so forth, when he got those appointments under a Republican President. Mr. Day was the postmaster, a Republican, at Albany. They abolished that office and created a suboffice, and he is assistant postmaster there. He has now been appointed to the position Mr. Crawford held in Decatur. My colleague objects, as he has talked to me about it, because they did not have a civil-service examination. A civil-service examination was not necessary for a man who is already in the service, and this man is a man of good character, a very competent man. I take no interest personally between them, but the patrons have wired me and wanted to know why he has not been confirmed. My colleague had the matter held up here for weeks, and I asked the chairman of the committee to appoint a subcommittee to give my colleague a chance to file any complaint he had, and be heard. He notified him of the subcommittee, and that this action would be taken. He says he has written him a letter, but no complaint has been filed, so far as I know. Now, we are right on the eve of adjournment, and it has even been suggested to me down there that the matter would be held up until my term expired, and that Mr. Day would not be confirmed. I want to be fair to all the people in my State while I represent the State, and I think it is nothing but fair that this man's claims shall be passed upon. I am willing to let it go over until Monday. My colleague says he does not know whether he is or not. I think the Senate ought to pass upon the matter, and let us have a vote on it.

Mr. BLEASE. Mr. President, I want to say to the junior Senator from Alabama that the rule followed by the chairman of the committee in this instance is the rule under which we have been working. I also have an appointment on this calendar which was handled by the chairman of the committee in the same way, and it is justified under the rules under which the committee operates.

Mr. BLACK. Mr. President, I do not want to go into this matter now unless the Senate desires to stay here and discuss the disposition of the postmastership question to-night. I can very frankly state that having reported, as I have stated, to the secretary of the committee that I wished to be heard by the committee, not having been notified of the time, it will not be voted on within the next few hours.

Mr. HEFLIN. Mr. President, I shall move and insist at the next executive session on a vote upon this nomination.

The PRESIDENT pro tempore. For the time being, the nomination is passed over without prejudice.

Mr. BLACK. Mr. President, I desire to state, as I stated in the beginning, that I do not know that I shall have any objection. I stated on the Senate floor a few moments ago that I had notified those who had objected that it would be necessary for them to give me their objections in such form that they could be presented to the committee, and I do not know that I shall object when the matter comes up again. But I do want it to go over this afternoon.

The PRESIDENT pro tempore. The nomination goes over without prejudice.

Mr. PHIPPS. Mr. President, I ask that the remaining postal nominations on the calendar be approved en bloc.

The PRESIDENT pro tempore. Without objection, it is so ordered. That completes the calendar.

CUSTOMS SERVICE

Mr. DENEEN. Mr. President, I report favorably from the Committee on Finance the nomination of Anthony Czarnecki, of Chicago, Ill., to be collector of customs for customs collection district No. 39.

I ask unanimous consent for immediate action on this nomination.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and without objection, the nomination is confirmed.

The Senate resumed legislative business.

ENGROSSMENT AND ENROLLING OF BILLS AND JOINT RESOLUTION

The PRESIDENT pro tempore. The Chair lays before the Senate a concurrent resolution coming over from the House of Representatives, to which he invites the attention of the Senator from Oregon. The concurrent resolution will be read.

The Chief Clerk read the concurrent resolution (H. Con. Res. 53) as follows:

Resolved by the House of Representatives (the Senate concurring), That during the remainder of the present session of Congress the engrossment and enrolling of bills and joint resolutions by printing, as provided by an act of Congress, approved March 2, 1895, may be suspended, and said bills and joint resolutions may be engrossed and enrolled by the most expeditious methods consistent with accuracy.

Mr. McNARY. I move that the Senate concur in the resolution.

The PRESIDENT pro tempore. The question is on the motion of the Senator from Oregon to concur in the resolution.

The resolution was concurred in.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Chaffee, one of its clerks, announced that the House had passed without amendment the bill (S. 4030) to provide books for the adult blind.

The message also announced that the House had passed a bill (H. R. 12918) to amend the national defense act of June 3, 1916, as amended, in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills and joint resolutions, and they were signed by the President pro tempore:

S. 17. An act to amend section 12 of the act entitled "An act to readjust the pay and allowances of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service," approved June 10, 1922, as amended;

S. 988. An act for the relief of Franz J. Jonitz, first lieutenant, Quartermaster Corps, United States Army;

S. 1042. An act for the relief of Mary Altieri;

S. 1251. An act for the relief of the Ayer & Lord Tie Co. (Inc.);

S. 3924. An act for the relief of the First State Bank & Trust Co., of Mission, Tex.;

S. 4070. An act for the relief of Patrick J. Mulkaren;

S. 4120. An act for the relief of McIlwraith McEacharn's Line, Proprietary (Ltd.);

S. 4353. An act for the relief of the Orange Car & Steel Co., of Orange, Tex., successor to the Southern Dry Dock & Ship Building Co.;

S. 4489. An act for the relief of the heirs of Harris Smith;

S. 5083. An act to authorize the Secretary of the Navy to proceed with certain public works at the Naval War College, Newport, R. I.;

S. 5920. An act authorizing the attendance of the Army Band at the annual encampment of the Grand Army of the Republic, to be held at Des Moines, Iowa;

S. 6032. An act amending section 1 of Public Resolution No. 89, Seventy-first Congress, approved June 17, 1930, entitled "Joint resolution providing for the participation of the United States in the celebration of the one hundred and fiftieth anniversary of the siege of Yorktown, Va., and the surrender of Lord Cornwallis on October 19, 1781, and authorizing an appropriation to be used in connection with such celebration, and for other purposes";

S. 6098. An act relating to the adoption of minors by the Crow Indians of Montana;

S. 6099. An act authorizing the Secretary of the Interior to change the classification of Crow Indians;

S. 6136. An act for the enrollment of children born after December 30, 1919, whose parents, or either of them, are members of the Blackfeet Tribe of Indians in the State of Montana, and for other purposes;

S. J. Res. 222. Joint resolution relating to the authority of the Secretary of the Interior to enter into a contract with the Rio Grande project; and

S. J. Res. 226. Joint resolution authorizing the distribution of the judgment rendered by the Court of Claims to the Indians of the Fort Berthold Indian Reservation, N. Dak.

MINNESOTA RIVER BRIDGE

Mr. SHIPSTEAD (for Mr. DALE) from the Committee on Commerce, to which was referred the bill (S. 6260) granting the consent of Congress to the Minneapolis, Northfield & Southern Railway to construct, maintain, and operate a railroad bridge across the Minnesota River, reported it with amendments and submitted a report (No. 1827) thereon.

Mr. SHIPSTEAD. I ask unanimous consent for the immediate consideration of the bill.

The PRESIDENT pro tempore. Is there objection?

There being no objection, the Senate proceeded to consider the bill, which was reported from the Committee on Commerce with amendments.

The bill was read, as follows:

Be it enacted, etc., That the consent of Congress is hereby granted to the Minneapolis, Northfield & Southern Railway, a corporation organized under the laws of the State of South Dakota, its successors and assigns, to construct, maintain, and operate a railroad bridge and approaches thereto across the Minnesota River, at a point suitable to the interests of navigation, near the intersection of the Minnesota River and the north and south center line of section 8, township 115 north, range 21 west, fifth principal meridian, counties of Hennepin and Scott, State of Minnesota, in accordance with the provisions of an act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. The right to sell, assign, transfer, and mortgage all the rights, powers, and privileges conferred by this act is hereby granted to the Minneapolis, Northfield & Southern Railway, its successors and assigns; and any corporation to which such rights, powers, and privileges may be sold, assigned, or transferred, or which shall acquire the same by mortgage foreclosure or otherwise is hereby authorized to exercise the same as fully as though conferred herein directly upon such corporation.

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

The amendments of the committee were to strike out, after the enacting clause, "That the consent of Congress

is hereby granted" and insert "That the act approved January 21, 1927, granting the consent of Congress"; and on page 2, line 2, to strike out all after the name "Minnesota" down to section 3, and to insert "be and the same is hereby revived and reenacted: *Provided*, That this act shall be null and void unless the actual construction of the bridge herein referred to be commenced within one year and completed within three years of the date of approval hereof."

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to revive and reenact the act entitled 'An act granting the consent of Congress to the Minneapolis, Northfield & Southern Railway to construct, maintain, and operate a railroad bridge across the Minnesota River,' approved January 21, 1927."

AMENDMENT OF PUBLIC ACT NO. 624, SEVENTY-FIRST CONGRESS

Mr. NYE. Mr. President, I report favorably from the Committee on Commerce the bill (S. 6263) to amend Public Act No. 624, Seventy-first Congress, and I ask for its immediate consideration.

The PRESIDENT pro tempore. Is there objection?

Mr. REED. Let it be reported.

The PRESIDENT pro tempore. The bill will be read.

The Chief Clerk read the bill, as follows:

Be it enacted, etc., That section 2 of Public Act No. 624, Seventy-first Congress, is amended by adding before the period at the end thereof a colon and the following proviso: "*Provided*, That no such city or county shall exercise any rights or powers herein granted unless and until a majority of the electors of such city or county, voting at a general election, shall have expressed their approval of the exercise of such rights or powers, or if a special election is held therefor, unless and until 60 per cent of the electors voting at such election shall have expressed their approval of the exercise of such rights and powers."

Mr. BINGHAM. Mr. President, that is a very interesting bill——

Mr. McNARY. I think it is too important a measure for hasty action, with so few Senators in the Chamber, and I suggest that it go over until a regular call of the calendar.

The PRESIDENT pro tempore. The bill will go to the calendar, under the rule.

INVESTIGATION INTO WOOL, MOHAIR, AND GRAIN

Mr. WALSH of Massachusetts. Mr. President, I present two telegrams and ask that they be printed in the RECORD. They are in the nature of petitions.

There being no objection, the telegrams were ordered to be printed in the RECORD, as follows:

BOSTON, MASS., *February 24, 1931.*

Hon. DAVID I. WALSH,
Washington, D. C.:

Answering letter 21st, it is very important that the McKellar resolution, including an investigation of wool and mohair, be passed at this session and that the committee investigate during recess. It means, in our opinion, the savings of millions of dollars of the taxpayers' money, and we believe it means the ultimate good to the farmers. If this resolution is postponed to next session it means the entire domestic clip of wool and mohair of 1931 will have moved out of hands of producers. Please use your utmost and valuable efforts to get the resolution through at this session. Please telegraph answer. Would a committee representing our association be of any assistance to you at this time.

BOSTON WOOL TRADE ASSOCIATION,
W. S. FEBIGER, *President.*

BOSTON, MASS., *February 27, 1931.*

Hon. DAVID I. WALSH,
Senate Office Building:

Many Boston dealers in wool, mohair, grain, and grain products respectfully urge passage of McKellar resolution with amendment providing for recess investigation of Farm Board dealings in above-named products.

HENRY I. HARRIMAN,
President Boston Chamber of Commerce.

IMPORTATIONS OF OIL

Mr. CAPPER. Mr. President, I ask unanimous consent to have a number of telegrams from Kansas printed in the RECORD. They tell of critical conditions which exist with reference to the oil industry in that State. Thousands of wells are now shut down. I have appeals here from Wichita, Hutchinson, Winfield, Dodge City, and many other cities, and very many of the business organizations, and a very strong appeal from the Wichita Rotary Club, asking for relief at this session of Congress.

I have for nearly a month been trying to get a bill reported favorably by the Committee on Commerce, without result. I want to give notice now that I shall make an effort before adjournment to get consideration of the bill, which we believe out in our part of the country means justice for an industry which is in a most distressing condition.

The PRESIDENT pro tempore. Without objection, the telegrams will be inserted in the RECORD.

The telegrams are as follows:

HUTCHINSON, KANS., *February 25, 1931.*

Senator ARTHUR CAPPER:

In my opinion, the Capper and Garber embargo oil bills are very important to Kansas and the Southwest. Earnestly hope that every effort possible will be used for relief to the oil situation. This legislation will be a great benefit to the oil industry of the mid-continent field, also to most of the farmers of Kansas.

GEO. E. GANO.

WINFIELD, KANS., *February 25, 1931.*

Senator ARTHUR CAPPER,
Washington, D. C.:

Unless Capper-Garber bill is passed the independent producer will be bankrupt and the merchants in Winfield and the farming community will suffer greatly.

PAUL TREES.

WINFIELD, KANS., *February 25, 1931.*

Senator ARTHUR CAPPER,
Washington, D. C.:

Unless Capper-Garber bill is passed the independent producer will be bankrupt and the merchants in Winfield and the farming community will suffer greatly.

ARTHUR BREWER.

WICHITA, KANS., *February 25, 1931.*

Hon. ARTHUR CAPPER,
United States Senate, Washington, D. C.:

As president of the Wichita Rotary Club, I beseech you in the name of Rotary throughout Kansas and Oklahoma to do all in your power to help the oil industry in these States in this critical hour. We all feel there is no good reason why Congress should not give us their assistance in these hours of peril. If there is anything Rotary can do to assist you in relieving this condition, please advise me.

Most cordially yours,

HARRY A. DOCKUM,
President Wichita Rotary Club.

WICHITA, KANS., *February 25, 1931.*

Senator ARTHUR CAPPER,
Senate Office Building, Washington, D. C.:

We are all watching the fight you are making against oil imports and hoping for your success in order that we may continue in the oil business. Kansas was never in need of protection as much as to-day with the oil business and agriculture completely demoralized. If the Republican Party believes in protection now is the time to show it. Independent oil producers are in desperate situation. As a holder of leases covering 100,000 acres in Kansas and a well capable of making four to ten thousand barrels in Rice County shut in since August of last year, and with the fear of being eliminated entirely, I am fighting for my future. We need protection against monopolies that are tearing down the commercial fiber of this country. Success to you.

J. H. TATLOCK.

DODGE CITY, KANS., *February 25, 1931.*

Hon. ARTHUR CAPPER,
Senate Office Building, Washington, D. C.:

I have been active worker in Republican Party for 40 years, as my father was before me. The Republican Party seems to have gone hog wild on tariff questions, especially oil questions. If relief is not given oil producers during this session of Congress, I'll vote and work for Democrats this coming fall and two years from now, and thousands of others in your district feel as I do.

Dr. W. C. TEMPLETON.

ADDITIONAL ENROLLED BILL PRESENTED

Mr. PARTRIDGE, from the Committee on Enrolled Bills, reported that on to-day, February 28, 1931, that committee presented to the President of the United States the enrolled bill (S. 6106) to authorize the Leo N. Levi Memorial Hospital Association to mortgage its property in Hot Springs National Park.

RECESS

Mr. McNARY. Mr. President, in accordance with the unanimous-consent agreement, I move that the Senate take a recess until Monday at 11 o'clock.

The motion was agreed to; and the Senate (at 6 o'clock p. m.), in accordance with the order previously entered, took a recess until Monday, March 2, 1931, at 11 o'clock a. m.

NOMINATIONS

Executive nominations received by the Senate February 28 (legislative day of February 17), 1931

UNITED STATES MARSHAL

George W. Montgomery, of Louisiana, to be United States marshal, western district of Louisiana, to succeed William M. Palmer, whose term expired December 22, 1930.

ASSAYER IN CHARGE

Elias Marsters, of Boise, Idaho, to be assayer in charge of the United States assay office at Boise, Idaho, to fill an existing vacancy.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 28 (legislative day of February 17), 1931

ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY

Laurits S. Swenson to be envoy extraordinary and minister plenipotentiary to the Netherlands.

CONSUL GENERAL

George C. Hanson to be consul general.

UNITED STATES DISTRICT JUDGE

Louie W. Strum to be United States district judge, southern district of Florida.

JUDGE OF THE POLICE COURT OF THE DISTRICT OF COLUMBIA

John P. McMahon to be a judge of the police court of the District of Columbia.

UNITED STATES MARSHAL

William N. Cromie to be United States marshal, northern district of New York.

COLLECTOR OF CUSTOMS

Anthony Czarnecki to be collector of customs for customs collection district No. 39.

APPRAISER OF MERCHANDISE, CUSTOMS

Robert E. Lee Pryor to be appraiser of merchandise, customs collection district No. 18, Tampa, Fla.

POSTMASTERS

GEORGIA

James T. Dampier, Adel.

IOWA

Otto E. Gunderson, Forest City.
Isaac J. Phillips, Hiteman.
Harvey S. Bliss, Kensett.
Merle B. Camerer, Oto.

MINNESOTA

Edward Lende, Appleton.
Harold E. Bowers, Benson.
Edward F. Koehler, Mound.

MISSISSIPPI

William R. Anderson, Baldwyn.
Myrtle Starnes, Brookville.

NEW JERSEY

Herman H. Wille, Orange.

NEW MEXICO

Maud W. Lenfestey, Aztec.
Winnie E. Pittman, Cloudcroft.
Emma A. Coleman, Lovington.

NORTH DAKOTA

Walter L. Saunders, Ellendale.
Alexander R. Wright, Oakes.

WISCONSIN

Bernard A. McBride, Adams.

HOUSE OF REPRESENTATIVES

SATURDAY, FEBRUARY 28, 1931

The House met at 11 o'clock a. m.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Thou who art the judge and the ruler of all men with hearts strong and courageous, we would fling ourselves upon our tasks, yet allow them not to drown the voices of our souls. How precious is life, O Lord! To it belong the music and the language which are divine. Our Father, come to us from every angle; touch us at every point and enter every door of our natures; shape our lives and fill all their human powers, so that we may do our work in a faultless way to the full measure of our high calling. While in this world we shall never find perfect satisfaction, yet with our trust in Thee, unterrified amid the uncertainties of life, may we dauntlessly go on our way. Again we wait another moment with an upward spiritual gaze, and, listening, may we catch some far faint harmony from the unseen above. Let the light that is overhead come, and may its moral might and majesty direct us this day. Amen.

The Journal of the proceedings of yesterday was read and approved.

ORDER OF BUSINESS

The SPEAKER. The Chair proposes to delay recognition for unanimous-consent requests until later in the day. The Chair desires in the first place to recognize three motions for suspension of the rules. The first, a motion by the gentleman from Michigan [Mr. JAMES], to suspend the rules and pass the bill H. R. 12918.

AMENDMENT OF NATIONAL DEFENSE ACT

Mr. JAMES of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 12918) to amend the national defense act of June 3, 1916, as amended, with amendments suggested by the Secretary of War and agreed to unanimously by the House Committee on Military Affairs.

The SPEAKER. The gentleman from Michigan [Mr. JAMES] moves to suspend the rules and pass the bill H. R. 12918, with amendments, which the Clerk will report.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 1 of the national defense act of June 3, 1916, as amended, be, and the same is hereby, amended by striking out the same and inserting the following in lieu thereof:

"SECTION 1. That the Army of the United States shall consist of the Regular Army, the National Guard of the United States, the National Guard while in the service of the United States, the Organized Reserves, the Officers' Reserve Corps, and the Enlisted Reserve Corps."

SEC. 2. That the fourth paragraph of section 5 (b) of said act be, and the same is hereby, amended by striking out the same and inserting the following in lieu thereof:

"SEC. 5. (b) All policies and regulations affecting the organization and distribution of the National Guard of the United States, and all policies and regulations affecting the organization, distribution, and training of the National Guard, shall be prepared by committees of appropriate branches or divisions of the War Department General Staff, to which shall be added an equal number of officers from the National Guard of the United States whose names are borne on lists of officers suitable for such duty, submitted by the governors of their respective States and Territories, and for the District of Columbia by the commanding general, District of Columbia National Guard.

"All policies and regulations affecting the organization, distribution, training, appointment, assignment, promotion, and discharge of officers of the Organized Reserves shall be prepared by committees of the proper branches of the War Department General Staff to which shall be added an equal number of officers from the Organized Reserves: *Provided*, That when the subject to be studied affects the National Guard of the United States or the National Guard and the Organized Reserves, such committees shall consist of an equal representation from the Regular Army, the National Guard of the United States, and the Organized Reserves. There shall be not less than 10 officers on duty in the War Department General Staff, 5 of whom shall be from the National Guard of the United States and 5 from the Organized Reserves. For the purpose specified herein such officers shall be regarded as additional members of the General Staff while so serving: *And provided further*, That the Chief of Staff shall transmit to the Secretary of War the policies and regulations prepared as hereinbefore prescribed in this section and advise him in regard thereto; after action by the Secretary of War thereon, he shall act as his agent in carrying the same into effect."

SEC. 3. That section 37 of said act be, and the same is hereby, amended by striking out the same and inserting the following in lieu thereof:

"SEC. 37. Officers' Reserve Corps: For the purpose of providing a reserve of officers available for military service when needed there shall be organized an Officers Reserve Corps consisting of general officers and officers assigned to sections corresponding to the various branches of the Regular Army and such additional sections as the President may direct. The grades in each section and the number in each grade shall be as the President may prescribe. All persons appointed in time of peace in the Officers' Reserve Corps are reserve officers and shall be commissioned in the Army of the United States. Such appointments in grades below that of brigadier general shall be made by the President alone, and general officers by and with the advice and consent of the Senate. Appointment in every case in the Officers' Reserve Corps shall be for a period of five years, but an appointment in force at the outbreak of war shall continue in force until six months after its termination: *Provided*, That an officer of the Officers' Reserve Corps shall be entitled to discharge within six months after its termination if he makes application therefor. Any officer of the Officers' Reserve Corps may be discharged at any time, in the discretion of the President. In time of peace an officer of the Officers' Reserve Corps must at the time of his appointment be a citizen of the United States or of the Philippine Islands between the ages of 21 and 64 years. Any person who has been an officer of the Army of the United States at any time between April 6, 1917, and June 30, 1919, or who is or has been an officer of the Regular Army at any time may be appointed in the Officers' Reserve Corps in the highest grade which he held or now holds or any lower grade. No other person shall in time of peace be originally appointed in the Officers' Reserve Corps in the Infantry, Cavalry, Field Artillery, Coast Artillery, or Air Corps in a grade above that of second lieutenant. In time of peace original appointments in the Infantry, Cavalry, Field Artillery, Coast Artillery, and Air Corps shall be limited to officers and former officers of the Regular Army; officers of the National Guard of the United States; graduates of the Reserve Officers' Training Corps, as provided in section 47 (b) hereof; warrant officers and enlisted men of the Regular Army, National Guard of the United States, and Enlisted Reserve Corps; and persons who served in the Army at some time between April 6, 1917, and November 11, 1918. Promotions in all grades of officers who have established or may hereafter establish their qualifications for such promotion and transfer shall be made under such regulations as may be prescribed by the Secretary of War, and shall be based, so far as practicable, upon recommendations made in the established chain of command. So far as practicable, in time of peace officers of the Officers' Reserve Corps shall be assigned to units of the Organized Reserves in the locality of their places of residence. An officer of the Officers' Reserve Corps who accepts appointment in the National Guard of the United States shall upon the termination of his service therewith, if he makes application therefor, be reappointed in the Officers' Reserve Corps in his former grade or such higher grade for which he may be qualified; in determining his qualifications for such higher grade credit shall be given for his service in the National Guard of the United States. General officers transferred from the National Guard of the United States shall not be eligible to assignment to command in the Organized Reserves in time of peace. Nothing in this act shall operate to deprive an officer of his reserve appointment he now holds."

SEC. 4. That section 37a of said act be, and the same is hereby, amended by striking out the same and inserting the following in lieu thereof:

"SEC. 37a. Reserve officers on active duty: To the extent provided for from time to time by appropriations for this specific purpose, the President may order reserve officers to active duty at any time and for any period; but except in time of a national emergency expressly declared by Congress, no reserve officer shall be employed on active duty for more than 15 days in any calendar year without his own consent. A reserve officer shall not be entitled to pay and allowances except when on active duty. When on active duty he shall receive the pay and allowances provided by law, and the same mileage from his home to his first station and from his last station to his home as an officer of the Regular Army, but shall not be entitled to retirement or retired pay: *Provided*, That officers of the National Guard of the United States ordered to active duty shall be paid out of the whole fund appropriated for the support of the National Guard."

SEC. 5. That section 38 of said act be, and the same is hereby, amended by striking out the same and inserting the following in lieu thereof:

"SEC. 38. Officers, National Guard of the United States: All persons appointed, in time of peace, officers in the National Guard of the United States are reserve officers and shall be commissioned in the Army of the United States. Such appointments in grades below that of brigadier general shall be made by the President alone, and general officers by and with the advice and consent of the Senate.

"Officers in the National Guard of the United States shall be appointed for the period during which they are federally recognized in the same grade and branch in the National Guard: *Provided*, That an appointment in force at the outbreak of war shall continue in force until six months after its termination: *And provided further*, That such officer shall be entitled to return to inactive status within six months after its termination if he makes application therefor.

"Transfers between the National Guard of the United States and the Officers' Reserve Corps may be made under such regulations as shall be prescribed by the Secretary of War. Nothing in this act shall operate to deprive a National Guard officer of the appointment he now holds."

SEC. 6. That section 58 of said act be, and the same is hereby, amended by striking out the same and inserting the following in lieu thereof:

"SEC. 58. Composition of the National Guard and the National Guard of the United States: The National Guard of each State, Territory, and the District of Columbia shall consist of members of the milita voluntarily enlisted therein, who, upon original enlistment, shall be not less than 18 nor more than 45 years of age, or who in subsequent enlistment shall be not more than 64 years of age, organized, armed, equipped, and federally recognized as hereinafter provided, and of commissioned officers and warrant officers who are citizens of the United States between the ages of 21 and 64 years: *Provided*, That former members of the Regular Army, Navy, and Marine Corps under 64 years of age may enlist in said National Guard.

"The National Guard of the United States is hereby established. It shall be a reserve component of the Army of the United States and shall consist of those federally recognized officers, warrant officers, and enlisted members of the National Guard of the several States, Territories, and the District of Columbia, who shall have been appointed and commissioned, appointed, enlisted and appointed, or enlisted, as the case may be, in the National Guard of the United States, as hereinafter provided, and of such other officers and warrant officers as may be appointed therein as provided in section 111 hereof: *Provided*, That the members of the National Guard of the United States shall not be in the active service of the United States except when ordered thereto in accordance with law, and, in time of peace, they shall be administered, armed, uniformed, equipped, and trained in their status as the National Guard of the several States, Territories, and the District of Columbia, as provided in this act: *And provided further*, That under such regulations as the Secretary of War shall prescribe, noncommissioned officers, first-class privates, and enlisted specialists of the National Guard may be appointed in corresponding grades, ratings, and branches of the National Guard of the United States, without vacating their respective grades and ratings in the National Guard."

SEC. 7. That section 60 of said act be, and the same is hereby, amended by striking out the same and inserting the following in lieu thereof:

"SEC. 60. Organization of National Guard units: Except as otherwise specifically provided herein, the organization of the National Guard, including the composition of all units thereof, shall be the same as that which is or may hereafter be prescribed for the Regular Army, subject in time of peace to such general exceptions as may be authorized by the Secretary of War. And the President may prescribe the particular unit or units, as to branch or arm of service, to be maintained in each State, Territory, or the District of Columbia in order to secure a force which, when combined, shall form complete higher tactical units: *Provided*, That no change in allotment, branch, or arm of units or organizations wholly within a single State will be made without the approval of the governor of the State concerned."

SEC. 8. That section 69 of said act be, and the same is hereby, amended by striking out the same and inserting the following in lieu thereof:

"SEC. 69. Enlistments in the National Guard and the National Guard of the United States: Original enlistments in the National Guard and the National Guard of the United States shall be for a period of three years, and subsequent enlistments for periods of one or three years each: *Provided*, That in the event of an emergency declared by Congress the period of any enlistment which otherwise would expire may by presidential proclamation be extended for a period of six months after the termination of the emergency."

SEC. 9. That section 70 of said act be, and the same is hereby, amended by striking out the same and inserting the following in lieu thereof:

"SEC. 70. Men enlisted in the National Guard of the several States, Territories, and the District of Columbia, and in the National Guard of the United States, shall sign an enlistment contract and subscribe to the following oath or affirmation:

"I do hereby acknowledge to have voluntarily enlisted this —— day of ————, 19—, as a soldier in the National Guard of the State of ————, and in the National Guard of the United States, for a period of three (one) years, under the conditions prescribed by law, unless sooner discharged by proper authority. And I do solemnly swear or affirm that I will bear true faith and allegiance to the United States of American and to the State of ————; that I will serve them honestly and faithfully against all their enemies whomsover; that I will render military service to the United States of America in obedience to a lawful order of the President in the event of a declaration of war or other national emergency by Congress or a lawful call of the President for the purpose of executing the laws of the Union, suppressing insurrection, or repelling invasion; that I will continue to render such service in obedience to the call and orders of the President and of the officers by him appointed over me, until such emergency shall have been duly declared to have ceased to exist, or until I shall have been relieved from such service, or shall have been discharged by proper authority; and that I will obey the orders of the Governor of the State of ————, and of the

officers by him appointed over me, at all times when I am not in the active military service of the United States, under the call or order of the President."

SEC. 10. That said act be amended by adding section 71 thereto, as follows:

"SEC. 71. Definitions: In this act, unless the context or subject matter otherwise requires—

"(a) 'National Guard' or 'National Guard of the several States, Territories, and the District of Columbia' means that portion of the Organized Militia of the several States, Territories, and the District of Columbia, federally recognized as provided in this act and organized, armed, and equipped in whole or in part at Federal expense and officered and trained under paragraph 16, section 8, Article I of the Constitution.

"(b) 'National Guard of the United States' means a reserve organization of the Army of the United States composed of those persons duly appointed and commissioned in the National Guard of the several States, Territories, and the District of Columbia, who have taken and subscribed to the oath of office prescribed in section 73 of this act, and who have been duly appointed by the President in the National Guard of the United States, as provided in this act, and of those officers and warrant officers appointed as prescribed in sections 75 and 111 of this act, and of those persons duly enlisted in the National Guard of the United States and of the several States, Territories, and the District of Columbia who have taken and subscribed to the oath of enlistment prescribed in section 70 of this act.

"(c) 'Call' means the exercise by the President of his power, under paragraph 15 of section 8, Article I, of the Constitution and the authority of Congress, to require any or all members of the National Guard of the several States and Territories and the District of Columbia in their militia status to render military service to the United States for the purpose of executing the laws of the Union, suppressing insurrection, or repelling invasion.

"(d) 'Order' means the exercise by the President of his constitutional authority as Commander in Chief of the Army of the United States under the provisions of paragraph 12 of section 8, Article I of the Constitution, in the event of a declaration of war or other national emergency by Congress to put into execution the performance by part or all of the members of the National Guard of the United States of their obligation to render active Federal military service by virtue of the oath and contract of office and enlistment as is provided by this act."

SEC. 11. That section 72 of said act be, and the same is hereby, amended by striking out the same and inserting the following in lieu thereof:

"SEC. 72. An enlisted man discharged from service in the National Guard and the National Guard of the United States shall receive a discharge in writing in such form and with such classification as is or shall be prescribed for the Regular Army, and in time of peace discharges may be given prior to the expiration of terms of enlistment under such regulations as the Secretary of War may prescribe."

SEC. 12. That section 73 of said act be, and the same is hereby, amended by striking out the same and inserting the following in lieu thereof:

"SEC. 73. Oaths of National Guard officers—Appointment in the National Guard of the United States: Commissioned officers and warrant officers of the several States, Territories, and the District of Columbia shall take and subscribe to the following oath of office:

"I, ———, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the constitution of the State of ——— against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will render military service to the United States in obedience to a lawful order of the President in the event of a declaration of war or emergency declared by Congress or in obedience to a lawful call of the President for the purpose of executing the laws of the Union, suppressing insurrection, or repelling invasion; that I will continue to render such service in obedience to the orders of the President and of the officers by him appointed over me until I shall have been relieved from such service by orders of the President; that I will obey the orders of the governor of the State of ——— and of the officers by him appointed over me at all times when I am not in the active military service of the United States under an order or call of the President; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of ——— in the National Guard of the United States and in the National Guard of the State of ———, upon which I am about to enter. So help me God.

"The President is authorized to appoint in the same grade and branch in the National Guard of the United States any person who is an officer or warrant officer in the National Guard of any State, Territory, or the District of Columbia and who is federally recognized in that grade and branch: *Provided*, That upon such appointment no additional oath of office shall be required: *And provided further*, That acceptance of appointment and commission in the same grade and branch in the National Guard of the United States, by an officer of the National Guard of a State, Territory, or the District of Columbia shall not operate to vacate his State, Territory, or District of Columbia National Guard office.

"Officers or warrant officers of the National Guard who are in a federally recognized status on the date of the approval of this act shall take the oath of office herein prescribed and shall be transferred to the National Guard of the United States without further examination, within a time limit to be fixed by the President, and shall in the meantime continue to enjoy all the rights, benefits, and privileges conferred by this act."

SEC. 13. That section 75 of said act be, and the same is hereby, amended by striking out the same and inserting the following in lieu thereof:

"SEC. 75. The provisions of this act shall not apply to any person hereafter appointed as an officer of the National Guard of the United States unless he first shall have successfully passed such tests as to his physical, moral, and professional fitness as the President shall prescribe. The examination to determine such qualifications for appointment shall be conducted by a board of three commissioned officers appointed by the Secretary of War from the Regular Army or the National Guard of the United States, or both.

"Upon being federally recognized such officers and warrant officers may be appointed in the National Guard of the United States: *Provided*, That the number of officers and warrant officers of the National Guard of the United States shall not exceed the maximum number required under war-strength tables of organization for the units of that component, plus one major general, Chief National Guard Bureau."

SEC. 14. That section 76 of said act be, and the same is hereby, amended by striking out the same and inserting the following in lieu thereof:

"SEC. 76. Withdrawal of Federal recognition: Under such regulations as the President shall prescribe the capacity and general fitness of any officer or warrant officer of the National Guard of the several States, Territories, and the District of Columbia for continued Federal recognition may at any time be investigated by an efficiency board of officers senior in rank to the officer under investigation, appointed by the Secretary of War from the Regular Army or the National Guard of the United States, or both. If the findings of said board be unfavorable to the officer under investigation and be approved by the President, Federal recognition shall be withdrawn and he shall be discharged from the National Guard of the United States. Federal recognition may be withdrawn by the Secretary of War and his appointment or commission in the National Guard of the United States may be terminated when an officer or warrant officer of the National Guard of any State, Territory, or the District of Columbia, has been absent without leave for three months."

SEC. 15. That section 77 of said act be, and the same is hereby, amended by striking out the same and inserting the following in lieu thereof:

"SEC. 77. Elimination and disposition of officers of the National Guard of the United States: The appointments and commissions of officers and warrant officers of the National Guard of the several States may be terminated or vacated in such manner as the States shall provide by law. Whenever the appointment or commission of an officer or warrant officer of the National Guard of a State has been vacated or terminated, or upon reaching the age of 64 years, the Federal recognition of such officer shall be withdrawn and he shall be discharged from the National Guard of the United States. When Federal recognition is withdrawn from any officer or warrant officer of the National Guard of any Territory or the District of Columbia, as provided in section 76 of this act, or upon reaching the age of 64 years, he shall thereupon cease to be a member thereof, and shall be given a discharge certificate therefrom by the official authorized to appoint such officer."

SEC. 16. That section 78 of said act be, and the same is hereby, amended by striking out the same and inserting the following in lieu thereof:

"SEC. 78. Men duly qualified for enlistment in the active National Guard may enlist in the inactive National Guard for a period of one or three years, under such regulations as the Secretary of War shall prescribe, and on so enlisting they shall sign an enlistment contract and subscribe to the oath or affirmation in section 70 of this act.

"Under such regulations as the Secretary of War may prescribe, enlisted men of the active National Guard may be transferred to the inactive National Guard; likewise enlisted men hereafter enlisted in or transferred to the inactive National Guard may be transferred to the active National Guard: *Provided*, That no enlisted man shall be required to serve under any enlistment for a longer time than the period for which he enlisted in the active or inactive National Guard, as the case may be. Members of said inactive National Guard, when engaged in field or coast-defense training with the active National Guard, shall receive the same Federal pay and allowances as those occupying like grades on the active list of said National Guard when likewise engaged."

SEC. 17. That section 81 of said act be, and the same is hereby, amended by striking out the same and inserting the following in lieu thereof:

"SEC. 81. The National Guard Bureau: The Militia Bureau of the War Department shall hereafter be known as the National Guard Bureau. The Chief of the National Guard Bureau shall be appointed by the President, by and with the advice and consent of the Senate, by selection from lists of officers of the National Guard of the United States recommended as suitable for such appointment by their respective governors, and who have had 10 or more years' commissioned service in the National Guard, at least five of which have been in the line, and who have attained at least the grade of colonel. The Chief, National Guard Bureau, shall hold office for four years unless sooner removed for cause and shall not be eligible to succeed himself, and when 64 years of age shall cease to hold such office. Upon

accepting his office the Chief of the National Guard Bureau shall be appointed a major general in the National Guard of the United States, and commissioned in the Army of the United States, and while so serving he shall have the rank, pay, and allowances of a major general, provided by law, but shall not be entitled to retirement or retired pay.

"For duty in the National Guard Bureau and for instruction of the National Guard the President shall assign such number of officers and enlisted men of the Regular Army as he may deem necessary. The President may also assign, with their consent, to duty in the National Guard Bureau, nine officers who at the time of their initial assignments hold appointments in the National Guard of the United States, and any such officers while so assigned shall receive the pay and allowances provided by law.

"The President may also assign, with their consent and within the limits of the appropriations previously made for this specific purpose, not exceeding 500 officers who have been appointed officers in the National Guard of the United States, to duty with the Regular Army, in addition to those officers attending the service schools, and while so assigned they shall receive the pay and allowances provided in this section for officers assigned to duty with the National Guard Bureau.

"In case the office of the Chief of the National Guard Bureau becomes vacant or the incumbent because of disability is unable to discharge the powers and duties of the office, the senior officer on duty in the National Guard Bureau, appointed from the National Guard of the United States, shall act as chief of said bureau until the incumbent is able to resume his duties or the vacancy in the office is regularly filled. The pay and allowances provided in this section for the Chief of the National Guard Bureau and for the officers assigned to duty from the National Guard of the United States shall be paid out of the whole fund provided for the support of the National Guard."

SEC. 18. That section 82 of said act be, and the same is hereby, amended by striking out the same and inserting the following in lieu thereof:

"SEC. 82. Armament, equipment, and uniform of the National Guard: The National Guard shall, as far as practicable, be uniformed, armed, and equipped with the same type of uniforms, arms, and equipments as are or shall be provided for the Regular Army."

SEC. 19. That section 111 of said act be, and the same is hereby, amended by striking out the same and inserting the following in lieu thereof:

"SEC. 111. When Congress shall have authorized the use of armed land forces of the United States for any purpose requiring the use of troops in excess of those of the Regular Army, the President may, under such regulations, including such physical examination as he may prescribe, order into the active military service of the United States, to serve therein for the period of the war or emergency, unless sooner relieved, any or all units and the members thereof of the National Guard of the United States. All persons so ordered into the active military service of the United States shall from the date of such order stand relieved from duty in the National Guard of their respective States, Territories, and the District of Columbia so long as they shall remain in the active military service of the United States, and during such time shall be subject to the laws and regulations for the government of the Army of the United States. The organization of said units existing at the date of the order into active Federal service shall be maintained intact in so far as practicable.

"Commissioned officers and warrant officers appointed in the National Guard of the United States and commissioned in the Army of the United States, ordered into Federal service as herein provided, shall be ordered to active duty under such appointments and commissions: *Provided*, That those officers and warrant officers of the National Guard who do not hold appointments in the National Guard of the United States and commissions in the Army of the United States may be appointed and commissioned therein by the President, in the same grade and branch they hold in the National Guard.

"Officers and enlisted men while in the service of the United States under the terms of this section shall receive the pay and allowances provided by law for officers and enlisted men of the reserve forces when ordered to active duty, except brigadier generals and major generals, who shall receive the same pay and allowances as provided by law for brigadier generals and major generals of the Regular Army, respectively. Upon being relieved from active duty in the military service of the United States all individuals and units shall thereupon revert to their National Guard status.

"In the initial mobilization of the National Guard of the United States, war-strength officer personnel shall be taken from the National Guard as far as practicable, and for the purpose of this expansion warrant officers and enlisted men of the National Guard may, in time of peace, be appointed officers in the National Guard of the United States and commissioned in the Army of the United States."

SEC. 20. That section 112 of said act be, and the same is hereby, amended by striking out the same and inserting the following in lieu thereof:

"SEC. 112. Rights to pensions: When any officer, warrant officer, or enlisted man of the National Guard or the National Guard of the United States called or ordered into the service of the United States, or when any officer of the Officers' Reserve Corps or any person in the Enlisted Reserve Corps ordered into active service except for training, is disabled by reason of wounds or disability received or incurred while in the active service of the United States, he shall be entitled to all the benefits of the pension laws existing at the time of his service; and in case such officer or enlisted man dies in the active service of the United States or in returning to his place of residence after being mustered out of service, or at any other time in consequence of wounds or disabilities received in such service, his widow and children, if any, shall be entitled to all the benefits of such pension laws."

SEC. 21. That paragraph 7 of section 127a of said act be, and the same is hereby, amended by striking out the same and inserting the following in lieu thereof:

"PAR. 7. In time of war any officer of the Regular Army may be appointed to higher temporary grade without vacating his permanent appointment. In time of war any officer of the Regular Army appointed to higher temporary grade, and all other persons appointed, as officers, shall be appointed and commissioned in the Army of the United States. Such appointments in grades below that of brigadier general shall be made by the President alone, and general officers by and with the advice and consent of the Senate: *Provided*, That an appointment, other than that of a member of the Regular Army made in time of war, shall continue until six months after its termination and an officer appointed in time of war shall be entitled to discharge within six months after its termination if he makes application therefor."

Mr. COLLINS. Mr. Speaker, I demand a second.

Mr. JAMES of Michigan. Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

The SPEAKER. The gentleman from Michigan [Mr. JAMES] is recognized for 20 minutes and the gentleman from Mississippi [Mr. COLLINS] is recognized for 20 minutes.

Mr. JAMES of Michigan. Mr. Speaker, I yield five minutes to the gentleman from Ohio [Mr. SPEAKS].

Mr. SPEAKS. Mr. Speaker, I ask not to be interrupted while I make a brief statement on this bill.

Mr. HUDDLESTON. Mr. Speaker, this is a very important measure. I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Alabama [Mr. HUDDLESTON] makes the point of order that there is not a quorum present. Evidently there is not a quorum present.

Mr. TILSON. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 44]

Baird	Douglas, Ariz.	Jonas, N. C.	Prall
Beck	Doyle	Kemp	Pratt, Ruth
Bell	Drewry	Kiefner	Rowbottom
Black	Evans, Calif.	Kunz	Rutherford
Blackburn	Fenn	Langley	Shaffer, Va.
Brunner	Fort	Lanham	Simms
Buchanan	Fuller	Larsen	Spearing
Busby	Garrett	Linthicum	Sproul, Kans.
Butler	Goodwin	McCormack, Mass.	Stevenson
Byrns	Graham	McCormick, Ill.	Stobbs
Celler	Hall, Miss.	Mansfield	Sullivan, N. Y.
Clark, Md	Halsey	Michaelson	Sullivan, Pa.
Cooke	Hancock, N. Y.	Murphy	Taylor, Colo.
Coyle	Hancock, N. C.	Nelson, Wis.	Thompson
Craddock	Hoffman	O'Connor, La.	Wigglesworth
Davis	Hudspeth	Oliver, N. Y.	Wolfenden
Dickinson	Johnson, Okla.	Palmisano	Wurzbach

The SPEAKER. Three hundred and sixty-one Members are present, a quorum.

Mr. TILSON. Mr. Speaker, I move to suspend further proceedings under the call.

The motion was agreed to.

Mr. SPEAKS. Mr. Speaker and Members of the House, the main purpose of this bill is to make the National Guard immediately subject to the President's orders whenever Congress shall declare war or other national emergency, requiring military forces in excess of the Regular Army.

The bill calls for no wide departure from the system prevailing in our Military Establishment since the formation of the Government, and in reality is a step in the direction of reestablishing the defense plans created by the fathers.

The measure does not contain a word or provision which will in any manner create friction or discord between the various branches of the service, nor does it in any respect encroach upon the duties, prerogatives, or prestige of the regular Military Establishment.

The bill calls for no appropriation and will in no wise increase expenditures for national defense purposes. As a

matter of fact it will result in a saving when the guard is ordered for Federal duty.

The changes in the national defense act, which it is desired to accomplish through this measure, require minor amendments to a number of sections, but the principal alterations involve only a few sections. It contains some 26 pages and may appear somewhat complicated, but in reality it is very simple and easily understood after casual consideration.

Many Members will recall the delays and confusion heretofore experienced when mustering the National Guard into Federal service in times of national emergencies. When called for duty in the Spanish-American War, the Mexican border troubles and the World War much valuable time was lost in placing the guard at the disposal of the President, and in many instances units were completely disrupted, with consequent demoralization, disappointments, and loss of morale.

Through this bill it is proposed that in addition to its existence and duties as a State force the guard shall have a permanent Federal status for emergency purposes, and in the latter case to be known as the National Guard of the United States.

This arrangement will obviate the present drafting and mustering in of the guard in times of national emergency, this process being necessary by reason of the fact that the enlisted personnel and such of its officers as are not commissioned in the Officers' Reserve Corps have a militia status only and are available only as militia.

Enactment of this bill will accomplish the following purposes:

First. Upon the declaration of a national emergency by Congress, and without the necessity of draft legislation the National Guard will be immediately available as a reserve component of the Army of the United States.

Second. Upon the conclusion of such emergency it restores the guard to the respective States with its Federal status terminated, without the expense and demoralization incident to demobilization, and the consequent loss of military status.

Third. Pending the declaration of such an emergency, control of the guard by the respective States is unaffected and in no manner impaired.

The bill as amended has the approval of the War Department which recommends its enactment into law. It is also approved by the Adjutants General Association of the United States, composed of those officials who, under direction of the governors, speak for the people of the various States with respect to military matters, and finally by the National Guard Association of the United States, composed of officers from every State in the Union.

The guard organizations referred to embrace within their commissioned personnel many able lawyers and judicial officials of high standing who have carefully studied every legal phase of the measure and consider it entirely sound from a constitutional standpoint.

Under the proposed plan the governor of each State, in time of peace, will continue as commander in chief of the guard of his State, retaining complete control and supervision of the organization in the same manner as he does under existing laws and regulations. There will be no limitation on his authority to use the guard as he does at the present time.

But, when Congress declares war or a national emergency, the President may immediately order into Federal service the entire guard or such portion of it as may be necessary, when the organizations will respond with their units and personnel intact.

When the emergency has disappeared the organizations will be returned to their respective States intact, and again be under the control of the governors. Under the regulations governing at present when relieved from Federal service the guard loses its military status and must be reorganized.

The bill comes to Congress in the nature of a plea from the National Guard of the entire country with the request that it be enacted into law. In view of a long record of efficient service in State and Nation, and especially after recalling the historical fact that the guard furnished 11 of the 29 divisions which the United States placed on the battle front in France and Belgium, it is felt that the citizen soldiery should have a more definite and permanent status as a part of our first-line defense forces.

Mr. COLLINS. Mr. Speaker, I yield myself 10 minutes.

Ladies and gentlemen of the House, this is one of the most important bills that has engaged the attention of this Congress. It is farcical to consider it with only 20 minutes debate to the side and without the membership being permitted to offer any amendments. There is not a man or woman in the House who understands the bill. It was not even read section by section in the committee. Even the members of the Military Affairs Committee do not know the effects that will flow from its passage.

It covers 28 printed pages and embraces about 150 amendments to the national military defense act. In many instances it literally rapes that provision of the Constitution giving certain powers to the States over their own militia. I therefore think Congress could well afford to wait until the December session of Congress before passing this bill. I can see no good that can come from passing it without any consideration—and consideration is impossible here to-day.

In brief, this bill makes the civilian components of the Army a part of the Army of the United States. These civilian components of the Army, including the militia, become at once a part of the Army of the United States. To make the State militia a part of the Army of the United States, with full power vested in the War Department for its control and management in peace time, is a direct violation of that part of section 8 of Article I of the Constitution of the United States which provides that the Congress shall have power—

> To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions; to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States, respectively, the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress.

It is literally impossible in the short time at my disposal to discuss every paragraph in this bill. However, I shall undertake to discuss certain parts of some of these paragraphs merely for the purpose of acquainting the Congress with some of the provisions of the bill and their effects if it should become a law.

(1) From section 2 of the bill I quote the following:

> All policies and regulations affecting the organization, distribution, training, appointment, assignment, promotion, and discharge of officers of the Organized Reserves shall be prepared by committees of the proper branches of the War Department General Staff to which shall be added an equal number of officers from the Organized Reserves, whose names are borne on lists of officers suitable for such duty, submitted by the governors of their respective States and Territories, and for the District of Columbia by the District Commissioners: *Provided*, That when the subject to be studied affects the National Guard of the United States or the National Guard and the Organized Reserves, such committees shall consist of an equal representation from the Regular Army, the National Guard of the United States, and the Organized Reserves. There shall be not less than 10 officers on duty in the War Department General Staff, 5 of whom shall be from the National Guard of the United States and 5 from the Organized Reserves; and if the service of any officer on such duty is satisfactory, the period of such War Department General Staff duty shall with his consent be not less than two years. For the purpose specified herein such officers shall be regarded as additional members of the General Staff while so serving.

This section deals with the Organized Reserves which are distinctly a Federal civilian branch of the Army. The States have no control whatever over it, but this section provides that the policies and regulations affecting the organization, distribution, training, appointment, assignment, promotion, and discharge of officers of the Organized Reserves shall be prepared by committees of the proper branches of the War Department General Staff together with an equal number of officers from the Organized Reserves.

The committee dealing with the militia or the Organized Reserves will consist of 10 Regular Army officers and 5 officers from the Organized Reserves and 5 officers from the militia.

Since a National Guard officer is likewise a reserve officer, it is possible that the five officers from the Organized Reserves may likewise be militia officers. This would result in a committee consisting of 10 Regular Army officers and 10 officers from the State militia. Such procedure would have the added result of placing the militia in charge of policies and regulations affecting the Organized Reserves which is distinctly a Federal organization. Certainly such a provision as this is a violation of the spirit if not the letter of the Constitution.

This quoted paragraph also provides that if the service of any officer on such duty is satisfactory, the period of duty shall with his consent be not less than two years. Of course, somebody or some agency must determine whether or not such duty is satisfactory. I submit that the statute is blank as to the determining authority.

(2) In Section 3, this language appears:

All persons appointed in time of peace, in the Officers' Reserve Corps are reserve officers and shall be commissioned in the Army of the United States.

Under existing law, officers in the Reserve Corps are commissioned as reserve officers. Under this provision they would be made officers in the Army of the United States, and ultimately this would mean an enormous increase in the number of Regular Army officers which would ultimately carry with it the pay and prerequisites received now by Regular Army officers.

(3) Also in section 3 this is found:

In time of peace an officer of the Officers' Reserve Corps must at the time of his appointment be a citizen of the United States or of the Philippine Islands between the ages of 21 and 64 years.

This provision means that a great many old men unfit for the duties of soldiering would be commissioned in the Army of the United States. It is well known by experience as reflected in all regulations of all of the countries of the world that the proper ages for soldiers is between 18 and 35. Some have deemed it advisable to make the age limit 45 years, but those persons over 45 as a class are unfit for military duty, and no act should be allowed to pass permitting an individual to be commissioned an officer in the Army of the United States who is 64 years old. That is the age at which officers in the Regular Army are now retired, and certainly persons so old should not be taken initially into our combat forces.

(4) This language appears in section 3:

Any person who has been an officer of the Army of the United States at any time between April 6, 1917, and June 30, 1919, or who is or has been an officer of the Regular Army at any time may be appointed in the Officers' Reserve Corps in the highest grade which he held or now holds or any lower grade.

This provision likewise merely means that a large number of former officers can be taken into the Officers' Reserve Corps, notwithstanding their age limits or their unfitness for service. The Congress should not embark upon such a policy.

(5) Also section 3 includes this language:

No other person shall in time of peace be originally appointed in the Officers' Reserve Corps in the Infantry, Cavalry, Field Artillery, Coast Artillery, or Air Corps in a grade above that of second lieutenant.

This section embraces the fighting units of the Army and provides that if a person is appointed to one of these fighting units, he can not be originally appointed to a grade above that of second lieutenant. But if a person wishes to go into some noncombat unit of the Army where fighting will be foreign to his service, he can be originally appointed to a grade above that of second lieutenant. This section, therefore, gives a distinct advantage to the swivel-chair officer and is a clear discrimination against officers in the fighting units.

(6) From section 3 this language is quoted:

In time of peace original appointments in the Infantry, Cavalry, Field Artillery, Coast Artillery, and Air Corps shall be limited to officers and former officers of the Regular Army; officers of the National Guard of the United States; graduates of the Reserve Officers' Training Corps, as provided in section 47 (b) hereof; warrant officers and enlisted men of the Regular Army, National Guard of the United States, and Enlisted Reserve Corps; and persons who served in the Army at some time between April 6, 1917, and November 11, 1918.

Among other things, this provision means that every officer of the National Guard can be an officer in the Organized Reserves. In other words, it invests these milita officers with a dual status. An officer should either be an officer in the militia or he should be an officer in the Organized Reserves. He should not be permitted to be an officer in both organizations. Likewise, it would permit men too old for service to be commissioned as officers in the Organized Reserves.

(7) Also in section 3:

Promotions in all grades of officers who have established, or may hereafter establish, their qualifications for such promotion and transfer shall be made under such regulations as may be prescribed by the Secretary of War.

The effect of this provision is to put into the hands of the Secretary of War the power to promote militia officers in spite of the provisions of the Federal Constitution which reserves "to the States, respectively, the appointment of officers."

(8) In section 4 this language appears:

Provided, That officers of the National Guard of the United States ordered to active duty shall be paid out of the whole fund appropriated for the support of the National Guard.

This makes all Federal funds appropriated for the support of the guard interchangeable. If money were appropriated for uniforms, it could be expended for pay. Congress certainly should not force itself to make provisions for lump-sum appropriations. This is a step in that direction. Congress should appropriate money for direct purposes and not leave the allocation of funds to interested persons. This is a duty that rests entirely upon Congress, and Congress should exercise it.

(9) The following is from section 5:

All persons appointed, in time of peace, officers in the National Guard of the United States are reserve officers and shall be commissioned in the Army of the United States. Such appointments in grades below that of brigadier general shall be made by the President alone, and general officers by and with the advice and consent of the Senate.

This language provides that a militia officer is an officer in the Army of the United States, and gives the power of appointment to the President. The very fact that these militia officers are likewise called officers of the National Guard of the United States can not keep them from being militia officers. They are officers in the various State militia and under the terms of section 8 of Article I of the Constitution of the United States their appointment is reserved to the States. The President of the United States has no authority whatever over their appointment, and any effort to change their status directly or indirectly is a violation of both the spirit and the letter of the Constitution.

(10) The following language appears in section 6:

The National Guard of each State, Territory, and the District of Columbia shall consist of members of the militia voluntarily enlisted therein, who upon original enlistment shall be not less than 18 nor more than 45 years of age, or who in subsequent enlistment shall be not more than 64 years of age, organized, armed, equipped, and federally recognized as hereinafter provided, and of commissioned officers and warrant officers who are citizens of the United States between the ages of 21 and 64 years: *Provided*, That former members of the Regular Army, Navy, and Marine Corps under 64 years of age may enlist in said National Guard.

This section is an exercise of control over the militia of the various States in time of peace, which Congress has no right to exercise under the Constitution. Even if the Congress did have the right to prescribe the ages of members of the militia, the maximum age of 64 is too high. It follows that Congress should not permit enlistments at that advanced age. The use of modern fighting implements is incompatible with advanced age, and every worthwhile authority on the making of modern armies recognized this. The Congress should not countenance an effort to add personnel and pay to individuals who are unfit for serious military duty.

(11) Section 9 is taken up merely with the oath of men enlisted in the National Guard of the various States, and is as follows:

I do hereby acknowledge to have voluntarily enlisted this ——— day of ———, 19—, as a soldier in the National Guard of the State of ——— and in the National Guard of the United States for a period of three (one) years, under the conditions prescribed by law, unless sooner discharged by proper authority. And I do solemnly swear or affirm that I will bear true faith and allegiance to the United States of America and to the State of ———; that I will serve them honestly and faithfully against all their enemies whomsoever; that I will render military service to the United States of America in obedience to a lawful order of the President in the event of a declaration of war or other national emergency by Congress or a lawful call of the President for the purpose of executing the laws of the Union, suppressing insurrection, or repelling invasion; that I will continue to render such service in obedience to the call and orders of the President and of the officers by him appointed over me until such emergency shall have been duly declared to have ceased to exist or until I shall have been relieved from such service or shall have been discharged by proper authority; and that I will obey the orders of the Governor of the State of ———, and of the officers by him appointed over me, at all times when I am not in the active military service of the United States under the call or order of the President.

This oath not only violates that provision of the Constitution which concerns the control of the State militia when it is not in the service of the United States but likewise would make a failure to attend trials, training camps, and other well-known military duties subject to court-martial, and all laws providing for fine, imprisonment, and other punishments. I submit that this is a violation of congressional authority. The State militia is purely a voluntary State organization and the Federal Government should not encroach upon the constitutional control that should be rightly exercised by the States.

(12) Section 10, among other things, provides:

National Guard of the United States means a reserve organization of the Army of the United States composed of those persons duly appointed and commissioned in the National Guard of the several States, Territories, and the District of Columbia who have taken and subscribed to the oath of office prescribed in section 73 of this act, and who have been duly appointed by the President in the National Guard of the United States, as provided in this act, and of those officers and warrant officers appointed as prescribed in sections 75 and 111 of this act, and of those persons duly enlisted in the National Guard of the United States and of the several States, Territories, and the District of Columbia who have taken and subscribed to the oath of enlistment prescribed in section 70 of this act.

This provision, as do several others, treats the State militia as a dual organization; it gives the State militia a dual status—first, as a State organization; and, second, as a national organization. It is my opinion that under the terms of the Constitution it is purely a State organization except that it can be called into Federal service in certain emergencies, but even when called into Federal service in certain emergencies it is still a State organization and no sort of legislative legerdemain can ever make it anything but a State organization. Any attempt to make it a Federal organization is a violation of the constitutional right of the States. Certainly the right to appoint its officers by the President is a plain violation of the written words of the Constitution. To illustrate: Suppose the President should decline to commission certain officers in the militia of a certain State that had been commissioned by the governor, then the Federal Government would withdraw the Federal support that was given for State militia organizations merely because the governor refused to recognize the power of the President of the United States to appoint officers of that State organization, and the State would be forced to accept the President's appointees. Assuredly no one can say that such action, if attempted, is not a violation of that provision of the Constitution reserving to the States the power of appointment of the officers of the militia.

(13) Section 11 provides:

An enlisted man discharged from service in the National Guard of the United States shall receive a discharge in writing in such form and with such classification as is or shall be prescribed for the Regular Army, and in time of peace discharges may be given prior to the expiration of terms of enlistment under such regulations as the Secretary of War may prescribe.

This is just another invasion of the constitutional rights of the States. The Congress has no right to designate a form of discharge for enlisted men in the militia of the several States and the Congress has also no right in time of peace to designate the Secretary of War as the proper person to determine the terms of enlistment for enlisted men of the militia of the several States.

(14) In section 13 we find this language:

The provisions of this act shall not apply to any person hereafter appointed as an officer of the National Guard of the United States unless he first shall have successfully passed such tests as to his physical, moral, and professional fitness as the President shall prescribe. The examination to determine such qualifications for appointment shall be conducted by a board of three commissioned officers appointed by the Secretary of War from the Regular Army or the National Guard of the United States, or both.

Certainly the Congress has no right to provide for the physical, moral, and professional fitness of officers of the militia of the various States. As has been pointed out by me already several times, the appointment of officers in the militia is reserved to the States. This section violates that provision of the Constitution by providing that the board of three commissioned officers in the Regular Army or the National Guard of the United States, or both, shall determine the physical, moral, and professional fitness of the officers of the militia of the several States.

The fact that the militia of the various States is also called the National Guard of the United States does not change the situation one whit notwithstanding the name that this statute undertakes to give the militia of the various States. Any effort to change their status by evasion or otherwise for the purpose of enabling the President through a board to determine the test for qualifications of the officers of the militia of the various States is a violation of the Constitution. This provision likewise is bad because it would create a conflict between the Federal and State authorities as to the fitness of officers. If these authorities differed and the State authorities failed to accede to the wishes of the Federal authorities the Federal support would be withdrawn. So in the end the control rests entirely with the Federal authority. A board of three commissioned officers appointed by the Secretary of War from the Regular Army or the National Guard of the United States, or both, is created. These determining officers might be all from the Regular Army, National Guard, or both. If the National Guard of the United States is a State organization, the Federal Government has no power over it. If it is a national organization then National Guard officers have no control over it. Therefore, this provision likewise is an invasion of constitutional authority.

(15) Section 14, in part, provides:

Under such regulations as the President shall prescribe, the capacity and general fitness of any officer or warrant officer of the National Guard of the several States, Territories, and the District of Columbia for continued Federal recognition may at any time be investigated by an efficiency board of officers senior in rank to the officer under investigation, appointed by the Secretary of War from the Regular Army or the National Guard of the United States, or both.

This likewise is an unwarrantable and unconstitutional control by the Federal Government of the militia of the various States.

(16) Section 16 creates an inactive National Guard. I have not been able to find out what that is unless it is just another attempt to create an organization purely for the purpose of molding a military-mindedness in this country. It certainly could not be called upon for active duty. This section, in part, is as follows:

Under such regulations as the Secretary of War may prescribe, enlisted men of the active National Guard may be transferred to the inactive National Guard; likewise enlisted men hereafter enlisted in or transferred to the inactive National Guard may be transferred to the active National Guard: *Provided*, That no enlisted man shall be required to serve under any enlistment for a longer time than the period for which he enlisted in the active or inactive National Guard, as the case may be. Members of said inactive National Guard, when engaged in field or coast-defense training with the active National Guard shall receive the same Federal pay and allowances as those occupying like grades on the active list of said National Guard when likewise engaged.

I can see how it would be possible for the States to form an inactive National Guard, but for the Federal Government to do so also seems to me an invasion of State author-

ity. Certainly the creation of another unit such as is contemplated here is a foolish and dangerous undertaking. Its creation is solely for the purpose of adding useless personnel to the Federal pay roll under the pretext of national military defense.

(17) A part of section 17 is as follows:

The pay and allowances provided in this section for the Chief of the National Guard Bureau and for the officers assigned to duty from the National Guard of the United States shall be paid out of the whole fund provided for the support of the National Guard.

This provision also gives authority to use the whole fund provided for the support of the National Guard for pay and allowances of the Chief of the National Guard Bureau and other officers from the National Guard assigned to active duty in times of peace. It should provide that they be paid out of appropriate appropriations made for that purpose, otherwise Congress would have no power over such expenditures.

(18) Also, in section 17 we find this language:

The Chief, National Guard Bureau, shall be responsible for the preparation of the annual budget for the National Guard.

Of course, the Congress does not want to give to the Chief of the National Guard Bureau the power to prepare the annual Federal Budget for the National Guard, and I take it that no one in this House has any sympathy for this proposal.

(19) This section is as follows:

When any officer, warrant officer, or enlisted man of the National Guard or the National Guard of the United States called or ordered into the service of the United States, or when any officer of the Officers' Reserve Corps or any person in the Enlisted Reserve Corps ordered into active service except for training, is disabled by reason of wounds or disability received or incurred while in the active service of the United States, he shall be entitled to all the benefits of the pension laws existing at the time of his service; and in case such officer or enlisted man dies in the active service of the United States or in returning to his place of residence after being mustered out of service, or at any other time in consequence of wounds or disabilities received in such service, his widow and children, if any, shall be entitled to all the benefits of such pension laws.

This section gives rights of pensions existing at the time of service to those officers, warrant officers, and enlisted men of the National Guard who are disabled by reasons of wounds or disabilities received or incurred in service provided they are not disabled while in military training. In other words, officers holding desk jobs who are injured for any reason are given rights to pensions, but officers and men who are training for worth-while military service, if injured, are not entitled to rights to pensions. If either class is to be preferred, certainly those that are injured in training for military service are the ones whose disability should be compensated for by the Government. If this section is enacted into law and is a constitutional exercise of congressional power, the time is only a short distance away when those in military training will demand the same rights and, in justice, will be given them. This will mean the giving of pension benefits to approximately 200,000 additional persons and in a very short while, a very much larger number.

If this bill is enacted into law and the officers of the militia are commissioned as officers in the Army of the United States, as is provided for in this bill, they will demand that the Congress give them the same retirement benefits that are provided now for officers of the Regular Army of the United States; and in view of the powerful political influence that the militia of the various States can exercise, the Congress will not hesitate to accord to these officers the same retirement privileges and ultimately the same pay and perquisites now granted officers in the Regular Army. I submit that our Army is already too large. Including the civilian organizations, we have in our Military Establishment now in excess of 800,000 men. A fraction less than 150,000 of these are in the Regular Army. The rest are civilian units and are part of our civilian population. I certainly do not want to see a unit such as the National Guard taken bodily into the Regular Army of the United States. Not because I have anything against the National Guard. I have not. I merely do not want to see the Regular Army increased by approximately 200,000 men by any such proposed unconstitutional methods. Of course, if this bill is enacted into law, it will not at once bring the entire 200,000 men now in the National Guard into the Regular Army of the United States, but ultimately it will, and in relatively a very short time.

Ladies and gentlemen of the House, I hope I have pointed out in the very short time at my disposal objections to this bill that will at least make the majority of you doubtful as to the wisdom of its enactment. Certainly it should not be passed in its present form. There is no immediate danger that can come to the country by waiting until Congress convenes again when we will have sufficient time to study the bill thoroughly and to give it the consideration that a measure of its consequence should have at the hands of thoughtful legislators. [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Mississippi has again expired.

Mr. COLLINS. Mr. Speaker, I reserve the balance of my time.

Mr. JAMES of Michigan. Mr. Speaker, I yield three minutes to the gentleman from South Carolina [Mr. McSWAIN], a member of the committee.

Mr. McSWAIN. Mr. Speaker and Members of the House, on February 23 the distinguished gentleman from Pennsylvania [Mr. BECK] discussed what he conjectured might be the view of George Washington with reference to certain present-day political and economic problems. This, of course, was pure guesswork, but I think we can say to-day with certainty that if George Washington were here to-day he would be in favor of this bill [applause], because this bill is essentially the very proposition that George Washington submitted to the Continental Congress on May 1, 1783, and the same suggestion that he submitted to the First Congress that convened under the Constitution in April, 1789. [Applause.] The records show this.

A most magnificant discovery of the hitherto dust-concealed unpublished manuscripts of George Washington by Gen. John McA. Palmer, United States Army, retired, published in the book that lies on the desk there [indicating] known as "Washington, Lincoln, and Wilson, the Three War Presidents," gives the attitude of Washington as to what should constitute "a well-regulated militia" and thus Washington's views are established beyond doubt.

The first few Congresses did not enact the law that Washington desired. The first few Congresses were so jealous of the concentration of authority, they reflected so fully the sentiment of great, noble, patriotic men like Patrick Henry, that they would not permit the Federal Government to have that direct control over the National Guard, then called the militia, that is now deemed to be necessary to insure efficiency and economy of preparedness.

Ladies and gentlemen of the House, this measure is the desire of the National Guard officers of the United States, having in view the recent experiences of the World War. You remember that there was great bitterness of feeling by the National Guard officers against the Regular Army officers as a result of the scrambling process that went on with reference to the National Guard organizations that were drafted into the service of the United States. [Applause.] National Guard organizations long established in popular affection were disrupted and lost their identity. Officers and men were drafted into the service as individuals and not as organizations. These volunteers who had been training for years to fight together and officers known to them and their families and loved ones, were scattered through several other different organizations. This was demoralizing and disappointing. It meant low morale. Then when the war was over and the Army demobilized, they were discharged as individuals and, organizations over 100 years old no longer existed and the National Guard had to be reorganized entirely. This bill of General Speaks, who has given over 40 years of his life to work in and with the National Guard, whose work for 10 years in Congress has been devoted to reforming these evils, will prevent these things from happening again.

Mr. JAMES of Michigan. Mr. Speaker, I yield three minutes to the gentleman from New York [Mr. WAINWRIGHT].

Mr. WAINWRIGHT. Mr. Speaker and gentlemen of the House, this bill, if enacted into law, will in no way affect the status of the National Guard in time of peace in so far as the control of the States and the governors of the States are concerned.

The main purpose of the bill is to make the National Guard, which to-day, notwithstanding what was said by the gentleman from Mississippi [Mr. COLLINS], is a part of the Army of the United States, practically—because the National Guard to-day is practically supported or in a large measure supported by the Federal Government—to make it more available, and available in a smoother fashion for entry into the Federal service in time of war than it is to-day.

Mr. GRIFFIN. Will the gentleman yield?

Mr. WAINWRIGHT. I can not yield, having such a short time at my disposal.

The principal point of this bill is embodied in section 19, which changes the provision of the national defense act under which to-day the National Guard is made available for service as part of the armed forces of the United States upon a declaration of war.

To-day, under section 111 of the national defense act, the National Guard can only be inducted or drafted into service as individuals. The National Guard organizations, the regiments and brigades, can not in time of war be drafted into the service of the United States. They can only be taken in as individuals. By this change they will become subject to the orders of the President, so that, without all the machinery and all the confusion and disorganization incident to the draft, they can be ordered into the service of the United States by organizations, and that is all there is to this proposition. [Applause.]

This bill is asked for in an abundance of patriotism, realizing the part they must inevitably play in time of war, by the National Guard itself; it is their own bill. It comes to Congress from the national organization of the National Guard. They themselves want to be put in this relation to the Federal Government. It has the approval of the War Department. Every National Guard officer is for this bill, and it should pass, gentlemen. It should, in the interest of the national defense, become the law. [Applause.]

Mr. JAMES of Michigan. Mr. Speaker, I yield one minute to the gentleman from Massachusetts [Mr. CONNERY].

Mr. CONNERY. Mr. Speaker, I am in favor of this bill. Every officer and a great many of the men who served in the Twenty-sixth Division in France, who are now in the present National Guard in Massachusetts, say they want this bill. It does away with this old political business that we have in every State which has a National Guard, of political influence and appointing social lights as officers when you want soldiers. This bill will do away with the social business and give us real soldiers in the National Guard, and I am in favor of it. [Applause.]

Mr. JAMES of Michigan. Mr. Speaker, I yield one-half minute to the gentlewoman from California [Mrs. KAHN].

Mrs. KAHN. Mr. Speaker, to me the attitude of many people on this bill is absolutely incomprehensible. We pride ourselves on the fact that our strongest line of defense is our citizen soldiery; that is the main reason we do not need a large standing army; and whenever an opportunity arises to help out and to strengthen our real line of defense—our citizen soldiery—we meet opposition from every side. [Applause.]

Mr. JAMES of Michigan. Mr. Speaker, I yield two minutes to the gentleman from Alabama [Mr. HILL].

Mr. HILL of Alabama. Mr. Speaker, the gentleman from Mississippi [Mr. COLLINS] has held up this bill and stated that it contains 28 pages and condemned it as if it marked some great departure from our present system of national defense.

The truth is, gentlemen, that these 28 pages constitute almost entirely a reenactment of the law as it exists to-day. No power is conferred by this bill upon the President or the Secretary of War, except perhaps in some very minor way, that the President or the Secretary of War does not have to-day.

The Federal Government is contributing each year over $30,000,000 to the maintenance of the National Guard of the United States, and in view of this contribution, of course, the Federal Government exercises certain supervisory and certain regulatory powers with reference to the guard.

The gentleman from Mississippi says that the bill will open the door wide for all kinds of salaries, pensions, and retirement claims. Nothing of the sort can come out of this bill, because the bill only becomes effective when war or a national emergency has been declared by the Congress. The gentleman from Ohio, General SPEAKS, has stated to you clearly and succinctly the major and dominant purpose of this bill. I shall not attempt in the brief time allotted me to reiterate

The able gentleman from South Carolina [Mr. MCSWAIN] has referred to the fact that this bill embodies the views voiced by George Washington. While still in command of the Continental Army General Washington prepared, at the request of Congress, his sentiments upon a peace establishment for the new Republic. Before complying with the request General Washington called upon all the generals at or near his headquarters for their written opinions. Their replies may be seen to-day in volume 219 of the Washington Papers in the Library of Congress. Among these documents are papers by Pickering, Putnam, Knox, and Baron von Steuben. After digesting the papers submitted to him by his trusted officers, General Washington wrote his own views in the matter under the title "Sentiments on a Peace Establishment." The Revolutionary War had been won by the Continental Army, which was an army of citizen-soldiers, and the modern prototype of which is our National Guard to-day. This bill would carry out the views of General Washington and give us a "well-regulated militia," as he so forcefully urged. It is in line with the policy of national defense which General Washington admonished us to adopt and which he so aptly expressed when he said that we should assume a "respectably defensive posture."

This bill comes before the House to-day largely because of the untiring efforts of its author, the gentleman from Ohio [Mr. SPEAKS]. There is, I am sure, no man in the Congress who has had a longer or more varied experience in the National Guard than he has. For 40 years he served in the guard of his native State of Ohio, entering as a private and rising at last to the high command of brigadier general. He served with the flag in the Spanish-American War, in the Mexican border trouble, and in the World War. All three of his sons answered the call in 1917, one serving with the Navy and the other two serving with the American Expeditionary Forces in France. On next Wednesday, having attained his seventy-third year, General SPEAKS leaves the Congress. I know that I voice the sentiment of all the Members of this House, Democrats as well as Republicans, when I say that it is with deep regret that we bid him adieu. A splendid citizen, a devoted patriot, a faithful legislator, a loyal friend of the people—in the words of Dryden—

> His name, a great example, stands to show how strangely high endeavor may be blessed where piety and valor jointly go.

[Applause.]

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. JAMES of Michigan. I yield to the gentleman from Massachusetts [Mr. DALLINGER].

Mr. DALLINGER. Mr. Speaker, I am heartily in favor of this bill. In every war in which this country has been engaged we have had to depend on our citizen soldiery. This bill is approved by the War Department, the adjutant generals of all the States, and the National Guard Association. I trust that the motion to suspend the rules and pass the bill will prevail by a large majority. [Applause.]

Mr. COLLINS. Mr. Speaker, I yield five minutes to the gentleman from Wisconsin [Mr. STAFFORD].

Mr. STAFFORD. Mr. Speaker and gentlemen of the House, this bill is another step toward the nationalization

of the National Guard and the wiping out of the State militia. How any Member from South Carolina or Alabama can defend this bill, in view of their historic position in upholding the rights of the States I can not conceive. Your forbears unsheathed the sword and sacrificed your all for the maintenance of the rights of the States, and also incidentally the right to maintain the militia inviolate.

Here in this bill the oath is changed materially, as it will appear in the report on page 5, whereby the National Guard man in taking the oath obligates himself to be subject to call in defense of insurrections, which means all kinds of local disturbances, no matter in what part of the country they occur.

My greatest fear is that you are going to discourage enlistments in the National Guard, because when you pass this bill you make the National Guard a part of the National Army of the United States, subject to the call of the President.

Now a transfer of the National Guard is only possible in time of war. If you look on page 10 of the report, you will see that the provision relating to pensions, by which they are only entitled to pensions in time of war, has been stricken out.

This bill, against my protest from the moment of its consideration by the committee, has not received the attention it deserved. I challenge any one of my colleagues on the Military Affairs Committee to say that this bill has at any time been read in the committee paragraph by paragraph. It was not. The bill was reported last June 30; it was referred back only the other day for the first report from the War Department.

The War Department recommended some minor amendments. Naturally the War Department would like to transfer the National Guard into the Regular Army, as this bill proposes to do automatically in time of emergency.

I am thinking what is best for the interests of the National Guard, what is best for the State militia. I do not want any of my boys to refrain from enlisting in the National Guard for fear that when they enlist in the National Guard they enlist in the Army of the United States. That is my fundamental objection to this bill, because when you pass the bill you make the National Guard no longer a State militia, but you make it a part of the National Army.

Mr. SHORT of Missouri. Mr. Speaker, will the gentleman yield?

Mr. STAFFORD. Yes.

Mr. SHORT of Missouri. If this bill works such hardships on the members of the National Guard, why is it that the National Guard is practically unanimously in favor of it?

Mr. STAFFORD. Oh, it is the right to certain perquisites, for example to pensions. On page 10 of the report the gentleman will find that. They are entitled to pensions now only in time of war. That has been stricken out. Of course it is natural for these officers to aggrandize themselves the same as everybody else. They want the same benefits and privileges as pertain in the National Army. This bill tends strongly in that trend.

Mr. SHORT of Missouri. Why should not they have them when they are a part of the defense.

Mr. STAFFORD. They want to be part and parcel of the National Army, to obliterate State lines. I appeal to you people from the South, and to you people from the North, who still favor the State militia not to have it become part and parcel of the National Army as this bill provides.

The SPEAKER pro tempore (Mr. HOOPER). The time of the gentleman from Wisconsin has expired.

Mr. JAMES of Michigan. Mr. Speaker, I yield two minutes to the gentleman from Ohio [Mr. SPEAKS].

Mr. SPEAKS. Mr. Speaker, it has been stated that the bill proposes Federal pensions for National Guard men who may become disabled during peace-time service. This statement is not true. Members of the guard are not eligible to receive Federal pensions except when disabled while in Federal service during war or other national emergency declared by Congress. [Applause.]

Mr. CHIPERFIELD. Mr. Speaker, will the gentleman yield?

Mr. SPEAKS. I yield.

Mr. CHIPERFIELD. Does the gentleman know of any reason that has ever been advanced why any man should be trained in the National Guard at the expense of the Federal Government and not respond to his Government's call in time of need? [Applause.]

Mr. SPEAKS. No reason in the world, except the absence of legislation such as is purposed herein. That is the purpose of this bill. The National Guard or Organized Militia in a sense is part of our national defense forces, but under existing law the organization is greatly demoralized by the archaic method of inducting them into Federal service. With respect to the Militia Bureau referred to by the gentleman from Mississippi [Mr. COLLINS] the bill changes the name to the National Guard Bureau, thus conforming to the general designation of the guard. The War Department objected to the chief of this bureau preparing the guard budget and that provision was stricken out. The War Department continues to have final authority in this matter regardless of the statement to the contrary by the gentleman from Mississippi [Mr. COLLINS].

Mr. NELSON of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. SPEAKS. I can not yield. The gentleman from Mississippi [Mr. COLLINS] criticizes the provision authorizing representatives of the guard to participate in the preparation of regulations for the government of the guard. All that is provided in this bill is that when policies affecting the National Guard are being considered a representation from the guard shall be a part of the War Department committee making the study and determining what the regulations shall be. The desirability of this arrangement is certainly apparent and this cooperation is desired by the War Department.

Mr. GRIFFIN. Mr. Speaker, will the gentleman yield?

Mr. SPEAKS. I yield.

Mr. GRIFFIN. The gentleman says there is nothing in this bill entitling an officer to a pension.

Mr. SPEAKS. Not unless he is disabled while in Federal service during a national emergency.

The SPEAKER pro tempore. The time of the gentleman from Ohio has expired. All time has expired. The question is on the motion of the gentleman from Michigan that the rules be suspended and the bill do pass.

The question was taken; and on a division (demanded by Mr. COLLINS) there were—ayes 131, noes 33.

Mr. COLLINS. Mr. Speaker, I object to the vote upon the ground that there is no quorum present, and I make the point of order that there is no quorum present.

The SPEAKER pro tempore. The Chair will count. [After counting.] One hundred and eighty-three Members present; not a quorum. The Clerk will call the roll. The question is on the motion of the gentleman from Michigan to suspend the rules and pass the bill.

The question was taken; and there were—yeas 304, nays 49, answered "present" 1, not voting 77, as follows:

[Roll No. 45]

YEAS—304

Abernethy	Brand, Ga.	Christopherson	Davenport
Ackerman	Brand, Ohio	Clague	Davis
Adkins	Briggs	Clancy	De Priest
Aldrich	Brigham	Clark, N. C.	DeRouen
Allen	Britten	Clarke, N. Y.	Dickinson
Andresen	Browning	Cochran, Mo.	Dickstein
Andrew	Brumm	Cochran, Pa.	Dominick
Arentz	Buchanan	Cole	Dorsey
Arnold	Buckbee	Collier	Doughton
Aswell	Burdick	Colton	Douglass, Mass.
Auf der Heide	Burtness	Condon	Dowell
Ayres	Butler	Connery	Doxey
Bacharach	Byrns	Cooke	Drane
Bacon	Cable	Cooper, Ohio	Drewry
Barbour	Campbell, Iowa	Cooper, Tenn.	Driver
Beck	Campbell, Pa.	Corning	Dunbar
Beedy	Canfield	Crail	Dyer
Beers	Carley	Cramton	Eaton, Colo.
Black	Carter, Calif.	Crisp	Eaton, N. J.
Blackburn	Carter, Wyo.	Cross	Edwards
Bland	Cartwright	Crosser	Elliott
Blanton	Chalmers	Crowther	Ellis
Bohn	Chase	Culkin	Englebright
Bolton	Chindblom	Cullen	Erk
Bowman	Chiperfield	Dallinger	Eslick
Boylan	Christgau	Darrow	Estep

Esterly	Hull, Tenn.	Martin	Snow
Evans, Mont.	Igoe	Merritt	Sparks
Finley	Irwin	Michener	Speaks
Fish	James, Mich.	Miller	Sproul, Ill.
Fisher	James, N. C.	Montague	Stone
Fitzgerald	Jeffers	Montet	Strong, Kans.
Fitzpatrick	Jenkins	Mooney	Strong, Pa.
Foss	Johnson, Ind.	Moore, Ky.	Summers, Wash.
Free	Johnson, Nebr.	Moore, Ohio	Swanson
Freeman	Johnson, Okla.	Morgan	Swick
Gambrill	Johnson, Tex.	Murphy	Swing
Garber, Okla.	Johnson, Wash.	Nelson, Mo.	Tarver
Garber, Va.	Jonas, N. C.	Newhall	Taylor, Colo.
Gasque	Jones, Tex.	Niedringhaus	Taylor, Tenn.
Gibson	Kahn	Nolan	Temple
Gifford	Kearns	Norton	Thatcher
Glover	Kendall, Ky.	Oldfield	Thurston
Goldsborough	Kendall, Pa.	Palmer	Tilson
Goodwin	Kerr	Parker	Timberlake
Goss	Ketcham	Parks	Tinkham
Granfield	Kiefner	Perkins	Treadway
Green	Kiefer	Pittenger	Turpin
Greenwood	Kopp	Pou	Underhill
Gregory	Kvale	Prall	Underwood
Guyer	Lambertson	Pratt, Ruth	Vestal
Hadley	Langley	Pritchard	Vincent, Mich
Hale	Lankford, Ga.	Purnell	Vinson, Ga.
Hall, Ill.	Lankford, Va.	Quin	Wainwright
Hall, Ind.	Leavitt	Ragon	Walker
Hall, N. Dak.	Leech	Ramey, Frank M.	Warren
Hancock, N. C.	Letts	Ramseyer	Wason
Hardy	Lindsay	Ramspeck	Watres
Hare	Loofbourow	Ransley	Watson
Hartley	Lozier	Reece	Welsh, Pa.
Hastings	Luce	Reed, N. Y.	White
Haugen	Ludlow	Reid, Ill.	Whitley
Hawley	McClintick, Okla.	Rich	Whittington
Hess	McClintock, Ohio	Robinson	Wigglesworth
Hickey	McCormack, Mass.	Rutherford	Williamson
Hill, Ala.	McCormick, Ill.	Sanders, N. Y.	Wilson
Hoch	McFadden	Sandlin	Wingo
Hogg, Ind.	McLaughlin	Seger	Wolverton, N. J.
Hogg, W. Va.	McLeod	Selvig	Wolverton, W. Va.
Holaday	McMillan	Shaffer, Va.	Woodruff
Hooper	McReynolds	Short, Mo.	Woodrum
Hope	McSwain	Shott, W. Va.	Wright
Hopkins	Maas	Shreve	Wyant
Howard	Magrady	Sloan	Yates
Hudson	Manlove	Smith, Idaho	Yon
Hull, William E.	Mapes	Smith, W. Va.	Zihlman

NAYS—49

Allgood	Hill, Wash.	Oliver, Ala.	Sinclair
Almon	Huddleston	Palmisano	Sirovich
Bankhead	Kading	Parsons	Somers, N. Y.
Box	Kennedy	Patman	Stafford
Browne	LaGuardia	Patterson	Steagall
Busby	McDuffie	Rankin	Sumners, Tex.
Cannon	McKeown	Rayburn	Taber
Collins	Mead	Reilly	Tucker
Cooper, Wis.	Milligan	Romjue	Welch, Calif.
Cox	Moore, Va.	Sabath	Williams
Garner	Moorehead	Sanders, Tex.	
Gavagan	Nelson, Wis.	Schafer, Wis.	
Griffin	O'Connor, Okla.	Schneider	

ANSWERED "PRESENT"—1

O'Connor, N. Y.

NOT VOTING—77

Bachmann	Fuller	Kunz	Sears
Baird	Fulmer	Kurtz	Seiberling
Bell	Garrett	Lanham	Simmons
Bloom	Golder	Larsen	Simms
Brunner	Graham	Lea	Snell
Celler	Hall, Miss.	Lehlbach	Spearing
Clark, Md.	Halsey	Linthicum	Sproul, Kans.
Connolly	Hancock, N. Y.	Mansfield	Stalker
Coyle	Hoffman	Menges	Stevenson
Craddock	Houston, Del.	Michaelson	Stobbs
Dempsey	Hudspeth	Mouser	Sullivan, N. Y.
Denison	Hull, Morton D.	Nelson, Me.	Sullivan, Pa.
Douglas, Ariz.	Hull, Wis.	O'Connor, La.	Thompson
Doutrich	Johnson, Ill.	Oliver, N. Y.	Whitehead
Doyle	Johnson, S. Dak.	Owen	Wolfenden
Evans, Calif.	Johnston, Mo.	Peavey	Wood
Fenn	Kelly	Pratt, Harcourt J.	Wurzbach
Fort	Kemp	Rainey, Henry T.	
Frear	Knutson	Rogers	
French	Korell	Rowbottom	

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The Clerk announced the following pairs:

General pairs until further notice:

Mr. Snell with Mr. Mansfield.
Mr. Frear with Mr. Douglas of Arizona.
Mr. Wood with Mr. Brunner.
Mr. Johnson of South Dakota with Mr. Fulmer.
Mr. Knutson with Mr. Lanham.
Mr. Lehlbach with Mr. Oliver of New York.
Mr. Wolfenden with Mr. Linthicum.
Mrs. Rogers with Mrs. Owen.
Mr. Harcourt J. Pratt with Mr. Sullivan of New York.
Mr. Connolly with Mr. Henry T. Rainey.
Mr. Doutrich with Mr. Lea of California.
Mr. Graham with Mr. Kemp.
Mr. Denison with Mr. Celler.
Mr. Coyle with Mr. Larsen.
Mr. French with Mr. Whitehead.
Mr. Golder with Mr. Spearing.
Mr. Sullivan of Pennsylvania with Mr. Hall of Mississippi.
Mr. Halsey with Mr. Fuller.
Mr. Peavey with Mr. Bloom.
Mr. Seiberling with Mr. Garrett.
Mr. Wurzbach with Mr. O'Connor of Louisiana.
Mr. Johnson of Illinois with Mr. Kunz.
Mr. Fenn with Mr. Doyle.
Mr. Korell with Mr. Hudspeth.
Mr. Menges with Mr. Bell.

The result of the vote was announced as above recorded.

The doors were opened.

MATTIE LONG

Mr. UNDERHILL. Mr. Speaker, I present a number of privileged resolutions from the Committee on Accounts.

The SPEAKER pro tempore (Mr. HOOPER). The gentleman from Massachusetts [Mr. UNDERHILL] presents a resolution (H. Res. 372) which the Clerk will report.

The Clerk read as follows:

House Resolution 372

Resolved, That there shall be paid, out of the contingent fund of the House, to Mattie Long, sister of Samuel J. Long, late an employee of the House, an amount equal to six months' compensation and an additional amount, not exceeding $250, to defray funeral expenses of the said Samuel J. Long.

The resolution was agreed to.

GRAFTON E. JACKSON

The Clerk read the next resolution, as follows:

House Resolution 381

Resolved, That there shall be paid out of the contingent fund of the House of Representatives to Grafton E. Jackson, son of Lloyd Jackson, late an employee of the House, an amount equal to six months' compensation and an additional amount not exceeding $250 to defray the funeral expenses and last illness of the said Lloyd Jackson.

The resolution was agreed to.

ADDITIONAL CLERICAL SERVICES IN ENROLLING ROOM

The Clerk read the next resolution, as follows:

House Resolution 382

Resolved, That there shall be paid out of the contingent fund of the House, during the remainder of the present session, an amount not exceeding $200 for additional clerical services in the enrolling room.

The resolution was agreed to.

JAMES W. BOYER, JR.

The Clerk read the next resolution, as follows:

House Resolution 347

Resolved, That there be paid out of the contingent fund of the House $600 to James W. Boyer, jr., for extra and expert services as expert legal examiner to the Committee on World War Veterans' Legislation during the third session of the Seventy-first Congress.

With the following committee amendment:

In line 4, after the word "legislation," strike out "during the third session of the Seventy-first Congress."

The committee amendment was agreed to.

The resolution was agreed to.

AMENDMENT OF THE NATIONAL DEFENSE ACT

Mr. GRIFFIN. Mr. Speaker, I ask unanimous consent to extend my remarks on the bill (H. R. 12918) to amend the national defense act of June 3, 1916.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

Mr. GRIFFIN. Mr. Speaker, it is because I am so heartily in sympathy with the main purpose of this bill that I feel constrained to protest against its consideration in these closing hours of the session when the House is so impatient that it will not even listen to the debate. This is a signal example of the evils incidental to a set day for adjournment. It recurs in the closing days of every Congress, making the time propitious for the passage of the very worst kind of legislation.

A bill of this importance should have a whole day's consideration. Instead of that, it is called up under a motion

to suspend the rules, which allows only 20 minutes on each side to inform the House of the arguments for and against it and precludes entirely the possibility of correcting errors by amendments.

Outside of the Committee on Military Affairs, which reported this bill, I doubt that there were 10 Members of the House familiar with its provisions.

Not one-half of the House was on the floor when it was debated and not even one-fourth of them could hear the debate owing to the persistent buzzing of conversation in all parts of the Chamber.

Yet when the vote was challenged, because of the want of a quorum, and the bells were sounded the Members came trooping in from the cloakrooms or from their distant offices in the House Office Building and were called upon to make up their minds on the instant on the merits of the bill.

If I had been called upon to vote on this measure when I first entered the Chamber, before I had read the bill consisting of 26 pages and the closely printed report of 21 pages, and before I had listened to the debate, I would unquestionably have voted in the affirmative because all my predelictions were in its favor.

The thing that gave me that bias was a letter from Brig. Gen. Robert J. Travis, vice president of the National Guard Association, in which he purported to indicate its features. He says:

1. It preserves unimpaired control [of the National Guard] by the respective States in time of peace.

Well, that is precisely what it does not do. It practically abolishes the National Guard of the respective States. Read this (sec. 5(b)) on page 2 of the bill:

SEC. 5. (b) All policies and regulations affecting the organization and distribution of the National Guard of the United States, and all policies and regulations affecting the organization, distribution, and training of the National Guard, shall be prepared by committees of appropriate branches or divisions of the War Department General Staff, to which shall be added an equal number of officers from the National Guard of the United States, whose names are borne on lists of officers suitable for such duty, submitted by the governors of their respective States and Territories, and for the District of Columbia by the commanding general District of Columbia National Guard.

What else can this import except the abject surrender to a committee composed of members of the Regular Establishment and a few men from the National Guard—dominated by the War Department General Staff—of the complete control—lock, stock, and barrel—of the National Guard of each and every State?

The surrender or arrogant assumption of control even goes to the extent of permitting the President to appoint all officers below that of brigadier general—see page 7 of bill.

It is true that officers—

Who are in a federally recognized status on the date of the approval of this act * * * shall be transferred to the National Guard of the United States without further examination—

But that only takes care of the "old fellows" that are already in. It is not surprsing then that they should all be in favor of it. But even though a State National Guard organization happens to be federalized, I question the wisdom of taking away from the governors of the respective States the right to issue commissions to the officers of their own State forces, thus inviting intrigue among the Regular Establishment for places of command and renewing the old controversies as to whether a National Guard regiment or battery should be commanded by a National Guard colonel or some shavetail from West Point.

PENSIONS

I venture the thought that the amendment on page 25 of the bill, modifying the pension clause of the national defense act of June 3, 1916, ought to be redrafted. Unless that is done we are opening the door to an ever-increasing host of men who will be entered on the pension rolls for coughs, cold, rheumatic ailments, sprains, cuts, bruises, and other complaints due to their service in times of peace.

I append herewith the new section 112 of the bill, showing the changes. This is taken from page 10 of the report (No. 2058) on this bill:

Section 112 of said act, with the old language struck out shown inclosed in black brackets and the new language shown in italics, reads as follows:

"SEC. 112. RIGHTS TO PENSIONS: When any officer, warrant officer, or enlisted man of the National Guard *or the National Guard of the United States called or ordered* [drafted] into the service of the United States [in time of war], *or when any officer of the Officers' Reserve Corps or any person in the Enlisted Reserve Corps ordered into active service except for training*, is disabled by reason of wounds or disability received or incurred while in the active service of the United States [in time of war], he shall be entitled to all the benefits of the pension laws existing at the time of his service; and in case such officer or enlisted man dies in the active service of the United States [in time of war], or in returning to his place of residence after being mustered out of [such] service, or at any other time in consequence of wounds or disabilities received in such [active] service, his widow and children, if any, shall be entitled to all the benefits of such pension laws."

I ask the sponsors of this bill why the only safeguard against frivolous claims for pensions embodied in the phrase "in time of war" was stricken from the law as it now stands.

While I am wholly and heartily in sympathy with the general purpose of this bill and believe federalization of the National Guard is a good thing in itself, I repeat that a bill of the importance of this should be carefully considered before enactment into law.

In concluding, I desire to pay a tribute to my friend and colleague, Gen. JOHN C. SPEAKS, who introduced this bill on June 2, 1930. His long association with the National Guard of Ohio, his services in the Spanish-American War, on the Mexican border, and the World War entitle his opinions to the highest respect.

It is to be regretted that, although his bill was reported and has been on the calendar of the House since July 2, 1930, he was never given an opportunity to bring it up for consideration until this late day, when the conditions in the House precluded the possibility of its being properly discussed.

RATES OF WAGES FOR LABORERS AND MECHANICS ON PUBLIC BUILDINGS OF THE UNITED STATES

Mr. WELCH of California. Mr. Speaker, I move to suspend the rules and pass the bill (S. 5904) relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia, by contractors and subcontractors, and for other purposes.

The SPEAKER pro tempore. The gentleman from California [Mr. WELCH] moves to suspend the rules and pass S. 5904, which the Clerk will report.

The Clerk read the bill, as follows:

Be it enacted, etc., That every contract in excess of $5,000 in amount, to which the United States or the District of Columbia is a party, which requires or involves the employment of laborers or mechanics in the construction, alteration, and/or repair of any public buildings of the United States or the District of Columbia within the geographical limits of the States of the Union or the District of Columbia, shall contain a provision to the effect that the rate of wage for all laborers and mechanics employed by the contractor or any subcontractor on the public buildings covered by the contract shall be not less than the prevailing rate of wages for work of a similar nature in the city, town, village, or other civil division of the State in which the public buildings are located, or in the District of Columbia if the public buildings are located there, and a further provision that in case any dispute arises as to what are the prevailing rates of wages for work of a similar nature applicable to the contract which can not be adjusted by the contracting officer, the matter shall be referred to the Secretary of Labor for determination and his decision thereon shall be conclusive on all parties to the contract: *Provided*, That in case of national emergency the President is authorized to suspend the provisions of this act.

SEC. 2. This act shall take effect 30 days after its passage but shall not affect any contract then existing or any contract that may thereafter be entered into pursuant to invitations for bids that are outstanding at the time of the passage of this act.

Mr. BLANTON. Mr. Speaker, I demand a second.

Mr. WELCH of California. Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. WELCH] is recognized for 20 minutes, and the gentleman from Texas [Mr. BLANTON] is recognized for 20 minutes.

Mr. WELCH of California. Mr. Speaker, the House Committee on Labor has had before it H. R. 16619, which is identical with S. 5904, now before the House for final passage. Our committee has held extensive hearings on the bill which is to require contractors on public buildings of the United States or the District of Columbia to pay the prevailing wage rate when such wage rates have been established by private industry.

Secretary of Labor Doak, Assistant Secretary of War Payne, and Mr. James A. Wetmore, Acting Supervising Architect, attended the hearings before the committee and made strong arguments in behalf of the bill. The bill was reported by the committee by a unanimous vote.

The Federal Government has entered upon an extensive public-building program throughout the United States. This program will continue for a period of 8 or 10 years and will result in the expenditure of approximately a half billion dollars. It was intended that this vast amount should be expended not only to house Federal offices in their own buildings but also to benefit the United States at large through distribution of construction throughout the communities of the country without favoring any particular section.

Though the officials awarding the contracts endeavored to persuade contractors to pay local prevailing wage scale, some successful bidders have imported labor from distant localities and have exploited this labor at wages far below local wage rates. This selfish group of contractors believe that Congress authorized this great building program for their special benefit. They base their estimates for labor upon the low wages they can pay to unattached migratory workmen who in some cases the contractors house and feed in temporary quarters adjacent to the building under construction and pay them whatever they will accept.

This bill, if enacted into law, will correct this condition and will give local workingmen, who pay taxes and who in many cases support families, the opportunity of securing employment on these buildings constructed by the Federal Government. [Applause.]

Mr. BLANTON. Mr. Speaker, I yield myself five minutes. I ask unanimous consent to revise and extend my remarks.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

Mr. BLANTON. Mr. Speaker, in connection with my remarks I ask unanimous consent to incorporate a letter which the Comptroller General of the United States, Gen. J. R. McCarl, has written the chairman of the committee respecting this bill, and the decision mentioned by him, attaching also a communication to the President of the United States by some of the parties interested.

The SPEAKER pro tempore. The gentleman from Texas asks to extend his remarks in the manner indicated. Is there objection?

There was no objection.

The communication from Gen. J. R. McCarl is as follows:

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, February 12, 1931.

Hon. GUY E. CAMPBELL,
House of Representatives.

MY DEAR MR. CAMPBELL: You have referred in your telephone conversation with me this morning to S. 5904 and H. R. 16619, relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia, and have requested me to advise you as a member of the Committee on Labor whether the original bills, or certain proposed amendments, hereinafter stated, will give a better accounting basis for the settlement and adjustment of claims arising under contracts containing a stipulation as to the payment of the prevailing rate of wages to the employees of contractors engaged in the construction of public buildings.

The Senate and House bills are in identical terms and provide that—

"Every contract in excess of $5,000 in amount, to which the United States or the District of Columbia is a party, which requires or involves the employment of laborers or mechanics in the construction, alteration, and/or repair of any public buildings of the United States or the District of Columbia within the geographical limits of the States of the Union or the District of Columbia shall contain a provision to the effect that the rate of wage for all laborers and mechanics employed by the contractor or any subcontractor on the public buildings covered by the contract shall be not less than the prevailing rate of wages for work of a similar nature in the city, town, village, or other civil division of the State in which the public buildings are located, or in the District of Columbia if the public buildings are located there, and a further provision that in case any dispute arises as to what are the prevailing rates of wages for work of a similar nature applicable to the contract, which can not be adjusted by the contracting officer, the matter shall be referred to the Secretary of Labor for determination, and his decision thereon shall be conclusive on all parties to the contract: *Provided,* That in case of national emergency the President is authorized to suspend the provisions of this act.

"SEC. 2. This act shall take effect 30 days after its passage, but shall not affect any contract then existing or any contract that may thereafter be entered into pursuant to invitations for bids that are outstanding at the time of the passage of this act."

The amendments apparently suggested to section 1 of the bill would make said section read as follows:

"That every contract in excess of $5,000 in amount, to which the United States or the District of Columbia is a party, which requires or involves the employment of laborers or mechanics in the construction, alteration, and/or repair of any public buildings of the United States or the District of Columbia within the geographical limits of the States of the Union or the District of Columbia, shall contain a provision stating the minimum rate of wage that shall be paid for all laborers and mechanics employed by the contractor or any subcontractor on the public buildings covered by the contract, which rate shall be not less than the prevailing rate of wages for work of a similar nature in the city, town, village, or other civil division of the State in which the public buildings are located, or in the District of Columbia if the public buildings are located there. The said minimum rate of wages equal to the prevailing rates of wages for work of a similar nature applicable to the contract shall be determined by the head of the department or establishment concerned, and shall be stated in the advertisement for proposals, and shall be conclusive on all parties to the contract: *Provided,* That in case of national emergency the President is authorized to suspend the provisions of this act."

Under the bills without the amendment neither the United States nor the contractors could know at the time of contracting the prevailing rate of wages which the contractors must pay during the progress of the work. Dependent upon the facts, the rate of wages could be increased or decreased by a determination of the Secretary of Labor. A prudent contractor would necessarily be required to include in his proposal sufficient sums to protect him against any increase in wages, and if the increase did not take effect the public would nevertheless be required to pay the contractor the agreed price for the performance of the work, and thus the contractors would secure unjustified profits for the work. On the other hand, if the wages were increased above the amount included by the contractors for such increases, the probabilities are that many contractors would default in the performance of the work, and it would have to be completed by either the surety or the United States, and the Government would be under the necessity of attempting to recover the excess costs from the contractors and/or their sureties. This office can only conjecture what would be the situation of materialmen and laborers in the event of such default and the bond was not sufficient to pay both the excess cost and the unpaid sums to materialmen and laborers. There is thus an apparent impracticability under the provisions of the bills as unamended.

The proposed amendments, above quoted, to section 1 of the bill will eliminate this doubt and uncertainty by the requirement that the prevailing rate of wages be determined by the head of the department concerned prior to the advertisement for proposals and be stated in the proposals, and that there shall be included in the contract a stipulation that the contractors shall pay as a minimum such determined and stated rate of wages. This will place all contractors on a parity in so far as rates of wages are concerned in the submission of their proposals. Such an amendment will eliminate the doubt and uncertainty with respect to the rate of wages which must be paid by the contractors and will insure to laborers the rate of wages prevailing when the advertisement was issued.

As between the two bills as they now stand and the bills with the suggested amendment to section 1, this office has no hesitancy in informing you that the amendments are desirable and will reduce the doubt and uncertainty which would inevitably arise under the unamended bills, and to that extent would simplify the accounting procedure in the settlement of claims arising under the contracts.

I do not know whether your attention has been invited to decision dated January 10, 1931, of this office, concerning, among other things, a stipulation in contracts for the payment of the prevailing rate of wages, and if not, a copy of such decision is inclosed herewith.

Sincerely yours,

J. R. MCCARL,
Comptroller General of the United States.

Mr. BLANTON. Mr. Speaker, the decision by Gen. J. R. McCarl is as follows:

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, January 10, 1931.

The honorable the SECRETARY OF THE TREASURY.

SIR: There has been considered your submission of November 3, 1930, as follows:

"There is inclosed herewith copy of letter of July 31, 1930, from the President, addressed to the Secretary of the Treasury, in which the President calls attention to complaints that contractors engaged in Government work are employing alien labor and that they are in certain cases transporting labor long distances into localities where there is already considerable unemployment. You will note that the President suggests the inclusion of a paragraph in the specifications of Government contracts to remedy this evil.

"This department has also received numerous complaints of this character and also that contractors are taking advantage of the unemployment situation to cut wages below the prevailing wage scale or are transporting cheap labor to jobs to the detriment of local labor.

"The situation is one which should not be endured. This department bases its estimates for appropriations on the fair wage scales prevailing throughout the country, and expects contractors to employ the best type of American mechanics and laborers on Federal work. The Government should be the last employing agency to expect or countenance the performance of its construction contracts at the sacrifice of its citizens. In the absence of any law forbidding the practices above named it is the desire of the department, in accordance with the President's wishes, to include in its specifications a paragraph which will give the department the control of the type of labor employed on its contracts and the wages to be paid such labor.

"In this connection the following paragraph has been prepared and is submitted to you for your consideration:

"NOTICE TO BIDDERS

"In preparing their estimates bidders should keep in mind the policy of the Treasury Department to maintain the local wage scale, which in case of dispute will be determined by the Secretary of Labor. Furthermore, the contractor and/or his subcontractor or subcontractors will be required to give preference at the time of employment of skilled and unskilled labor to ex-service men of the United States Army, Navy, and Marine Corps and to citizens of the United States and/or aliens who have taken out their first papers of citizenship: *Provided*, That exceptions to this requirement will be permitted only to such extent as may be shown to be necessary when the number of qualified skilled and/or unskilled laborers can not be obtained: *And provided further*, That the term 'labor' as herein used shall not include the contractors or subcontractors or subcontractors' managerial or supervisory officers or employees: *And provided further*, That the contracting officer or his representative may require the contractor and/or his subcontractor or subcontractors to discharge any laborer or mechanic employed on the work at the site thereof.

"It is not intended to place this paragraph in the contracts, but it will be inserted in the specifications as a notice to bidders.

"It will be appreciated if you will express your views as to whether in your opinion there is any legal obstacle to the inclusion of this paragraph in the specifications of contracts for Federal building construction under the control of the Treasury Department, and if the paragraph meets with your approval. Also the department will be glad to receive your suggestions as to any changes in phraseology which in your opinion would more certainly attain the desired object."

It is noted that the paragraph quoted in your submission, requiring maintenance of the local wage scale and preference for ex-service men and citizens of the United States, including aliens who have taken out their first papers of citizenship, is proposed to be inserted in the advertised specifications as a notice to bidders, but is not to be included in contracts.

No lengthy discussion would seem necessary to reveal the impropriety of what is thus proposed. If the paragraph is to be more than a gesture, there must be adequate means provided to insure observance of its stipulations by contractors. Then, too, to encourage bidding in amounts adequate to maintain the local wage scale and to give the preferences stipulated for, without providing the means necessary to insure strict observance of such requirements, would be unfair to the Public Treasury and involve an unauthorized use of the appropriation chargeable for the accomplishment of the work.

It is assumed, however, that the proposed paragraph is intended to be more than a gesture and that your submission involves the question whether existing laws controlling the uses of appropriated moneys will permit the inclusion of the proposed paragraph in specifications advertised for bids—with adequate provision in contracts for strict enforcement, and it will be considered accordingly.

With respect to the proposal to require contractors on public work of the Treasury Department to give preference to ex-service men of the United States Army, Navy, and Marine Corps, there was before this office in decision of November 8, 1930 (A-33826 and A-33890) section 9 of the act of December 21, 1928, 45 Stat. 1057, which required that preference be given to such ex-service men in connection with the construction of the Hoover Dam. This office held in said decision that the statutory requirement as to preference for ex-service men in connection with construction work on the Hoover Dam must be observed but the difference between the case considered in said decision of November 8, 1930, and that phase of the case here presented is that there is no statute authorizing or requiring preference to be given to ex-service men over other American citizens by contractors engaged on construction work for the Treasury Department. It is to be further noted that a similar statutory preference was required by certain earlier appropriation acts to be given to ex-service men. See in particular the act of February 28, 1919 (40 Stat. 1201), relating to the construction of public roads aided by Federal funds, which required such preference and specifically prohibited other discrimination among citizens of the United States as unlawful. The Congress having made the matter of giving preference to ex-service men over other American citizens the subject of legislation by enacting specific provisions for such preference in certain instances, it is not open to administrative consideration to exact that preference where the Congress has not seen fit to do so; that is, by requiring preference to be given by contractors on Treasury Department construction work in employing their skilled or unskilled laborers to ex-service men over other American citizens. There is no authority of law for making such discrimination between different groups of American citizens.

With respect to the preference proposed to be required of contractors on construction work of the Treasury Department to be given to American citizens and/or aliens with first citizenship papers over other aliens, it was held by this office in decision of November 8, 1930, supra, that in a clearly proper case objection would not be made by the accounting officers to a requirement that preference be given to American citizens, on public work, over aliens, and in the particular case then under consideration—construction of the Hoover Dam near the Mexican border—the facts and circumstances appeared such that it was concluded objection might properly be withheld as in the public interest if the President should conclude in such connection to approve such modification of the form of contract theretofore prescribed by him as for uniform use in such cases. While what was therein said and held had relation to the particular case then under consideration, including its own facts, circumstances, and conditions, there appears no present requirement for any modification of what was therein said and held in such regard, nor has there been suggested reason for enlargement to include aliens who have secured their first citizenship papers.

In this connection it seems not improper to invite attention to your communication of September 29, 1930, to the President, made in response to his letter of July 31, 1930, referred to in the first paragraph of your submission herein. Attached to your communication of September 29 there was a tabulated statement of the number of men employed on 26 construction projects under the Treasury Department, located in various parts of the United States, as follows:

Number of men employed on various jobs

Building	Total	Alien	Local	Outside
Asheville, N. C., post office	65	0	60	5
Boise, Idaho, post office	60	0	33	27
Boston, Mass., post office	48	0	36	12
Brooklyn, N. Y., post office	13	0	13	0
Dallas, Tex., post office	131	0	117	14
Denver, Colo., customhouse	90	0	81	9
Fargo, N. Dak., post office	78	0	26	52
Haverhill, Mass., post office	53	3	35	18
Juneau, Alaska, Federal building	101	9	39	62
Lima, Ohio, post office	50	0	34	16
Lowell, Mass., post office	27	0	27	0
Memphis, Tenn., post office	140	1	126	14
Milwaukee, Wis., post office	100	2	100	0
New Orleans, La., marine hospital	32	0	32	0
Oshkosh, Wis., post office	34	0	21	13
Passaic, N. J., post office	27	0	23	4
Pullman, Mont., post office	20	0	20	0
Racine, Wis., post office	32	0	28	4
San Francisco, Calif., marine hospital	117	2	117	0
Seattle, Wash., immigrant station	50	0	50	0
Scranton, Pa., post office	103	5	96	7
Springfield, Ill., post office	65	1	41	24
Tampa, Fla., post office	65	0	53	12
Tucson, Ariz., post office	161	0	103	58
Tyrone, Pa., post office	12	0	0	12
Watertown, N. Y., post office	50	11	45	5
	1,724	34	1,356	368

It would appear, as pointed out in your letter of September 29, 1930, that the number of aliens so employed is relatively small—34 out of a total of 1,724.

There would appear for consideration in such connection also, as having some relationship thereto, the immigration policy of the United States as it has heretofore been and as it now exists, as disclosed by the enactments on the subject, and from which this problem arises.

From what has been pointed out it necessarily follows that only in a clear case of necessity in the public interest could the accounting officers properly withhold objection to the uses of public moneys that would be involved by a contractual requirement for employment by contractor on the public work involved, American citizens and aliens who have obtained first papers of citizenship over other aliens lawfully here, without legislative authority therefor.

With respect to the question remaining:

It is proposed by the submission to now include in requests for bids in cases where public work intrusted to the Treasury Department for accomplishment is to be let to private contractors, a stipulation requiring the successful bidder (the contractor) "to maintain the local wage scale, which in case of dispute will be determined by the Secretary of Labor," or as has been suggested informally, language having like purpose and effect, such as a requirement that "contractor pay not less than the prevailing rate of wages in the locality or metropolitan area in which the

project is being constructed." While a somewhat similar matter was treated in certain text submitted here by the Secretary of the Interior in the Hoover Dam case, decided November 8, 1930, the precise question here involved was not raised, considered, or decided therein.

The Supreme Court of the United States has had recent occasion to consider and express decision on strikingly similar language in Connally *v.* General Construction Co. (269 U. S. 385). This was an action involving an Oklahoma statute requiring "laborers, workmen, mechanics, or other persons employed by contractors or subcontractors in the execution of any contract or contracts with the State" to be paid by the contractor or subcontractor "not less than the current rate of per diem wages in the locality where the work is performed * * *." The statute provided a penalty of fine or imprisonment for violations. A dispute arose as to the amount of the current rate of per diem wages being paid labor in the locality where the particular work was being performed, and the Commissioner of Labor having determined, after investigation, that $3.60 was such current rate of wage in the locality, and contractor insisting upon and paying only $3.20 per day, contractor was threatened with prosecution in the event there was not paid the rate of wage so determined by the Commissioner of Labor, and applied for injunction to restrain the State officials from enforcing the statute because unconstitutional. In affirming the decree of the lower court granting injunction relief the Supreme Court said:

"We are of opinion that this provision presents a double uncertainty, fatal to its validity as a criminal statute. In the first place, the words 'current rate of wages' do not denote a specific or definite sum, but minimum, maximum, and intermediate amounts, indeterminably, varying from time to time and dependent upon the class and kind of work done, the efficiency of the workmen, etc., as the bill alleges is the case in respect of the territory surrounding the bridges under construction. The statutory phrase reasonably can not be confined to any of these amounts, since it imports each and all of them. The 'current rate of wages' is not simple but progressive—from so much (the minimum) to so much (the maximum), including all between; and to direct the payment of an amount which shall not be less than one of several different amounts, without saying which, is to leave the question of what is meant incapable of any definite answer. See People ex rel. Rodgers *v.* Coler (166 N. Y. 1, 24–25).

"Nor can the question be solved by resort to the established canons of construction that enable a court to look through awkward or clumsy expression, or language wanting in precision, to the intent of the legislature. For the vice of the statute here lies in the impossibility of ascertaining, by any reasonable test, that the legislature meant one thing rather than another, and in the futility of an attempt to apply a requirement, which assumes the existence of a rate of wages single in amount, to a rate in fact composed of a multitude of gradations. To construe the phrase 'current rate of wages' as meaning either the lowest rate or the highest rate or any intermediate rate or, if it were possible to determine the various factors to be considered, an average of all rates, would be as likely to defeat the purpose of the legislature as to promote it. See State *v.* Partlow (91 N. C. 550, 553); Commonwealth *v.* Bank of Pennsylvania (3 Watts & S. 173, 177).

"In the second place, additional obscurity is imparted to the statute by the use of the qualifying word 'locality.' Who can say with any degree of accuracy what areas constitute the locality where a given piece of work is being done? Two men moving in any direction from the place of operations would not be at all likely to agree upon the point where they had passed the boundary which separated the locality of that work from the next locality. It is said that this question is settled for us by the decision of the criminal court of appeals on rehearing in State *v.* Tibbetts (205 Pac. 776, 779). But all the court did there was to define the word 'locality' as meaning 'place,' 'near the place,' 'vicinity,' or 'neighborhood.' Accepting this as correct, as of course we do, the result is not to remove the obscurity but rather to offer a choice of uncertainties. The word 'neighborhood' is quite as susceptible of variation as the word 'locality.' Both terms are elastic and, dependent upon circumstances, may be equally satisfied by areas measured by rods or by miles. See Schmidt *v.* Kansas City Distilling Co. (90 Mo. 284, 296); Woods *v.* Cochrane & Smith (38 Iowa 484, 485); State ex rel. Christie *v.* Meek (26 Wash. 405, 407–408); Millville Imp. Co. *v.* Pitman, etc., Gas Co. (75 N. J. Law, 410, 412); Thomas *v.* Marshfield (10 Pick. 364, 367). The case last cited held that a grant of common to the inhabitants of a certain neighborhood was void because the term 'neighborhood' was not sufficiently certain to identify the grantees. In other connections or under other conditions the term 'locality' might be definite enough, but not so in a statute such as that under review imposing criminal penalties. Certainly, the expression 'near the place' leaves much to be desired in the way of a delimitation of boundaries; for it at once provokes the inquiry, 'How near?' And this element of uncertainty can not here be put aside as of no consequence, for as the rate of wages may vary—as in the present case it is alleged it does vary—among different employers and according to the relative efficiency of the workmen, so it may vary in different sections. The result is that the application of the law depends not upon a word of fixed meaning in itself or one made definite by statutory or judicial definition, or by the context or other legitimate aid to its construction, but upon the probably varying impressions of juries as to whether given areas are or are not to be included within particular localities. The constitutional guaranty of due process can not be allowed to rest upon a support so equivocal."

While the Oklahoma case involved a statute imposing a fine or imprisonment as penalty for violation and was thus penal in its nature, it is assumed there will be provided, as would appear necessary if it should be held permissible under existing law to include the suggested language in contract matters as proposed, adequate means to accomplish and insure full compliance, including penalty for violation.

But, aside from this aspect of the matter, there remain other serious questions—whether under existing law the matter of so fixing the wages an employer must pay in the doing of Government work is one authorized to be accomplished in connection with the contracting therefor pursuant to section 3709, Revised Statutes; and, if so, whether an appropriation, general in terms, may properly be held available for payments in such connection.

It has long been the rule, enforced uniformly by the accounting officers and the courts, that an appropriation of public moneys by the Congress, made in general terms, is available only to accomplish the particular thing authorized by the appropriation to be done. It is equally well established that public moneys so appropriated are available only for uses reasonably and clearly necessary to the accomplishment of the thing authorized by the appropriation to be done.

Usually the thing so authorized to be done may be accomplished either through a governmental agency employing the necessary labor, purchasing the needed materials, etc., or, in a proper case, through contracting with a citizen to do the job, who, by his contract, assumes the responsibility for supplying everything needed to fully discharge his contractual obligations, including labor, materials, etc. In so contracting the basic statute to be observed is section 3709, Revised Statutes. The clear purpose of this statute is to secure full and free competition in supplying the needs of the United States (which needs are required to be clearly stated in the request for bids) and the benefit to the Treasury of required acceptance of the low responsible bidder.

The clear intent of the suggested language, employed in connection with bidding and contracting as proposed, is to benefit those employed on the work by contractors and to insure them against wage reductions below the "local wage scale" or the "prevailing rate of wages in the locality." In fact, the suggested language admonishes bidders to include in their bids amounts with which to so make payments, and it must be assumed the bidding will be accordingly.

No matter how worthy may be the object or end sought to be attained through action by the executive branch, where the use of public money would be involved in its accomplishment, it becomes necessary, if our system of government is to be faithfully observed, for the accounting officers to question the proposed use, unless by them found to be reasonably within the law of the appropriation proposed to be employed. Then, if agreement to the proposed use must be by the accounting officers withheld, the matter may go to the Congress, the source of all authority for the uses of public moneys.

However desirable the contrary may be, it seems clear that in the present state of law the proposal to fix by contract the minimum rate of wages the contractor must pay his employees in the doing of the contract work, assuming a contract otherwise valid and enforceable could be drawn, clashes with the long-recognized intent and purpose of section 3709, Revised Statutes, in that it removes from competitive bidding on the project an important element of cost and tends to defeat the purpose of the statute—that is, to obtain a need of the United States, authorized by law to be acquired, at a cost no greater than the amount of the bid of the low responsible bidder, after full and free competitive bidding.

But were it possible to surmount this obstacle, could it properly be held that the fixing of the minimum wages to be paid employees, as proposed, has such intimate relationship to the single matter of accomplishing the thing authorized by the appropriation to be done as to properly permit its being held, in other than a most extraordinary case, reasonably necessary to such accomplishment, so as to meet the test long applied in determining the availability of an appropriation general in terms for proposed or accomplished uses? I fear not. That the cost to the United States because of the admonition to bidders to so bid as to be able to pay the wages as so fixed, whether actually so paid or not, would be increased, seems too clear for question. Such added cost in the matters involved in the submission would seem to have no relationship to the actual accomplishment of the work authorized by the appropriations to be done, and consequently could not properly be paid from such appropriations.

What is here involved appears a matter which, in the present state of the law is not for adjustment through administrative action in contracting, and uses of appropriated moneys in such connection without further expression and authority thereon from the Congress may not properly be approved by the accounting officers.

That the Congress regards the problem as one for adjustment through legislative enactment, possibly because of the effect on the economic structure, is evidenced by Senate amendment No. 14 to the bill H. R. 14804, recently considered and enacted after elimination of the said amendment, and other measures now pending.

Answering specifically your submission I feel compelled to hold—

1. That to include the proposed language in requests for bids without providing adequate means for exacting complete compliance therewith would not be authorized.

2. That only in a clear case of necessity in the public interest may the accounting officers properly withhold objection to the

uses of public moneys that would be involved by a contractual requirement for employment by contractor on the public work involved, American citizens and aliens who have taken out first papers of citizenship over other aliens lawfully here without further legislative authority therefor than now exists.

3. Discrimination between different groups of American citizens through exacting preference for one over the others by contractors engaged on public work is unauthorized other than when specifically so required by law.

4. To include in requests for bids a provision admonishing bidders to so bid as to be able, in the event of being awarded the contract, to pay employees on the contract work the "local wage scale" or "the prevailing rates of wages in the locality or metropolitan area in which the project is being constructed," even with adequate provision for complete enforcement against contractors, would in general and in the present state of the law be unauthorized. Only in such rare case, if one there might be under existing conditions, where the need for such stipulation could on the facts be held as required to accomplish the thing authorized by the appropriation to be done, could objection be properly withheld.

Respectfully,

J. R. McCARL,
Comptroller General of the United States.

Mr. Speaker, the letter from some of the interested parties, the Associated General Contractors of America, to the President of the United States is as follows:

ASSOCIATED GENERAL CONTRACTORS OF AMERICA (INC.),
Washington, D. C., February 8, 1931.

The PRESIDENT,
White House, Washington, D. C.

DEAR MR. PRESIDENT: Under date of January 26, 1931, there was introduced in the Senate S. 5904, and on January 27, 1931, in the House H. R. 16619, both relating to the rate of wages of laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors. S. 5904 was reported January 26, 1931, calendar day February 3, 1931, and H. R. 16619 was reported January 31, 1931, and, as you doubtless know, S. 5904 has recently passed the Senate and H. R. 16619 and the Senate bill are both pending in the House.

As you will remember from your recent telegram sent to this association, the association was holding its annual convention in San Francisco, Calif., and many of the members of the association were either en route to or attending the convention when these bills were introduced into Congress and reported by the respective committees of the Senate and House. Consequently this association did not have an opportunity to present its views in the matter, and upon contacting Saturday, February 7, 1931, with some of the Members of the House it seemed to be the impression of these Members that these bills were administration measures and that even though the contracting industry had not been heard in the matter the bills could not be amended to correct obvious possibilities of endless disputes and of increased costs to both the taxpayers and the contractors.

At the outset this association desires to be understood as favoring during this emergency period the principle that contractors on Government public-building work should pay the prevailing local rate of wages, and the association condemns those few contractors who cut wages below the local rate, whether on public-building work or on the vast highway program participated in by both the States and the Federal Government. These bills under consideration do not touch this latter class of highway contracts. This position of the association is clearly stated in the following resolution which was adopted at the annual convention in San Francisco on January 29, 1931:

"An extensive study of conditions now prevailing in the construction industry has indicated to the Associated General Contractors of America the advisability and propriety of enunciating the following principles with respect to wages and hours of labor:

"First. It is contrary to the best interests of the construction industry and society at large for contractors or other employers to utilize the present surplus of workmen as a means of depressing wages or establishing excessive hours of employment.

"Second. It is contrary to the best interests for a public body to award a contract to a contractor whose bid is predicated upon the exploitation of labor by either excessive working hours or reduced wages.

"Third. It is contrary to the desires of the people, as expressed by the extraordinary appropriation of Congress during the present emergency, that workmen's wages paid out of public moneys should be depressed below that required for a decent standard of living: Therefore be it

"*Resolved*, By the Associated General Contractors of America, that public awarding agencies have a moral obligation to cooperate with the responsible contractors of the country in preventing exploitation of labor; be it further

"*Resolved*, That the Federal Government when assisting the States financially and the States when assisting any political subdivision should enforce such regulations as may be necessary during the present emergency to maintain a reasonable scale of wages."

Favoring the principle that Government contractors and subcontractors should be required to pay the local prevailing rate of wages, this association most strenuously objects to S. 5904 and H. R. 16619, which would throw the entire contracting industry, in so far as it is engaged in the construction of Government buildings, into confusion; would largely increase the expense to the taxpayers of the country of necessary public buildings, and would lead to endless dissatisfaction and bickerings between contractors and the contracting officers, between labor and both the contractors and contracting officers, and would not insure to labor what the proponents of the bills seem to think that labor should receive.

It would seem to require no argument to demonstrate that if contractors must bid on public work with the uncertainty confronting them that the Secretary of Labor could and probably would change the rate of wages a number of times during the progress of the work, such contractors must add to their proposals sufficient sums to protect them against any such possible increases. If the increases do not take effect, such additional sums would accrue to the contractors in addition to their ordinary allowance and would represent an unnecessary expense to the public. Without further argument you will appreciate from your experience in the business world that anything which leads to doubt and uncertainty, or increases the risks on construction work, must necessarily increase the bid price for performance of such work. If the Government assumed these risks in a cost-plus contract, the situation might be different, but it is not understood that these bills contemplate cost-plus contracts, and if the risks are to be imposed on the contractor, the public must necessarily pay therefor.

Under present competitive conditions the constant tendency will be for bidders to reduce this margin to a minimum to protect against changes in wage rates with the result that undoubtedly the number of failures of contractors will be increased, resulting in losses to material men and laborers, delay in securing the completion of the work, and increased expenditures by the Government for supervisors, attorneys, etc., in connection therewith. All this public and social loss can be and should be reduced to a minimum through the enactment of proper legislation under which operations are to take place.

As stated above, and as shown by the above-quoted resolution, this association is in favor of the Government contractors paying the local prevailing rate of wages during this emergency, but it does believe that legislation to that end should be definite and certain. This association believes, in substance, that the minimum rate of wages to be paid laborers and mechanics should be determined by the department having in charge the construction work and not by the head of some other department who is not charged with the responsibility for the expenditures of the public funds provided for such work. Also that the rates of wages to be paid should be stated in the advertisement for bids so that all prospective contractors will be informed as to the rate that they must pay so that they may intelligently compute their costs. No intelligent estimate of cost of labor can be made without this information, and this without reference to the possible effect of the rates of wages on Government building projects on the general economic structure.

This association would have no objection to the legislation, if the bills were modified to read, as follows:

"*Be it enacted, etc.*, That every contract in excess of $5,000 in amount, to which the United States or the District of Columbia is a party, which requires or involves the employment of laborers or mechanics in the construction, alteration, and/or repair of any public buildings of the United States or the District of Columbia within the geographical limits of the States of the Union or the District of Columbia, shall contain a provision stating the minimum rate of wage that shall be paid for all laborers and mechanics employed by the contractor or any subcontractor on the public buildings covered by the contract, which rate shall be not less than the prevailing rate of wages for work of a similar nature in the city, town, village, or other civil division of the State in which the public buildings are located, or in the District of Columbia, if the public buildings are located there. The said minimum rate of wages equal to the prevailing rates of wages for work of a similar nature applicable to the contract shall be determined by the head of the department or establishment concerned and shall be stated in the advertisement for proposals and shall be conclusive on all parties to the contract: *Provided*, That in case of national emergency the President is authorized to suspend the provisions of this act.

"SEC. 2. This act shall take effect 30 days after its passage, but shall not affect any contract then existing or any contract that may thereafter be entered into pursuant to invitations for bids that are outstanding at the time of the passage of this act."

Since these bills are reported to be administration measures and we feel that the President of the United States can properly take no position which is not in the best interests of the taxpayers of the United States, labor, and contractors—all of their interests being considered—we earnestly request that you make known to Congress your approval of the amendments, which we believe necessary in these bills so as to remove doubt and uncertainty so as to insure that labor will receive the rate of wages prevailing at the date of the advertisement for bids so that contractors may bid and contract for public buildings with some degree of certainty as to their probable cost and so that they will not be required in self-defense to include in their proposals unallocated items to take care of possible increase of wages required by Government officials to be paid after the contracts have been entered into.

Respectfully,

A. P. GREENSFELDER, *President.*

Mr. Speaker, if this bill were not demanded by organized labor it would not have a chance of passage in this House under suspension of the rules. This is the most ridiculous

proposition I have ever seen brought before a legislative body. You are called upon by the provisions of this bill to make a contract between every contractor and his employees, respecting the construction of every public building that may be built in every district in the United States, whether it suits the contracting parties or not. You are taking away from American citizens, contractors, and laborers alike the sacred, inherent right of contract—the right to make their own contracts for themselves.

We are thus proposing by this pernicious bill to interfere with a sacred, inalienable right that has given initiative and independence to men for ages past. It would make the advertising by the Government for the "Lowest reputable bid" ridiculous and a farce.

I am for organized labor when it is right, and I dare to exercise my own judgment and refuse to obey its commands when it is wrong. I have supported every proper demand that has been made by organized labor during the 13 years I have been in Congress.

I saw fit in this House during the war, when men who had been exempted from the draft to work for their Government and were getting $30 a day as skilled laborers in the shipyards, and who kept striking until there were 6,000 strikes against the Government during the war—I was one who voted for the famous "work or fight" amendment, which would make them fight when they refused to work. I was then denounced by organized labor as its enemy, but I am one of those who is not afraid to stand up here and refuse to let a bill like this pass without raising my feeble voice in protest. I know that in this atmosphere this bill will pass this House to-day, but I can not believe that the President will allow it to become a law.

The Comptroller General sent a letter to the chairman of this committee, which I have put in the RECORD, suggesting a salutary amendment, providing that when the rates of wages are fixed they shall be fixed by the department having charge of the construction and not by the Secretary of Labor; that the rates of wages shall be stated in every advertisement for building construction, so that the contractors may understand what they are going to have to pay laborers when they take a contract. That is a reasonable and a fair provision and should have been placed in this bill, and without which this bill ought to be defeated. I know I can not defeat it here, but I believe this protest will cause it to be defeated elsewhere.

Are there of you, my colleagues, men who, because organized labor demands that you do something, are going to do that something when you know it is against your best judgment?

I can not forget that I have seen men on this floor, like my former friend from Georgia, Hon. Bill Upshaw, of Atlanta, who for years blindly obeyed organized labor in every demand it made, and yet when he needed a few votes down in Atlanta they turned him down and defeated him. I can not forget my good friend, JIM O'CONNOR, of New Orleans, who during his entire stay here, with his eyes shut and his ears closed and his brain stopped working, blindly obeyed every demand of organized labor, and yet when he needed a few votes down in New Orleans in the last election they turned him down and defeated him.

Mr. SABATH. Will the gentleman yield?

Mr. BLANTON. Yes.

Mr. SABATH. I know the country would be interested if the gentleman would insert in his remarks the votes he cast in favor of organized labor, because I can not think of a single vote the gentleman has cast that would have been in favor of organized labor but was in the interest of contractors and special interests.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. BLANTON. Mr. Speaker, I yield myself five additional minutes. I want to answer my friend from Illinois. I have never voted against any just demand of organized labor. I challenge any Member to name one vote of mine against any demand of organized labor that was just and right. Down in my district, every time I run for office, organized labor from Washington comes down there and buys up the advertising space in all the newspapers that are published in my district and they say exactly what the gentleman from Illinois says, and yet I get about 60 per cent of all the organized vote in my district every time I run, because they have confidence in me and they know I do not fight them when they are right and they know I dare to tell them to go to hell when they are wrong.

Mr. WOODRUFF. Will the gentleman yield?

Mr. BLANTON. Yes.

Mr. WOODRUFF. My friend from Texas knows, of course, that we have either got to accept this bill or vote it down.

Mr. BLANTON. Yes; just the way it is written. You have got to vote it up or vote it down. You can not dot an "i" or cross a "t." We can not amend it. You have got to take it just like organized labor has written it for you, like a bunch of mocking birds with their mouths open and their eyes shut.

Mr. WOODRUFF. Will the gentleman yield further?

Mr. BLANTON. Certainly.

Mr. WOODRUFF. Will the gentleman point out to the House where there is any provision in this bill which prohibits the Treasury Department from specifying the rates of wages that shall be paid for the different classes of labor employed in construction? Is there anything in the bill to prevent the Treasury Department from doing exactly what the gentleman demands?

Mr. BLANTON. The Senate bill, which is the same as the House bill, requires that if there is any dispute about the prevailing rate of wages it is to be settled in Washington by the Secretary of Labor, for those buildings to be constructed in New Mexico, in Oregon, or in Florida. It is the Secretary of Labor who shall say what the rates of wages shall be paid by the contractors in those States to their employees. I am not in favor of such a provision. I want the right of contract between Americans to remain inviolate. Let them meet each other across the table and agree upon what they are going to do.

Mr. SCHAFER of Wisconsin and Mr. SHORT of Missouri rose.

Mr. BLANTON. I want to yield first to my friend from Wisconsin.

Mr. SCHAFER of Wisconsin. I know the gentleman from Texas wants to be absolutely correct.

Mr. BLANTON. Always.

Mr. SCHAFER of Wisconsin. The gentleman made the statement that a former colleague, Mr. Upshaw, always blindly followed organized labor in every demand. I want to call the gentleman's attention to the fact that the American Federation of Labor at many national conventions, by an almost unanimous vote, has asked for the return of beer and light wines, and yet the gentleman from Georgia, Mr. Upshaw, did not follow that demand.

Mr. BLANTON. I am glad that my friend has mentioned that demand of the American Federation of Labor. It proves the fact that some demands are ridiculous, and even require Members to nullify the Constitution itself. I remember that under the whip and spur of labor Bill Upshaw voted for the Hawley bill that would have put this Government into the distillery business, and placed Mr. Secretary Mellon at the head of Government distillery corporation, with $100,000,000 capital. But fortunately that did not become law.

I will give you an illustration of what organized labor will do for the faithful. You take our good friend, FRED ZIHLMAN, who hasn't been quite dry all his life—he was born that way [laughter]—he has lived that way, and he will die that way. He has faithfully obeyed organized labor in every demand they have ever made; yet, when he needed a few votes this time, they quit him and kept him at home; and I will tell you this: You would better quit depending on organized labor in particular and depend on American citizens generally for reelection.

Mr. SHORT of Missouri. Will the gentleman yield?

Mr. BLANTON. Yes.

Mr. SHORT of Missouri. Organized labor opposed me at the recent election, but for that reason I am not going to oppose the passage of this bill because section 2 protects the contractor by making the wage scale apply only to contracts that are let in the future and not to those that are now outstanding.

Mr. BLANTON. But you are fixing this law for all time in the future.

Mr. SHORT of Missouri. But the contractor knows this at the time he makes a contract.

Mr. BLANTON. This is to become permanent legislation, and you will have contractors from now on like a bunch of puppets following the dictates of a bureau here in Washington. I want to help get these matters back into the States and away from Washington where they have to be controlled by a little bureau here every time Americans turn around. Why, they will not be able to make a contract to construct a building in the United States without being directed by a little bureau here as to what kind of contract they shall make. This is not right. It is not proper, and I am one of those who is not going to be compelled to obey their orders. I shall vote against the bill even though I know you will pass it.

The SPEAKER pro tempore. The gentleman from Texas has used an additional five minutes.

Mr. BLANTON. Mr. Speaker, I reserve the balance of my time. I would like to use further time, but I promised to yield some time to my friend from New York [Mr. FISH].

Mr. WELCH of California. Mr. Speaker, I yield three minutes to the gentleman from New York [Mr. LAGUARDIA].

Mr. LAGUARDIA. Mr. Speaker, there is not a reputable, responsible contractor in this country who is opposed to this bill. [Applause.] All that this bill does is to carry out the policy of the Government of appropriating sufficient funds to pay the prevailing rate of wages on all Government contracts.

Mr. MICHENER. Will the gentleman yield?

Mr. LAGUARDIA. In just a moment. I have only a few minutes. I want to say that every contractor who understands his business when he makes his estimate, bases the estimate on the prevailing rate of wages. Every contractor does that. The unfair and unethical contractors however, after getting the contract and being paid on such basis, turns around and imports labor from other localities at low and reduced prices, not only exploiting his own workers, but all to the discrimination and disadvantage of labor living in that vicinity. Let me make this clear. The contractor invariably is paid by the Government on the basis of prevailing rates but does not do so. Therefore this bill is for the protection of the Government and the workers.

Why, the gentleman from New York who introduced this bill had such an experience right in his district. A contractor from Alabama was awarded the contract for the Northport Hospital, a Veterans' Bureau hospital. I saw with my own eyes the labor that he imported there from the South and the conditions under which they were working. These unfortunate men were huddled in shacks living under most wretched conditions and being paid wages far below the standard. These unfortunate men were being exploited by the contractor. Local skilled and unskilled labor were not employed. The workmanship of the cheap imported labor was of course very inferior.

Gentleman, there is not a municipality but what has the same kind of law for public works in any city, and all that this bill does, gentlemen, is to protect the Government, as well as the workers, in carrying out the policy of paying decent American wages to workers on Government contracts. [Applause.]

Mr. WELCH of California. Mr. Speaker, I yield five minutes to the gentleman from New York [Mr. BACON.]

Mr. BACON. Mr. Speaker, I do not know what bill the gentleman from Texas [Mr. BLANTON] was talking about, but I do not think it is the bill under discussion at the present time.

The purpose of this measure, stated simply, is to require, through a clause in the Government contract form that contractors and subcontractors engaged in constructing, altering, or repairing any public buildings of the United States shall pay to labor the prevailing wage rates in the city, town, village, or other civil division of the State in which the public buildings are located. It provides further that in case of any dispute which can not be adjusted by the contracting officer that the matter shall be referred to the Secretary of Labor for determination, his decision to be final and conclusive on all parties to the contract.

This measure has the support of the administration as expressed through the approval of it by the Treasury Department, the Department of Labor, the War Department, the Navy Department, and the Veterans' Bureau, or all those departments of the Government most directly concerned in the current building program of the Government.

Hearings were held in both the Senate and House committees. In the House extensive consideration has been given to this or similar bills since 1927, and in each instance the Committee on Labor made a favorable report.

In the formulation of the provisions of this bill there has been full and painstaking cooperation by the Department of Labor, the Treasury Department, the War Department, the Navy Department and the Veterans' Bureau, and in the framing of this measure there was also the collaboration of the solicitors of these departments.

Therefore, this measure comes before the House with the united support of the executive departments, the unanimous reports of both the Senate and House committees, and the knowledge that it passed the Senate without opposition.

A practice has been growing up in carrying out the building program where certain itinerant, irresponsible contractors, with itinerant, cheap, bootleg labor, have been going around throughout the country "picking" off a contract here and a contract there, and local labor and the local contractors have been standing on the side lines looking in. Bitterness has been caused in many communities because of this situation.

This bill, my friends, is simply to give local labor and the local contractor a fair opportunity to participate in this building program.

I think it is a fair proposition where the Government is building these post offices and public buildings throughout the country that the local contractor and local labor may have a "fair break" in getting the contract. If the local contractor is successful in obtaining the bid, it means that local labor will be employed, because that local contractor is going to continue in business in that community after the work is done. If an outside contractor gets the contract, and there is no discrimination against the honest contractor, it means that he will have to pay the prevailing wages, just like the local contractor.

Mr. McCORMACK of Massachusetts. Will the gentleman yield?

Mr. BACON. Yes.

Mr. McCORMACK of Massachusetts. This bill also compels, does it not, the unscrupulous contractor to enter the field of fair competition?

Mr. BACON. The unscrupulous contractor who hitherto came in with cheap, bootleg labor must now come in and pay the prevailing rate of wages in the community where the building is to be built, and I submit that this puts all contractors on a fair, equal, and equitable basis.

Mr. JOHNSON of Washington. I want to say that I am for the bill. Suppose a contractor gets a Government contract—which I know to have been done—and then requires the common laborer to work at a lower price and provide his own pick and shovel, which he has not got. He gets the wages down from $4 to $2.75 and requires each laborer to get his own pick and shovel.

Mr. BACON. The contractor on all Government jobs must conform to the prevailing wages in that community. He can not shave that price, but he must pay the prevailing wage. The Government must not be put in the position of helping to demoralize the local labor market.

Mr. JOHNSON of Washington. That will help.

Mr. MICHENER. Will the gentleman yield?

Mr. BACON. I yield.

Mr. MICHENER. How is the contractor going to get the information as to what the prevailing wage is in a community?

Mr. BACON. The Secretary of Labor and the different departments have given this bill great consideration, and——

Mr. MICHENER. But the gentleman does not answer my question. How is the contractor going to know what the prevailing wage is in the community? Will the Government furnish it to him? Will the Government furnish him the information as to the going wages at that time?

Mr. BACON. Certainly not, as a pegging proposition. A local contractor knows the local prevailing rates; an outside contractor must find them out. But he does this to-day if he is intending to use the local labor supply.

The Secretary of Labor, Mr. Doak, when testifying before the house committee, stated that he considered this emergency legislation. I believe the membership of the House generally knows why this is so. The Government has embarked on a large construction program, perhaps to a total of some five hundred millions of dollars. The translation of this program will mean new and improved courthouses; Federal post-office buildings at practically every first and second class post office, and in every part of the country; new hospitals and additions to hospitals for the Veterans' Bureau, the Public Health Service, and the Army and Navy; new customhouses or additions thereto; additional Army and Navy building projects of every character; et cetera.

This proposed legislation is a most necessary and desirable complement to the building program of the Government. Its purpose is to see to it that the benefits of the program are spread equitably throughout the country, alike to labor and to the contracting industry.

Members of Congress have been flooded with protests from all over the country that certain Federal contractors on current jobs are bringing into local communities outside labor, cheap labor, bootleg labor, or that they are taking an unconscionable advantage of demoralized labor conditions generally by cutting the prevailing wage scale, leaving a resentful and embittered community, and giving rise to the complaint by local labor that the Government is in league with contract practices that make it possible to further demoralize local labor conditions.

Unless this bill is passed I think it is fair to assume that all of the complaints that have come to the administration and to Members of Congress thus far will be increased in precise ratio to the momentum the building construction program will gain through the construction of post offices, courthouses, hospitals, and so forth, in all districts of the country that have not so far had any Federal construction work.

The President, as is well known, is very anxious that the wage scale be not reduced. The administration has done everything it possibly could, with the scant power it at present wields, to have contractors on Federal jobs agree to maintain the current wage obtaining in the communities where the Federal work has gone forward. But notwithstanding all of the Government's efforts, the results have been indifferent, and many complaints are pouring in.

These complaints have also come to the President's Committee on Unemployment, some of them as recent as January and February of this year. This committee has also indorsed this legislation and feels that it will materially help in relieving the unemployment situation and in spreading its benefits equitably throughout the country to as many people as possible.

In its practical operation the bill sets up a simple and direct method of assuring the payment of the prevailing wage by the contractor in the community where the work is performed. The Secretary of Labor anticipates no difficulties of administration. In 90 per cent of the cases he feels there will be no dispute of any kind. Where there is a dispute, which can not be ironed out on the spot by the contracting officer of the Government, the matter would be referred to the Secretary of Labor for final decision. The Labor Department has a well-organized conciliation service; and the administration feels that the offices of this service, when called on, will be able, without trouble, to settle disputes amicably, expeditiously, and to the satisfaction of everyone.

The bill does not put the Government in the position of price fixing or of anticipating wage levels; it does not attempt to peg a price for either the benefit of the contractor or labor. It does not disturb the methods or causes that finally evolve a scale of wages. It leaves that to employer and employee, where it belongs.

In case of dispute and where the Secretary of Labor must make the final decision, the function of the Secretary will be to apply to the contract the wages he ascertains constitute the prevailing rates. That is all he would do. He would make an ascertainment of fact, pure and simple, and apply that ascertainment to the contract.

We have the condition to-day on many Federal construction projects, where the terms "local labor" and "prevailing rates of wages" mean absolutely nothing; where local workmen are merely envious onlookers, off the reservation, simply because the Federal contractor concerned has been able to bring into the local community a cheap, itinerant labor supply or to severely cut the wages normally paid to the workmen in the community. He does this with profit to himself and perhaps also, I am ashamed to say, with profit to the Federal Government. We have instances where contractors are dumping this cheap labor into an already demoralized labor market at the expense wholly of the local workman, his family, and his community.

To permit the Federal Government to aid in the disruption of stable labor conditions is not fair or decent. Nor is it fair or decent to permit practices that discriminate against the local contractor or the general contractor who does not believe in taking advantage of demoralized labor conditions in any community in which he may operate.

This measure is also indorsed by labor generally and by the American Federation of Labor and its affiliates. It also has the support and indorsement of building contractors. Just as a brief illustration I want to read three indorsements that have come to me from contractors and contractors' organizations. The first is from the Thompson-Starrett Construction Co. It reads:

FEBRUARY 24, 1931.

Hon. ROBERT L. BACON,
House of Representatives:

We heartily indorse your bill entitled, "Prevailing rate of wages," and believe the passage of this measure will be a great aid in stabilizing labor conditions and permitting legitimate contractors to figure on public work.

THOMPSON-STARRETT CO. (INC.).

The next is from George A. Fuller Construction Co., reading as follows:

NEW YORK, N. Y.

Congressman ROBERT BACON,
House Office Building:

Supplementing our wire of yesterday requesting consideration of amendment introduced by Associated General Contractors to bill for prevailing rate of wages, we are in favor of original bill without amendment if amendment would jeopardize passage of bill.

GEORGE A. FULLER CO.

And the last one is from the Mason Contractors' Association of the United States and Canada, reading as follows:

MASON CONTRACTORS' ASSOCIATION OF
UNITED STATES AND CANADA,
St. Louis, Mo., February 20, 1931.

Representative ROBERT BACON,
House of Representatives, Washington, D. C.

To REPRESENTATIVE ROBERT BACON: There has come to our notice the Davis-Bacon bill, regulating the pay of labor and mechanics on Government contracts which provides that contractors pay the prevailing rate of wages in the locality of the job.

This organization is vitally interested in its passing, and on behalf of the Mason Contractors' Association of United States and Canada, I would ask that you indorse the Davis-Bacon bill.

Respectfully yours,

T. W. KIRK, *Secretary.*

Under this measure the benefits of the public-building program will be spread out equitably over the country. The discrimination that both labor and the legitimate contractor are now suffering from, through unfair practices on the part of unscrupulous contractors, will be cured, and the

communities that this public-building program will touch will be dealt with beneficially and not adversely; the latter being often the case to-day.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. BLANTON. Mr. Speaker, I yield one minute to the gentlewoman from New Jersey [Mrs. NORTON].

Mrs. NORTON. Mr. Speaker and gentlemen of the House, I think it very generous of the gentleman from Texas to yield me this time, for he knows that I am heartily in favor of the bill.

I sincerely hope that the Members of the House will give their unanimous support to this bill on account of its importance at this time, in view of the great number of contracts for Federal buildings soon to be awarded throughout the country.

May I say that I have had some personal knowledge of this matter during the recent erection of a Federal hospital in my State, and I believe this bill will safeguard a great many States against unjust contracts and discrimination against labor, as was the case to which I have referred in New Jersey. Organized labor has suffered much through selfish importation of labor from distant localities. While this bill may not absolutely prevent such condition, it is at least a step in the right direction, and will go a long distance to prevent the intolerable conditions labor has been subjected to in the past. [Applause.]

Our committee unanimously indorsed this bill, believing that the Secretary of Labor will render a just decision if and when cases are referred to him for determination in the event that a dispute arises with regard to the prevailing wage rates.

Under this bill the Government does not set up any new wage scale. It simply insists that the prevailing wage scale in the vicinity of Federal building projects be complied with; and this, I contend, is a matter of plain justice to the employees, the contractors, and the Government. Surely no Member of this House will vote against this humane and just bill.

Mr. BLANTON. Mr. Speaker, I yield one minute to the gentleman from New York [Mr. O'CONNOR].

Mr. O'CONNOR of New York. Mr. Speaker, the gentleman from Texas said that this was "the most ridiculous piece of legislation ever brought before a legislative body," when he should know there is not a progressive State or municipality in the Union that has not had identical legislation of this kind for years. Many of them have laws which go much further than this proposal.

While I am heartily in favor of the bill, I regret there is not included in it, as I have advocated for some time, some teeth, some penalty or forfeiture, so that the contractor can be compelled to live up to his contract and the law.

The appeal made here in behalf of the contractor is entitled to no consideration. The contractor does not pay this money out of his own pocket. The wages he pays are of no concern to him. The money comes out of the Treasury of the United States. The contractor figures what the prevailing wages are when he submits his bid. He is able to find out what the prevailing wages are much better than the Government. That is his business. He gets the money from the Government, and so far as he is concerned it makes no financial difference whether he pays the prevailing rate of wages or not. He includes it in his bid.

Mr. SNELL. Will the gentleman yield?

Mr. O'CONNOR of New York. I yield.

Mr. SNELL. Is not this practically the New York State law on the same proposition?

Mr. O'CONNOR of New York. It is. New York was the pioneer in such legislation. Not only do all contractors on State and city public works have to pay the prevailing rate of wages, but recently the law was extended to include railroad grade crossing elimination work, because the State contributes a part of the cost of such work. The New York statute has penalty and forfeiture provisions which I hope in time will be incorporated in this law.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. BLANTON. Mr. Speaker, I yield one minute to the gentleman from Missouri [Mr. COCHRAN].

Mr. COCHRAN of Missouri. Mr. Speaker and Members of the House, I appreciate this opportunity to indorse this measure and thank the gentleman from Texas for yielding to me when he knew I was not in accord with his views.

Mr. Speaker, this legislation is not only fair to the employee but most fair to the employer. It protects the local contractor from competition with an outside contractor who employs cheap labor, inferior labor.

Two great buildings, a Federal office building and a new post office, involving an expenditure of nearly $10,000,000, are to be constructed in my city, St. Louis. I would like to see those buildings constructed by a St. Louis contractor and by St. Louis labor. This law will apply and the local contractor will not be required to compete with a foreign contractor who, if he secured the contract, would be required to import cheap labor. What would result if cheap labor was brought into my city? It would be resented, and trouble would result.

In the last few days contractors from my city have wired urging that this bill be amended. These telegrams result from a general letter sent out from Washington by the contractors' association. Amendments can not be offered under the rule. It is now too late to change the bill. It seems to me if there was objection to this particular bill the contractors' associations should have made their views known before the committee. I have indorsed the principles of this legislation before the Committee on Labor on several occasions at open hearings.

Union labor understands that under the Constitution the Treasury Department can not specify the use of union labor in connection with the construction of public buildings. Organized labor does not ask special favors. In supporting this bill all it asks is fair play. I feel that instead of opposing this bill all reputable contractors should feel indebted to those responsible for its enactment because in the end it will be beneficial to them.

The Congress should never overlook an opportunity to maintain the present standard of wages.

The enactment of this bill to-day means much to the Government, as it will result in the employment of the best class of mechanics in the construction of public buildings.

Mr. BLANTON. Mr. Speaker, I yield five minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I thank the gentleman from Texas for yielding time to me. I do not agree with his expressed views on this bill. I think it will be very helpful when it is enacted into law, and it will be particularly helpful I hope to the district which I represent, which includes the Military Academy at West Point, by empowering the Secretary of Labor to adjust labor disputes based on prevailing wage scales. For many years past I have had innumerable complaints from organized and unorganized labor stating that the West Point authorities did not pay the wage scale that prevails in the near-by towns and cities. Every complaint that came to me I forwarded to the War Department. The War Department forwarded that complaint back to West Point, with the result that nothing has been done in all these years. I hold in my hand a letter addressed to me dated May 6, 1929, from Mr. Green, president of the American Federation of Labor, which reads as follows:

DEAR SIR: A copy of your letter of April 24 to Hon. James W. Good, Secretary of War, is a practical plan of removing the grievances of the building-trades workmen at West Point. I understand that Representative JAMES has insisted that all future construction at West Point Military Academy should be submitted to public bids for the purpose of avoiding the methods used for some time in that Army post. It is also true that much criticism has arisen about the wages paid. It has been the practice to pay the workers at West Point less than they receive in near-by towns. Your letter to Secretary Good is appreciated, and I have sent a copy to Mr. William J. Spencer, secretary of the Building Trades Department.

Respectfully yours,

WILLIAM GREEN.

What I want to find out from the introducer of this bill is whether the provisions of the bill will apply to the con-

struction work that is being done and will be done in the future at the West Point Military Academy.

Mr. BACON. The provisions of the bill apply to all building constructions carried on by the Government, whether through the Treasury, the Veterans' Bureau, the War Department, the Navy Department, or any other department.

Mr. FISH. As I understand the bill, it applies to contractors. Suppose the military authorities do the work themselves, does it apply to them?

Mr. BACON. This does not apply to river and harbor work, or road construction.

Mr. FISH. The quartermaster does some of the work at West Point. Would it apply to that work?

Mr. BACON. Technically, no; this bill would not apply to that.

Mr. FISH. The gentleman from Michigan [Mr. JAMES] is here, and I serve notice now that I will try to provide that all future work be done by contract, instead of by purchase and hire by the quartermaster.

Mr. DOWELL. When this bill becomes the law, as it should, it seems to me the Government will be bound to observe its provisions as well as individuals.

Mr. BACON. This bill declares the policy of the administration, and I think they will be morally bound, in carrying out this policy, to do themselves what they require others to do.

Mr. FISH. That is the kind of statement and interpretation of the bill that I hoped to get into the RECORD.

Mr. JAMES of Michigan. It is not necessary for the gentleman from New York to serve notice on the chairman of the Committee on Military Affairs, because he stated on the floor that if the War Department had any construction work themselves and exceeded the limit, he would introduce a bill to prevent that thing.

Mr. FISH. In conclusion I want to say that I am wholeheartedly for the bill. I do not think it goes far enough. I am sorry there is not a clause in the bill to give preference to local and American labor over alien labor.

Mr. BACON. My original bill, which I introduced in 1927 and again in 1928 and 1929, had that additional provision in it, namely, to provide that citizen labor be employed on Federal works. This bill was drawn by five departments, and agreed on by five departments, and is introduced here as an emergency measure. I hope in the next Congress to again introduce a bill to provide that American workmen shall get absolute preference on all work carried on by or for the Federal Government. [Applause.]

Mr. BLANTON. Mr. Speaker, I yield one minute to the gentleman from New York [Mr. MEAD].

Mr. MEAD. Mr. Speaker, the sponsors of this legislation are to be congratulated for the good work they have done in bringing this bill before the House for final action. This is, in my judgment, good legislation, and I shall support it. In these days of improved methods and modern machinery we find the employer class generally resisting wage increases and work-period reductions. This false economic philosophy is in a large measure responsible for the terrible situation the country finds itself in to-day. It is apparent that machines are producers, but they neither purchase nor consume. The people are the consumers, and a vast majority are wage earners, who can only consume that which they can buy with the wages they receive for their labor.

With consumption falling far behind production and resulting in economic stagnation, it is our chief concern to maintain the wages of our workers and to increase them wherever possible. Wages should be maintained, and especially on Government work, for to fail in this regard would be setting a bad example for private enterprise and permitting a gross injustice to be perpetrated upon our citizens. This bill is a step in the right direction and should pass at this session of Congress.

Mr. BLANTON. Mr. Speaker, I yield one minute to the gentleman from Texas [Mr. BRIGGS].

Mr. BRIGGS. Mr. Speaker, I think this is one of the most advanced pieces of legislation which has been enacted by Congress in a very long time. I have known in communities throughout the United States, and even in my own, the utmost difficulties encountered by contractors, who figured upon paying the regular prevailing local wage scale, in obtaining Government building contracts, which otherwise they could have gotten, but were denied by reason of having to compete with outside contractors who did not feel constrained to abide by these regulations. This legislation, I understand, will in the future prevent any condition of that kind and enable the Government to get better returns for its money in higher efficiency and greater skill, and the localities and those who live in them will be benefited thereby. It is particularly important that the Government in its public-building program, and especially in periods of great unemployment, should endeavor to have local labor employed in the communities where the buildings are to be constructed, and to discourage the practice of importing labor from other States and regions when local labor and their families suffer for lack of work and an opportunity to earn their livelihood. This measure will go a long way in according to home labor in every community where a Government building is to be constructed the consideration to which it is justly entitled.

Mr. WELCH of California. I yield one minute to the gentleman from Massachusetts [Mr. CONNERY].

Mr. CONNERY. As the ranking Democratic member on the Committee on Labor, I wish to say this was a unanimous report by our committee. This is a good bill, and I am sure you ladies and gentlemen realize that this law prevents in every district in the United States the bootleg contractor, as the gentleman from New York said a while ago, exploiting labor and refusing to pay real wages to the American people, to which they are entitled.

Mr. ALLGOOD. Will the gentleman yield?

Mr. CONNERY. I yield.

Mr. ALLGOOD. Reference has been made to a contractor from Alabama who went to New York with bootleg labor. That is a fact. That contractor has cheap colored labor that he transports, and he puts them in cabins, and it is labor of that sort that is in competition with white labor throughout the country. This bill has merit, and with the extensive building program now being entered into, it is very important that we enact this measure.

The SPEAKER pro tempore. The time of the gentleman from Massachusetts has expired.

Mr. WELCH of California. I yield to the gentleman from Massachusetts [Mr. GRANFIELD].

Mr. GRANFIELD. Mr. Speaker, ladies, and gentlemen, the legislation under consideration deserves the support of every Member of this Congress, it should be passed by this branch and sent to the President with as much dispatch as the circumstances permit. It ought to be enacted into law before the adjournment of this Congress.

This bill is an emergency measure, and it is needed in order that the Government might be able to protect the rights of the workingman in the various communities in which Federal construction is contemplated. There is a crying need for this legislation. Its passage is indispensable at this time, in order to abolish the sharp business practices resorted to by certain contractors engaged in Federal construction.

We are in the throes of an unemployment depression, the worst in the history of this Nation. The Government is confronted with a stupendous task in its efforts to execute the greatest building program ever attempted by this Nation or any other nation in the history of time.

I am particularly interested in this legislation for the reason that Wednesday of this week bids were opened for the construction of a post office in the city of Springfield, which is in my district. This contract is to be awarded to a firm from Chicago. Other post-office projects under this program, I expect, will be allocated some time in the future. I am anxious that this policy of regulation be established at this time by our Government to protect those projects. This legislation will compel the contractors to pay the prevailing wage scale in the vicinity of the building projects and will prevent the importation of labor from distant points at wages far below the prevailing rates.

We have had some sad experiences in the past in other parts of the Commonwealth of Massachusetts. Some of you gentlemen are aware of the fact that a post office was erected in Lawrence, Mass. In order that you might understand the methods of some of the contractors that are doing Government work, with your indulgence, I will read a letter in connection with the Lawrence post office, addressed to me by Mr. P. H. Triggs, secretary and treasurer of the Massachusetts State Conference of the Brotherhood of Painters, Decorators, and Paperhangers of America:

Congressman WILLIAM J. GRANFIELD,
Springfield, Mass.

DEAR CONGRESSMAN: At the July convention of the Massachusetts State Conference of the Brotherhood of Painters, Decorators, and Paperhangers of America, held at Brockton, Mass., the conditions under which our Federal Government is permitting some of the work on local post offices to be conducted was brought to our attention, one of the most flagrant violations was the repainting of the post office in Lawrence, Mass., recently.

The Goldman Construction Co., of New York, was awarded this contract, being the low bidder; local contractors' bids were higher because they were based on decent conditions of employment and wages established in that city. The employees of the Goldman Construction Co., without any regard for these established conditions, worked 12 to 15 hours per day including Sunday; it was reliably reported that these workmen did not even shave during the three or four weeks they were on the job. As a further climax to such a spectacle, they worked on this job July 4, our national holiday. No official of the Government interfered, but local workmen disturbed by this lack of respect for the day we all celebrate, went to the job and asked them why they did not stop work out of respect at least for our national holiday. They are reported as replying "the 4th of July did not mean anything to them."

You can well imagine the reaction that resulted locally, many out of employment through no fault of their own, anxious and willing to work if they could procure it and when our Federal Government, in pursuance of their program of building construction and repair, permit such a condition to exist—is it any wonder that the present unrest is augmented? As a Representative in Congress we believe that such a condition would not be condoned by you or permitted if you were consulted, and we are in the hope that you will bring this matter to the attention of the proper authorities in Washington and also to the Committee on Labor who are considering H. R. 7995, H. R. 9232, and H. R. 10256, which bills include citizen's preference and the payment of the prevailing rate of wages on construction and alteration work for the Federal Government similar to the law in Massachusetts and other States.

We are in hopes that the Committee on Labor will report favorably on this subject matter because if the present system of awarding contracts is permitted to continue with no protective labor clauses, a repetition of the conditions complained of in Lawrence can be expected in other localities, a condition that makes a mockery not only of local labor conditions and wages, but the very reverence that the Sabbath and our national holiday is expected to instill in the minds and hearts of loyal and patriotic citizens of our great country.

We vigorously condemn such a situation as presented by the Lawrence post office job and we believe that you share with us this opinion and would respectfully urge that any immediate action that may appear necessary will be taken by you.

Hoping that you will acknowledge receipt of this protest and thanking you for any action you may take in the matter, we are

Very truly yours,

MASSACHUSETTS STATE CONFERENCE,
By P. H. TRIGGS, *Secretary-Treasurer.*

The conditions described in Mr. Triggs's letter ought not to be tolerated by our Government.

In consequence of this letter I communicated with James A. Wetmore, Acting Supervising Architect, Treasury Department, on August 8, 1930, calling his attention to the facts transmitted to me in the Triggs letter. My letter to Mr. Wetmore was as follows:

AUGUST 8, 1930.

JAMES A. WETMORE,
Acting Supervising Architect,
Treasury Department, Washington, D. C.

DEAR MR. WETMORE: At the July convention of the Massachusetts State Conference of the Brotherhood of Painters, Decorators, and Paperhangers of America, which was held at Brockton, Mass., certain conditions were discussed relative to the construction of the post office at Lawrence, Mass.

I am informed that the Goldman Co., of New York, which was awarded this contract, permitted its employees to work 12 and 15 hours per day, including Sundays, and that they engaged in work on the Fourth of July. Of course this condition ought not to exist under any circumstances, and particularly ought not to occur during these times of unemployment.

I am very much interested in the proposed construction of the Springfield post office, and I am interested that the work on this building be done by local workmen.

It seems to me that the Federal Government ought to adopt a policy that would give employment to men in the locality in which a public building is being constructed. To bring in outside contractors and outside labor into a community where there is a great deal of unemployment is an affront to the citizens of that community.

In awarding the contract in connection with our post office at Springfield, Mass., I trust you will give thought to these considerations.

I join with the members of the Massachusetts State Conference of the Brotherhood of Painters, Decorators, and Paperhangers of America in their protests of the conditions that prevailed during the construction of the post office at Lawrence, Mass. I trust that the citizens of my district will not be forced to observe persons outside of our own locality engaged in work when they are unemployed.

I shall be pleased to hear from you relative to this matter at your earliest convenience.

Very sincerely,

WILLIAM J. GRANFIELD.

According to the terms of this bill contractors and subcontractors engaged in the construction and the alteration of public buildings in the United States, and the District of Columbia, will be forced to pay their employees the prevailing wage rate of the community in which the work is done. Many advantages will accrue by the enactment of this bill, not only to the artisan, the mechanic, and the laborer, but to the contractor as well. For instance, a contractor coming from Chicago, as is the case with the Springfield, Mass., project, if he is forced to pay the prevailing wage rate in the city of Springfield, he will be inclined to engage workmen who reside in that city. To follow this course would be the sensible one in order to avoid the expense he would incur in the transportation of labor from Illinois to Massachusetts. The contractor and the Government would receive the fruits of contented labor, and the people in the particular location where the project was under construction would not be forced to sit in idleness while strangers came into their community to engage in employment that was rightfully theirs. The practice of importing cheap labor is an affront to the man who is willing and able to work.

The passage of this legislation would tend to force general contractors to recognize subcontractors in the locality where the building is to be constructed, and the community in the vicinity of the construction would receive the benefits that would accrue from the materials and accessories manufactured and used in the construction of the building. This regulation would maintain the standard of living in the community in which the building was under construction. This has been one of the aims and one of the purposes of our Government throughout this depression. All contractors would be placed on a fair and just basis in the submission of bids for the various Federal contracts. Our Government does not intend that contractors doing Federal work should employ cheap labor, neither does it expect that a contractor will make an unjust profit upon the toil of man. Our Government has always fostered the ideal that the standard of living during this depression should be conserved and maintained, and that it is the duty of every contractor in America to subscribe to this policy.

If the contractor fails to carry out the provisions contained in this bill and a dispute arises as to the prevailing wage rate, it is provided in this legislation that the matter of the dispute shall be referred to the Secretary of Labor for determination, and that the Secretary's decision as to the wage rate shall be conclusive on all parties to the contract.

According to the testimony of Secretary of Labor Doak, facilities for the conciliation of these disputes can be adequately and effectively taken care of by his department. This legislation has the approval of the Secretary of Labor, and every man who is behind the building program in our Government. It was stated by Mr. Wetmore of the Treasury Department and Mr. Doak, that this legislation was and is most urgent. It was their contention that if this regulation is made a part of each contract the Government would not only be in a position to enforce the prevailing wage scale but the legislation would create jobs in the localities where the work is being done.

I regret that this bill has not heretofore been enacted into law. I say this because I have some concern about the projects in my own district. I do not want to see workmen will-

ing and able to work, walking the streets, unable to obtain employment, suffer the affront of witnessing strangers take jobs from them to which they are entitled, and I serve notice now upon the contractor who is to be awarded the contract for the post office in Springfield, Mass., that if the Congress of the United States enacts this law that I shall expect, and the Government shall expect, the contractor to observe this policy of regulation. We do not want to witness in my district the scandalous spectacle that occurred in Lawrence when bootleg labor was imported into that city, and where the citizens of that community were forced to observe not only violations of our labor laws, but a disrespect for the Sabbath and a national holiday. The citizens should not be forced to endure these conditions. The underlying provisions of the building program are to provide employment and to maintain the standard of living. Importation of foreign labor into a community in these times by foreign or local contractors is an insult to the unemployed in the locality where Federal construction is in progress.

In connection with the Springfield project I have this day urged James A. Wetmore, Acting Supervising Architect of the Treasury Department, that he impress upon the general contractor adherence to the provisions of this regulation, and that he employ, whenever possible, local labor. I have the assurances of Mr. Wetmore that he intends to do everything in his power to have the contractor on the Springfield project recognize the rights of our citizens, and give them employment and pay them the wages according to the wage scale that prevails there.

It is unfortunate that under the law in communities where firms of high standing in the business world, with facilities adequate to construct a project of the type of the Springfield post office, can not be given a preferential status. Springfield is fortunate in that it has among its many business enterprises such construction concerns as the Fred T. Ley Co., J. G. Roy & Sons Co., and A. E. Stephens, contractor. If any one of these concerns had been awarded the Springfield contract, the propositions which concern us to-day would be avoided so far as that project is concerned. The Fred T. Ley Co., the J. G. Roy & Sons Co., and A. E. Stephens, contractor, would recognize not only the prevailing wage scale in the community; they would also employ local labor.

There is another feature of this building project that the citizens of New England are vitally interested in. We believe that in the construction of our buildings materials manufactured in our locality should be used. It was the intention originally of our Government to use limestone entirely in the construction of the various Federal buildings. To follow this plan would be unjust and unfair to the people in the granite industry. New England is foremost in the production of granite. Indiana is foremost in the production of limestone. In fairness to New England industries granite should receive the consideration of our Government wherever possible so that this industry which has been lagging, like all others during this depression, could be revived.

Under date of February 21, 1930, in a letter to the Supervising Architect of the Treasury Department, and which I include as a part of this speech, and which is as follows—

FEBRUARY 21, 1930.

SUPERVISING ARCHITECT,
Treasury Department, Washington, D. C.

DEAR SIR: Several of my constituents have placed before me their objections to the use of limestone as a building material in the construction of our proposed post-office building in Springfield, Mass. Limestone was used in the construction of our municipal group, and we have found that it is not a good material for our climate and that our municipal group, by reason of the fact that the limestone is fast going to pieces, requires constant patching up.

I thought it might be well for me to give you this information, for I, as well as a great many people in the city of Springfield who will have occasion to use the post-office building, believe that granite should be the material used in the construction of this building, instead of limestone.

I trust you will give this matter your earnest consideration. I shall be happy to discuss this matter with you at any time at your convenience.

Yours very truly,

WILLIAM J. GRANFIELD.

it was urged that the Treasury Department consider granite in the construction of our post office. I called attention to the fact that many constituents were anxious that granite be used in the Springfield project. Hon. Joseph B. Ely, Governor of the State of Massachusetts, in his efforts to relieve unemployment in that Commonwealth, has repeatedly urged Members of Congress and the Government to give the granite industry of New England the consideration to which it is entitled. On the floor of this Congress it has been urged with great force by the Members from the New England States that the Government give consideration to the granite industry of our section of the country. I wish to urge upon the officers in charge of the Treasury Department that they accept the granite bid which was submitted by the contractor engaged to construct the Springfield post office.

I trust I have made the necessity of this legislation plain to the Members of this House. If it is adopted it will not only regulate the conduct of contractors who build our post offices, but it will be far-reaching in its effects upon every building contract entered into by our Government where the sum involved is in excess of $5,000. This bill has the approval of contractors, leaders in industry, and labor organizations throughout the United States. It has the approval of every person designated by the Government to carry out the public work program. It is urged and advocated by the Secretary of Labor, Mr. Doak. I trust that this House will pass this legislation, which is of great merit, unanimously.

The SPEAKER pro tempore. The time of the gentleman from Massachusetts has expired.

Mr. BRIGGS. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

Mr. WELCH of California. Mr. Speaker, I yield three minutes to the gentleman from Iowa [Mr. KOPP].

Mr. KOPP. Mr. Speaker and ladies and gentlemen of the House, we have been passing through a period of depression and unemployment and to aid in relieving the situation the Government has entered upon a very extensive public building program. It has been the desire of the President and of the administration generally to maintain the existing wage rates. Under the law, however, the Government has been compelled to award the contracts for public buildings to the lowest responsible builders. This has enabled contractors who had recruited cheap labor to go into communities where higher wage rates prevailed and outbid the local contractors. As a result, the local contractors have not had a fair chance, and local workmen have often been compelled to walk the streets while strangers have done the work.

Not only have the cheap wage rates paid to imported workmen made it possible for their employers to secure public building contracts, but they also have had a strong tendency to depress the wage rates generally in the communities where public buildings have been constructed.

The purpose of this bill is to require the contractors, including subcontractors, to pay not less than "the prevailing rate of wages for work of a similar nature in the city, town, village, or other civil division of the State in which the public buildings are located, or in the District of Columbia, if the public buildings are located there." With that purpose every good citizen must agree. No one asks the contractors to pay more than the prevailing rate in the community where the work is done. This bill simply requires the contractors not to pay less than is paid in private industry. It is simply insisted that the Government shall not use its power to demoralize the wage rates in places where public buildings are constructed. Nothing could be fairer. Nothing could be more just and equitable. This is a policy to which no one can take exceptions.

With the purpose of this bill all must be in accord, but it may be asked, Will the bill, if enacted into law, accomplish its purpose? That is a fair question. It may be pointed out that there is no penalty in the bill for its violation. That is true, but nevertheless violators of the law can be easily and

effectively penalized. If contractors pay less than the prevailing rates, and thus violate both the law and their contracts, the Government can in the future refuse to recognize them as responsible bidders. [Applause.] It is believed that this power in the hands of the Government will prove a very persuasive argument and will prevent violations of the law. It is not improbable that this power will be more effective than would be provisions in the bill containing penalties and forfeitures.

It may be pointed out that the term "prevailing rate" has a vague and indefinite meaning, and that therefore the law can not be enforced. The Supreme Court of the United States in Connally *v.* General Construction Co. (269 U. S. 385) has held that the term "current rate," as applied to wages, is uncertain in meaning, and I think that if the term "prevailing rate" were before the same court the ruling would be the same. Nevertheless, I believe this bill, if enacted into law, can be, and will be, effectively enforced. Under this bill the power will be given in each case by contract to the Secretary of Labor to determine what the prevailing rates are, and I know of no reason why such a contract will not be valid and binding.

It has been suggested that the Secretary of Labor might make one decision as to prevailing rates to-day and a different decision to-morrow. Some contractors have stated that the uncertainty of the "prevailing rate" would compel them to add a margin of safety to their bids. I do not speak for the Secretary of Labor, but I think it is safe to assume that the Secretary of Labor will formulate a fixed and definite method for determining the "prevailing rate," and make it known to the contractors. That will enable the contractors to bid intelligently and will give all a fair chance, no matter how many competitors there may be.

A method for determining the prevailing wage rate might have been incorporated in the bill, but the Secretary of Labor can establish the method and make it known to the bidders.

It may also be claimed that this bill, even if enacted into law, will not have any force or effect unless the officials letting the contracts for the Government and the Secretary of Labor are in sympathy with the law. I concede that this is true. Without officials in sympathy with the law it will be of no value, but I fully believe that the officials, no matter which party may be in power, will do their duty. The Secretary of Labor, Mr. Doak, is heartily in favor of this bill and will do his utmost to carry out its provisions. Mr. Payne, The Assistant Secretary of War, appeared before the Committee on Labor in behalf of the bill. As you know, Mr. Payne is from Massachusetts. In the language of our most distinguished private citizen, I say: "Have faith in Massachusetts." Mr. Wetmore, the efficient and capable Supervising Architect of the Treasury, has strongly indorsed the bill. In his own vigorous way he told the committee that he could and would enforce the law. Mr. Wetmore comes from the State of New York. Having known Mr. Wetmore for some years, I feel fully justified in saying "Have faith also in New York." At the present time the officials who will let the contracts for public buildings are in entire sympathy with the bill and every effort will be made by them to enforce the law. If we ever have officials not in sympathy with the law, it will then be time either to change the law or to change the officials. [Applause.] Probably the latter will be the wiser thing to do.

The present conditions are intolerable. Immediate action is necessary, as many contracts are to be let in the near future. Perhaps somebody could draw a better bill, but thus far nobody has done so, and we can not wait longer. This bill should be passed at once. Do it now. Mr. Speaker, I am glad to give this measure my hearty and earnest support. [Applause.]

Mr. WELCH of California. I yield to the gentleman from Massachusetts [Mr. McCORMACK].

Mr. McCORMACK of Massachusetts. Mr. Speaker, the bill under consideration, known as the Bacon bill, is one that should become a law this session. It is a bill which has been unanimously acted upon by the Senate only a few days ago, and a bill identical in form and phraseology has been favorably reported by the House Committee on Labor. There is an urgent demand and necessity for the passage of this bill. It is aimed to correct a condition which now exists, as a result of which unfair and unscrupulous methods are employed by certain contractors who are awarded governmental contracts for the construction of Federal buildings. The main purpose of this bill is to compel, by indirection, contractors awarded Federal building contracts to pay those whom they employ the "prevailing wage scale" in the district or community in which construction work is being done. By accomplishing this the bill also brings benefits to those contractors who, in submitting bids, intend and desire to pay a decent wage to those whom they may employ. It will force the contractor who heretofore has used cheap, imported labor to submit bids based upon the payment of the "prevailing wage scale" to those employed. That is as it should be. It will thereby enable honorable and decent contractors to submit bids with the knowledge that, so far as wages is concerned, the unfair competitor of the past no longer exists. It compels the unfair competitor to enter into the field of fair competition. It also compels such contractors to pay a living wage and, of necessity, to give consideration to the employment of local labor.

In the past it has been very difficult for a contractor who intended to pay and did pay a living wage to successfully compete with the contractor who had no regard for such considerations. This is particularly so when it is understood, except where time is the essence of the contract, that awards must be given to the lowest responsible bidder. While this bill does not change the necessity of a contract being awarded to the lowest responsible bidder—which, I hope, some day will be changed, residing in the officials awarding the contract some discretionary powers—nevertheless it does provide that the payment of the "prevailing wage scale" shall be made a part of the contract. The contractor in submitting his bids must give this important change in existing law consideration. In the case of the contractor who has been in the habit of employing cheap labor, which might, in a sense, be termed forced labor, and usually imported labor, it will compel him to increase his bids. While the purpose of this bill is to assure to those employed on Federal construction work the payment of the "prevailing wage scale" and to also assure employment of local labor, one of the effects of the passage of this bill will be to compel unfair contractors to stand on the same footing, in submitting bids, as honorable contractors, who have always had a regard for and lived up to the "prevailing wage scale" that existed in communities in which they were doing Federal work.

The importance of the provisions of this bill and the effect that it will have if it becomes law can not be underestimated. Its passage will meet the approval of everyone except the contractors who, in the past, have been using imported labor, which is invariably cheap labor.

The passage of this bill removes from a contractor the incentive or motive to import cheap labor from one section of the country to another. It will in no way affect the use by a contractor of his regular and permanent supervising force. This type of legislation has been agitated and urged for many years and has the united support of all elements of organized labor, and particularly that great, progressive, and constructive labor organization, the American Federation of Labor. This type of legislation commanded my attention shortly after I became a Member of the Congress. At that time I introduced a bill which incorporated therein the provisions of the pending bill, and in the last session of the Congress, when the House Committee on Labor held hearings on various bills referred to it, I appeared before that committee and urged the passage of legislation of the kind contained in the pending bill. One of the strongest, if not the strongest, proponents of this type of legislation in either branch of the Congress is the able and brilliant gentleman from New York [Mr. BACON]. He has fought for the passage of this legislation for several years,

and during the hearing before the House Committee on Labor made an argument which was brilliant and convincing. I want to congratulate him for his adherence to such a worthy and constructive cause. In the main, the present status of this bill is due to his untiring efforts, and its passage will be a monument to the character of service that he renders.

I urge the passage of this bill, that there will be no further delays, in order that its provisions may be made a part of all contracts that may be awarded from now on. We have provided for a very extensive building program for the purpose of trying to relieve the acute and distressing unemployment that exists. In times of economic distress such as exists to-day unscrupulous contractors can impose almost any wage conditions upon persons who are seeking employment. At the present time employees are competing with each other for employment, and the natural result is that they in their anxiety to secure work underbid each other. An unscrupulous employer on Federal work will take advantage of these conditions unless this bill becomes law.

If ever there was a time that conditions warranted, yes, demanded, the passage of such legislation, it exists at this time. This bill establishes a logical and proper policy, and we are justified, in fact, I consider it my duty, to commit the Federal Government to this policy. While this bill is a decided step in the right direction, nevertheless, it has one weakness which is likely to impair its effectiveness, unless the representatives of the Federal Government are insistent that violations of the "prevailing wage scale" provision in a contract are enforced by resort to the courts to enforce its terms, or unless they consider a contract breached if a contractor fails to comply with the terms of the contract. In the pending bill there is no provision for a penalty in the event of a violation. If that existed there would be less likelihood of attempts being made, after a contract has been awarded, to evade its terms. However, it was impossible to have provisions for a penalty included at this time, and rather than have no legislation at all, it is best to accept the pending bill and, if necessary, to later seek additional legislation. If the representatives of the Federal Government insist upon contractors adhering to the "prevailing wage" part of a contract there will be no necessity for additional legislation. I have confidence that contractors will be expected—and where they do not made—to live up to the intent of the Congress in passing the pending bill, if it becomes a law.

There has been some objection advanced by some of that large group of fair contractors who submit bids on Federal work that what constitutes the "prevailing wage scale" in a community should be determined and made known to them in advance. I agree that there is considerable logic to this contention, and would like to see the bill drafted in such a manner that this valid objection might be taken care of. However, an attempt to amend the bill at this late date means its defeat for this session, and probably for many years to come. The bill has reached its present stage only after many years of patient and faithful effort by those who favor it. We can not afford to endanger its passage now. I am satisfied that the operation of this bill will prove satisfactory to the objecting contractors.

The intent of the Congress is clear on this question and objection. It is our intent, as I understand it, that Federal departments shall cooperate in every way possible in giving contractors all information in determining what is the "prevailing wage scale" in a community in which work is to be done. The department awarding the contract has the implied power under the provisions of this bill to take such steps as will carry out the intent of the Congress and, if necessary, to investigate and determine what the "prevailing wage scale" is, where work is to be done, in assisting contractors in submitting bids. In any event, if this bill passes and a department leaves the determining of the "prevailing wage scale" to contractors, and this condition results in a hardship, it can easily be remedied in the next Congress by an amendment. Once the pending bill becomes law it will be easier to amend it in the event of necessity and in response to the principle of fairness.

At this time I am particularly anxious to see this bill become law, so that its provisions may apply to the awarding of the contract on the new Boston post office. At the present time 11 per cent of the employees of Boston are out of employment. If local labor is employed, this work will greatly minimize the suffering that exists. The passage of this bill will assure employment of local labor and also bring to them the payment of a wage that will assure to them the American standard of living.

The following editorial which recently appeared in the Washington Star ably states the advantages of this bill and the necessity for its passage:

CHEAP LABOR AND LOW BIDS

The low bid for a school-building project in Washington—an 8-room addition to the Stuart Junior High School—again has been submitted by an out-of-town contractor, and unless there are unusual conditions relating to discretion in the use of materials, the commissioners under the law have no alternative and must place the contract with the low bidder. The low bidder, in this case, enjoys a favored position among other bidding contractors because of the use of cheap, nonunion labor. The differential in the wage scale largely accounts for the difference in bids.

The situation in connection with the award of contracts for District of Columbia public buildings is well enough known by this time to be understood by everybody. By law the commissioners have no discretion in the matter. And as the law works, contractors from out of town are able to submit bids based on low wages, eventually bringing in mechanics from the States to compete with Washington mechanics, who have established themselves in the community on a recognized scale of wages that should not be reduced. To reduce the scale of wages means to lower the standard of living. Some of the very mechanics who are denied work on these local projects contribute through their taxes to the public money that finances the projects.

On last Wednesday the Senate unanimously passed and sent to the House a bill by Senator DAVIS, of Pennsylvania, requiring contractors on public buildings in Washington and elsewhere to pay laborers and mechanics the wage scale prevailing for similar work in the community, and setting up the procedure for determining the prevailing wage scale. The purpose of the bill, which received the favorable indorsement of Government officials and the heads of labor organizations, is to prevent the very condition that exists here when a low bidder from out of town brings in foreign, cheap labor to fulfill his contract. The bill merely enacts into legislation a policy already urged by the Treasury Department in connection with the Government's public-works program.

The House should take up this bill and complete its enactment at this session. Furthermore, the bill should be clear as to its application to public works undertaken by that agency of the Federal Government, the District of Columbia, and should remove any conflict which may exist between its provisions and the mandatory provisions of the District appropriation bill regarding the award of contracts to the lowest responsible bidder.

It is only through the passage of this legislation that the workingmen of the District may receive the protection against unfair competition that is given the workingmen of other jurisdictions by their local governments. It is the reasonable approach to a serious problem. Bids for District of Columbia work can not and should not be restricted to local contractors. But the low bidder should be compelled to base his bid and fulfill his contract obligations on a scale of wages determined by the prevailing scale of the community.

Mr. WELCH of California. Mr. Speaker, I yield one minute to the gentleman from Ohio [Mr. FITZGERALD].

Mr. FITZGERALD. I am for this bill. I am for it not only because organized labor is for it, but I am for it because of the bitter experience of my home city, Dayton, Ohio, in the erection of the new Hospital at the Central Branch of the Soldiers Home. The contract for this more-than-a-million-dollar construction went to a corporation from a distant State. Subcontracts for work and material went to remote places. The contractor had obtained the contract by competitive bidding. He intended to make a profit. He was entitled to make a profit. There was nothing in his contract to compel him to pay the prevailing rate of wages although that is a settled Government policy where the Government engages in construction without the intervention of contractors. Men were lured from distant places to work on this new hospital, the construction of which started about May 1, 1930. Thousands of men were already

out of work in the city. The situation was acute. Would it have been less than human for the contractors to take advantage of the depression to get the work done cheaply; to beat down the local standard of wages and demoralize labor conditions by hiring those from distant points who were willing and eager to take less and crowd out the local people? Not only did the labor organizations protest, but the Builders' Exchange, the local contractors, and more significant than all, the officers of the community chest, who could foresee at the termination of the work, these people from miles away stranded as derelicts on the community for our already outraged people to support.

Although it is a settled Government policy to pay the prevailing rate of wages in communities where Government work is carried on, yet no provision is made for the enforcement of this wise policy where competitive bids for construction are required as on this hospital. I understand that the Comptroller General has ruled that it would be unlawful to write such a specification into a contract. No way remains then but for us to enact the proper legislation to permit and to compel the observance of the established governmental policy on all important public constructions.

Local standards of wages and living must be upheld and it is by such a law as we here propose that we may accomplish what we seek.

The gentleman from Texas [Mr. BLANTON] denounces this bill as ridiculous and charges us who advocate its passage with being influenced solely by the clamor of organized labor. And he speaks of organized labor as ungrateful and unappreciative.

If organized labor in my district is interested in the passage of this bill, as I hope they are, they are strangely silent and apathetic. They seem like so many others keenly alive to a present situation, aroused and indignant when they saw the demoralizing conditions of the hospital being built, but now that there is no other immediate Government project in sight in the community, they show little concern. No one can nor should expect applause or appreciation from the passage of this bill. Anyone who votes for this bill or any bill simply to curry favor with any class of people, believing it to be economically unsound, is likely to be disappointed.

It has been charged that the erection of the hospital, the expenditure of more than a million dollars of Government money in my home city, was not a benefit but a curse.

We have undertaken a great public-building program throughout the Nation. We are to spend more than $600,000,000. Do you want other communities to have the expeperiences that Dayton, Ohio, and Northport, N. Y., have had? If you want our building program to alleviate distress and to be a blessing instead of a source of dissatisfaction, demoralization, resentment, and unhappiness, then vote for this bill.

The SPEAKER pro tempore. The time of the gentleman from Ohio has expired. All time has expired.

Mr. SIROVICH. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SIROVICH. I would like to ask the distinguished gentleman from Texas [Mr. BLANTON] if it is not a matter of fact that every improvement which labor has received from the social, economic, and human standpoint has come through the medium of the American Federation of Labor?

Mr. BLANTON. Yes; that is so; but in the splendid, enterprising, progressive open-shop city of Dallas, Tex., the open-shop contractors are paying higher wages to-day under the open shop than union contractors are paying for union labor.

The SPEAKER pro tempore. The gentleman from New York did not propound a parliamentary inquiry, nor was the answer of the gentleman from Texas parliamentary. All time for debate has expired.

Mr. ARENTZ. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ARENTZ. Is there any way by which any Member of this House can have placed in this bill an amendment providing for the same sort of conditions at Boulder Canyon Dam?

Mr. BANKHEAD. Mr. Speaker, that is not a parliamentary inquiry.

The SPEAKER pro tempore. The Chair will state, in answer to the gentleman from Nevada, that there is no such way.

Mr. CONNERY. Mr. Speaker, is it in order now for the chairman of this committee to ask that all Members be permitted to revise and extend their remarks on the bill just passed?

The SPEAKER pro tempore. That is in order.

Mr. WELCH of California. Mr. Speaker, I ask unanimous consent that all Members may have until the end of the session to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

Mr. GLOVER. Mr. Speaker, ladies and gentlemen of the House, Senate bill No. 5904, which is now before us for consideration is, in my opinion, one of the best bills proposed for the protection of labor. The bill provides that every contract in excess of $5,000 in amount to which the United States or the District of Columbia is a party which requires or involves the employment of laborers or mechanics in the construction, alteration, and/or repair of any public buildings of the United States or the District of Columbia shall contain a provision to the effect that the rate of wages for all laborers and mechanics employed by the contractor or subcontractor on the public buildings covered by the contract shall not be less than the prevailing rate of wages for work of a similar nature in the city, town, or village or other civil division of the State in which the buildings are located.

The bill further provides that in case there is a dispute as to what is the prevailing rate of wages the matter is to be referred to the Secretary of Labor, and his decision shall be final. The bill further provides that in the case of a national emergency the President is authorized to suspend the provisions of the act.

This bill has the indorsement of the Secretary of Labor, the Secretary of the Treasury, the War Department, and the representatives of labor. The report on this bill further shows that the builders throughout the country advised the committee considering this bill that they favor it. The bill does not undertake to fix a wage scale. It simply protects labor in the city or town in which the building is to be built for the Government, so that imported labor will not be brought in and displace local labor.

Government contracts are required to be let to the lowest bidder. Some contractors will underbid others engaged in the same business and import his cheap labor or transient labor and pay such a small scale of wages that no one can live on it. It also unjustly deprives the local laborers who have built their homes in the city, pay their taxes to support a city, State, and National Governments, that help to support local schools and churches, of an opportunity to follow their trade in their own locality.

This bill is very important for the protection of labor in my State, the great State of Arkansas, where more Federal buildings are to be built this year than has ever been built in this great State. The total cost of the construction of Government buildings in this State is $4,855,000, and these are to be constructed this year. I will give you a list of the buildings to be erected in Arkansas, and they are as follows: Hot Springs Army, Navy, and veterans' hospital, $1,500,000. Post offices: Blytheville, $95,000; Brinkley, $65,000; Conway, $90,000; Eldorado, $425,000; Forest City, $85,000; Jonesborough, $110,000; Little Rock, $1,435,000; North Little Rock, $110,000; Pine Bluff, $55,000; Stuttgart, $95,000; Texarkana, $790,000. If foreign or transient labor was imported to take the place of the laborers and mechanics who will be employed and should be employed to build these buildings, it

would be very hurtful to local labor in each of these cities. I am very glad to have the privilege of supporting this bill, which will mean so much to the laborers and mechanics of my State.

Mr. CONDON. Mr. Speaker, if we wish to do something of real benefit to labor before this House adjourns, we can do nothing better calculated to effect that happy result than to pass this bill to maintain the general standard of wages on Federal building projects in the communities from which we come. This legislation has already passed the Senate. Favorable action in this House to-day will advance it immediately to the President, where they are assured it will receive Executive approval. Nothing said in debate thus far appeals to me as a sound reason for our standing in the way of the enactment of this bill into law. On the contrary, much has come out in the course of the discussion that leads one irresistibly to the conclusion that this legislation has been too long delayed.

Much harm and injustice have already been done by greedy and unprincipled contractors who have taken advantage of their freedom from such restraint as here proposed to exploit the desperate unemployed by transporting laborers and tradesmen to distant points in order to employ them at starvation wages far below the scale in effect in the locality where the Government building is being erected. Thus a program which this Congress authorized to aid the unemployed and distribute widely throughout the country opportunities for local employment has been perverted into an instrument of oppression. By the transportation of low-paid labor from distant points local labor has been unfairly and unjustly deprived of the opportunity which Congress intended to provide in its behalf. Not only have the local unemployed suffered thereby but those already employed in such localities have been threatened with a lowering of their scale of wages because of the depressing effect of the importation of this cheap labor.

As I see it, we must pass this bill or stand condemned as furnishing a powerful bludgeon for the use of these unprincipled contractors to browbeat labor and force other honest and legitimate contractors to resort to lower wage scales to meet this unfair competition. In fact, the conditions in this bill ought to have been made an integral part of the emergency building-program legislation which we enacted at the very outset of this session. We can not undo the harm that has already been done by our failure to foresee and provide against the abuses which we now know exist, but we can by favorable action here to-day prevent future injustices.

I am intensely interested in doing all I can by my vote to get such legislation enacted immediately because of several very important projects about to be awarded in my State. I am especially anxious that there shall be no importing of cheap outside labor into Rhode Island at wage scales under those generally prevailing there. If such a thing should happen, I know that the people of my district, far from looking upon the construction of a Federal building as a boom to the district, would view it as a distinct and most unfortunate calamity. I have had letters from reputable contractors and from labor leaders in my district who fear this very thing, and not without just cause, as the facts brought out in this debate to-day well illustrate. The news of these abuses related here would seem to have traveled far and wide, and with good reason.

I want to be able to assure the people of my district, particularly those of the cities of Pawtucket and Woonsocket, where two post-office buildings are about to be erected, that they need have no fear of the importation of cheap labor on these projects. I can do this if this bill passes to-day, and I therefore intend to vote for it and hope it will receive the unanimous support of the House. I have already in several communications to the Supervising Architect of the Treasury urged that local labor and locally produced materials be utilized in the construction of the new Federal buildings not only in my district but throughout the State of Rhode Island. I have particularly urged upon him the use of Westerly granite in these buildings in preference to limestone. This particular granite is a Rhode Island product and universally recognized as a superior type of building stone. It seemed to me and to the people of my district that for Rhode Island buildings, at least, this material ought to be used and thus assist in reviving a local industry. I want to say here that my suggestions in this regard were favorably received by the Supervising Architect's Office, and I have been assured that this Rhode Island product would be used wherever the appropriation permitted. If, now, we can be absolutely assured, as we shall be by the passage of this bill, that local labor will have first call at prevailing rates of wages locally on these buildings, the result will be most happy. Wages will be maintained, resentment at imported labor at work on a local project while local labor looks on helpless and unemployed will be removed; local subcontractors will have a fair chance to participate in the work, and generally the local community will feel that the great Federal Government is doing something real and tangible to help business out of this seemingly endless depression.

For these reasons, Mr. Speaker, I gladly support this measure and at the same time add my word of commendation of the distinguished gentleman from New York [Mr. BACON], who has labored so persistently to get this matter up for the consideration of the House in these crowded closing days of the session.

Mr. PRALL. Mr. Speaker, ladies and gentlemen of the House, Senate bill 5904 provides that every contract in excess of $5,000 in amount, to which the United States or the District of Columbia is a party, which requires or involves the employment of laborers or mechanics in the construction, alteration, or repair of any public buildings of the United States, shall contain a provision to the effect that the rate of wage for all laborers and mechanics employed by the contractor or any subcontractor on the public buildings covered by the contract shall not be less than the prevailing rate of wages for work of a similar nature in the city, town, village, or other subdivision of the State in which the public buildings are located; and a further provision that, in case any dispute arises as to what are the prevailing rates of wages, the matter shall be referred to the Secretary of Labor for determination, and his decision shall be conclusive on all parties to the contract.

This bill which is before us to-day is, in my opinion, one of the most advanced and far-reaching pieces of legislation, beneficial to labor, that has come before us for consideration by this Congress, and I sincerely hope it will be approved.

That its objective will work out in practice as effectively as we desire, I am not certain; but in any event, with the whole-hearted cooperation of department heads, I am sure labor will be protected and a fair wage paid on all public buildings erected by the Government of the United States.

That is what the mechanic wants; it is what the contractor wants; and in these stressing days of unemployment it is what every community needs. There seems to be some apprehension lest the objects of the bill will not be attained. The Comptroller General has suggested that "A prudent contractor would necessarily be required to include in his proposal sufficient sums to protect him against any increase of wages; and if the increase did not take effect, the public would nevertheless be required to pay the conractor the agreed price for the performance of the work, and thus the contractor would secure unjustified profits for the work. On the other hand, if the wages were increased above the amount included by the contractor for such increases, the probabilities are that the contractor would default in the performance of the work and it would have to be completed either by the surety or the United States."

While that may be a discouraging picture of the possibilities, it is not, I am sure, probable that increases of wages will occur during the interim dating from the award of the contract to the completion of the work. Shifting of wage rates do not come upon us quite as unexpectedly or as suddenly as that. I am in agreement with the idea that has

been expressed here to-day that it might be advantageous for all parties concerned to have the wage rate for all labor stipulated in the contract. Such a provision would reduce any uncertainty that might prevail.

I, also, observe the bill fails to provide penalties for violations of its provisions. This omission, I think, is serious. Penalties severe enough to guarantee performance should have been provided. However, if the bill passes, and I am sure it will, we will try it out. If we find unscrupulous contractors attempting to beat the law, we can quickly amend it by putting teeth in it.

This law, Mr. Speaker, will remedy some long-existing evils in connection with public letting of Government building contracts. It will guarantee fair wage scales throughout the country on all public-building construction. It will prevent unreliable contractors bidding against reputable contractors and the transporting of cheap labor to the scene of operation in order to reap profits. It will prevent contractors taking advantage of the unemployment situation by lowering wages after securing contracts on bids based upon higher or prevailing rates of wages. It will mean more employment of local contractors and local labor. It has already been well stated that the Goverment should be the last employing agency to expect or countenance the performance of its construction contracts at the sacrifice of its citizens.

This law will prevent a recurrence of a situation that unfortunately developed in the erection of a new building on the Fort Wadsworth Reservation in my own district. On this job secured by a private contractor 50 per cent of the carpenters employed at one time were aliens, while thousands of unemployed American citizens were tramping the streets looking for work. It may also prevent a recurrence of the employment of civilian prisoners at no wages in Army reservations for the purpose of erecting buildings for which no appropriations have been made by Congress.

During the year 1930, and I presume up to the present time, civilian prisoners have been transported from the Federal prisons and have performed the work of skilled mechanics at Army reservations in competition with honest labor, and when I complained to the President of this condition I received little satisfaction and the unemployed received none.

The Government has entered upon a gigantic building program, perhaps the greatest the civilized world has ever contemplated, and it is but fair, just, and reasonable to expect that its benefits should go to the citizens of the communities wherein new public buildings are to be constructed and not to the unscrupulous contractor or to bootleg labor.

Mr. ZIHLMAN. Mr. Speaker, as a former chairman of the Committee on Labor, and as ranking member of that committee, I take pleasure in supporting this legislation, and I congratulate the committee and Congress for having given attention to the subject matter of this very important measure, which will not only protect the rate of wages for the various communities, but will be a substantial contribution to local contractors where local labor is used in the extensive building program now under way by the Federal Government and the District of Columbia government.

Under the provisions of this bill, in the awarding of every contract over $5,000, contractors and subcontractors engaged in constructing, altering, or repairing any public building of the United States or the District of Columbia are required to pay their employees the prevailing wage rates existing in the community, which have been established by private industry. In the event a contractor is unable to adjust any dispute as to the prevailing wage rates, this bill provides that the matter shall be referred to the Secretary of Labor for determination, and the Secretary's decision as to the wage rates shall be conclusive on all parties to the contract.

The Federal and District of Columbia governments have entered on an extensive building program throughout the United States and in the District of Columbia, and it is expected that during the coming 8 or 10 years more than $500,000,000 will be spent for the construction, alteration, and repair of public buildings.

Not only is it intended that ample facilities shall be afforded for the housing of Federal activities and the activities of the municipal government of the District of Columbia but this program is entered upon at this time as an aid to unemployment and a benefit to every element in the various communities, by furnishing employment and accelerating every avenue of trade.

The Federal Government must, under the law, award its contracts to the lowest responsible bidder, and this has prevented the departments involved from requiring successful bidders to pay wages to their employees comparable to the wages paid for similar labor by private industry in the vicinity of the building projects under construction. Officials have endeavored to persuade contractors to pay local prevailing wage scales, but have been unable under existing law to make this mandatory; and so in many cases successful bidders have selfishly imported labor from distant localities and have exploited this labor at wages far below local wage rates.

Many of the local contractors of the District of Columbia have felt this unfair and unhealthy competition. Local artisans and mechanics, many of whom are family men owning their own homes and whose standards of living have long been adjusted to local wage scales, can not hope to compete with this migratory labor.

A number of contracts here in the District of Columbia have been awarded to a firm from Alabama who have imported labor and established a wage scale which the local laborers and mechanics can not meet. The very element of the community is affected and local contractors have been placed at a serious disadvantage, as they find it impossible to compete with these outside contractors who base their estimates for labor upon the low wages they can pay to unattached migratory workmen imported from a distance, and for whom the contractors have, in some cases, provided housing facilities in flimsy temporary quarters adjacent to the project under construction.

The question of having contractors pay existing local wage rates has been the subject of long consideration, and the departments have endeavored to correct the situation without seeking authority of law, but have been unable to do so. The legislation here proposed will provide a more equable distribution of employment, especially in the present time of depression, and will benefit the country at large by requiring that those who have been awarded public-building contracts pay their employees wages comparable to the prevailing wage scales where they are employed.

The importance of the provisions of this bill and the effect it will have if it becomes a law can not be underestimated. Its passage will meet with the approval of everyone, with the exception of the contractors who in the past have been using imported cheap labor, and it will remove from a contractor the incentive or motive to import cheap labor from one section of the country to another. It will in no way affect the use by a contractor of his regular and permanent supervising force.

This measure does not require the Government to establish any new wage scales but simply gives the departments power to insist that contractors—who are successful in obtaining contracts—pay their employees the prevailing wage scale existing in the locality where the contract applies.

This proposed legislation is a most necessary and desirable complement to the building program of the Government. Its purpose is to see to it that the benefits of the program are spread equitably throughout the country alike to labor and to the contracting industry.

The Secretary of Labor advises that he anticipates no difficulties of administration—that in 90 per cent of the cases there will be no dispute of any kind, and where there is a dispute which can not be ironed out on the spot by the contracting officer the matter can be taken up by his well-organized conciliation service, investigated and settled amicably and expeditiously to the satisfaction of all concerned.

The bill is indorsed by labor generally and by the American Federation of Labor and its affiliates, and I urge the passage of the measure that there may be no further delays

in making its provisions applicable to all contracts that may be awarded from now on.

The SPEAKER pro tempore. The question is on the motion of the gentleman from California to suspend the rules and pass Senate bill 5904.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

Mr. GREEN. Mr. Speaker, I ask unanimous consent to proceed for half a minute.

The SPEAKER pro tempore. The gentleman from Florida asks unanimous consent to proceed for half a minute. Is there objection?

There was no objection.

Mr. GREEN. Mr. Speaker, there was not sufficient time for all Members to have an opportunity to speak on the bill just passed. As a member of the Committee on Labor I was glad to work for its report and passage. I was glad to support the bill, because I believe in the dignity of labor and in the majesty of toil. There is no aristocracy except that of honor and no rabble save that of crime. This bill will protect laborers and also inculcate a higher code of ethics among contractors. [Applause.]

The SPEAKER pro tempore. Without objection a similar House bill (H. R. 16619) will be laid on the table.

There was no objection.

ST. LAWRENCE SHIP CANAL

Mr. CHALMERS. Mr. Speaker, I ask unanimous consent to address the House for one minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. SNELL. Mr. Speaker, I will not object to this request but I shall object to any further requests.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. CHALMERS. Mr. Speaker, my first formal address in this House was delivered December 5, 1921, upon the subject of improving the St. Lawrence River as a ship canal, opening up the ports of the Great Lakes to ocean traffic.

I am making my last talk before this body during this session of the Seventy-first Congress upon the same subject, the St. Lawrence waterway. I am pleased, my colleagues, to report substantial progress upon this world project between these two dates. My first bill introduced in January, 1922, has been used both in this country and in Canada as a foundation for the final construction of this seaway. The last bill I introduced on the subject on April 11, 1930, took care of the construction of the longest reach of this improvement, 67 miles from Tibbetts Point on Lake Ontario to the towns of Ogdensburg, N. Y., and Prescott, Ontario. This bill was included in the omnibus rivers and harbors bill of the Seventy-first Congress and was signed by the President and became a law on July 3, 1930.

I am taking your time to-day to make these statements so that the country may understand that a substantial beginning has been made looking toward the construction of this American seaway. The project from Lake Ontario to Montreal covers a distance of 182 miles. The International Board of Engineers, for construction purposes, have divided this section of the river into five divisions or reaches. The division already ordered improved is the longest one. The other four will be cared for later. As is quite generally known, the President and the Canadian Premier have recently been in conference upon the subject of this improvement. One of Washington's local papers recently carried an editorial which I am quoting to show the general sentiment of newspaper and magazine editors, who are posted upon this very important and desirable improvement.

The visit of Richard B. Bennett, Prime Minister of Canada, to Washington last week revived interest in the proposed St. Lawrence ship canal between the Great Lakes and the Atlantic. Mr. Bennett is known to have a deep interest in the subject and President Hoover has been one of the promoters of the project for years. Reports indicate that a joint Canadian-American commission will be appointed in the near future to complete negotiations between the two Governments.

Most of the opposition to the St. Lawrence seaway in this country has disappeared. No valid objection has been raised. New York has entertained some fears that part of the traffic from the Middle West would not pass through that city's bottle neck if the international ship canal were constructed. But the selfishness of New York's protest is everywhere recognized, and it can not be expected to halt this great project. On the Canadian side some objections have been interposed by Montreal and other shipping centers along the river, on the ground that when the canal is completed ships would pass them by without paying tribute in the form of transshipment charges. When the objections of New York and Montreal are removed from the respective city limits they become convincing arguments in favor of an international St. Lawrence seaway.

There is no more propitious time than the present to begin work on this gigantic project. Thousands of jobs would be created. And what is far more important from the standpoint of economic recovery, a new waterway into this heart of North America's chief agricultural region would be opened up. Farmers of both the United States and Canada would be able to send their produce to world markets by the shipload at reduced costs. Other nations would be able to send their products into the heart of America by water. All commerce which spans the Atlantic should be stimulated. It is too much to expect that work on the project could begin immediately. The mill of international negotiation grinds slowly. There are a number of difficult problems on both sides of the border that must be solved. But negotiations that have already been carried on suggest that none of those problems are insoluble. If both Governments are really anxious to proceed, it is conceivable that the project might be started in time to add another stimulus to business recovery.

Development of the St. Lawrence seaway may be regarded as inevitable. It is only a question of time until the demands of the vast interior States and provinces must be met. A project so obviously beneficial to both nations should not be longer delayed. If President Hoover and Prime Minister Bennett can arrive at a definite agreement, the St. Lawrence ship canal will become a moment to both of them.

Since New York has come to the support of the St. Lawrence improvement, it seems to me that that makes it unanimous. An official copy of a resolution passed by the Senate of the State of New York, in Albany, dated February 9, 1931, and concurred in by the assembly, came to my desk last week. This resolution was addressed to the President of the United States, asking him to proceed forward to a treaty with Canada for the development of the international rapid section of the St. Lawrence River at the earliest possible date and in accordance with the plans agreed upon by the joint board of engineers and submitted to President Coolidge, December 27, 1926. This, you will remember, is the report of the Hoover commission appointed by President Coolidge and contained in Senate Document No. 183, Sixty-ninth Congress, second session. Showing the change of attitude of New York for this great project, I desire to quote the following paragraph from this resolution formally adopted by the New York Legislature:

Whereas the landlocked interior of the United States is deeply concerned and in urgent need of the relief which would accrue to that area by the opening of a seaway via the St. Lawrence River from the Great Lakes to the Atlantic Ocean—also the citizens of New York are directly interested in the improvement and early utilization of the large reservoir of cheap power which would be made available—legislative expression being given to such improvement in section 6, chapter 207, Laws of New York, 1930, to wit, "In such manner and under such conditions as shall insure fair and partial treatment of consumers on a basis of charges, the lowest compatible with a fair and reasonable return on the cost thereof."

The construction of the St. Lawrence ship canal is a very easy engineering problem. There are only four more reaches to build, covering a distance of 115 miles. There are no such engineering difficulties as are found in the construction of the Panama or Nicaraguan Canals. I beseech you, my colleagues, to build this American seaway and, believe me, it will solve the difficulties of the mid-West farmers for years to come. In my judgment, when this waterway has been opened up, making the ports of the Great Lakes ocean ports, it will be the greatest blessing and benefit to humanity that will come during this century. It will bring the blessings of prosperity to all of our people, and will be heralded in the years to come as the greatest bit of constructive statesmanship of our time. [Applause.]

NATIONAL ARBORETUM

Mr. HAUGEN. Mr. Speaker, I ask unanimous consent for the present consideration of Senate bill 4586, to authorize additional appropriations for the National Arboretum.

The SPEAKER pro tempore. The gentleman from Iowa asks unanimous consent for the present consideration of Senate bill 4586, which the Clerk will report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection?

Mr. SCHAFER of Wisconsin. I object, Mr. Speaker.

Mr. HAUGEN. Mr. Speaker, I move to suspend the rules and pass the bill (S. 4586) to authorize additional appropriations for the National Arboretum, as amended.

The SPEAKER pro tempore. The gentleman from Iowa moves to suspend the rules and pass the bill (S. 4586) to authorize additional appropriations for the National Arboretum, as amended, which the Clerk will report.

The Clerk read the bill as follows:

Be it enacted, etc., That there is hereby authorized to be appropriated, in addition to the sum authorized by section 2 of the act entitled "An act authorizing the Secretary of Agriculture to establish a national arboretum, and for other purposes," approved March 4, 1927, the sum of $200,000, for the purposes and subject to the conditions specified in such act: *Provided*, That in the payment of awards under condemnation proceedings for the acquisition of lands under the act of March 4, 1927, limitations as to price based on assessed value shall not apply.

The SPEAKER pro tempore. Is a second demanded?

Mr. SABATH. Mr. Speaker, I demand a second.

Mr. HAUGEN. Mr. Speaker, I ask unanimous consent that a second may be considered as ordered.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Iowa is recognized for 20 minutes and the gentleman from Illinois for 20 minutes.

Mr. HAUGEN. Mr. Speaker, the bill authorizes an appropriation of $200,000 for the acquisition of about 78 acres to complete the tract necessary for the arboretum.

Mr. MICHENER. Will the gentleman yield?

Mr. HAUGEN. Yes.

Mr. MICHENER. Is this any part of our farm-relief program?

Mr. HAUGEN. This is for the arboretum and it fits in with farm relief and forestry.

Mr. MICHENER. Where is the arboretum?

Mr. HAUGEN. It is just outside of the city proper.

Mr. MICHENER. What is the purpose of it?

Mr. HAUGEN. The experimental planting of trees, shrubs, and other plants.

Mr. MICHENER. How much money does the bill carry?

Mr. HAUGEN. Two hundred thousand dollars. The original bill passed on March 4, 1927, and carried an appropriation of $300,000.

Mr. MICHENER. Is this a similar bill to the one that the gentleman had before the House a year or two ago providing that we purchase this property at a sum not to exceed $300,000?

Mr. HAUGEN. Yes.

Mr. MICHENER. And the gentleman at that time assured us he would not be back here for more money.

Mr. HAUGEN. No; the original estimated cost was $500,000.

Mr. MICHENER. I asked the gentleman at that time if this was a farm relief bill, and he said it was and that it would only take $300,000. Now, the gentleman is back here for $200,000 more.

Mr. HAUGEN. I will explain. The original estimated cost of the tract of land was $500,000; the committee authorized only $300,000. The $300,000 has been found to be insufficient and it is now found necessary to authorize about $200,000 more to purchase the additional 78 acres. About $71,000 is now in the Treasury, but under the ruling of the Comptroller General it is not available for the payment of awards under condemnation proceedings for the acquisition of land already condemned. Therefore, it is necessary that we should pass this bill so as to make the $70,000 available to pay the awards under the condemnation proceedings for part of the 190 acres condemned.

Mr. STAFFORD. Will the gentleman yield?

Mr. HAUGEN. Yes.

Mr. STAFFORD. Will the gentleman explain how much additional money is required to meet the amount of the awards under the condemnation proceedings?

Mr. HAUGEN. The money is there in a sufficient sum, but not available because of a decision of the Comptroller General.

Mr. STAFFORD. As I understand the amendment proposed to the House by the gentleman, it lifts the limitation that the price of the land shall be not more than the assessed value of the property.

Mr. HAUGEN. Yes.

Mr. STAFFORD. As I understand further, from the exposition of the gentleman, there are ample funds to purchase this additional land for this arboretum but the limitation prevents the purchase of the land.

Mr. HAUGEN. No; there are ample funds to pay for what has been purchased—about 190 acres—but not to purchase the additional 78 or 79 acres and improvements, and $200,000 more will be required to acquire title to the 79 acres.

Mr. BOYLAN. Will the gentleman yield?

Mr. HAUGEN. Certainly.

Mr. BOYLAN. What is the proposed total area of the arboretum?

Mr. HAUGEN. One hundred and ninety acres has been purchased and 78 acres more is required to complete the tract.

Mr. BOYLAN. In the gentleman's opinion, as a skilled agriculturist, is this sufficient ground?

Mr. HAUGEN. In the opinion of the committee it is sufficient ground and is what is required. The committee has made a personal survey of the tract.

Mr. BOYLAN. Has the gentleman given any thought to the future expansion of the aboretum, and has the gentleman provided for that?

Mr. HAUGEN. I think this will be sufficient for all time to come, in the opinion of the department.

Mr. BOYLAN. For what period has the gentleman provided?

Mr. HAUGEN. We have no specific period in mind.

Mr. BOYLAN. Does the gentleman think we have enough ground for a period of 20 or 30 years?

Mr. HAUGEN. I could not answer that definitely. That, of course, depends on expansion.

Mr. CLARKE of New York. They think the ground will be plenty big enough to carry on for generations.

Mr. HAUGEN. Mr. Speaker, I yield 10 minutes to the gentleman from Massachusetts [Mr. LUCE].

Mr. LUCE. Mr. Speaker, when I had the privilege of introducing this measure in behalf of all the large societies in the country concerned with the growing and sale of flowers, shrubs, and trees, it was expected that the land for this arboretum could be bought for $500,000. This was cut down to $300,000. At that time, gentlemen in Congress were of the belief that it might be possible to secure throughout the District of Columbia a fairer system of taxation if by the requirement that we should spend for such purchases as the Government wished to make not more than 25 per cent above the assessed value we could bring an influence to bear which would work upon the assessors and secure the desired result; and an amendment was put upon the bill limiting the Department of Agriculture in the acquisition of this land to a price 25 per cent above the assessed value.

There was then fair reason to expect that a large part of the land would be sold to the Government within this figure. It turned out that some of the owners from whom this had been expected were unwilling to meet the requirement, which brought the purchases into a difficult situation. The Department of Agriculture was at a loss to know what to do, hampered as it was with the 25 per cent proviso. As the sponsor of the measure I was consulted in the matter, and I will take the responsibility for having advised the Secretary of Agriculture to go ahead and get everything he could within the 25 per cent. With the knowledge, and, as I understand, the approval of the President, this procedure was followed.

The outcome is that the department now finds itself with an irregular-shaped tract of land, insufficient for the needs

contemplated; and right into this land, as if you put the fingers of one hand through the fingers of another, goes this privately owned land which can not be bought for less than 25 per cent above the assessed value.

We are assured that, in the case of condemnation, the value would be placed at more than 25 per cent above the assessed value. Under these circumstances the Committee on Agriculture has come before you, with the approval and support of the Department of Agriculture, asking that this tract be rounded out by paying the necessary price—and I think no more—for the land we wish to secure. In other words, it is a case where, having put our hands to the plow, we ought not to turn back. We should do now what otherwise is sure to be done later, in order to carry out the program as originally indorsed by Congress, desired by the Department of Agriculture, and earnestly approved by many thousand members of garden clubs of America, various horticultural societies, and other organizations desiring to establish here a standard body of trees, which may be to the benefit of not only the nurserymen but everybody else interested in arboreal work.

Mr. HASTINGS. Will the gentleman yield?

Mr. LUCE. I yield.

Mr. HASTINGS. The total amount of acreage desired to be acquired is 260 acres?

Mr. LUCE. Yes.

Mr. HASTINGS. How many have you got now?

Mr. LUCE. 190 acres.

Mr. HASTINGS. And you desire 78 acres more?

Mr. LUCE. Yes.

Mr. HASTINGS. What has been the average cost of the 190 acres—the cost per acre?

Mr. LUCE. That would be found by dividing 300,000 by 190.

Mr. HASTINGS. So that $300,000 has already been expended for the 190 acres?

Mr. LUCE. I would not say that all of it has, but the greater part of it. Mr. Speaker, I yield back the remainder of my time.

Mr. SABATH. Mr. Speaker and gentlemen, additional proof has been furnished us to-day that it is not always wise to rely on promises that are made on the floor when a bill appropriating thousands of dollars is before this body.

If my recollection is correct, at the time this bill was originally considered in the House, we were assured that the amount of money asked for would be sufficient, because some of the property owners were ready and willing to give to the Government some of these parcels of valueless land at a nominal price.

The House believing that that assurance would be carried out appropriated $300,000. No sooner was the $300,000 appropriated than every property owner who had assured us that they were desirous of aiding the Government immediately started to raise the price of the land. So that to-day not only that additional amount is required, but we here have a request that the House place in the bill a proviso which reads as follows:

Provided, That in the payment of awards under condemnation proceedings for the acquisition of lands under the act of March 4, 1927, limitations as to price based on assessed value shall not apply.

I would now like to know why that limitation is placed in the bill for the purchase of this property.

Mr. LUCE. Will the gentleman yield?

Mr. SABATH. Yes. I want information and that is why I demanded a second.

Mr. LUCE. The law now says that you must not pay more than 25 per cent above the assessed value. If the condemnation proceedings is 40 or 50 per cent above the assessed value, you can not get the land unless you change the law; so we are up against that condition, which we can not get around. That expectation has been proved by the purchase of land all around the Capitol—that the court will give more, and often very much more, than the 25 per cent increase.

Mr. SABATH. May I ask whether this was taken out by the Congress or by the jury in the condemnation proceedings which allowed this additional 25 per cent above the original authorized valuation, but to my mind the 100 per cent above its actual value?

Mr. LUCE. That is a situation I would join the gentleman in attempting to remedy. It was thought this 25 per cent proviso would help, but it has not accomplished the result. If the gentleman can suggest any way to get the assessed value of this district up to anywhere near where it ought to be, I should be very glad to help him; but nobody has been able to present a remedy for the situation which Congress itself by judicial processes has created. When the condemning authorities say the land is worth more than 25 per cent above the assessed valuation and the restriction applies, you must either take off the restriction or go without the land.

Mr. SABATH. I think it is deplorable that such a situation should exist, because this is not the first time and I presume it will not be the last time whereby the Government will be obliged to pay 100 to 200 per cent more than it is worth for the property that it desires to acquire by condemnation.

Mr. KETCHAM. Mr. Speaker, will the gentleman yield?

Mr. SABATH. Yes.

Mr. KETCHAM. The gentleman should be advised that since the passage of the original bill real estate values in that particular section either within or without have been naturally increased and I do not think that you can say that the real estate men are unusually high in their prices; but of course they are naturally trying to share in the general increase in property values.

Mr. SABATH. Yes; they desire to share in the general prosperity which prevails throughout the country. Please understand, I am not objecting to people receiving a fair compensation for their property at any time, but the gentleman knows and I know that the value of property in every section of not only the district, but also of the country, has been lowered, and you can now buy property under present prevailing conditions, at 50 cents on the dollar; but here we are met with a situation where we are asked to increase the appropriation and provide more money because the award is far above the original assessed valuation and price placed upon it by experts at that time.

Mr. KETCHAM. The gentleman might be interested to know that in the purchases that have already been made it was the testimony of those that came before our committee that that land already possessed by the Government has likewise increased in value, and that if we were to sell it now we could realize a substantial profit upon it, which indicates that these men who own this land have been trying to share in the profit.

Mr. SABATH. Yes; under the great prosperity that prevails at this time.

Mr. NELSON of Missouri. Mr. Speaker, will the gentleman yield?

Mr. SABATH. Yes.

Mr. NELSON of Missouri. If it is true, as has been suggested, that we can sell the land out there that we now own at a profit, does the gentleman not think that we had better do so?

Mr. SABATH. If we do not need it and could sell it at a profit, let us do so; but if we do need and have use for it, then we should not; but I doubt very much, if the Government were to offer this property for sale to-day, that it would receive anywhere near the amount of the award.

Mr. PARSONS. It has been mentioned that land values increased since the original appropriation was made. Is it because of the fact the appropriation was made for that particular place that the land values have increased?

Mr. SABATH. There may be some reason that the property in that locality increased because of these improvements that have been made and the money expended.

Mr. PARSONS. If that is the case, then the appropriation has made the land values increase in that particular locality, and without it the land would not be of that value.

Mr. SABATH. But these owners desire to obtain the benefit, and they feel that they are entitled to it. I would not object, were it not for the fact that these very men

assured this House that if the original appropriation were made, they would donate to the Government some of these parcels of land that are now in question.

Mr. HASTINGS. Mr. Speaker, will the gentleman yield?

Mr. SABATH. Yes.

Mr. HASTINGS. Since my inquiry of the gentleman from Massachusetts [Mr. LUCE] I have made a little calculation. They have expended $300,000 on 190 acres of land which is an average of $1,578.99 per acre.

Mr. SABATH. And what is the gentleman's opinion as to the valuation, whether it is fair or excessive?

Mr. HASTINGS. I am not familiar with this particular tract of land and I am not competent to pass on its value.

Mr. ADKINS. Mr. Speaker, will the gentleman yield?

Mr. SABATH. Yes.

Mr. ADKINS. I think the gentleman has the same idea that I have.

Mr. SABATH. I am very glad that we agree on some things.

Mr. ADKINS. Let me explain a little to the gentleman, which I think will clear this matter up. Five hundred thousand dollars was asked. A large number of us made objection to that. We thought that they could go further out and buy land much more cheaply. Then it was represented to us that $300,000 would do the business, and the thing occurred that the gentleman has outlined. The land would be purchased at a reasonable sum. Then it developed after they had purchased a lot of land that this man changed his mind or something happened that the land got higher in value, as it always does when you want it for a public purpose. The gentleman from Massachusetts [Mr. LUCE] has admitted that that is the situation, and with the situation as it was, after going out and looking at it, as far as I was concerned, we reluctantly submitted to buying the rest of it at the price indicated. That is the whole story.

Mr. SABATH. In other words, we were first inveigled into this and are now obliged to pay for it.

Mr. BOYLAN. Will the gentleman yield?

Mr. SABATH. I yield.

Mr. BOYLAN. I know the distinguished gentleman from Illinois is an attorney of very high standing at the Chicago bar. I know he has had many condemnation cases in his practice.

Mr. SABATH. To whom does the gentleman refer?

Mr. BOYLAN. I refer to the gentleman who now has the floor [Mr. SABATH]. Now, I know the gentleman does not agree that the price can be fixed by legislation. The gentleman knows that the price of land, like the price of anything else, is regulated by the demands for it. The gentleman also knows that assessors, not only in the city of Washington, but all over the United States, are not at all times conversant with the true value of the land, and do not assess it properly. I know the gentleman, in his wisdom and great experience, would not want to mulct the owner on account of legislation, endeavoring to fix a price which is in violation of all laws of political economy, as the gentleman knows, and compel an owner to sell at a price far below either its intrinsic or its potential value.

Mr. SABATH. I wish to assure the gentleman that I do not wish to cause a loss to the unfortunate owners, who from time to time are deprived of their property against their will by our Government. I do not think my colleague from New York [Mr. BOYLAN] need be alarmed that I am one of those who would be desirous of taking advantage of any of them. I know, however, that many of those owners, in fact, nearly all of them, at almost every opportunity, try to mulct the Government of every dollar they can so obtain, after they have succeeded in interesting the Government in any particular project.

Mr. Speaker, I yield to the gentleman from Florida [Mr. GREEN] five minutes.

Mr. GREEN. Mr. Speaker and my colleagues, I am more concerned about other bills recently before the Committee on Agriculture than I am concerned about this bill, but it does seem rather strange to me that a clear track can be prepared for a bill like this one and it can be taken up and considered and the time of the House used when there are so many important bills before that committee.

There is one important bill that has been reported by the Agricultural Committee that provides for a survey of the losses sustained through the eradication of the Mediterranean fruit fly in my State. My people have been damaged millions of dollars and the responsibility for a great portion of it is upon the Government. But we can not even get a board appointed to receive these claims and to survey the losses. A bill for this purpose has passed the Senate. It is the companion bill to one introduced by me in the House. A bill not far from the same language of that one has been reported by the House Committee on Agriculture. This damage was sustained a year and a half ago, some of it nearly two years ago, when the pink boll worm was eradicated and the foot-and-mouth disease was eradicated; the Government paid reimbursement damages as and when occurred. It is customary for the Government to pay from 33⅓ to 50 per cent, or even greater amount, of losses sustained in such cases. Now, in the case of the eradication of the fruit fly in my State, by Federal forces, Federal orders, Federal money, and Federal men, we can not even get a resolution to survey the loss.

Mr. CLARKE of New York. Will the gentleman yield?

Mr. GREEN. I yield.

Mr. CLARKE of New York. Is it not true that in carrying out the extermination of the Mediterranean fruit fly even members of the State militia or the National Guard of Florida were enlisted under Federal service and paid under the Federal pay roll, but they were under the domination of the State of Florida?

Mr. GREEN. Indeed it was not. The guardsmen and other employees were under the domination, control, pay, and direction of the Federal Department of Agriculture and its Secretary. The Florida Plant Board carried out the orders of the Federal Government the same as does a sheriff as the officer of the court.

My friends, I hope the chairman of this committee will cooperate with us and bring about the passage by the House of the Senate bill. We would much prefer to have you pass the Senate bill. It is more complete and definite in purpose and effect. If that is impossible, we hope you will strike out all from the enacting clause of the Senate bill and substitute the House bill, and let it go back to the Senate for its approval or refusal. Then the conferees of the two Houses can and will agree upon its substance satisfactorily.

My friends, it is an emergency case. Our people are having the same financial reverses that people are having in other parts of the country and there is a recognized responsibility on the part of the Government for reimbursement for at least a portion of the damage. Now what are you going to do about it? If we are to receive reimbursement, and we should, surely now is the time to set the machinery in motion to receive and make finding on these claims. Growers are already sending their claims to Washington. There is no designated agency to receive and consider them. We should pass this legislation now. I earnestly urge my Republican colleagues to permit action now.

Mr. SNELL. Mr. Speaker, I make the point of order that debate must be on the bill before the House. I do not want to interfere with the gentleman, but there are many important measures to be considered this afternoon, and I make the point of order unless the debate is confined to the matter before the House.

Mr. SCHAFER of Wisconsin. Mr. Speaker, I think the point of order should be overruled. The gentleman is laying a foundation for an argument which he intends to make on the bill.

The SPEAKER pro tempore. The gentleman from Florida [Mr. GREEN] will proceed in order.

Mr. McSWAIN. Will the gentleman yield?

Mr. GREEN. I yield.

Mr. McSWAIN. The gentleman said something about 50. Fifty what? Fifty fruit flies, or what?

Mr. GREEN. Fifty per cent reimbursement for damages sustained by Florida growers as a result of the Mediterranean fruit fly eradication campaign.

The SPEAKER pro tempore. The time of the gentleman from Florida has expired.

Mr. HAUGEN. Mr. Speaker, I yield two minutes to the gentleman from New York [Mr. CLARKE].

Mr. CLARKE of New York. Mr. Speaker, I do not know whether the Members are familiar with the location of this arboretum. If you drive out to the northeast and enter the Bladensburg turnpike you will see a beautiful hill, covered with lovely trees at the present time. That is Mount Hamilton, and it is a part of the proposed arboretum. Then there is another ridge on beyond called Hickey Hill. It is an ideal location. The Committee on Agriculture visited this place with the experts on this proposition and the committee came to the conclusion that having gone so far we should complete the program.

There is an approach from along the river and this will prove an ideal location for the establishment of a national arboretum.

In connection with this matter I want to read the following poem.

Mr. TREADWAY. Before the gentleman begins to read his poem will he yield to me?

Mr. CLARKE of New York. Yes.

Mr. TREADWAY. Will not the gentleman be good enough to more definitely designate this location? The gentleman has been pointing here and there, but that does not mean much to Members.

Mr. CLARKE of New York. Does the gentleman know where you turn into the Bladensburg Turnpike to go to Baltimore?

Mr. TREADWAY. Yes.

Mr. CLARKE of New York. Does the gentleman remember the high hill to the east?

Mr. TREADWAY. Yes.

Mr. CLARKE of New York. That is a part of the project. Then there is another high hill which is called Hickey Hill.

Mr. TREADWAY. I thank the gentleman very much.

Mr. CLARKE of New York (reading):

There'd be some money in that elm—so he
Sold it; the sawyer came; and presently
He'd money in his pocket, but no tree—

No living tree before his threshold stone;
And, well, he missed it, living there alone,
The bonnie tree that he had always known.

'Twas queer to think the living tree was dead,
Just dry white planks now in the sawyer's shed,
While he still lived; and yet, when all was said

He'd got the money; brass was always brass,
And never came amiss. That flesh is grass
He'd overlooked, until it came to pass

He slept too long one morning—didn't wake;
And he was missed; and they were forced to break
His bolted cottage door in with a stake.

The brass was spent upon his funeral; he
Between the coffin boards lay presently
And close in touch again with his old tree.

—Percy Hutchison.

Mr. HAUGEN. Mr. Speaker, I yield to the gentleman from Ohio [Mr. COOPER].

Mr. COOPER of Ohio. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by printing a letter which Senator HAWES and myself have sent to the president of the American Federation of Labor, Mr. William Green, with reference to the provisions of the Hawes-Cooper prison goods bill.

The SPEAKER pro tempore. The gentleman from Ohio asks unanimous consent to extend his remarks in the RECORD and to include the letter referred to. Is there objection?

There was no objection.

The letter is as follows:

CONVICT LABOR—A PROBLEM FOR EACH STATE IN THE OPINION OF AUTHORS OF THE HAWES-COOPER BILL, PASSED BY CONGRESS—FEDERAL LEGILATION ENABLES STATES TO ACT BUT IS OF ITSELF NO BAR TO SALE OF PRISON PRODUCTS

Mr. WILLIAM GREEN,
President American Federation of Labor,
A. F. of L. Building, Washington, D. C.

MY DEAR MR. GREEN: As coauthors of the Hawes-Cooper bill, approved by President Coolidge on January 19, 1929, and designated as Public No. 669, Seventieth Congress, we submit at your request our views as to the extent and purposes of this bill, the intent of Congress in passing it, and the scope of authority of the States in the enactment of legislation under it.

There are more than 120,000 prisoners in State institutions, this number growing at a rapid rate, the products of whose labor present a problem increasingly important in the conduct of penal institutions throughout the country.

We have received numerous inquiries concerning the Hawes-Cooper bill and the power of the States under that bill. It is manifest that some confusion exists as to the meaning of the law, and such confusion tends naturally to increase the perplexities of the problem presented to each State in legislating for the future.

With 48 State legislatures considering the prison problem during the current year and the two subsequent years prior to the taking effect of the Hawes-Cooper Act, it may be well to clear up some of the misapprehensions.

The Hawes-Cooper bill does not go into effect until January 19, 1934. The 5-year period between the date of its approval and the date of its effect was written into the bill by Congress to give to each State ample time in which to adjust prison affairs.

HISTORY OF LEGISLATION

Something should be said of the history of this legislation.

More than 20 years ago the American Federation of Labor, anticipating future trouble over the growing problem of prison products entering into competition with the labor of free men and the investment of free capital, petitioned Congress for legislation tending to stop the traffic in convict-made goods.

The problem presented to Congress in the early consideration of the question was what form this legislation should take. It was agreed that the authority of Congress extended to the regulation of interstate commerce, but it was likewise manifest that there were grave constitutional questions involved in the attempt of Congress to interfere with this interstate commerce to the extent of a prohibition.

Meanwhile several of the States, including New York and Massachusetts, had endeavored to enact State laws subjecting convict-made goods, regardless of their origin, to certain State regulations or prohibitions.

All such attempts were declared by the courts to be beyond the power of an individual State, as the goods arriving from a prison in another State were, in fact, in interstate commerce, and, therefore, beyond the regulatory powers of the individual States.

Each State had a right to enact its own laws in respect to its own prison products. The enactment of such laws, however, removed the products of a State's prisons from the markets of that State, but could not interfere with the entrance of prison products from other States into its own open markets.

FACTORS UNITE ON BILL

Congress at various times considered the legislative proposals tending to cure this situation, but for many years such proposals failed in one branch or another or were prevented from passing by circumstances entirely foreign to the consideration of the bill itself, such as legislative confusion and congestion.

In 1928, however, the American Federation of Labor had introduced what has become known as the Hawes-Cooper bill, which the signers of this letter sponsored respectively in the House and Senate.

During the Seventieth Congress other influential elements in our American life joined in support of this measure.

The General Federation of Women's Clubs, acting in the interest of the prisoner himself and to protect women wage earners from the competition of prison products, actively joined in the support of national legislation.

Certain manufacturing interests throughout the country likewise enlisted their efforts on behalf of the measure to protect private capital from the increasing inroads being made by convict labor concentrated in a few fields of activity.

A number of organizations interested solely in scientific, modern penal management, and the rehabilitation of the prisoner also assisted.

Exhaustive hearings were held by both the House and Senate committees, on which sat the representatives of more than 22 States.

Labor officials, manufacturers, representatives of the General Federation of Women's Clubs and prison organizations were heard at length. Prison officials, opposing the Federal enactment on the theory that it would tend to destroy prison industries, were heard also. Prison contractors were likewise given consideration.

As a result of these hearings the bill was reported favorably in both the House and Senate and subsequently passed both bodies by an overwhelming majority. The measure was then sent to the President, who requested a review of the proposal by the Attorney General and, having received a favorable reply, President Coolidge signed the measure on January 19, 1929.

FEDERAL ATTITUDE SUSTAINED

But the enactment of this bill by the representatives of 48 States in Congress was not the first indication of the Federal attitude toward competition between convict labor and free labor and capital.

There has long been on the Federal statutes a prohibition against the importation of convict-made goods into the United States to compete with the products of free labor and private capital.

In the tariff bill in 1930 Congress threw additional safeguards around that provision of the law relating to the importation of convict-made goods and extended this law to products made by indentured or forced labor.

The executive branch of the Government, through the Treasury Department, has very recently evidenced its intention of strictly enforcing this national ban on imported convict-made goods.

Likewise Congress many years ago, legislating as to the conduct of Federal penitentiaries, provided that no goods, wares, or merchandise manufactured in the Federal penitentiaries could be sold upon the open markets. The products of more than 8,000 Federal prisoners are to-day limited as to sale by the Government itself, such products being manufactured only for Government use.

THE HAWES-COOPER BILL

The language of the Hawes-Cooper bill is definite. It reads as follows:

"*Be it enacted, etc.*, That all goods, wares, and merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal and/or reformatory institutions, except commodities manufactured in Federal penal and correctional institutions for use by the Federal Government, transported into any State or Territory of the United States and remaining therein for use, consumption, sale, or storage, shall upon arrival and delivery in such State or Territory be subject to the operation and effect of the laws of such State or Territory to the same extent and in the same manner as though such goods, wares, and merchandise had been manufactured, produced, or mined in such State or Territory, and shall not be exempt therefrom by reason of being introduced in the original package or otherwise.

"SEC. 2. This act shall take effect five years after the date of its approval."

This act in itself does not stop the sale of convict-made goods.

It does not provide that convict-made goods may not be shipped from one State to another, or from the prison of one State to a resident of another State.

It simply provides that when convict-made products are shipped from one State into another State such products, upon arrival and delivery in the second State, shall be subject to the laws of the second State.

If the second State has no law regulating the sale or distribution of convict-made goods then the convict-made goods of the first State may be sold or distributed in the second State without interference.

The real difference between the situation as it exists and the situation as it will exist after the Hawes-Cooper bill goes into effect on January 19, 1934, may be more pointedly illustrated as follows:

At the present time New York State does not permit the products of its prisoners to be sold on the markets of New York or shipped out of the State of New York for sale or delivery. The products of New York prisons may be sold only to State institutions in New York State and may not be sold upon the open market.

But at the present time products made in the penitentiaries of Indiana and Missouri may be shipped into the State of New York and may be sold and distributed in New York. In fact, they are so sold and distributed in New York.

But the Legislature of New York enacted under the authority of the Hawes-Cooper bill, a new statute which will, in effect, after January 19, 1934, subject all prison products entering New York from Missouri or Indiana prisons to the same laws which regulate prison products manufactured in New York.

Therefore, after January 19, 1934, under provision of a New York law enacted under the authority of the Hawes-Cooper bill, Indiana and Missouri prison products will not be sold in New York State, except in violation of the law of New York State, and anyone may be prosecuted under the New York State law for selling prison products.

From the above it will be manifest that the Hawes-Cooper bill itself neither bars convict-made goods from transportation, nor does it, of itself, operate on convict-made goods in the absence of a State enactment made under it.

Should any State desire to avail itself of the benefits permitted under the Hawes-Cooper bill it will be necessary for that State to enact its own convict-labor laws.

Furthermore, if any State desires to protect itself from becoming the dumping ground for prison products of other States, it must enact its own regulations through its own legislatures.

STATE ACTION FORMERLY FORBIDDEN

Under section 8 of the Constitution of the United States Congress is given authority "to regulate commerce with foreign nations and among the several States and with the Indian tribes." This power was granted to the Federal Government by the States, and the courts have held that no State legislation may interfere with the exercise of this authority which the States have given to the Federal Government.

In 1890, however, Congress passed what was known as the Wilson Act, which provided that intoxicating liquors transported into any State and remaining in that State for use, consumption, sale, or storage upon arrival in that State would be subject to the operation and effect of the laws of that State enacted in the exercise of its police powers.

By that act Congress removed from intoxicating liquors the character of interstate commerce when the particular goods upon which Congress legislated arrived in a given State for sale or distribution.

The constitutionality of that act was tested in the case of Wilkerson *v.* Rahrer (140 U. S. 545).

The Supreme Court held that this act on the part of Congress was not an attempt to delegate the power to regulate commerce. It held that this was not a grant of power not already possessed by the States. It held that this was not an attempt on the part of Congress to adopt State laws.

The court said:

"Congress has taken its own course and made its own regulation, applying to these subjects of interstate commerce one common rule whose uniformity is not affected by variation in State laws in dealing with such property."

The court held that in removing the interstate commerce character from the particular commodities legislated upon Congress was exercising its authority to regulate commerce. The court held that if Congress chooses to remove the interstate commerce character from designated subjects of interstate commerce before that character would ordinarily terminate, such act is within the competency of Congress.

A most significant statement was made in the decision of the court in that case when it said:

"The framers of the Constitution never intended that the legislative power of a nation should find itself incapable of disposing of a subject matter specifically committed to its charge."

The court further said that Congress had, in exercising its authority to regulate commerce, simply removed an impediment to the enforcement of State laws in respect to imported packages in their original condition.

This letter is not a brief upon the constitutionality of the Hawes-Cooper Act, but so much of the Rahrer opinion has been cited as may tend to indicate the character of the Hawes-Cooper bill in its relation to the State.

The States, without a specific utterance on the part of Congress, would have no power to interfere with interstate commerce in convict-made goods; but under a specific utterance by Congress removing the interstate commerce character of prison products upon their arrival in a State, which the Supreme Court has held is within the competency of Congress to do, each State under the Hawes-Cooper bill has the authority to regulate such products within its State borders.

It may be well to indicate here that the action of Congress in passing the enabling act, known as the Hawes-Cooper bill, was based upon the opinion of the court as to the authority of Congress in this regard.

PRISON PROBLEM IS A STATE PROBLEM

Congress was not unmindful when passing the Hawes-Cooper Act of the problems which might arise in the respective States as the result of subsequent State legislation enacted under authority of the Federal act. In fact, the 5-year-extension period granted in the act is an indication that Congress realized it would take some time for States to readjust their prison affairs to meet possible State enactments.

But, in the opinion of Congress, the menace of competition from convict-made goods was paramount, and Congress refused to permit the Federal Government, by its silence as to convict-made goods, to stand as an impediment to the enforcement of State laws.

Under the old system one State could ship its products into another State in defiance of the latter's State laws, and it could do so simply because Congress had failed to act and, therefore, permitted interstate commerce regulations to become an impediment.

One State was in a position to enforce its views on the balance of the States. It could force its convict-made products into the markets of a sister State and thumb its nose at the laws of that State.

The evident absurdity of such a condition is brought out by the fact that one State by its own legislative body attempted to regulate the sale of its own prison products within its borders, but permitted those same prison products to enter an adjoining State in defiance of the laws of the adjoining State.

Congress had the assurance of those who indorsed the Hawes-Cooper bill, while it was pending in Congress, that continued efforts would be made by them to assist the States in the working out of prison problems, and it may be said that the authors of this bill at the present time are aware of the continued activity of the American Federation of Labor, the General Federation of Women's Clubs, manufacturers, and prison organizations in assisting in the working out of the State legislation.

What particular form that State legislation shall take is not within the dictate of Congress. There have been many and varied proposals. Indeed, a variety of solutions is almost inevitable in view of the fact that each State has its own particular prison problem, and no plan can be suggested that will operate alike on all States.

Congress issued no mandate to the States. It has not ordered any State to enact any new legislation, nor does the Hawes-Cooper bill repeal any State legislation. The State itself must determine on the basis of its own problem what it may do to prevent its markets from becoming the dumping ground for prison products of other States.

MANY PLANS DISCUSSED

Some States have already enacted legislation looking to the diversification of prison products so as not to concentrate prison labor in the manufacture of a few products, the sale of which would be harmful to private industries. Some of the States limit their own prison products to their own State institutions and are now enacting legislation prohibiting both their own and other prison products from sale on the open market.

The "States-use" system is the term most generally applied to the system by which prison products are consumed by State institutions. Where the consumption of prison products in a

given State is confined to State institutions, however, such a law will not prevent convict-made goods being dumped into that State, unless there is a specific regulation as to sale and distribution applying equally to all such products, regardless of their origin.

Able authorities have pointed out the value of diversifying prison industries, so that no one product of prison manufacture will be turned out in sufficient quantity to interfere with private labor or private capital. Scientific systems of standardization have been studied and proposed for the purpose of facilitating the exchange of prison products with the institutions of the State. The parole system and other remedial suggestions for cutting prison population are being studied. Employment of prisoners in certain fields where their labor will not seriously compete with free labor or private capital has also been widely studied and discussed.

All of these records are available to legislators and State executives who desire to readjust their prison industries on the basis of the new theory. This is a State problem with which each State is confronted and the seriousness of which grows with the prison population.

The Hawes-Cooper bill has laid the foundation by which the prison contractors may be permanently put out of business. How quickly this new situation will be brought about rests entirely with the States and in the enlightened manner in which they handle their own particular State problems. The Hawes-Cooper bill enforces nothing upon the States. It enables them to act if they so desire. It does not of itself solve the prison-labor problem. The intention of Congress was to permit the States to solve this problem and to remove the Federal impediment to the enforcement of State laws. The enactment of constructive legislation looking to the removal of convict-made goods from competition with free men and free capital rests with the legislatures.

Whether any State is to become the dumping ground for prison products and the enrichment of a prison contractor or agency now rests solely with the State legislatures.

Very sincerely yours, JOHN G. COOPER,
Representative from Ohio.
HARRY B. HAWES,
Senator from Missouri.

Mr. HAUGEN. Mr. Speaker, I yield three minutes to the gentleman from Virginia [Mr. GARBER].

Mr. GARBER of Virginia. Mr. Speaker and Members of the House, I think we must conclude that this is a very important measure, the opinion of the gentleman from Florida notwithstanding.

I want to call attention to two things. First of all, due to the rapid depletion of our forest wealth in this country through past years it is exceedingly important that the Federal Government prosecute a program along the line of reforestation and experimentations in the production of trees, as is contemplated in the arboretum bill. In 1926, when the first arboretum measure came up, as has been pointed out, it was contemplated that $500,000 would be necessary to purchase adequate acreage for the purposes of an arboretum. This amount, as has been stated, was cut to $300,000, and with that $300,000 more or less separated tracts of land were acquired off of M Street, the purchase covering 190 acres. It is cut up into two or three distinct tracts, not entirely separated but, as the gentleman from Massachusetts pointed out, with other tracts coming in between. The purpose of this bill is to consolidate the various parcels into one continuous tract by purchasing these interposing tracts aggregating 78 acres. That will give a consolidated tract of 286 acres.

Mr. SCHAFER of Wisconsin. Will the gentleman yield?

Mr. GARBER of Virginia. Yes.

Mr. SCHAFER of Wisconsin. Seventy-eight acres are going to cost $200,000.

Mr. GARBER of Virginia. Yes.

Mr. SCHAFER of Wisconsin. Then this is a real estate speculators' bill?

Mr. GARBER of Virginia. Not at all. Only so much of the $200,000 will be expended as is necessary to acquire the additional 78 acres, at a price that will be determined by orderly condemnation proceedings.

Mr. SABATH. Does it take in both sides of the creek?

Mr. GARBER of Virginia. The 78 acres will do this——

Mr. SABATH. I mean is this property on the other side of the creek or on each side of it?

Mr. GARBER of Virginia. It is on this side of the creek. I want to point out that these additional 78 acres will add a variety of soils that will be especially valuable in experimenting with the different species of trees and will make an enlarged consolidated tract that will be much more valuable from the standpoint of an arboretum than if you restrict it to the 190 acres of separated tracts. It does seem to me that this is a very important bill and that it should be passed at this time.

The SPEAKER pro tempore. The time of the gentleman from Virginia has expired.

Mr. HAUGEN. Mr. Speaker, I yield one minute to the gentleman from Michigan [Mr. KETCHAM].

Mr. KETCHAM. Mr. Speaker, I only want to take this one minute in order to correct the impression that seems to have been running throughout the debate as to the cost of the land that has already been purchased. In response to the direct inquiry of the gentleman from Oklahoma [Mr. HASTINGS] I have the exact figures from the Department of Agriculture. I find that for the 190 acres already purchased they have paid $226,437, and not $300,000 as stated a number of times. There remains, therefore, 78 acres of the original tract to purchase and $73,563 in the original appropriation of $300,000. The bill is here because the Department of Agriculture has not been able to purchase the remaining acreage within the 125 per cent assessed value limit required by the law, and 48 acres additional needed to make the original tracts more symmetrical. The department has not been able to secure the additional lands within the prescribed price limits, and when condemnation proceedings were instituted the court awarded $73,945 above the 125 per cent limit. It is believed that the $200,000 provided will be necessary to complete the purchase of the required acreage.

Mr. HASTINGS. How much is that per acre?

Mr. KETCHAM. I have not calculated it, but it runs something under $1,200 an acre.

Mr. SABATH. And it is not worth $25 an acre.

The SPEAKER pro tempore. The time of the gentleman from Michigan has expired. The question is on the motion of the gentleman from Iowa to suspend the rules and pass the bill.

The question was taken; and on a division (demanded by Mr. SCHAFER of Wisconsin) there were—ayes 78, noes 33.

Mr. SABATH. Mr. Speaker, I object to the vote on the ground that there is not a quorum present.

The SPEAKER pro tempore. The Chair will count. [After counting.] One hundred and forty-three Members are present, not a quorum. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members and the Clerk will call the roll.

The question was taken; and there were—yeas 199, nays 154, not voting 78, as follows:

[Roll No. 46]

YEAS—199

Ackerman	Cochran, Pa.	Garner	Korell
Adkins	Cole	Gasque	LaGuardia
Aldrich	Colton	Gibson	Lambertson
Allen	Connolly	Goodwin	Langley
Andresen	Cooke	Goss	Lankford, Va.
Andrew	Cooper, Wis.	Guyer	Leavitt
Arentz	Cramton	Hadley	Leech
Bacharach	Crisp	Hale	Lehlbach
Bachmann	Crowther	Hall, Ind.	Letts
Bacon	Culkin	Hall, N. Dak.	Luce
Barbour	Dallinger	Hancock, N. Y.	McFadden
Beck	Darrow	Haugen	McLaughlin
Beedy	Davenport	Hawley	McLeod
Beers	De Priest	Hess	Maas
Blackburn	DeRouen	Hickey	Magrady
Bloom	Dickinson	Hoch	Mapes
Bolton	Douglass, Mass.	Hogg, Ind.	Martin
Brand, Ga.	Dowell	Hooper	Merritt
Brigham	Drewey	Hope	Montet
Britten	Dunbar	Hopkins	Moore, Ohio
Browne	Eaton, Colo.	Houston, Del.	Moore, Va.
Brumm	Eaton, N. J.	Hull, Morton D.	Murphy
Buckbee	Elliott	Hull, William E.	Nelson, Me.
Burdick	Ellis	James, Mich.	Nelson, Wis.
Burtness	Englebright	Jenkins	Palmisano
Butler	Erk	Johnson, Ind.	Parker
Campbell, Iowa	Estep	Johnson, S. Dak.	Perkins
Carter, Wyo.	Esterly	Johnston, Mo.	Pittenger
Chalmers	Evans, Calif.	Jonas, N. C.	Pou
Chase	Fish	Kahn	Pratt, Harcourt J.
Chindblom	Fisher	Kearns	Pratt, Ruth
Chiperfield	Fitzgerald	Kelly	Purnell
Christopherson	Foss	Kendall, Ky.	Rainey, Henry T.
Clague	Free	Kendall, Pa.	Ramey, Frank M.
Clancy	Freeman	Ketcham	Ramseyer
Clark, Md.	Gambrill	Kinzer	Rayburn
Clarke, N. Y.	Garber, Va.	Kopp	Reece

Reed, N. Y.	Sirovich	Taylor, Tenn.	Watson
Reid, Ill.	Sloan	Temple	Welch, Calif.
Rogers	Smith, Idaho	Thatcher	Welsh, Pa.
Rutherford	Snow	Timberlake	White
Sanders, N. Y.	Speaks	Tinkham	Whitley
Seger	Stafford	Treadway	Wigglesworth
Seiberling	Stalker	Turpin	Wilson
Selvig	Stobbs	Underhill	Wolverton, N. J.
Shaffer, Va.	Strong, Pa.	Vincent, Mich.	Woodruff
Short, Mo.	Swanson	Wainwright	Wright
Shreve	Swick	Walker	Wyant
Simms	Swing	Warren	Zihlman
Sinclair	Taber	Watres	

NAYS—154

Abernethy	Doughton	Johnson, Tex.	Patterson
Allgood	Doxey	Johnson, Wash.	Peavey
Almon	Drane	Jones, Tex.	Prall
Arnold	Driver	Kading	Quin
Aswell	Dyer	Kennedy	Ragon
Auf der Heide	Edwards	Kerr	Ramspeck
Baird	Eslick	Kvale	Rankin
Black	Evans, Mont.	Lankford, Ga.	Reilly
Bland	Finley	Lindsay	Robinson
Blanton	Fitzpatrick	Ludlow	Romjue
Bohn	Fuller	McClintic, Okla.	Sabath
Bowman	Garber, Okla.	McClintock, Ohio	Sanders, Tex.
Box	Gavagan	McCormack, Mass.	Sandlin
Boylan	Glover	McKeown	Schafer, Wis.
Briggs	Goldsborough	McMillan	Shott, W. Va.
Browning	Granfield	McReynolds	Simmons
Busby	Green	McSwain	Smith, W. Va.
Cable	Greenwood	Manlove	Somers, N. Y.
Canfield	Gregory	Mead	Sparks
Cannon	Hall, Ill.	Michener	Sproul, Ill.
Carley	Hall, Miss.	Miller	Steagall
Cartwright	Hancock, N. C.	Milligan	Stone
Celler	Hardy	Montague	Strong, Kans.
Clark, N. C.	Hare	Mooney	Summers, Wash.
Cochran, Mo.	Hastings	Moore, Ky.	Sumners, Tex.
Collier	Hill, Ala.	Morehead	Tarver
Collins	Hill, Wash.	Morgan	Taylor, Colo.
Condon	Hogg, W. Va.	Nelson, Mo.	Tucker
Cooper, Tenn.	Holaday	Newhall	Underwood
Cox	Howard	Niedringhaus	Vestal
Craddock	Huddleston	Norton	Vinson, Ga.
Crail	Hudson	O'Connor, N. Y.	Whittington
Cross	Hull, Wis.	O'Connor, Okla.	Williamson
Crosser	Igoe	Oldfield	Wingo
Cullen	Irwin	Oliver, Ala.	Wolverton, W. Va.
Davis	James, N. C.	Palmer	Woodrum
Dickstein	Jeffers	Parks	Yon
Dominick	Johnson, Nebr.	Parsons	
Dorsey	Johnson, Okla.	Patman	

NOT VOTING—78

Ayres	Fort	Lanham	Schneider
Bankhead	Frear	Larsen	Sears
Bell	French	Lea	Snell
Brand, Ohio	Fulmer	Linthicum	Spearing
Brunner	Garrett	Loofbourow	Sproul, Kans.
Buchanan	Gifford	Lozier	Stevenson
Byrns	Golder	McCormick, Ill.	Sullivan, N. Y.
Campbell, Pa.	Graham	McDuffie	Sullivan, Pa.
Carter, Calif.	Griffin	Mansfield	Thompson
Christgau	Halsey	Menges	Thurston
Connery	Hartley	Michaelson	Tilson
Cooper, Ohio	Hoffman	Mouser	Wason
Corning	Hudspeth	Nolan	Whitehead
Coyle	Hull, Tenn.	O'Connor, La.	Williams
Dempsey	Johnson, Ill.	Oliver, N. Y.	Wolfenden
Denison	Kemp	Owen	Wood
Douglas, Ariz.	Kiefner	Pritchard	Wurzbach
Doutrich	Knutson	Ransley	Yates
Doyle	Kunz	Rich	
Fenn	Kurtz	Rowbottom	

So (two-thirds not having voted in favor thereof) the rules were not suspended and the bill was rejected.

The Clerk announced the following pairs:

Until further notice:

Mr. Wood with Mr. Byrns.
Mr. Tilson with Mr. Ayres.
Mr. Campbell of Pennsylvania with Mr. Bankhead.
Mr. Gifford with Mr. Griffin.
Mr. Ransley with Mr. McDuffie.
Mr. Thurston with Mr. Hull of Tennessee.
Mr. Carter of California with Mr. Buchanan.
Mr. Mouser with Mr. Connery.
Mr. Cooper of Ohio with Mrs. Owen.
Mr. Yates with Mr. Williams.
Mr. Rich with Mr. Corning.
Mr. Wason with Mr. Hudspeth.
Mr. Schneider with Mr. Fulmer.
Mr. Hartley with Mr. Oliver of New York.
Mr. Halsey with Mr. Garrett.
Mr. Kiefner with Mr. Sullivan of New York.
Mr. Sullivan of Pennsylvania with Mr. Stevenson.

The result of the vote was announced as above recorded.

The doors were opened.

AMENDMENT OF NATURALIZATION LAWS

Mr. CABLE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 10672) to amend the naturalization laws in respect to posting notices of petitions for citizenship, with Senate amendments, disagree to the Senate amendments and ask for a conference.

The Clerk read the title of the bill.

Mr. SABATH. I object. I do not know what this bill is about.

Mr. JOHNSON of Washington. Will the gentleman withhold his objection?

Mr. SABATH. I withhold it. If I can learn something about it, I may withdraw it.

Mr. JOHNSON of Washington. This is a House bill pertaining to certain naturalization rights and repatriation of women. It has passed the Senate with numerous amendments. One of these gives the right to return to the United States of soldiers now overseas who have slept on the rights previously granted by laws. Other matters that are somewhat involved have been added and therefore require a conference. It is a proper bill to go to conference, and I hope the gentleman will not object.

Mr. SABATH. Is this a bill that will permit American ladies who go abroad to buy titles and then after they are mulcted and relieved of all their wealth, they are ready to come back to America?

Mr. JOHNSON of Washington. Oh, we do not guarantee the titles. I do not think so; but at any rate, all of that will be taken care of in conference, and I hope the gentleman will not object.

Mr. CABLE. This bill has nothing to do with any women coming back to this country, because it has no immigration feature in it.

Mr. SABATH. I withdraw the objection, Mr. Speaker.

The SPEAKER. Is there objection to the request of the gentleman from Ohio? [After a pause.] The Chair hears none and appoints the following conferees: Messrs. JOHNSON of Washington, CABLE, and BOX.

HEALTH AND WELFARE OF MOTHERS AND INFANTS

Mr. PARKER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 255) for the promotion of the health and welfare of mothers and infants, and for other purposes, with House amendments, insist on the House amendments and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New York? [After a pause.] The Chair hears none and appoints the following conferees: Messrs. PARKER, COOPER of Ohio, and RAYBURN.

Mr. TUCKER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on this maternity bill, as I was unavoidably detained from the sessions of the House on yesterday when the bill was passed.

The SPEAKER. The gentleman from Virginia asks unanimous consent to extend his remarks in the RECORD on the bill just sent to conference. Is there objection?

There was no objection.

Mr. TUCKER. Mr. Speaker, in the Constitution of the United States, Article IV, section 4, it is provided:

> The United States shall guarantee to every State in this Union a republican form of government.

This bill seeks to take from the States what the Constitution solemnly requires the United States to secure to them, namely, a republican form of government. We need not discuss technically what constitutes a republican form of government, for it is admitted that all 48 States of the Union have governments republican in form. (See Minor *v.* Happersett, 21 Wall. 175; and In re Duncan, 130 U. S. 461.)

Each State provides for the election of its officers by popular vote and has a legislative, executive, and judicial department, separate from each other, with a constitution that defines and limits their powers.

The legislative power is unlimited generally as to the people and property of the State except by the State constitution and the Constitution of the United States. Under this power this department may create organisms for certain purposes and then appropriate money to carry them out; it may build a university and appropriate money to carry it on; it may establish a school system and appropriate money for it; it may establish a health unit or a child welfare department to look after the health of the children of the State, as provided by the tenth amendment of the Constitution of the United States. The legislators are trustees for the people and for the money in the State treasury, and these trust duties can not be evaded or surrendered to any other department, person, corporation, or other government to carry them out. To attempt to abdicate or transfer this trust to another is a breach of trust. Indeed, the question is so plain and simple that it needs no argument, for it speaks for itself that the duty of a State legislator, in response to public demand to create a health unit for children and maternity, to appropriate money to carry it on, to lay out and prescribe the plans and lay down the character of the work and its limitations, can not be transferred to any other power or State, and especially can not be given to another government.

In the business world what would be thought of a board of directors of a bank appropriating money to carry out a business scheme of the bank attempting to give the authority to the board of a rival bank to carry out the scheme? How much stronger is this case, if the legislators of the States, intrusted with the duty of looking after the health of the children of the States, and their mothers, in a way suitable to such people in that particular community, as laid down in their State laws, should seek to surrender entire control of the appropriations for such purpose, and give the power to the Federal Government to carry out the trust, not in the manner prescribed in the State law, but wholly and entirely it may be as the Federal corporation chooses and directs? Take my own State—Dr. Ennion G. Williams is the head of the Virginia State Health Unit; he is without a peer in his work; the people know him and trust him, and for years he has conducted his office with distinguished ability and efficiency. By this bill the entire conduct of that business in Virginia is to be transferred to the hands of the Federal health coordinating board, located in Washington and not in Virginia, to carry on the work.

Chief Justice Marshall in McCulloch *v.* Maryland (p. 431, 4 Wheat.) indorses this view, saying:

> But is this a case of confidence? Would the people of any one State trust those of another with a power to control the most insignificant operations of their State government? We know they would not.

The question, therefore, is, Is the care of maternity and children and their health a function of the State or of the Federal Government?

Chief Justice Marshall, in Gibbons *v.* Ogden (9 Wheat. 1), in speaking of the reserve powers of the States, said they represented—

> that immense mass of legislation, which embraces everything within the territory of a State, not surrendered to the general Government; all which can be most advantageously exercised by the States themselves. Inspection laws, quarantine laws, health laws *of every description*, as well as laws for regulating the internal commerce of a State.

The Child Labor cases, Hammer *v.* Dagenhart (247 U. S. 273) and Bailey v. Drexel Furniture Co. (259 U. S. 120), settled this question because the question of child labor as it affects the health of the child was involved in both of them; and the court held that neither the commerce clause of the Constitution nor the taxing power of the Constitution could be invoked to regulate child labor in the States since the regulation of child labor for the protection of the health of children was a State function that Congress could not perform. Justice Day in the Hammer case used this language (p. 273):

> The power of the States to regulate their purely internal affairs by such laws as seem wise to the local authority is inherent and has never been surrendered to the General Government. To sustain this statute would not be in our judgment a recognition of the lawful exertion of congressional authority over interstate commerce, but would sanction an invasion by the Federal power of the control of a matter purely local in its character, and over which no authority has been delegated to Congress in conferring the power to regulate commerce among the States.

And Judge Taft, in the Bailey case, supra, involving the tax power of Congress, used this notable language:

> Yet when Congress threatened to stop interstate commerce in ordinary and necessary commodities, unobjectionable as subjects of transportation, and to deny the same to the people of a State, in order to coerce them into compliance with Congress's regulation of State concerns, the court said this was not in fact regulation of interstate commerce, but rather that of State concerns, and was invalid. So here the so-called tax is a penalty to coerce the people of a State to act as Congress wishes them to act in respect of a matter completely the business of the State government under the Federal Constitution.

So that this bill which endeavors to deal with a subject entirely within the control of the States under the Constitution is unconstitutional, null, and void.

And we will now proceed to show, under the bill, how a State's action is unconstitutional in its acceptance of a bill that attempts to transfer to the Federal Government powers that belong alone to the States. The object of the bill is stated in section 1, to coordinate "the general rural health and maternal and child-health activities" between the United States and the several States. Under the Constitution of the United States, as this duty is nowhere directly or by implication assigned to the Federal Government, under the tenth amendment, it belongs to the States, and if so, the Federal Government has no power or control over it, and any attempt to exercise such power must, therefore, be void and of no effect. This being true, if a State, through its legislative branch, seeks to surrender this duty to the Federal Government the State law is null and void; it is a clear abdication on the part of the State of a plain and certain duty. First, in section 4 of the bill, the State in order to receive any money under the act, must accept the provisions of this bill by its legislature or governor. Second, section 4, the State board or the State health unit or agency must submit plans for carrying out the work in accordance with regulations prescribed by the board of the Federal corporation. Third, this same Federal board (sec. 2 of the bill) has power to approve or disapprove the plans of the State agency.

Now, let us examine these three requirements. First. How can the legislature or the governor of a State accept the provisions of this bill? If the acceptance is by the legislature, it is assumed that the acceptance must be a legislative act, and if so, how can the governor, in case the legislature does not act, accept it; in a republican form of government how can a governor perform a legislative act? Or, how can the legislature of a State divest the State, even for money, of the duty which the Constitution of the United States has imposed upon the State? Can the legislature of a State change the Constitution of the United States? What power resides in the legislature of a State to take away from its own officer (of the health unit of the State), the duty of carrying out this State function and placing that power in the board of a Federal corporation. That is clearly *ultra vires*. Or, what power has the legislature to compel the health officer of a State to unite with the board of a Federal corporation in expending funds of that Federal corporation? In such a proceeding, to whom is the State agent responsible? If he steals the money, can the Government of the United States hold him accountable for it? Or, can the State government hold him responsible in this regard? And how can the governor make such acceptance and change the law of the State by putting additional duties upon an officer of the State, and laying him open to penalties by another government to which he owes no allegiance in this matter? This is beyond compare the most reckless attempt ever known of inducing and bribing a State to break its own constitution as well as that of the United States.

Second. Under this head we find that the head of the State health unit must submit plans to the board for carrying on the work, and this may be considered with heading No. 3, wherein this same Federal board has the power to approve or disapprove the plans of such State agency. What

does that mean except that the plans of the Federal board are to be absolutely controlling. The power to approve or disapprove the plans means that the duty required here for the head of the State unit to submit plans is a mockery. This view is heightened by the provision in section 11 that no money appropriated by the Federal Government for this purpose, and no money appropriated by the State for this purpose, shall be used in the purchase, erection, preservation, or repair of any buildings or equipment, nor shall any of it be used for maternity or infancy, pensions, stipend, or gratuity. A State that goes into this scheme may have provisions in its law for the erection and repair of buildings; it may have maternity gratuities or pensions, or infancy pensions, or gratuities, and the legislature that accepts the provisions of this bill, if it were valid in its effect, would thereby repeal the State law in reference to buildings and maternity pensions which had been enacted by the legislature of the State in response to public demand in that State. In other words, it would operate as a repeal of those laws. A law can be repealed, of course, but the legislature can not repeal a law without the consent of the governor; and here is an attempt to violate another principle of a republican form of government which takes away the requirement of the governor's consent and sanction to all laws passed and leaves it to the legislature alone.

Under a republican form of government the legislative power extends to and over all persons and property in the State and no power or government outside of the State can change the status or exercise any regulatory powers over any officer of the State in the discharge of his State duties, for the Federal Government was not organized to carry on the local affairs of the people of the States; nor can it buy, or the State government sell, these powers to another, for they were bought with the blood of our fathers in their struggle for independence by the people of the States, and will never be surrendered by any except a weak, servile, and faithless people. This shows that a republican form of government can not be maintained in a State when State officers are controlled by and subordinated to Federal officers and Federal power, or when State functions are stealthily taken from them and carried out and developed by Federal officials without responsibility to the States. Under this bill, could the State of Virginia proceed against the Surgeon General of the United States Public Health Service as the chairman of the board? Or under this bill, could the State of Virginia proceed against its public health officer for dereliction of duty when this bill attempts to transfer his duties to the Federal board?—

> Oh, what a tangled web we weave,
> When first we study to deceive.

In sustaining my position, I beg to quote two passages from ex-President Calvin Coolidge:

> The greatest solicitude should be exercised to prevent any encroachment upon the rights of the States or their various political subdivisions. Local self-government is one of our most precious possessions. It is the greatest contributing factor to the stability, strength, liberty, and progress of the Nation. It ought not to abdicate its power through weakness or resign its authority through favor. It does not at all follow that because abuses exist it is the concern of the Federal Government to attempt their reform.
>
> Society is in much more danger from encumbering the National Government beyond its wisdom to comprehend or its ability to administer than from leaving the local communities to bear their own burdens and remedy their own evils. Our local habit and custom is so strong, our variety of race and creed is so great, the Federal authority is so tenuous, that the area within which it can function successfully is very limited. The wiser policy is to leave the localities, so far as we can, possessed of their own sources of revenue and charged with their own obligations. (The annual message of the President, December 8, 1925.)
>
> I have referred in previous Budget messages to the advisability of restricting and curtailing Federal subsidies to the States. The maternity act offers concrete opportunity to begin this program. The States should now be in a position to walk alone along the highway of helpful endeavor, and I believe it in the interest of the States and the Federal Government to give them the opportunity. (Annual Budget message of President Coolidge. Quoted in the CONGRESSIONAL RECORD, January 7, 1927, p. 1219.)

But this bill contains another provision involving the so-called cooperative (?) duties of the Federal Children's Bureau with the State agencies of health in the several States and makes even more prominent than in the former discussion the attempted destruction of a republican form of government in the States. Here under the Children's Bureau we see more clearly what is meant by "cooperation" between State and Federal agencies to promote maternity and child welfare. Experience shows that when the Federal Government seeks to cooperate with a State in any activity it is like the lion who seeks cooperation with the lamb in their activities, which inevitably results in the lion swallowing the lamb. What sort of "cooperation" can that be when the Federal Government, in this bill, says to the States, "You shall do this" and "You shall not do that"? Is that the language of "cooperation"? Or of superior to inferior? Of master to servant? This language of command and of prohibition by the Federal Government to the States is defended by the advocates of this bill on the ground that what is commanded and what is prohibited is a proper thing that the States will not object to in many cases. That is not the question. If they have the power to command, which they are asking for here, and the power to prohibit, this board that has the power to make its own rules and regulations can do what it pleases. Now, see in the following cases whether I am correct in this statement.

First. Section 5. This language:

> *Provided*, That the plans of the States under the act *shall* provide—

And so forth.

Second. Section 10:

> The State agency *shall* make report—

And so forth.

To whom—the States? Oh, no; to the Federal board.

> The ox knoweth his owner, and the ass his master's crib.

The State agent must report to the Federal board how he has spent the State's money. Cooperation is the union of two separate, independent units doing the same work. There can be no "shall" or "shall not" between equal units.

Third. Section 5. The States *must* accept this act.

Fourth. Section 5. The State agent *must* submit plans to suit the Federal board, not the State, whose officer he is.

Now, see the cases in this bill of "shall not":

First. Section 5. The plans submitted to the Federal board by the State agent *shall not* contain any one of three prohibited things. Is that free agency on the part of the State?

Second. Section 11. No Federal money shall be used for purchase or repair or renewal of buildings. No State money shall be used for such purposes, or maternity or children's pensions, though the State may have buildings for these very purposes, and may have a law granting maternity and children's pensions. Are not the words "shall not" inconsistent in their use between equal cooperative agencies? Again, the State agent must make his report to the Federal board, and is prohibited from spending State money as the State directs, but must spend it as the Federal board directs, and if his conduct is satisfactory to the State in the expenditure of State money but not to the Federal board, further advances may be withheld and the agency subjected to such discipline and punishment as the President of the United States, to whom he may appeal, may "consider proper." Under these conditions, is such a State agency an officer of the State when he is subject to the orders of the Federal board and not to the State when his direction of the funds of the State intrusted to him for State purposes are absolutely controlled in their uses by the Federal board and the Children's Bureau?

Section 5 of the bill requires the acceptance by the State of the provisions of an act approved November 23, 1921, which expired by limitation in 1929. It is quite an unusual provision to tie a living body to a dead statute that has passed out of existence, and how can a State accept the provisions of a dead act? If it were a living organism, there might be some reason to it, but can the acceptance by the State of a dead act make it a living organism; and the alternative to the State that does not accept this act of November 23, 1921, is that through its legislative authority it shall ac-

cept the provisions of this act. The two acts are entirely different. The acceptance of the dead act does not cover the provisions in this, nor do the provisions of this act cover those of the dead act. It is a muddy and inexplicable alternative that finds no place in a proper statute; and in addition to the requirements of acceptance of the provisions of this act it requires that the State unit shall submit to the Children's Bureau detailed plans for carrying out the provisions of subsection (b) of section 3, and that after that is done these plans shall be subject to the approval of the board; that is, the plans are the plans of the board and not of the State; and immediately following this—showing that this is true—the bill declares, section 5, that the State plans shall conform to three conditions—prescribed by the board, of course. The first condition is a limitation of the amount to be expended; the second is that the problems discussed must be limited to rural districts and to towns and cities of not over 50,000 population; and, third, that the plans submitted shall include, first, promoting the establishment of local health services for mothers and children, with several other conditions. Here are three conditions put upon any State plans that may exist in any State.

In other words, the Children's Bureau, having directed that the State agency must submit plans, proceeds in this section to put three conditions upon such plans which may destroy the State plans and make them inoperative. That is, the State unit is required to make plans, but the board can say, "You shall put in this provision and that you shall not put in other provisions." Is not this a merciless dictation by the board of its own plans? And further, that all State plans must contain a provision that no officer or agent of the State shall enter any home or take charge of any child over the objection of the parents, and so forth. Such a provision might be quite necessary for any representative of this board, but the State would seem to have a right to control its own agents to see that their acts shall conform to the Constitution of the United States and of the State. This is another illustration of "Thou shalt not" to the States.

Section 10 of the act gives an extraordinary power to the board of this corporation wherein the Children's Bureau, at the request of a majority of the board, shall withhold any further certificate provided for in section 9 of the act (which looks to securing the money) if the State agent in the conduct of his work has not properly expended not only the money paid to it by the Federal Government, but the money paid him by the State for the purposes of the act. It might be reasonable that this Federal board should have the power of withholding money from a State officer appropriated by the Federal Government, but it goes further and declares that if the head of the health State agency, a State officer, in the judgment of the Federal board, has not properly expended the money of the State whose officer he is that no further certificate will be allowed the State for securing further moneys under the bill.

Can that provision be regarded by anyone as securing to the State whose officer is involved a republican form of government? Who is to determine whether the money has been "properly expended" or not? It was the State's money given for a State purpose into the hands of a State officer, and by what process of logic or reason can this proposed partnership between the Federal Government and the States to carry out a State function be justified or upheld when the State officer is discharging a State function with State money? Is this Government republican in form that permits its appropriations to be controlled by a foreign officer? If it be said that the State has accepted the conditions of this bill, we answer that the fundamental doctrine, whatever may be the form, is that a State can not accept, under the Constitution of the United States, any form of procedure that compels it to relinquish its status as a State with a republican form of government, and it would be difficult to find anyone to uphold the above doctrine as consistent with a republican form.

And mark what follows in this section 10:

> Such certificate may be withheld until such time or upon such conditions as the board may determine—

And during this unlimited time of withholding the certificate, with unlimited conditions that may be imposed by the board, the State agency is graciously allowed to appeal—

> To the President of the United States, who may either affirm or reverse the action of the board with such directions as he shall consider proper.

By what stretch of the imagination can the President of the United States be called in to determine whether a State officer, selected by the legislature or appointed by the governor of a State, has been guilty of a breach of the law of his State? Suppose the President, with power to affirm * * * the action of the board "with such directions as he shall consider proper," directs that the State agent shall be sued for the money, who could sue, the State or the Federal board? Whose money is it? Could he direct either one to do so? Or could he fine this amphibious agent, half Federal and half State, as described by Secretary Doak, for disobedience to his order? Or suppose the President should direct the State to remove him from office, must the State do so? If so, who is the controlling power in State affairs, the President or the governor? Or suppose the President says the State must reappropriate the money the agent has stolen, must the State obey the President? Can these conditions comport with a republican form of government in any State when its legislative and executive power is dominated by the President of the United States? And if a State, in proper form, accepts a law giving such powers to the President, is it not patent to the simplest understanding that it must be null and void under the Constitution of the United States?

These two provisions affecting the general health of the people of the country and conditions of maternity and children are set forth in this bill, as we have shown, can not be sustained because its provisions would tear down rather than preserve a republican form of government in each State in the Union.

And lastly, section 11 declares that no State in the Union that has a child-welfare unit shall have the right to apply the money furnished by the State for the purchase or erection of buildings or any maternity or infancy pensions, even though the State, by law, provides for such. Is that provision consistent with the right of each State to appropriate money for its own purposes, without dictation from any other power, and is it consistent with the duty of the United States to guarantee a republican form of government to each State when the bill asserts with solemn impressiveness that no State can use its own money through its own officer for its own functions as may be prescribed by the law of the State? The Federal Government has no power to put conditions upon the appropriations of the States for State purposes, and no State can agree to such a thing, for it is a surrender of those powers which are inherent in a republican form of government. It would be State suicide.

These two provisions in this bill, giving control of the powers and functions of the State to the Federal Government, are fatal to the guaranty of a republican form of government to every State of the Union. That such a bill could be brought into this House is a marvel.

Had this bill come from an outside government it would be bad enough; but here is this great Congress of the United States, a creature of the Constitution of the United States which had been created by the thirteen original States in 1787, with the sacred duty in that Constitution placed upon the United States of guaranteeing a republican form of government to each State of the Union, each State forming an integral part of the United States Government, having given abundantly of their sovereign powers in the beginning that this Federal Government might protect and defend each and all of them, and asking only in return that their several State governments might be preserved to them republican in form; and it is this Congress of the same United States, in this bill, that is shooting this poisoned arrow at the hearts of each one of these States. The States stand aghast at such an act, and are ready to exclaim:

> So the struck eagle stretched upon the plain,
> No more through rolling clouds to soar again—
> Viewed his own feather on the fatal dart
> That helped to wing the shaft that quivered in his heart.

Who in the present administration backs this bill?

I

Is it President Hoover? No. President Hoover in 1929 wrote:

I recommend to the Congress that the purpose of the Sheppard-Towner Act should be continued through the Children's Bureau for a limited period of years.

In 1930 the President, in his annual message, said:

I urge further consideration by the Congress of the recommendations I made a year ago looking to the development through temporary Federal aid for the health of children.

And so forth.

The President, therefore, does not back this bill, as it is unlimited in duration. These declarations of the President, it is noted, were made in 1929 and 1930, but when he came to deliver his address on the birthday of President Lincoln on February 12, 1931, in studying the position of Mr. Lincoln on constitutional questions, a new light dawned upon him, and the following quotation from that address justifies me, with exceeding great pleasure, of placing the President unequivocally in principle against this maternity bill in any form.

The moment responsibilities of any community, particularly in economic and social questions, are shifted from any part of the Nation to Washington, then that community has subjected itself to a remote bureaucracy with its minimum of understanding and of sympathy. It has lost a large part of its voice and its control of its own destiny. Under Federal control the varied conditions of life in our country are forced into standard molds, with all their limitations upon life, either of the individual or the community. Where people divest themselves of local government responsibilities they at once lay the foundation for the destruction of their liberties.

And buried in this problem lies something even deeper. * * * The spread of government destroys initiative and thus destroys character. Character is made in the community as well as in the individual by assuming responsibilities, not by escape from them. Carried to its logical extreme, all this shouldering of individual and community responsibilty upon the Government can lead but to the superstate where every man becomes the servant of the State and real liberty is lost. Such was not the government that Lincoln sought to build.

II. SECRETARY MELLON'S POSITION

But the bill was referred to the Secretary of the Treasury for his opinion, and on June 26, 1930, he addressed a letter to Hon. JAMES S. PARKER, chairman of the Committee on Interstate and Foreign Commerce, in which he said:

While it is the opinion of the Treasury Department that there is already ample authority under the rural sanitation appropriation act for cooperation with State health agencies in developing local whole-time health units and while the Treasury Department is convinced that all essential activities for the prevention of disease and the promotion of health in both sexes and among all age groups of our population can and should be administered by the United States Public Health Service, which already possesses authority in law to cooperate with State and local health agencies for the protection of the public health, this department is not disposed to interpose objections to bill H. R. 12995 other than to reiterate its statement as set forth in its report to you of August 6, 1928, as it pertains to the establishment of an additional organization of the Government to administer public-health work.

A. W. MELLON,
Secretary of the Treasury.

What report was this the terms of which he reiterates to the chairman of this committee? I present a copy of it for your consideration.

AUGUST 6, 1928.

Hon. JAMES S. PARKER,
Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: I have to acknowledge receipt of your letter of May 29, 1928, inclosing bill H. R. 14070, entitled "A bill to provide a child welfare extension service, and for other purposes," with a request for a report thereon.

The purposes of the bill appear to be to authorize annual appropriations and to provide facilities for health and welfare work on behalf of mothers and children, either independently or in cooperation with State and Territorial agencies, or through them with county or municipal agencies engaged in such work. Its enactment into law is believed inadvisable for the following reasons:

1. It relates exclusively to women and children notwithstanding the protection of their health is an integral part of the general program of safeguarding the public health.

2. It creates an additional permanent organization with authority to engage in health work which function should properly devolve upon the existing Federal health agency.

3. In health matters cooperation of the Federal Government with States and local communities should be through the respective health authorities. For such cooperation as may be authorized by law, State and local health authorities should be able to look to the Federal health agency; they in turn should not be expected to cooperate with multiple Federal organizations in health matters, nor have regulatory activities conducted within their jurisdictions independently of them.

4. There is now authority in law for cooperation by the United States Public Health Service with State and local health authorities for the protection of the public health.

This authority should not be duplicated; to do so would tend to cause overlapping and confusion.

I am advised by the Director of the Bureau of the Budget that this report is not in conflict with the financial program of the President.

Very truly yours,
HENRY HERRICK BOND,
Acting Secretary of the Treasury.

It is seen from this report of August 6, 1928, that the Acting Secretary of the Treasury, Mr. Bond, uses this language, speaking of the reenactment of the Sheppard-Towner Act:

Its enactment into law is believed inadvisable for the following reasons (four of them).

And Secretary Mellon says that he is not disposed to interpose objections to this bill other than to reiterate his former objections, which were four, and these four reasons are powerful arguments against this bill. He objected to it in 1929 and reiterates that objection in 1930, and we can safely leave the argument against it in Mr. Mellon's report.

I have discussed quite often the fundamental objections to this class of bills under the Constitution of the United States, and, without repeating those arguments, I beg to submit a list of authorities which sustain my view:

Primus inter pares, Chief Justice Marshall in McCulloch *v.* Maryland (4 Wheat. 316).
Gibbons *v.* Ogden (9 Wheat. 1).
Virginia Constitutional Convention, 1829–30, on the militia.
Judge Brewer in Kansas *v.* Colorado (206 U. S. 89) and Fairbanks *v.* United States (181 U. S.)
Judge Miller in Loan Association *v.* Topeka (20 Wall. 655).
Judge Miller on the Constitution (p. 229, note 2).
Mr. Madison, Resolutions of 1798.
Mr. Madison's message, May 4, 1822.
Federalist No. 41.
Veto message, March 3, 1817.
Letter of Madison to Andrew Stevenson.
Supplement to letter to Andrew Stevenson. (Writings of James Madison, by Gaillard Hunt, Vol. IX, p. 424.)
Cooley on Taxation, second edition, page 110.
Cooley, Constitutional Limitations, pages 11 and 106.
Willoughby on the Constitution, volume 1, page 40.
James Wilson (Wilson's Works: Andrews, vol. 2, pp. 56–59).
John C. Calhoun, February 20, 1837, United States Senate. (Works of Calhoun, Vol. III, p. 36.)
Mr. Jefferson on power of Congress to establish Bank of the United States, February 15, 1791.
Letter to Judge Spencer Roane, October 12, 1815. (Works of Jefferson, by Paul Leicester Ford, 1905, Vol. XI, p. 489.)
Von Holst, a strong Federalist, Constitutional Law of the United States, page 118.
Hare, American Constitutional Law, volume 1, pages 242–243.
William A. Duer, Constitutional Jurisprudence, second edition, page 211.
Grover Cleveland, veto message to the House of Representatives making appropriations for drought-stricken counties in the Southwest.
B. J. Sage in Republic of Republics.
Calvin Coolidge, addresses of, Budget meeting, January 21, 1924, and annual message, December 8, 1925.
Tucker on the Constitution, Volume I, pages 477, 478–480.
Chief Justice Taney in Dobbins *v.* Commissioners of Erie County (16 Pet. 448–449).
Chief Justice Chase in Veazie *v.* Fenno (8 Wall. 541).
And Judge Story on the Constitution, sections 907–909, 910.

It is interesting to note that the many examples of where the death rate of infants increased under the Sheppard-Towner Act show that the law did not carry out what it proposed to do, and the three States, Illinois, Massachusetts, and Connecticut, that did not adopt the act at all, are striking examples of what can be done in reducing mortality by the people of each State directing it according to their own plans and views, for in these States mortality of women and children was less than in those that adopted it.

In Standards of Child Welfare, the Report of the Children's Bureau Conferences, May and June, 1919, Conference Series No. 1, Bureau Publication No. 60, on page 145, a distinguished doctor, professor of obstetrics, filed a paper from which, on page 146, I extract the following:

I take it that the first step in such a campaign of education for the improvement of obstetrical conditions must consist *in the compulsory registration of pregnancy* through the local health officer.

In this event it will be possible for every pregnant woman throughout the entire country to be supplied gratis with certain of the publications of the Children's Bureau, and thereby, if able to read, to be convinced of the importance of insisting upon adequate care. Furthermore, it should be the duty of the local health officer to see that the women who register should promptly arrange for suitable care during pregnancy and at the time of labor. If a physician were engaged, the health officer's responsibility would end, but if the patient is to be cared for by a midwife, it would be his duty, or that of a paid substitute acting for him, to see that certain examinations and requirements were carried out.

I do not know how far the views set forth in the above quotation are entertained by those who have the execution of the Children's Bureau under this bill. I have been informed, however, that there are some who entertain the same view, and if so, it will remain for the men and women of this country to say whether the social standards of the country will submit to these proposed hygienic regulations. The principles of this bill have had a trial, lasting for five years, and the results of that trial are far from realizing the hopes of the authors of the bill. Whether a continuation of it might improve conditions which in many of the States have not been improved, no one can say; but the terms of the bill are fatal to a republican form of government, and will strike down the integrity of the States of the American Union, and make them subservient tools of the Federal Government in its triumphant march to a centralized bureaucracy!

ENGROSSMENT AND ENROLLING OF BILLS AND JOINT RESOLUTIONS DURING THE REMAINDER OF THE SESSION

Mr. SNELL. Mr. Speaker, I send to the Clerk's desk a House concurrent resolution and ask unanimous consent for its immediate consideration.

The Clerk read the House concurrent resolution, as follows:

House Concurrent Resolution 53

Resolved by the House of Representatives (the Senate concurring), That during the remainder of the present session of Congress the engrossment and enrolling of bills and joint resolutions by printing, as provided by an act of Congress approved March 2, 1895, may be suspended, and said bills and joint resolutions may be engrossed and enrolled by the most expeditious methods consistent with accuracy.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The concurrent resolution was agreed to.

ORDER OF BUSINESS

The SPEAKER. In view of the congested situation of business, unless the various matters of general legislation to be brought up by rule or possibly by suspension shall have been concluded by 6 o'clock this afternoon, the Chair will not recognize requests to take up Senate bills or other bills which would naturally come up in their order to-day; but the Chair will devote considerable time on Monday to unanimous-consent requests to consider Senate bills or House bills with Senate amendments.

Mr. LEHLBACH. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. LEHLBACH. If unanimous consent is asked and objection is made, will the Speaker recognize the proponents of the bill to renew his request?

The SPEAKER. The Chair could hardly answer that; he would if there was no particular reason why he should not.

Mr. SNELL. Is it the Chair's intention to take up in order the three rules that have been agreed upon?

The SPEAKER. Yes; and if time is left before 6 o'clock, suspension of the rules.

Mr. STAFFORD. Mr. Speaker, is it the intention to have the Consent Calendar called on Monday?

The SPEAKER. It will be in order.

BOOKS FOR THE BLIND

Mr. SNELL. Mr. Speaker, I call up House Resolution 363.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. 4030, to provide books for the adult blind. That after general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Library, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment the committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. SNELL. Mr. Speaker, this rule simply provides for the consideration of a bill that has been before the House for some time, making an appropriation of $100,000 at the disposal of the Library of Congress to buy books for the adult blind. I know of no opposition, and I do not think any time is desired on the rule.

Mr. POU. There is no opposition to the rule on this side.

Mr. O'CONNOR of New York. The only thing I hope is that the bill will be explained in the House. It was not very clearly explained before the Rules Committee. I hope the bill will not be rushed through and that we will be given the hour which the rule provides for consideration.

Mr. SABATH. Will amendments be in order?

Mr. SNELL. Yes; under the general rules of the House.

Mr. CRAIL. I want to say that there is opposition to the bill. The rule provides that the time may be equally divided between the chairman and the ranking minority member, both of whom are in favor of the bill.

Mr. SNELL. I assure the gentleman that the opposition will have one-half of the time.

Mr. CRAIL. With that assurance, I have no objection.

Mr. TUCKER. Does the bill apply to the District of Columbia only?

Mr. SNELL. To the whole United States.

Mr. CELLER. Does this provide that the books shall be in Braille?

Mr. SNELL. I suppose they are, but I do not know about that. Mr. Speaker, I move the previous question.

The previous question was ordered.

The resolution was agreed to.

NATIONAL PARK AND PLANNING COMMISSION

The SPEAKER. Pursuant to the act of Congress approved June 6, 1924 (43 Stat. 403), as amended by the act of April 30, 1926 (44 Stat. 374), the Chair appoints the gentleman from Michigan, Mr. McLEOD, as a member of the National Park and Planning Commission.

BOOKS FOR THE BLIND

Mr. LUCE. 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 (S. 4030) to provide books for the adult blind.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union, with Mr. MICHENER in the chair.

Mr. LUCE. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. LUCE. Mr. Chairman, I yield 10 minutes to the gentlewoman from New York [Mrs. PRATT], the author of the bill. [Applause.]

Mr. CRAIL rose.

The CHAIRMAN. For what purpose does the gentleman from California rise?

Mr. CRAIL. I rise to a parliamentary inquiry.

The CHAIRMAN. Does the gentlewoman from New York yield for that purpose?

Mrs. RUTH PRATT. Yes.

Mr. CRAIL. As I heard the resolution read, we are considering a Senate bill and not a House bill.

The CHAIRMAN. We are considering a Senate bill.

Mr. CRAIL. The gentleman from Massachusetts [Mr. LUCE] yielded 10 minutes to the author of the bill, and I thought perhaps he had switched to the Pratt bill.

The CHAIRMAN. It is the same bill.

Mrs. RUTH PRATT. Mr. Chairman, this bill requires very little explanation, and I believe needs no defense. There are in the United States approximately 100,000 blind persons. Of these about 90,000 have become blind during their adult years. Of this number about 25,000 are able to read the Braille type. The Government long since recognized its obligation to the little children who are blind, by providing an appropriation for material and textbooks in Braille type, but the literature for the adult blind is woefully inadequate. Take, for example, the library in New York, which has a special department for the blind. In that library there are only about 1,000 titles available to them, while for those of us who can see there are something over 1,000,000. The American Foundation for the Blind made a survey, and as a result of that survey it was found there were three obstacles in the way of the provision of books for the adult blind. One is the proper geographical location of distribution centers; one is the unfair distribution of the expense incident to providing books and distributing them; and the other, the inadequacy of the amount of literature for the blind. This bill proposes to overcome all of these difficulties. It provides for an appropriation, in addition to the other appropriations for the Library of Congress, to the amount of $100,000 annually, to be expended under the administration of the Librarian of Congress. Your Committee on the Library deemed that to be the proper way in which to provide for the expenditure of this money, because the Library of Congress is a Government agency directly responsible to the Congress.

One of the great outstanding personalities of our time is Miss Helen Keller. From infancy she has had three seemingly insurmountable handicaps—deafness, dumbness, and blindness. Through a great beauty of spirit, gallant courage, and indomitable will she has been able to break through this human bondage and make for herself an unchallenged place in the intellectual life of our time. [Applause.] I wish every Member of this House might have been present at the hearing when she appeared before the Committee on the Library. We were all intensely touched, emotionally, but, more than that, we were left with a profound sense of the simple justice of her appeal. [Applause.]

I yield back the remainder of my time.

Mr. WARREN. Mr. Chairman, I yield 10 minutes to the gentleman from Indiana [Mr. LUDLOW].

Mr. LUDLOW. Mr. Chairman, this bill appeals to our very best humanitarian instincts. It makes a little financial substance go a long way in the production of happiness. What a boon this legislation will be to many souls that are shut in, and that will stay shut in until they put on the robes of immortality!

All of us know in our own circle of acquaintances blind persons to whom the books to be provided by this bill will be the choicest of blessings. I have now in mind an old mother who resides less than 2 miles from this Capitol. Her head is snow crowned. She has raised a large family and she has been a good mother. Her eyes, the windows of as sweet a soul as ever graced God's footstool, have gone out. At regular intervals a messenger from the Library of Congress delivers at her home a Braille book, and if you could see the light of happiness that comes over her face at such times, as I have seen it, you would have no doubt of the good this legislation will accomplish in lightening and lifting the depression that engulfs the blind.

We can not make the blind see, but we can take a lot of the sadness and sorrow out of their lives by giving them embossed books to read. Next to restoring their vision, which no earthly agency can do, our best gift to them is something that will enable them to forget themselves; something to break down the barriers that imprison them in such dreaded isolation; something that will give them contact with the living, moving world. That something is books.

This bill is admirably conceived to accomplish that purpose—not all at once but by gradual degrees. It is a very simple measure. It appropriates $100,000 a year to provide books for the blind printed in raised characters which may be read by the sense of touch. It puts this money at the disposal of the Librarian of Congress. Some of the books will be kept here and others will be sent out to libraries over the country, where they will be made available for circulation among blind readers.

Several agencies besides the Library of Congress have been suggested as a means of getting the books distributed and circulated, but when we consider the noble purpose to be served this seems too small a matter to quibble over. The main object, which gives the legislation its incentive and its value, is to provide suitable books and get them out among the blind according to some well-regulated system, and I do not know any agency better designed to accomplish this end than the great national library known as the Library of Congress, which is directly responsible and accountable to Congress, and which already maintains a service for the blind that is easily capable of being expanded to these greater proportions and made an instrumentality of service for large numbers of sightless persons.

Our committee listened with rapt attention to the testimony of the most remarkable living champion of the blind, Miss Helen Keller. We were charmed by her brilliancy and spellbound by her eloquence. Bereft of both hearing and sight, she seemed as she stood before us to be the incarnation of pathos, but, though she lives in darkness, there was not one of us but was impressed by the height and breadth and depth of her spiritual vision. We believed her when she said:

> Books are the eyes of the blind. They reveal to us the glories of the light-filled world. They keep us in touch with what people are thinking and doing. They help us to forget our limitations. With our hands plunged into an interesting book we feel independent and happy. I ask you to show your gratitude to God for your sight by voting for this bill.

Let us do as Helen Keller asks us to do. Let us show our gratitude to God by rendering this help to his sightless creatures. By so doing we will show our gratitude for Helen Keller, one of the noblest women of our time and all time. [Applause.]

Mr. LUCE. Mr. Chairman, I yield 15 minutes to the gentleman from California [Mr. CRAIL].

Mr. CRAIL. Mr. Chairman and my colleagues of the House, I am for Braille books for the blind as much as anybody in this House, but I am opposed to this bill unless it is amended as I shall hereafter suggest, because I think it would be vicious in its operation. It is a simple bill on its face, very innocent looking, but it would lead our Government into very serious consequences.

We are in the closing days of a session of Congress. Bills that come up at this late date are supposed to be emergency bills, and it is supposed that there is some good reason why they should be rushed through. If there is any reason why this bill should be jammed through Congress in its half-baked condition without consideration, I do not know what it is. There is no emergency here. Our Government has been in existence for 150 years, and if this were something that required immediate action, something would have been done about it during the 150 years our Government has been functioning, or something would have been done about it earlier in this present session. It has not been indorsed by any national party convention, Republican or Democratic, or any other. It has not been indorsed by any President; it has not been reasonably considered on its merits. This is a Senate bill. The committee in the Senate that reported this bill held no hearings on it whatever. The report which accompanied the bill in the Senate merely said that hearings were held in the House.

Hearings were held in the House on a similar bill by the Committee on the Library, which is composed of five members, of which the author of a similar bill is a member. Very carefully other bills for the care of the blind were not permitted to be discussed when this hearing was taking place. Not only that, but two other bills for the blind were referred to another committee of the House, the Committee on Education, a committee of 21 members. That committee went into elaborate hearings on the bill. I hold in my hand a printed copy of the hearings before the Committee on Education on Braille bills for the blind. There are 152

printed pages in that report of the hearings, and yet these two committees never got together and ironed out any differences or tried to bring in a bill that was fair to the Government and for the good of the blind. The Committee on Education has been absolutely ignored so far as this bill under discussion is concerned.

Mr. SIROVICH. Mr. Chairman, will the gentleman yield?

Mr. CRAIL. Yes; with pleasure.

Mr. SIROVICH. Is there any difference between this Pratt bill and the bill presented to the committee, in purpose?

Mr. CRAIL. In purpose, no; because they are for the blind and for the benefit of the blind.

Mr. SIROVICH. Then what is the difference?

Mr. CRAIL. The difference is this, and it will take me a few minutes to explain it. The Government of the United States is annually appropriating $75,000 for the printing of Braille books for the blind. The money goes to the American Printing House for the Blind, an institution at Louisville, Ky., not a Government institution, a private concern, though a nonprofit corporation.

This company has been subsidized by the Government for more than 50 years, ever since 1879. The law under which this $75,000 per year goes to this American Printing House for the Blind at Louisville, Ky., expressly provides that it is for the printing of books for the instruction of the blind, and no part of that money shall be used in the purchase of real estate or in the erection or leasing of buildings, and that in the printing and distribution of books for the blind no profit will be made by this subsidized institution, and that the price put upon each article so manufactured or furnished shall only be its actual cost.

That is the law, but here is the situation: At the hearings held before the Committee on Education, which is not the committee which considered the bill which is now before the House, it was disclosed by the testimony of the president of that institution on cross-examination that that institution is making a profit on its books; that it is using the $75,000 subsidy from the Government of the United States for its overhead, for its pay rolls, for its salaries of officers, for the purchase of supplies, and then it is competing in the open market with other publishers in this country to make a profit.

Mr. THATCHER. Will the gentleman yield?

Mr. CRAIL. I yield to my friend from Kentucky.

Mr. THATCHER. Is it not a fact that the president stated they follow the provisions of the Federal law scrupulously, to the effect that no profit is put on any book or any tangible apparatus furnished to the blind children of the country; and that only incidental profits are made in contracts carried outside of the Government appropriation, which have nothing in the world to do with the blind children? That is the fact.

Mr. CRAIL. I will answer the question by saying that he tried to justify the profits which the institution made, but he testified that the company had made a large profit on books for blind veterans, which it printed for the Veterans' Bureau of the United States on a contract secured in open competition with printing houses which are not subsidized by the Federal Government.

Mr. THATCHER. Oh, it is perfectly clear what I have stated.

Mr. CRAIL. It is the fact in any event.

Mr. THATCHER. What I have stated is the fact.

Mr. CRAIL. Gentlemen of the committee, if the gentleman wants to argue, he should not do so on my time. I think the gentleman can get all the time he desires without taking my time, which is so limited that I will not get to say one-fourth what I would like to say. The facts are that the law does not say what my distinguished friend has just intimated, that the restriction in the law is that they shall not make a profit in the printing of books for blind children. The law provides that they shall not make any profit on the books which they print for the instruction of the blind. When the gentleman is trying to limit it to the books they make for blind children, there is no such thing as that in the law. The law is that they shall not make any profit on the books they print for the instruction of the blind.

I have in my hand a copy of the law which subsidizes the American Printing House for the Blind at Louisville, Ky. Here is the part germane to the question referred to:

(1) Purposes and method of expenditure: First, such appropriation shall be expended by the trustees of the American Printing House for the Blind each year in manufacturing and furnishing embossed books for the blind and tangible apparatus for their instruction; and the total amount of such books and apparatus so manufactured and furnished by such appropriation shall each year be distributed among all the public institutions for the education of the blind in the States and Territories of the United States and the District of Columbia, upon the requisition of the superintendent of each, duly certified by its board of trustees. The basis of such distribution shall be the total number of pupils in all the public institutions for the education of the blind, to be authenticated in such manner and as often as the trustees of the said American Printing House for the Blind shall require; and each institution shall receive, in books and apparatus, that portion of the appropriation as is shown by the ratio between the number of pupils in that institution for the education of the blind and the total number of pupils in all the public institutions for the education of the blind, which ratio shall be computed upon the first Monday in January of each year.

(2) Buildings: Second, no part of the appropriation shall be expended in the erection or leasing of buildings.

(3) Sales of books and apparatus at cost. Third, no profit shall be put on any books or tangible apparatus for the instruction of the blind manufactured or furnished by the trustees of said American Printing House for the Blind, located in Louisville, Ky.; and the price put upon each article so manufactured or furnished shall only be its actual cost.

I will leave it to the fairness of this body whether this company can lawfully accept this $75,000 annual subsidy, and at the same time make a profit on books printed by it for the instruction of the blind. It seems particularly obnoxious that they should take this subsidy from the Government, and then make a profit on the Government, biting the hand that feeds them.

Mr. SIROVICH. Will the gentleman yield?

Mr. CRAIL. I yield to the gentleman from New York.

Mr. SIROVICH. The report states that nearly all organizations of the blind are heartily behind this measure.

Mr. CRAIL. The blind readers are against this bill. I have in my hand a pamphlet which is an argument against this bill, prepared by a blind reader, Mr. J. Robert Atkinson, and he says that hundreds of blind readers have opposed the passage of this bill by letters signed by them, but not one is on record indorsing the Pratt-Smoot bill. He says further, and this is addressed to all Members of Congress, "Choose you this day whom you will serve, blind readers or blind leaders."

Mr. Chairman, I ask unanimous consent to insert in the RECORD as a part of my remarks this argument, "Blind Book Legislation," from which I have just quoted.

The CHAIRMAN. The gentleman asks unanimous consent to extend his remarks in the manner indicated. Is there objection?

There was no objection.

The matter referred to is as follows:

BLIND BOOK LEGISLATION

There are now two bills pending before Congress, each designed to furnish literature to the blind through a permanent appropriation of $100,000 a year. One is purely original—the outgrowth of years of experience in furnishing literature for the blind—the other originated overnight, notwithstanding the fact that both bills were introduced on the same day.

The first, or original bill—and the one most worthy of your support—is known as H. R. 9994. It is the outgrowth of years of experience in the furnishing of books for the blind, with the aid of private philanthropy. A hearing on it was held by the House Committee on Education May 28, 1930.

The Crail bill, among other things, provides:

(1) That an appropriation of $100,000 a year be paid to the trustees of the Braille Institute of America (Inc.), Los Angeles, Calif., to be expended for the purpose of furnishing embossed books and periodicals to the blind;

(2) That the books and periodicals so printed shall be distributed free to the blind through the now existing libraries or institutions conducting free lending departments of books for the blind, and through those libraries that may hereafter be established for that purpose subject to the approval of the American Library Association in the United States and its territories;

(3) That sole authority for the selection and determining of literature to be printed shall be vested in a committee composed of librarians in charge of the aforesaid libraries, in conjunction with the American Library Association's subcommittee on books for the adult blind, which committee shall give due cognizance to the literary preferences of blind readers;

(4) That the distribution of books and periodicals supplied from this fund shall be on a basis determined by the trustees of the Braille Institute of America (Inc.) and the executive board of the American Library Association;

(5) That no profit shall be put in any books or periodicals printed or distributed by the Braille Institute of America (Inc.), and the price put upon the books or periodicals so printed or furnished shall not exceed the actual cost of production;

(6) That no part of the appropriation shall be expended in the erection or leasing of buildings or real estate;

(7) That the Secretary of the Treasury of the United States shall have the authority to withhold the appropriation whenever he shall receive satisfactory proof that the trustees of the Braille Institute of America (Inc.) are not using the appropriation for the benefit of the blind as outlined in the bill; and

(8) That the treasurer of the Braille Institute of America (Inc.), having executed a bond for the faithful discharge of his duties, shall submit annually, or whenever requested by the Secretary of the Treasury of the United States, a certified audit of the books and records of the institute.

(NOTE.—The Crail bill provides safeguards which demand both efficiency and economy in administering the appropriation.)

The second bill was introduced by Congresswoman RUTH PRATT of New York, under the sponsorship of the American Foundation for the Blind, soon after its author and sponsors learned that a bill was drafted by Congressman JOE CRAIL. A hearing on it was held March 27, 1930, by the House Library Committee, of which Mrs. RUTH PRATT is a member. Although this committee reported the bill favorably, it failed twice to come before the House through suspension of the rules. On account of these failures, Mrs. PRATT's bill was then given to Senator SMOOT for introduction into the Senate, and therefore the measure is now known as the Pratt-Smoot bill. Under this name it was hurriedly passed by the Senate, but since then it has again failed twice to receive recognition by the House under suspension of the rules process.

The Pratt-Smoot bill provides, briefly: (1) that Congress shall appropriate $100,000 annually to furnish literature for the blind; (2) that the appropriation shall be administered by the Librarian of Congress; (3) that said librarian shall have full and autocratic authority in the selection and distribution of the literature to be printed with said appropriation; and (4) that said librarian may use his discretion, also, in the establishment of other libraries in addition to those now engaged in lending books for the blind.

Commenting on the above statements, and with particular reference to those specified below, it is pointed out:

(2) That an appropriation for the literary advancement of the blind can best be determined by an institution experienced in supplying literature to the blind and devoted exclusively to that work, and that the Braille Institute of America (Inc.) meets this requirement.

It has as a background 10 years of experience in publishing literature for the blind, and it now has at its disposal a spacious plant with adequate office and printing facilities to function immediately, efficiently, and economically in manufacturing and distributing literature for the blind, while the proponents of the Pratt-Smoot bill, or the agency charged with its administration, have had absolutely no experience in publishing such literature.

(3) That any bill enacted into law, designed to supply literature for the blind will signally fail unless it functions to the satisfaction of blind readers, both in the selection and distribution of literature published. The only way to insure this result is to give blind readers a voice in the selection of the literature, as is provided for in the Crail bill, but a privilege conspicuously lacking in the Pratt-Smoot bill, which places this authority and responsibility in the hands of a single librarian. If this provision were the only objectionable feature in the Pratt-Smoot bill, it would be sufficient ground for its defeat.

The sponsors of the Crail bill not only believe that blind readers should have a voice in the selection of the literature, but also that this important responsibility should be rested with a publication committee composed of experienced librarians who have devoted years of study in serving the blind.

The folly of placing the authority of selecting the literature in the hands of one person is seen in the transcript of the hearing on the Pratt-Smoot bill by the Library Committee, March 27, 1930, when its chairman, ROBERT LUCE, expressed the opinion that the reading public would be better off if it were restricted to literature of the Victorian Age. What a calamity—if the Pratt-Smoot bill were to become a law and the present Librarian of Congress or his successor should share Mr. LUCE's opinion!

Another danger besetting the administration of the appropriation, in the Pratt-Smoot bill by the Librarian of Congress, is seen in the evidence of the aforesaid hearing on that bill, by Senator-elect Thomas A. Gore, of Oklahoma. Senator-elect Gore, in his testimony, pointed out that the present Librarian of Congress, in his report to Congress in 1910, exhibited an apparently unsympathetic attitude, by asking that the lending department of books for the blind be removed from the Library of Congress assumably on the ground that it was foreign to the functions of that Library. As a result of his recommendation, the department was moved into the Carnegie Library, subsequently to be re-installed by the Library of Congress, but not until the National Library for the Blind had been established in Washington, D. C.

Mr. John Ralls, representing the Cleveland Public Library and various blind organizations in the States of Ohio and Kentucky, also appeared at the hearing of the Pratt-Smoot bill in opposition to it, and pointed out that the Librarian of Congress was at first opposed to the bill in that it delegated him as its administrator, acceding only after "the fact was emphasized that this was a large sum which was being placed to the credit of the Library of Congress."

The Braille Institute of America (Inc.), sponsors of the Crail bill, believe that blind readers are capable of deciding for themselves the literature they wish printed and that since it is necessary to establish an agency for the purpose of selecting the literature, that agency should be composed of persons whose first interest is in the blind readers themselves and who are specialists exclusively in the field of literature for the blind.

(4) Literary service for the blind could be augmented through the establishment of perhaps four or five additional libraries located at strategical points throughout the Nation, but under no circumstances should a dollar of the appropriation sought in either bill pending, be used for this purpose, since that amount is scarcely adequate to print (on a nonprofit basis) enough literature to meet the demand and without which there is no reason for establishing more libraries to house such literature.

Hundreds of blind readers favor passage of the Crail bill, but not one is on record indorsing the Pratt-Smoot bill.

"Choose you this day whom ye will serve"—blind readers or blind leaders.

Mr. WARREN. Will the gentleman yield?

Mr. CRAIL. I yield.

Mr. WARREN. Is there anything in the bill now under consideration that would prevent the Library of Congress from contracting with any printing houses in the United States where these books are printed?

Mr. CRAIL. No. But the practical effect of the bill is to give a monopoly to the Louisville concern, because with the aid of this subsidy from the Federal Treasury it can underbid all competitors.

Mr. HALE. Will the gentleman yield?

Mr. CRAIL. I yield.

Mr. HALE. How many concerns are there in this country producing these books, and where are they located?

Mr. CRAIL. There are three major plants printing books for blind readers. Practically every State has an institution for the blind, which in turn has a little printing plant, equipped with a hand press or a foot press, where they do some Braille printing or printing for the blind; but there are three institutions equipped to print books on the scale contemplated by this bill.

I am in favor of appropriating $100,000 for printing books for the blind. I want that money appropriated, but I say this bill is vicious unless it is amended. At the proper time I am going to offer an amendment which will largely rectify the evils of the bill.

When I was interrupted I was speaking about the profit. The president of the American Printing House for the Blind testified before the Committee on Education that in one contract which it had with the Veterans' Bureau of the United States it made a profit of $30,000.

Mr. SCHAFER of Wisconsin. Will the gentleman yield?

Mr. CRAIL. I yield.

Mr. SCHAFER of Wisconsin. I did most of the cross-examining during that hearing, and my cross-examination was based on the gentleman's statement indicating a $30,000 profit on the Veterans' Bureau contract. Following that completed hearing I have been unable to find anywhere in that or any other record the report of this Louisville concern where they indicated they made $30,000 on the Veterans' Bureau contract. The cross-examination was very rapid, and it may have been that the words were put into the witness's mouth and he did not deny them, but he also did not affirm them. I went through that complete hearing five times since they were closed.

Mr. CRAIL. If the gentleman will turn to page 23 of the hearing before the Committee on Education and read the testimony of Mr. Barr, president of that institution, he could have found what he was looking for. Here is a sample. Similar admissions can be found through the testimony of Mr. Barr:

Mr. CRAIL. The $75,000 annual appropriation is used in the purchase of equipment, machinery, type, paper, and all supplies?

Mr. BARR. Exactly.

Mr. CRAIL. And pay roll. I am asking you why you say there is no profit. Is it not true that your last annual report says that you made a profit of $30,000 on a contract which you had with the United States Veterans' Bureau, and that you used that $30,000 for putting a third story on the building of your factory?

Mr. BARR. We did make a profit, but it was under competititve bidding, and that all inured ultimately to the benefit of making at a lower cost the books which we distributed to these various States for the student blind of those States.

Mr. CRAIL. In other words, you justify the means by the results obtained in using Government money to maintain a monopoly.

Mr. BARR. That bid was made for the benefit of the Government and the Government got the benefit of it, and if we had not been in position to have made the work for the Veterans' Bureau at a lower or better price, the Government, on the other hand, would have had to have paid a larger sum of money.

Mr. SCHAFER. Do you mean to tell me that an institution receiving an appropriation from the Federal Treasury, with no agency of the Federal Government having any control in the administration, on a competitive bidding made a profit on the Veterans' Bureau, Government work for the blind, disabled veterans, of $30,000, and then repeatedly this morning tell us that you are not a profit-sharing institution?

Mr. CRAIL. That is just one item.

Mr. BARR. It all goes back for the benefit of the blind, exactly; there is no distribution of funds. There is no profit sharing in this institution.

Whether the profit was $30,000, as asked of and not denied by, the president of the company, or whether it was approximately $28,000, as some claimed that the annual report of the company for the year 1926 indicated, or whether it was only $14,000, which the third story of the building cost which was built out of the profits, makes little difference. The company does make profits. The printed annual report of the Printing House for the Blind at Louisville, Ky., for the year 1926 is in the Library of Congress, and anybody can get it. In that report it is stated plainly that they made a substantial profit and with that profit they built a third story on the building of the American Printing House for the Blind.

Mr. SCHAFER of Wisconsin. Will the gentleman yield?

Mr. CRAIL. I yield for a question.

Mr. SCHAFER of Wisconsin. I chased down that statement of the gentleman from California, and I went through this entire report of the Louisville Printing House for 1926, and I can not find, directly or indirectly, any statement indicating that a profit of $30,000 or $20,000 was made on the Veterans' Bureau contract. I want to be fair with these blind people and with this blind legislation. I will very frankly state that I was led off the trail, as was the Committee on Education, with a statement which I have not been able to substantiate.

Mr. CRAIL. But the gentleman will admit that I am not responsible for his inability to find something which is in black on white and which the gentleman says he had before him. [Laughter.]

Mr. SCHAFER of Wisconsin. I will state to the gentleman that the gentleman from California definitely stated at the hearings that they made a $30,000 profit out of the Veterans' Bureau contract and we took his word for it, but up to this present moment the gentleman can not indicate any evidence substantiating that statement.

Mr. CRAIL. I have just told the gentleman where he can find it. Convince the gentleman from Wisconsin against his will and he will be of the same opinion still. I have cited page 23 of the hearing before the Committee on Education.

Mr. SCHAFER of Wisconsin. Here is the report. I wish the gentleman would read it into the RECORD.

Mr. CRAIL. I will find it when my time is up and let the gentleman confound himself. If it were not for the fact that I would have to take the time of the committee to do so now, I would find it and read it into the RECORD, but I will find it before this discussion is closed. Here it is:

Turn to page 14 of the fifty-eighth report of the board of trustees of the American Printing House for the Blind, Louisville, Ky., 1926, where the following appears:

> Second. General business beyond and outside of the printing of books for the schools in accordance with preceding paragraph; for example, blinded soldiers, the contract with the American Bible Society, and other small contracts to print books for individuals and sales to other than Government beneficiary institutions.

In reviewing the business for the past four years the transactions under paragraph 2 have greatly increased, especially during the year 1924–25, when the large contract for the War Veterans' Bureau was filled, evidencing a substantial profit.

Page 13 of the same annual report, issued by this Louisville concern, contains the following illuminating information:

> Under present conditions it is apparent to the board that in order to further the efficiency of the institution and to afford larger service to the State institutions, it will be necessary to increase the capacity of the plant. With this condition confronting us, we have entered into a contract for an additional third story to the building of the American Printing House for the Blind, and for the installment of the necessary machines and electric motors for the proper operation of the institution.
>
> The sum of this expenditure, as shown by the bids received by the architect, is approximately $14,000. The funds to meet this expenditure are fortunately on hand, due to the profits made from the sale of books exclusive of books furnished to the State institutions.

Page 8 of the same annual report indicates accumulated profits of $27,873.89 at the close of the fiscal year ending June 30, 1926, in the following:

Balance accounted for as follows:	
Deposit in Citizens Union National Bank to credit of treasurer of American Printing House for the Blind, June 30, 1926	$28,014.54
Less checks outstanding	170.65
	27,843.89
Petty cash fund	30.00
	27,873.89

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. WARREN. Mr. Chairman, I yield the gentleman five minutes.

Mr. CRAIL. I can not make much headway when I am interrupted and beleaguered by a gentleman who simply shows his ignorance of this question.

Mr. GARBER of Virginia. Will the gentleman yield for a simple question?

Mr. CRAIL. I will; yes.

Mr. GARBER of Virginia. The gentleman stated a moment ago that there were three of these institutions located in the United States. Will the gentleman tell the committee where the other two are located?

Mr. CRAIL. The best equipped one in the world is at Los Angeles, Calif., and one is in New York State. I will say that the institution at Los Angeles, run by blind people, is responsible for practically all of the advancement that has been made in America in Braille printing, both in quality and in economy, in the last 10 years. This bill would absolutely shut them out and they could not print any of these books, because, as was testified before this committee, the Government subsidy is used by the Printing House for the Blind, at Louisville, Ky., for the purpose of engaging in commercial printing and for the purpose of enabling them to underbid competitors in the printing of blind books, and that is not what the Congress of the United States should want.

Mr. THATCHER. Will the gentleman yield in the interest of fairness?

Mr. CRAIL. Can not the gentleman get his own time and present the other side of this matter? I have no objection to a question, but I do not think the gentleman should take my time by making a statement. However, I yield.

Mr. THATCHER. Is it not a fact that the American Printing House for the Blind could not buy a piece of machinery, replace anything, or pay a water bill unless they were able to make some incidental profit on outside contracts?

Mr. CRAIL. I know that the Braille Institute of America, at Los Angeles, gets no subsidy whatever, and that it pays its water bills and its light bills.

Mr. THATCHER. Is it endowed?

Mr. CRAIL. I do not think it is endowed.

Mr. THATCHER. To any extent?

Mr. CRAIL. Not to any extent, to my knowledge, but it is supported by the benefactions of generous people who are interested in the blind.

Mr. SIROVICH. And by public subscriptions?

Mr. CRAIL. Yes.

Mr. HALL of Illinois. Did that institution ever have any governmental subsidies?

Mr. CRAIL. It has never had any from the Federal Government, State, county, or city of any kind.

Now, friends, I am not making a plea at this time for the bill which was introduced by me. It is not before the House. That was thrown into this argument simply to disconcert me. I want to discuss the merits of this bill which is before us. If this subsidy is used to compete with other printing houses in the country, of course, that merely means that the Printing House for the Blind at Louisville, Ky., is going to do all of this printing, because it can underbid any printing house for the blind, regardless of the fact that it is not the best-equipped establishment, that their men are not the best skilled, that they have not modernized their printing plant and invented ways of printing on both sides of the page, which has been done in this country by J. Robert Atkinson of Los Angeles, Calif., and which has almost cut in two the price of printing books for the blind.

Mr. SIROVICH. Will the gentleman yield?

Mr. CRAIL. Yes.

Mr. SIROVICH. Since the gentleman is in favor of the principle underlying this bill what would he want to do to supplement it and make it satisfactory?

Mr. CRAIL. I would do this. If I had the time I would show you that this bill is for the benefit of the American Printing House for the Blind at Louisville.

Mr. SIROVICH. I wish the gentleman would answer my question.

Mr. CRAIL. I would provide that the printing and purchasing of books shall be by public bids and in fair competition. No concern enjoying a subsidy from the Federal Treasury would be eligible to bid. I intend to offer an amendment and under the 5-minute rule I will explain it. I am sorry I have not more time.

The CHAIRMAN. The time of the gentleman from California has again expired.

Mr. WARREN. Mr. Chairman, I yield three minutes to the gentleman from Alabama [Mr. BANKHEAD].

Mr. BANKHEAD. Mr. Chairman, I shall not consume that much time, but I want to say I am very heartily in favor of this bill and shall vote for its passage. I particularly desire to say, as an Alabamian, that I am unwilling to allow this opportunity to pass without expressing the appreciation of myself and other members of our delegation for the very generous and well-deserved words of praise that have been uttered on the floor this afternoon in eulogy of the accomplishments of Helen Keller, who is a native daughter of Alabama. [Applause.]

It so happens that her father and mine were in the same brigade in the Confederate Army, that her elder brother and myself were classmates at the University of Alabama, and that I knew Miss Keller when she was a child. It has been a matter of intense gratification to all the people of our State to observe her brilliant achievements despite the handicaps under which she has labored.

I want to express to the gentlewoman from New York [Mrs. PRATT] and to the gentleman from Indiana [Mr. LUDLOW] our appreciation of the kindly things that have been said with reference to Helen Keller. [Applause.]

Mr. LUCE. Mr. Chairman, I yield two minutes to the gentleman from New Jersey [Mr. LEHLBACH].

Mr. LEHLBACH. Mr. Chairman, as a member of the Committee on Education, I am gratified at the defense of the prestige of that committee by the gentleman from California, but the committee does not need that. It does not need the protection of Members who do not belong to the committee. If we, after the hearings, had desired to report out the bill sponsored by the gentleman from California, we were perfectly able to do so; but we concluded not to do so, because the committee is for the Pratt bill.

I want to read a telegram from an outstanding friend of the blind in the United States, Mr. Robert B. Irwin, of Montclair, N. J., in my congressional district, who is a member of the New Jersey Commission for the Blind:

MONTCLAIR, N. J., *February 26, 1931.*

Hon. FREDERICK I. LEHLBACH,
House of Representatives:

Understand Pratt-Smoot bill providing books for adult blind coming up for vote to-day. Strongly recommend supporting this measure. Indorsed by New Jersey Commission for Blind, American Library Association, and American Foundation for Blind. This bill keeps administration of funds in hands Librarian of Congress, who may buy books at the receiving competitive bids. Opponents of bill, headed by JOE CRAIL, of California, favor Government subsidy to private publisher in Los Angeles. Crail plan disapproved by workers for blind all over country.

ROBERT B. IRWIN,
Member, New Jersey Commission of Blind.

It is a disheartening thing, when since 1879 this institution in Kentucky and these public-spirited, philanthropic citizens have done this work for the benefit of the blind, to find it treated in certain quarters as a racket for people to muscle in. [Applause.]

Mr. WARREN. Mr. Chairman, I yield three minutes to the gentleman from Alabama [Mr. ALLGOOD].

Mr. ALLGOOD. Mr. Chairman, ordinarily I am against the increasing of governmental expenses, especially under existing conditions. However, I consider this one of the most humanitarian bills that has come before this session of the Congress.

In the first place, this act authorizes the Librarian of Congress to administer this fund, and it is my opinion there is no agency of our great Government whose affairs are better administered than are those of the Library of Congress.

In the second place, when a person of the outstanding character of Helen Keller comes before a committee of this Congress and testifies in behalf of this measure, I for one consider that enough evidence for me to support the measure. [Applause.]

Mr. WARREN. Mr. Chairman, I yield five minutes to the gentleman from Minnesota [Mr. KVALE].

Mr. KVALE. Mr. Chairman, there seems to be some misapprehension here. The Committee on Education, of which I am a member, has taken no formal action and is for no bill, and I believe the gentleman from New Jersey will support me in this statement.

Mr. LEHLBACH. I said the Committee on Education did not see fit to report the Crail bill.

Mr. KVALE. We have never been called into executive session to consider the testimony that was taken, and for that the chairman, I know, will be glad to take full responsibility.

As individuals, we have preferences. Mine are not pointed enough so that I feel justified in defeating at this time the legislation before us. Knowing the purpose of it, knowing the sincerity of purpose of the author, and realizing that the Library Committee has taken positive action and has put up a good fight and has been actuated by the highest motives, I still want to call the attention of the committee to the fact that there is much pertinent information that is contained in the hearings that were held by the Committee on Education.

It would have been well to have taken both sets of hearings—and I have read them both carefully—and consider together the matter that lies in both of those volumes. It seems to me it would have been well, probably, to have arrived at some compromise.

These two factions or these two groups have been in conflict all along. This has not been pleasant for the members of the committee that have been subjected to it. It has not been pleasant for those who have participated in the controversy, I know, but they are both striving toward the same end.

The author of the bill under consideration appeared before the Committee on Education and won all the members of that committee over to the belief that, certainly, she had no difference of purpose from that of the gentleman from California [Mr. CRAIL]. Yet you have these two institutions we hear about. It is not denied that the institution at

Louisville is subsidized to the extent of $75,000 a year, and neither the Committee on Education nor the gentleman from California [Mr. CRAIL] would think for a moment of retarding or impeding or destroying the work.

Yet you have a situation whereby, because of that assistance, naturally, that institution will have an advantage in any competitive bidding that is engaged in by it against other institutions for contracts for publication of these proposed books for the adult blind.

This is worthy of fair consideration.

Mr. ABERNETHY. Will the gentleman yield for a brief question?

Mr. KVALE. Yes.

Mr. ABERNETHY. Is there not enough work for both crowds?

Mr. KVALE. I am coming to that in a moment.

You are going to have a chance to vote upon an amendment which will limit the percentage of the total work under this appropriation that can go to any one institution. I hope the committee will consider and accept such an amendment. You are going to have a chance then partially to settle this dispute. I will say very frankly, however, that I have my own misgivings about it.

It so happens that you have at present two large institutions, and a third one that is almost comparable in size. Who knows but what next year there will be another, and then another and another that will ask similar consideration.

Then you have a school of thought here that thinks there should be a great many more branch libraries. Others believe that the provision in the bill regarding the extension of branch libraries does not amount to a great deal. Mr. Irwin, who has been quoted here, answered a question which I asked him in the committee after I had cited my concern about the matter, and had stated that I felt perhaps the setting up 60 or 70 or 80 branch libraries would mean that a large proportion of these books for the blind would stay on the shelves and collect dust, and he stated himself that there are about 15 now and he thinks there should be about 20.

He thinks this number will adequately cover the country, because, after all, we do permit them to mail out and to receive by mail, free of charge, these books. They are large and heavy. But if you have larger libraries, and fewer of them, obviously you will have in each a larger accumulation for the blind leaders to select from, and librarians can give more prompt consideration to requests for volumes they want.

Can we not be more dispassionate in the interest of the blind? I will say that if I had to choose between the two bills—and I get this from my own correspondence. I would be impelled to select the Crail bill as the one that the readers themselves prefer. Whether that is because they like better the books that come from the Crail Institute, I do not know. Let me say that within the last six months an invention has been patented which will very likely settle everyone of these questions about books for the blind. [Applause.]

Mr. WARREN. Mr. Chairman, I yield three minutes to the gentleman from Arkansas [Mr. GLOVER].

Mr. GLOVER. Mr. Chairman, ladies and gentlemen of the committee, I have the honor of being a member of the Committee on Education, which has considered this bill and other bills relating to this subject, and we have given careful consideration to it.

This is a matter that deserves careful consideration. I say to you that in dealing with the blind it is not a question of authorship or the pride of authorship of a bill, and anything of that kind ought to be brushed aside and we ought to deal with the question honestly and fairly for these blind people.

I am for the Pratt bill, the Senate bill now before us, which, as I understand it, is an exact copy of the House bill, which was considered by the Committee on Education and was introduced by the lady from New York [Mrs. PRATT].

I believe that this is a just measure, I believe it is fair and right; and if there be any class of people on the face of the earth to whom my sympathy goes out, it is for those who can not see the beauties of the world but who can get a little pleasure from the books and information that they can not get otherwise.

As I say, I am heartily in favor of this measure. I do not want to take more of your time because I do not think there is anyone who can justify a vote against it. I am one of those who have taken a great interest in the blind, and I hope that the bill will pass. [Applause.]

Mr. WARREN. Mr. Chairman, I yield the remainder of my time to the gentleman from Kentucky [Mr. THATCHER].

Mr. THATCHER. Mr. Chairman, and members of the committee, we are all in favor of the principle involved in this bill. I would not have taken any part in this discussion, beyond stating my interest in the measure, except for the very cruel, unjust, reckless, and, as I must consider them, wholly unjustifiable intimations made here on the floor touching the American Printing House for the Blind. This measure was not introduced for the benefit of that institution, but, alone, for the benefit of the unseeing adults of the Nation.

I want to say to you in all sincerity that if there is any institution in this country that is doing the Lord's work effectively and efficiently, it is the American Printing House for the Blind. For more than 70 years it has functioned for one purpose, and for one purpose alone, the furnishing of books and tangible apparatus for the blind at the lowest possible cost. It is the greatest printing house for the blind in the world, and it is known and esteemed in every land. It has proven its integrity and worth for three-quarters of a century. It is no experiment. It is a time-tested and fully proven institution of the highest value.

Gentlemen, talk about a subsidy. The term is a misnomer. In 1858 the State of Kentucky undertook the work of printing for the blind. They started an institution at Louisville. Kentucky was the pioneer State on the subject. Other States, because of the heavy cost of printing books for the blind children of the country, did not follow in establishing a printing plant for the blind; and the history of the country shows that no private enterprise for printing for the blind has been successful. So all the States came to Kentucky and said, "You have a plant; will you furnish us with books at cost, and allow us to contribute to your printing?" Kentucky said, "Yes; if you so desire."

Through all these years the American Printing House for the Blind has been a corporation, created under the laws of the State of Kentucky and functioning under a board of trustees. Under the act of Congress of 1879 the superintendents of all the institutions for the education of the blind are ex officio trustees of the board. Thus every State and Territory of the Nation is given, and exercises, a voice in the management of the affairs of the institution. The active, or locally resident, trustees are seven in number and are citizens of the highest business ability and integrity. They are doing a splendidly unselfish work. They serve without compensation and only as a matter of love for a great cause. There has never been authorized or issued a single share of stock. No capital stock is authorized and never has there been declared or authorized a penny of dividend or profit.

The State of Kentucky, actuated by a splendidly altruistic spirit, has invested large sums of its own treasury funds in property in this plant, for the splendid buildings to house it, and for the 6 acres of ground in the heart of Louisville which constitute its site. The whole is worth to-day more than $125,000.

Yet Kentucky has no advantage over New York or any other State in the operation of this enterprise. In 1879 the people of the country said to Congress, "Make an annual appropriation for the American Printing House for the Blind, so that this institution, which functions without profit, which operates only for beneficent purposes, can print books for the blind children of America and thus provide a better and more effective way of dealing with the subject." Thus in 1879 Congress authorized an annual appropriation of $10,000 to be utilized by the American Printing House for the Blind for the printing of books for the blind children of the Nation and the making of tangible apparatus for their

use at actual cost of production; the books and apparatus to be allocated to all the States and Territories and the District of Columbia on a pro rata basis, according to blind population in the schools of the country. That was increased later because of the growth of the need for the blind, in 1919, to $50,000, and in 1927 to $75,000. The basic act requires that no profit shall be made on any books or any tangible apparatus that goes to the blind schools, and the Secretary of the Treasury is given power in that act to withhold the appropriation if he finds any violation of the provisions of the act. So that out of Federal appropriations nothing can be expended for overhead in the way of paying insurance on the buildings, or for water, for light, for fuel, for machinery and plant equipment, and for all of those incidentals that are necessary to conduct an institution of this sort.

The way this work is conducted is this: They take the $75,000 annually and scrupulously apply it to pay for the labor and material for books and apparatus for the blind children in all the States and Territories of the Union. A separate account is kept of these appropriation funds. Then if they can get contracts from outside, either abroad or in this country, by which they can make an incidental profit, usually under competitive bids, and if they make any profit, they use that profit to replace the machinery that is worn or worthless, to take care of the light and fuel bills and all these inevitable overhead costs. The institution operates absolutely without profit so far as the blind children of the country are concerned, and the basic act applies only to the blind children of the country, and any charge or imputation that its affairs are not wisely and justly conducted is without foundation and wholly unjust. Recently there went to the city of Louisville from the Secretary of the Treasury Mr. Frank A. Birgfeld, the chief clerk of the Treasury Department, a splendidly competent man, who made an investigation into the affairs of the American Printing House for the Blind, and he made a report which is carried in the hearings on the Crail bill. In his report he testifies to the splendid conduct of the affairs of this institution, and how every penny of Government money is properly expended and accounted for. The accounts of the institution are audited under the supervision of the Treasury Department and the Comptroller General of the United States. The fiscal supervision is directly placed under the Treasury Department. Every safeguard is taken to insure proper expenditure of Federal funds.

I ask unanimous consent to revise and extend my remarks, and to place in them extracts from the hearings on the Crail bill, and also the statement of Mr. Birgfeld and certain other extracts and statements on the subject of the American Printing House for the Blind.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. THATCHER. I deny that $30,000, or as much as $20,000, was made on any Veterans' Bureau contract, and under leave I shall later include the statements of denial of trustees and officers of the institution touching this matter. That contract was awarded under competitive bid, and any profit which may have been derived therefrom consisted chiefly in the fact that the plates prepared thereunder are being used to emboss books for the blind children of America at less cost than might otherwise have been the case. Moreover, the amounts received under this contract came from general Veterans' Bureau appropriations, and no blind veteran ever had to pay a penny for any of these books thus printed. Two or three years were required to print these books. The basic act of Congress does not prohibit the making of a profit on work not performed for pupils in the blind schools of the Nation. Congress recognized the necessity for something of profit to be made on outside printing—else the institution could not function for the benefit of the blind children, as the act provides that as to them no profit can be charged. Profits on outside work can not be large, but, whatever they may have been, they have inured wholly to the benefit of the blind pupils of the entire country. In recent years the institution has twice reduced the cost of books for the blind children—25 per cent once, and again 15 per cent. This meant for them more books.

The trustees of the American Printing House for the Blind welcome examinations into the conduct of its affairs. It has a record of which to be proud.

I favor the passage of the pending bill because it will permit the furnishing of books to the adult blind in the best possible way.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. THATCHER. Mr. Speaker and colleagues, under leave given me therefor, I am extending my remarks on Senate bill 4030, and I am including as a part of same the report of Mr. F. A. Birgfeld, chief clerk of the Treasury Department, concerning the American Printing House for the Blind, together with certain other extracts and statements in the same general connection.

The so-called Crail bill (H. R. 9994) has for its purpose the authorization of an annual appropriation of $100,000 for the private concern known as the Braille Institute of America (Inc.), located in Los Angeles, Calif., and chartered in 1929, for the making and furnishing of embossed books for the blind of the country.

In the hearings on that measure before the House Committee on Education it appears that some of those favoring the bill assumed that in the contract which the American Printing House for the Blind some years ago had for the printing of books for blind veterans a profit of $30,000 was made. Neither the author nor any proponents of the Crail bill can produce any data or facts justifying such charge. No such profit was made; and as I have already pointed out in the discussion of Senate bill 4030, any profit which may have resulted on account of this contract was chiefly in the nature of advantages derived by the blind pupils of America in the various State and Territorial institutions for the blind, by reason of the fact that the plates made under this contract have since been, and are now, being used for the embossing of books for the benefit of these pupils. Thereby more and cheaper books are being furnished them.

Aside from this, as I have already pointed out, no blind veteran had to pay a penny for these books, which were paid for out of regular appropriations for Veterans' Bureau activities, just as hospital and other veterans' needs are paid for. Moreover, I venture to reiterate, the act of 1879—the congressional enactment under which the American Printing House for the Blind operates—only contemplates the printing and furnishing of books, and the making of apparatus, for the pupils who are in the educational institutions for the blind. Note the language of the act which sets forth the manner of distributing the books and apparatus furnished by this institution:

> The basis of such distribution shall be the total number of pupils in all the public institutions for the education of the blind, to be authenticated in such manner and as often as the trustees of said American Printing House shall require; and each institution shall receive in books and apparatus that portion of the total income of said bonds held by the Secretary of the Treasury of the United States in trust for the education of the blind, as is shown by the ratio between the number of pupils in that institution for the education of the blind and the total number of pupils in all the public institutions for the education of the blind, which ratio shall be computed upon the first Monday in January of each year.

These provisions, as well as the entire act itself, together with the construction placed thereon by the Treasury and accounting officials ever since its enactment, clearly show that the whole purpose of the act, and the appropriations made agreeably thereto, was to utilize these appropriations wholly for the benefit of the pupils in these institutions for the blind; and not for those who may be outside and not receiving instruction therein. If any blind veteran may be receiving instruction in any such institution he is the beneficiary of these appropriations.

It was for the reason that no Federal authorization has ever been enacted for the printing and furnishing of books for the adult blind that both the Crail and the Smoot-Pratt bills were introduced.

The "blind" referred to in the act of 1879 are clearly the blind pupils throughout the Nation who are receiving instruction in the State and Territorial institutions maintained for their benefit.

Reference is here made to my statement in regard to this whole subject, appearing in the CONGRESSIONAL RECORD of July 21, 1930, and appearing also in the printed hearings on the Crail bill already referred to, pages 132 to 152.

Our good friends, the very zealous proponents of the Crail bill, when challenged to produce the record to show a $30,000 profit on the contract for printing books for the blind soldiers of the Nation are, of course, unable to make such production. The utmost they can do is to quote the statement in the Fifty-eighth Annual Report of the American Printing House for the Blind—1926—to the effect that the business of the American Printing House for the four years next before had greatly increased, especially during the years 1924–25, when the large contract for the Veterans' Bureau was filled, "evidencing a substantial profit." The vivid imagination of the advocates of the Crail bill and its proposed beneficiary tortured this statement in such manner as to cause it to mean, to themselves at least, the exact and specific sum of $30,000. In the quotations which I shall make from the statement of Mr. A. C. Ellis, the very capable superintendent of the American Printing House for the Blind, the fallacy of such conclusion is amply indicated. Necessarily, the margin of so-called profit on work done for nonblind school agencies is comparatively small, and whatever that profit may be it wholly inures to the benefit of the blind pupils of the Nation, as in other discussions of the subject, I have sought to show.

In all its essential purposes and operations, the American Printing House for the Blind is a Federal agency, with the advantage that there has been furnished, entirely and solely for its uses, by the State of Kentucky, without charge or cost to the United States Government, the buildings, grounds, and equipment of the institution of the present value of more than $125,000. If the Federal Government were required to operate, in a direct way, a plant to do for the blind pupils of the Nation what is now being done for them by the American Printing House for the Blind, I venture the statement that the cost involved would be far in excess of the annual appropriations for the indicated purpose. Moreover, a large Federal sum would be required to build and equip the necessary plant.

The chief clerk of the Treasury Department, Mr. F. A. Birgfeld, an exceedingly competent and experienced official, last fall made a most careful and thorough investigation, at Louisville, of the accounts and operations of the American Printing House for the Blind, as the Treasury Department has fiscal supervision of the operations of the institution touching the expenditure of these annual appropriations. The trustees and friends of the American Printing House—because of what they have considered to be the grievously cruel and unjust attacks on its operations by the proponents of the Crail bill—desired that there be made an authoritative investigation of its affairs. The trustees—made up of seven active local members, and the ex officio members, the superintendents of all the educational institutions for the blind throughout the country—have ever welcomed the fullest inquiry into the management of the institution. If anything was lacking in the methods of that management, they wished to know what it was. If the Federal authorities should find, upon any such investigation, that any change of policy should be made, they were ready and anxious to have the benefit of any advice or suggestion to that effect. However, Mr. Birgfeld's report was, and is, highly commendatory of the work of the institution. After careful first-hand inquiry and survey he finds that its affairs are being splendidly conducted. Touching such investigation, the testimony given by him last November on the 1932 Treasury Department appropriation bill, before the House subcommittee, may prove of interest. The same may be found in the printed hearings, pages 28 to 32, and includes his report of the investigation. This testimony is as follows:

AMERICAN PRINTING HOUSE FOR THE BLIND

The CHAIRMAN. Here is an item for the American Printing House for the Blind, $65,000. Did you have any balance on that last year?

Mr. BIRGFELD. No, sir. That amount of $65,000, plus the following item of $10,000, being the return on the trust fund of $250,000—the Government subsidy, so called—has been used in its entirety because it represents only a part of the total expenses of the American Printing House for the Blind.

I visited Louisville, Ky., the week before last at the instance of Congressman THATCHER and Undersecretary Mills and made an investigation for several days, both as to the plant and as to their methods of procedure, their accounting, etc., and I have a report made to Undersecretary Mills that I doubt if you will want me to read now, but I should like to submit it and make it a part of the hearing.

The CHAIRMAN. It will appear in the record.

(The report referred to is as follows:)

REPORT MADE ON INVESTIGATION OF AMERICAN PRINTING HOUSE FOR THE BLIND

The following report of investigation of the American Printing House for the Blind was made at the instance of Congressman M. H. THATCHER as approved by the Undersecretary of the Treasury:

"Under dates of November 5, 6, and 7, 1930, I visited the American Printing House for the Blind, located at Louisville, Ky., and made an exhaustive examination concerning operation and management.

"The original portion of the present building was erected in 1883 on a plot of ground containing 6½ acres. The purchase and cost of the land and building was made from a fund of $40,000 which had accumulated from the State of Kentucky, and for the first time in the history of the world a supply of embossed books was assured the blind.

"Under an act approved March 3, 1879, a $250,000, 32-year, 4 per cent bond was set aside, the returns from which provided a subsidy of $10,000 annually. The Government subsidy of $10,000 annually, plus such contributions as were received from State and other sources, was insufficient for the needs of the blind, and Congress, by bill approved August 16, 1919, authorized an annual appropriation of $40,000. Again, by bill approved August 8, 1927, an additional sum of $25,000 was appropriated by Congress, making a total of $65,000, which has been appropriated each year since, plus the $10,000 subsidy, making a total of $75,000.

"It should be stated in this connection that in 1923 the State of Kentucky appropriated the sum of $25,000 for the purpose of building an addition to the original structure.

"The plant appears to be as well equipped as possible, considering the limited amount available for the repair and upkeep of present equipment or the purchase of new equipment. There is no doubt that those responsible are obtaining the greatest possible production, and that with the greatest possible economy.

"From the Government funds of $75,000 are paid practically all of the salaries and wages, as well as most of the supplies and materials going into the manufacture of books. Satisfactory working conditions in the institute attract a class of employees at a modest compensation, which would not be possible if good working conditions did not exist.

"I inspected the plant on three different occasions during my visit and have nothing but praise for the management and the manner in which the work is accomplished. Neatness, orderliness, and cleanliness were very pronounced. The employees appear to be happy and to be taking a very definite and personal interest in the task on which they are engaged. It would seem to be very clear that the greatest possible output is being accomplished by those in charge.

"There is every indication that the utmost economy is practiced from the time the materials are purchased until the completed books, etc., are delivered.

"A complete history of the American Printing House for the Blind appears in the CONGRESSIONAL RECORD, Seventy-first Congress, second session, volume 72, No. 166, where on page 13241 begins the extension of remarks of Hon. M. H. THATCHER, of Kentucky, in re subject Books for the Blind.

"A very careful examination was made of the books, records, accounts, etc., of the American Printing House for the Blind, and in addition basic principles were discussed with the public accountants who make and audit the report annually and who throughout the year are constantly in touch with the affairs of the institution.

"I found that the institution was maintaining a system of double-entry bookkeeping and a series of vouchers and accounts carrying all necessary detail and explanation. Great care is exercised by all those responsible for the management to see that purchases are made from the lowest best bidder, that materials and supplies are up to the necessary standard, and that every other thing is done in order to be of advantage to the institution and its beneficiaries.

"As a matter of fact after an exhaustive examination one marvels at the ultimate accomplishments, considering the limitation of funds.

"I have no hesitancy in saying in conclusion that I am satisfied the American Printing House for the Blind is being operated in the most economical and satisfactory manner for the good of the greatest possible number of the blind.

"Just one other word should be said about what is known as the general fund as contradistinguished from the United States Government account, for the fiscal year ended June 30, 1929.

"There was a gross expenditure of $130,114.67, or $55,114.67 over and above the amount appropriated by the Government. From the general fund are paid such items as heat, light, power, water, telephones, repairs, equipment, machinery accessories, and shipping expenses. For a plant of this size these expenses are necessarily appreciable.

"A copy of the Sixty-first Annual Report of the Board of Trustees of the American Printing House for the Blind, the same for the fiscal year 1929, is attached hereto and therefore further statement concerning annual expenditures is not deemed necessary.

"Respectfully submitted.

"F. A. BIRGFELD, *Chief Clerk.*

"NOVEMBER 17, 1930."

Mr. THATCHER. Just how did you find conditions there, Mr. Birgfeld?

Mr. BIRGFELD. I found a splendid condition of affairs. Working conditions were excellent. It occurred to me that the rates of pay were really very modest. I found employees willing to put in a little overtime whenever necessary and were happy to do it. They all seemed to be thoroughly alive to this humanitarian work. It is a very unusual situation, a little different from the employees where they are watching the clock and wanting to get home as soon as possible. They just seem to be wrapped up in the work.

Mr. THATCHER. The Comptroller General passes finally on these accounts for this institution, I understand.

Mr. BIRGFELD. Yes, sir.

Mr. THATCHER. Do you feel that the present method of supervision is sufficient from the standpoint of Federal appropriations?

Mr. BIRGFELD. Absolutely, especially in view of one fact: There has been a firm of certified accountants in Louisville who have been handling this work for a nominal consideration—again because of their interest in this work; and they not only make the audit and examination periodically as they may be called on, but they are so interested in it that they follow the thing up from time to time and from week to week, and they seem thoroughly alive and thoroughly sensed with the unusual situation and the privilege they have of contributing something toward this magnificent enterprise. The books and records were amply and well kept.

Also as a result of the insinuations and charges made by the proponents of the Crail bill, the president of the board of trustees of the American Printing House for the Blind last summer appointed a special committee to make a thorough study of the affairs and methods of the institution. This committee was made up of Thomas S. McAloney, superintendent of the Colorado School for the Blind, as chairman; Edward M. Van Cleve, principal of the New York Institute for the Education of the Blind, as secretary; and George S. Wilson, superintendent of the Indiana School for the Blind. All of these men are widely and favorably known in their work for the blind. No better committee could have been named. They made a careful study of the entire subject and found the indicated criticisms to be without justification. The following is quoted from this committee's formal report of its investigations:

A SKETCH OF THE HISTORY, PURPOSES, POLICIES, ETC., OF THE AMERICAN PRINTING HOUSE FOR THE BLIND

In 1858 a charter was granted by the Legislature of Kentucky establishing the American Printing House for the Blind at Louisville, Ky. At first it had meager support. In 1865 the State of Kentucky contributed to the printing house a sum of $5 for every blind person in the State and additional income was secured by various means from other States. The American Association of Instructors of the Blind in 1876 appointed a committee to memorialize the Congress of the United States regarding the financing of the movement to publish books for use in the schools for the blind, and in 1879 action was taken by the Congress providing $10,000 a year in perpetuity for the purpose of "aiding the education of the blind in the United States of America through the American Printing House for the Blind."

The State of Kentucky having provided the necessary funds, a site of 6½ acres on Frankfort Avenue in Louisville was purchased and a building erected thereon in 1883, which building remains the home of the printing house. A further appropriation of $25,000 was made in 1922 by the Kentucky Legislature for the erection of an addition to the building. Several years later the trustees of the printing house, out of funds accumulated through business operations not connected with its work of providing literature and apparatus for the schools for the blind in the United States, put another story upon this addition at a cost of approximately $14,350. This property is held in trust for the purposes indicated in the title and charter of the printing house by the trustees constituting the executive committee of the board hereinafter described.

For 40 years after the first congressional appropriation, through economical and efficient management of this printing house, the blind children attending schools of the country were supplied with textbooks. At first these pupils numbered 2,180; by 1919 the enrollment in the schools for the blind had grown to approximately 6,000. Realizing the inadequacy of the $10,000 annual Government contribution, the Congress in the latter year made an increased appropriation of $40,000, and this was again added to in 1927, so that the American Printing House for the Blind now receives an annual appropriation of $75,000 from the United States Government for the purpose of providing literature and apparatus for the education of the blind children of the United States.

MANAGEMENT

Management of the printing house is vested by law in a board of trustees consisting of seven persons, citizens of Louisville, and all the superintendents of the various public institutions for the education of the blind in the United States. Of these the members residing in Louisville constitute, under the by-laws, the executive committee of the board. None of the trustees receives any compensation for his services to the printing house. Meetings of the board of trustees are held annually in the city of Louisville, usually the first week of July and at other times if deemed necessary. At the annual meetings reports are received and acted upon, policies are determined, and the officers are elected. The president is chosen from among the members residing in Louisville, the vice president from among the members who are superintendents of the schools for the blind. Its character as a nationally managed and nationally useful agency is thoroughly established. A superintendent of the printing house is elected biennially by the board of trustees, and to him is intrusted the general management of the institution, under the immediate direction of the executive committee.

HOW THE PRINTING HOUSE FUNCTIONS

The main business of the printing house is the publication of textbooks and supplementary reading matter and manufacture of apparatus to be used in the schools for the blind of the United States. Books to be so published are selected by a publication committee of the board of trustees elected biennially. This consists of three members, assisted by an advisory committee of four additional trustees elected for the same term. The committee seeks from the superintendents of the schools for the blind recommendations of books needed, and after careful study selections are made. The cost of embossing in Braille on metal sheets, printing, binding, and distributing copies of any book is so great relatively as compared with ink-print publishing that exceptional care must be exercised in the choice of what books are to be produced. A music committee consisting of three trustees, also chosen biennially, is charged with selection of music to be embossed in Braille. Apparatus used in the schools and manufactured at the printing house consists of maps, charts, and some writing devices.

The elements which enter into the cost of producing books for the blind and which must be considered in connection with every publication are as follows: First, embossing and proofreading of plates from which printing is to be done; these processes must be performed with great skill and accuracy, therefore expert workers are called for. Then come printing, binding, preparing for the market, and shipping. On an edition of 100 copies, let us say, of a third reader of 150 pages, 10½ by 11 inches in size, one side printing, bound in cloth, approximate cost percentages are: Plate material, embossing, and proofreading, 26.5 per cent; paper and press work, 23.5 per cent; binding, 25.7 per cent; supervision and all other expenses, 24.3 per cent.

A choice of a publication to be embossed having been made, notice is sent to all superintendents of schools requesting that orders be sent in advance for the purpose of making a fair estimate of the size of a first edition to be printed. Bulk of books in Braille precludes the possibility of maintaining any considerable stock of any title. First editions, therefore, usually number, for example, from 100 copies of a reader used by the larger number of pupils in grade classes to 15 copies of a text for high-school use, and all the way between. After the first edition is exhausted a considerable time must elapse before a sufficient number of orders for more copies of any title can be gathered to make a reprinting possible without being excessively costly.

Each school for the blind in the United States receives in books, music, and apparatus a proportion of the Government purchase of $75,000 worth of such appliances for the education of the young blind based upon the ratio of its enrollment to the enrollment of all the schools for the blind in the United States. This ratio is computed on the first Monday in January of each year. Into the price of these purchases go only the elements of actual cost of production and no charge for plant erection or maintenance is included.

To provide beyond the housing afforded through the generosity of the State of Kentucky the necessary equipment, heat, light, janitor's service, and all other expenses incidental to carrying on its function as a publishing association not for profit, commissions to publish literature other than that needed in the schools are accepted and sales of its products are made. Through its work outside its service to the schools and to meet the requirements of the Government purchases, sufficient funds have been received by these means throughout the history of the printing house to make possible its maintenance, thus contributing to the reduction in price of every book published or piece of tangible apparatus furnished. The more this additional business of the printing house is increased the more efficient it becomes through development of expert, continued, and full-time work, the greater will be the amount of its output of every kind, and the lower will be the cost of such output. Every saving effected is put back into production. There is no profit to anyone. The character of the printing house as a purely philanthropic means of serving the blind can not be questioned.

POLICIES

As the first function of the printing house has always been to serve the best needs of blind children in securing their education,

it was from its beginning concerned with improvement of methods and increasing of facilities in its work. The trustees favored experimentation looking to greater efficiency and always more and more output at less cost, yet always maintaining that quality must receive primary consideration. As early as 1908 the printing house announced at the meeting of the American Association of Instructors of the Blind a beginning of printing on both sides of the paper, and through all the years thereafter concerned itself with this project among others in securing a better production. In 1928 a successful printing of interpointed Braille was attained in its publication of a book for the Braille Circulating Library, of Richmond, Va., and later in the year by the issuance of the magazine, the Reader's Digest. An increasing use of interpointing as its acceptability is demonstrated may be expected.

In pursuance of the policy to furnish always what the schools needed, the trustees deemed it their duty to print books in Line Type, New York Point, and American Braille as long as these types were in use. This wasteful but necessary procedure continued until 1918. Then came the adoption of so-called Revised Braille, grade 1½, as the American standard, through agreement of the educators of the blind, and since there has come to be a vast increase in the service rendered.

With larger opportunities, purchases of supplies are made to better advantage than formerly, although the policy has always been, as it is now, to purchase through competitive bidding. The staff of workers is being maintained and improved. Such workers in the nature of the case must be specially trained. To attract and hold these expert workers the policy is to make conditions at the printing house as favorable as possible. Both the accounts and the manner of conducting the financial operations of the printing house are under the close supervision of a firm of chartered public accountants, and all operations connected with the expenditures under the Government appropriation are examined and approved by the officials of the Treasury Department of the United States.

Also, I include certain pertinent extracts from a recent statement prepared by Mr. A. C. Ellis, the present superintendent of the American Printing House for the Blind, as follows:

STATEMENT OF A. C. ELLIS, SUPERINTENDENT OF THE AMERICAN PRINTING HOUSE FOR THE BLIND, JANUARY 16, 1931

In the hearing before the Committee on Education, House of Representatives, on House bill 9994, the friends of the Crail bill made certain specific and unsupported charges against the American Printing House for the Blind which should be refuted. Apparently the main bone of contention is an alleged $30,000 profit which the American Printing House for the Blind is supposed to have made on a contract for books printed for the Veterans' Bureau. It is charged that such a profit was made and used to add a third story to the present plant. There is absolutely no basis in fact for such a statement.

In 1923 Congress made an appropriation to buy books for the blinded soldiers. This appropriation was made to the United States Veterans' Bureau. Specifications were drawn, and a number of Braille printing presses were invited to submit bids. The American Printing House for the Blind submitted the lowest, best bid. A contract was drawn, and a $10,000 bond executed to guarantee faithful performance of the terms of the contract. The books were manufactured for the Veterans' Bureau under three contracts with the American Printing House for the Blind, which were awarded as follows: First contract awarded January, 1924, for 68 titles of 3,720 volumes; second contract, awarded January, 1926, for 5 titles of 690 volumes; third contract, awarded January, 1927, for 16 titles of 1,095 volumes. The total business amounted to 89 titles of 5,505 volumes. This work went through the printing house during a period of three years. One of the greatest expenses in manufacturing Braille books is the embossing of plates on brass in the Braille system. The above contracts necessitated the making of 45,588 plates, which cost the printing house $41,029.20. It must be understood that this amount includes the cost of brass, embossing labor, and proofreading. This left $13,683.08, which was spent for printing and binding 5,505 volumes of books. This amount includes the cost of paper, bindery materials, and labor necessary for printing and binding the books. The result is that the average cost of printing and binding a volume of these books, exclusive of the plate cost, is $3.31 per volume, which is almost identically the same as the average catalogue price for an average size Braille book furnished to the schools during the same period. There is nothing in the records of the American Printing House for the Blind to show that a considerable cash profit was made on this contract. The greatest benefit that came to the printing house in this connection is the fact that the plates referred to above are retained in the fireproof vaults of the American Printing House and have been used from time to time to make reprints of thousands of volumes of books which have been furnished to the schools for the use of the blind boys and girls who are being educated. This fact makes possible the printing of these books at a much lower rate to the schools than would have been possible if the printing house had not received the Veterans' Bureau contract. This is an indirect, but a very considerable benefit, for it made it possible to furnish the schools for the blind a great many more books for the $75,000 appropriation than would have been possible otherwise.

It is very significant that the Universal Braille Press submitted a higher bid than the American Printing House for the Blind on this contract. If the printing house had not been in a position to manufacture the books for the Veterans' Bureau it is certain that the Government would have received fewer books for the money spent. Ever since the Universal Braille Press failed to receive this contract its manager and owner has complained bitterly because the printing house received the business. At the hearing he made the statement that it was impossible for him to understand how the printing house could have manufactured the books for the Veterans' Bureau on the basis of bids submitted unless the printing house manufactured the books with a part of the appropriation that should have gone to the schools, and was thereby enabled to deliver the books to the Veterans' Bureau at a price lower than the actual cost of production, thereby diverting a part of the Government appropriation from the benefit of the schools to the benefit of the Veterans' Bureau. He does not make his statement in the form of a definite charge, but states it only as a personal belief. If a part of the appropriation to the schools had been used to fill this contract, it is certain that the prices of books which were furnished to the State institutions would have been higher in the amount so diverted. During the years in which the Veterans' Bureau contract was going through the printing house the price of books to the schools were reduced instead of raised. It is also significant that the schools received the full amount of the annual appropriation for school books during these years. Because of the large volume of business enjoyed by the printing house during the years 1924–1927, inclusive, catalogue prices were reduced several times. One basic discount was for 25 per cent and another for 15 per cent. The total amount of these discounts alone, on books delivered to the State institutions, amounted to $26,712.48. It is very clear that the printing house not only was able to manufacture the books for the Veterans' Bureau at a cost lower than any other printing house could have rendered this service but that during the period in which it was engaged in manufacturing these books the prices of books to the schools were also reduced as never before in the history of the institution.

Throughout the hearing the friends of the Crail bill repeatedly refer to the $30,000 profit on the Veterans' Bureau contract which was used, as they charge, to build a third story to the printing house. The officials of the American Printing House for the Blind are at a loss to know how the proponents of the Crail bill arrived at this figure. It is stated time and again in the hearing that this information is contained in the annual reports of the American Printing House for the Blind. A careful examination of the minutes and the printed reports of the printing house fail to reveal any reference to such a profit.

There is an amusing inconsistency in the arguments set forth by the friends of the Braille Institute of America. In one instance they state that an enormous profit was made on the Veterans' Bureau contract, and later on in the hearings the manager and owner of the Universal Braille Press states that the bid submitted by the American Printing House for the Blind on the Veterans' Bureau contract was so low as not to cover the actual labor and material costs of making the books, and that in order to fulfill the contract the printing house must have furnished the books at a price lower than the actual cost.

* * * * * * *

Throughout the hearing it is charged that Mr. John W. Barr, president of the board of trustees of the American Printing House for the Blind, admitted under questioning that a $30,000 profit was made and used to buy real estate. A careful examination of his testimony fails to reveal any such statement or admission. The president merely stated that any profits realized on private contracts were utilized by the American Printing House for the Blind to provide more books for the pupil population of the schools for the blind. The charter of the American Printing House for the Blind specifically states that the board of trustees may contract to erect buildings, buy real estate, and pay the incidental expenses of operating the institution. The only specific rule laid down in the charter is that the price of the books shall be so low as to merely cover the cost of operation and the incidental expenses of the printing house. The appropriation of $75,000 for the purpose of providing school books and tangible apparatus for the students of the various public educational institutions for the blind requires that the full amount of the appropriation shall be used, without profit, for the purposes appropriated. The Government appropriations for this purpose are kept in a separate bank account and are accounted for in a most detailed manner. The expenditures out of this appropriation are examined and approved by the Treasury Department, and finally passed upon by the Comptroller General of the United States. The Treasury Department records will show that only bills for labor and material are ever approved out of the Government appropriations. By material is meant paper, plate metals, and such bindery supplies as are used in manufacturing the books. Not one cent is paid out of the Government fund for insurance, equipment, additional buildings, postage, lights, fuel, water, or other incidentals. The money received for books manufactured for private agencies, usually awarded under competitive bidding, is kept in a separate account from the Government appropriation. Both accounts are audited annually by a reputable firm of certified public accountants.

The press room on the third floor of the American Printing House for the Blind was erected at a cost of only $14,638.88 instead of $30,000, as charged by the enemies of the printing house. This money was not received directly from profits on the Veterans' Bureau contract, but resulted from an accumulation in the general account which was built up out of funds derived from the sales of books to private agencies over a period of several years.

Much argument is advanced to show that the business affairs of the American Printing House for the Blind are poorly managed. It is specifically charged that 56 cents per pound was paid for paper in 1921, whereas the manager and owner of the Universal Braille Press could buy the same paper for 28 cents per pound. The records show that 56 cents per pound has never been paid for paper in the history of the institution. In 1921 the records show that about 30 cents per pound was paid for paper, none of it costing more than 32 cents per pound. These were good prices for paper at that time, for prices had not begun to decline in 1921. The paper was bought under competitive bidding, as were other materials.

* * * * * * *

It is also charged that the records of the printing house are inadequate and fail to show the proper disposition of funds. Reference to the report by Hon. F. A. Birgfeld, chief clerk of the Treasury Department, will show that an exhaustive investigation by him proved that the records are complete and that they are in fine condition. It is also stated that all materials are bought on competitive bids, and that there is every economy in the administration of the business affairs of the printing house.

* * * * * * *

Much argument is advanced in favor of the blind selecting the titles that are to be embossed in Braille. Several of the witnesses at the hearing were very bitter in their condemnation of present methods of selecting their books. The American Printing House for the Blind has a publication committee made up of representative superintendents of the various schools for the blind. This publication committee selects textbooks that are to be used in the schools. Certainly no sane person could condemn this method. This publication committee has never attempted to dictate to libraries or anyone else what should be embossed in Braille. They simply consult the other superintendents and teachers in the various schools for the blind and decide upon a suitable list of books to be used for instructional purposes. Some of the witnesses seem to deplore the fact that there is little of the salacious, spicy reading that they would like to have. They seem to want unexpurgated editions of certain classics. Naturally, the teachers and superintendents charged with selecting literature to be used in the education of the blind children have steered clear of any books that are not used in the best sighted schools. Outside of selecting schoolbooks, the publication committee has no responsibility. The printing house simply prints for private agencies such books as they are willing and able to pay for.

* * * * * * *

From the above statements, it is very clear that the publication committee of the American Printing House for the Blind is entirely representative of the schools that are served by the $75,000 appropriation for textbooks and educational materials.

* * * * * * *

A very determined effort is made by the friends of the Universal Braille Press to show that the competition furnished by it is the sole cause of reductions in catalogue prices of books manufactured at the American Printing House for the Blind. The manager of the Universal Braille Press takes several pages to explain how his institution has forced the printing house, through competition, to lower its prices and cites as proof for his argument the fact that sweeping reductions in catalogue prices have been made since the time when he came into the field of blind printing. In 1917, about the time he started his press, a uniform system of printing, known as the Braille system, was adopted in the United States. Up until that time the American Printing House for the Blind had been forced to emboss books in two systems instead of one, which necessitated much duplication in materials and machinery, and a consequent higher price of production. With a uniform system naturally followed considerable economy. No reasonable person could claim credit for the economy thus effected. It was simply the natural result of a uniform system. Since 1921 there has been a marked decline in the market price of paper, brass, zinc, bindery materials, and other supplies that have been used in the manufacture of Braille books in this country. The prices on some of these articles have decreased more than 50 per cent. It is difficult to understand how the Universal Braille Press has had any effect on the general economic conditions of the country or how it can be claimed that institution should have credit for catalogue reductions incident to the drop in general commodity prices.

In 1917 the American Printing House for the Blind received $10,000 from the Federal Government, and furnished $11,904.04 to private individuals and agencies other than the State institutions, a total of $21,904.04. In 1930 the American Printing House received a $75,000 appropriation from the Federal Government. With the materials furnished to the schools out of the Government appropriation, together with cash sales to libraries, private agencies, and individuals, the total amount of books shipped from the printing house in 1930 amount to $126,601.79. This unusual increase in volume of business has naturally resulted in a wider distribution of overhead expenses and a greater production due to improved machinery and a higher degree of specialization that has come through a reorganization of the departments within the printing house. These basic causes have naturally resulted in cheaper catalogue prices, and no man nor can any institution in any justice claim credit for forcing the American Printing House for the Blind to reduce its prices.

Many statements are advanced by the friends of the Crail bill in attempt to show that the American Printing House for the Blind is a private institution, and as such should not receive any more consideration or recognition by the Federal Government than the Braille Institute of America. The American Printing House for the Blind was created by an act of the Kentucky Legislature, the building erected and equipment purchased by State appropriations. The present property of the American Printing House for the Blind, valued at over $135,000, is a gift to the blind boys and girls of America from the taxpayers of the State of Kentucky. No individual or corporation owns one cent of stock or has any financial investment in the property of the American Printing House for the Blind. The institution exists for only one purpose, and that is to furnish embossed literature to the blind at prices which cover the actual cost of production and the incidental expenses of operating the plant. The Federal appropriation of $75,000 is not, in fact, a subsidy but a direct appropriation to pay for books and tangible apparatus to be used by the boys and girls in the various schools for the blind throughout the United States. This appropriation is handled in a separate bank account, and every penny of it is spent to provide books for the school children on a nonprofit basis. Every penny earned from printing done for private individuals and private agencies is spent to increase the benefits to the school children.

It has been proved, throughout the world, that no institution can manufacture books and tangible apparatus for the blind and sell these materials as a commercial proposition. Several corporations have tried to make a business of this type of printing and manufacturing and have all been forced into bankruptcy. If we are to have suitable textbooks, and educational materials for the blind, the Government must pay for them by direct appropriations, which are in no sense a subsidy. This activity for the Government, for 50 years, has been an admitted attempt to aid the education of the blind. The vice president of the Braille Institute of America, the owner of the Universal Braille Press, admits in his statement that the American Printing House for the Blind is the logical institution to manufacture schoolbooks for the children for the various blind schools. A part of his statement is quoted herewith: "I have the greatest respect for those superintendents of the schools for the blind and others who have worked for the blind and I believe, as a matter of good business, that the American Printing House in Louisville, Ky., is the better equipped to print school texts, schoolbooks, and technical matter for the blind than anyone else." He makes it clear that it would be unwise to throw the appropriation for textbooks for the schools upon competitive bids.

It seems that this brings about agreement that the printing house is the logical place to manufacture textbooks. Let us turn our attention to the present method of producing books for the adult blind readers. Again it is evident that such books can not be printed and sold as a commercial business, for the blind are too poor to buy these expensive books. There are only two ways whereby a sufficient supply of Braille literature for the blind may be provided, either the Government will have to appropriate money for this purpose or private charity or philantropy will have to create an endowment sufficient to provide this much-needed Braille literature.

* * * * * * *

Mr. Speaker, with the founders, promoters, and sponsors of the so-called Braille Institute of America and related institutions I have no quarrel beyond that occasioned by the attacks which, through an excess of zeal for their own cause, they are led to make on others. To the extent that they may aid the needs of the blind, I am sure that their entry into a very limited field of endeavor is welcomed. They complain of the American Printing House for the Blind as a competitor or rival. If any question of rivalry is involved, the reverse is true, for the American Printing House for the Blind has been successfully engaged in making books and apparatus for the blind since 1858, while the Braille Institute was only founded in recent years. Yet the American Printing House makes no complaint of rivalry or competition. Greater than either or any institution are the needs of the blind for the keys of knowledge. More books and better books and cheaper books for them is the highest consideration. To bring about this result the American Printing House came into being and through the long years has functioned.

The Smoot-Pratt bill favors no particular institution. Its sponsors wish to have furnished to the adult blind as many books as may be possible. The more cheaply these books may be made the greater will be the number of adult blind who will be served and the better will the service be. If I were privileged to amend the measure, I would perhaps include a provision for a publication committee, with some of its members immediately representative of the blind, the Librarian of Congress to act as its chairman. Experience, however, can determine whether any amendment may be necessary. The Librarian of Congress, I am sure, will seek—in his administration of the measure—the best possible

advice; and this will doubtless lead him to consult, among the blind, those most competent to give him counsel.

Mr. Speaker and Members of the House, in the discussion of this subject I have believed it appropriate to submit these further observations and to quote these additional statements. For the American Printing House for the Blind, as the Nation's agency in providing books for the blind pupils of America, Congress make its annual appropriations. It is desired therefore that Congress may have—as it is entitled to have—the facts involved in order that its Members may better understand the methods followed and the policies maintained by the institution which for three-quarters of a century has proven itself to be the earth's greatest light for those of the unseeing world.

Mr. LUCE. Mr. Chairman, it is so manifest that the House with practical unanimity desires to vote for the purpose of this bill that I shall not engage myself in a discussion of its merits, but having for some time carried back and forth between here and my office two books, I at least want such reward as may come from showing the House 1 volume out of 14 volumes required for the printing of Pickwick Papers in the Braille system. If I had had to carry all the Pickwick Papers to and fro between my office and this House, I should not have been left in condition to address you at this time. I have here also one of the three volumes of a book by Zane Grey. Imagine the size of the ordinary novel and then consider the situation of a blind person desirous of having a library of books for the blind. The shelf room alone would not permit it. If there ever was a situation calling for help by the instruments that society uses for educating its citizens, surely this is one.

Let me bring you to the crux of the situation. There has been a conflict over the financial phases of the question and much difference of opinion as to who should be allowed to print these books. I pass no criticism on what I understand to be the excellent institution spoken of by the gentleman from California [Mr. CRAIL], but it was the opinion of your Committee on the Library that no monopoly of this work should be given to any institution. Then considering all of the argument for and against, we at last concluded that the wise place in which to put the responsibility was not outside of the city of Washington, not outside of the domain of Congress itself, but that we ought to keep in our own hands the control of this expenditure and decide for ourselves how and where and why it should be made.

So we have brought in this bill which puts the responsibility upon the Librarian of Congress. Who in official relation is the Librarian of Congress? He is the agent of Congress, and he is by statute put under the control of the Committee on the Library. We ourselves, in order to settle disputes among conflicting interests, said, a plague on both your Houses, we will do it ourselves.

Mr. SCHAFER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. LUCE. Yes.

Mr. SCHAFER of Wisconsin. Is it the gentleman's understanding that this $100,000 will be expended for books for the blind under competitive bidding?

Mr. LUCE. That is our expectation.

Mr. SCHAFER of Wisconsin. I am glad the gentleman has stated that, and in view of that statement I shall vote for the bill.

Mr. LUCE. And I may say that only this morning I learned that the Government Printing Office has been recently engaged in conducting experiments for printing books for the blind from plates which promise very beneficial results, and it may turn out after all that with our own instrumentality, the Government Printing Office, we can do this work more cheaply, and therefore spread the usefulness of the $100,000 more extensively than if it were done by private institutions or private charitable institutions.

But where it can be done best will be left to the determination of Congress, acting through its own committee, and acting through its own servant, the Librarian of Congress. Under those circumstances I think it is unnecessary to take further time, and that we might proceed with the reading of the bill. So I yield back the balance of my time.

The Clerk read as follows:

Be it enacted, etc., That there is hereby authorized to be appropriated annually to the Library of Congress, in addition to appropriations otherwise made to said Library, the sum of $100,000, which sum shall be expended under the direction of the Librarian of Congress to provide books for the use of the adult blind residents of the United States, including the several States, Territories, insular possessions, and the District of Columbia.

Mr. CRAIL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the gentleman from California a member of the committee.

Mr. CRAIL. I am not, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan [Mr. HOOPER], a member of the committee.

Mr. HOOPER. Mr. Chairman, I move to strike out the last word.

I do not intend to consume the five minutes to which I would be entitled. I did not take time under general debate to speak to the bill, but I wish to say a word of commendation before it comes to a vote.

It seems to me, in the midst of a session where we have seen almost all that is sordid and mean and greedy come to the surface, this bill offers one ray of light. We have an opportunity to-day to do a really kind and fine and generous thing for people who need kindness and generosity more than any of the other citizens of our country need it.

We have the opportunity here to bring, through the medium of the Congressional Library, to the blind people throughout the country a better knowledge and a better opportunity to read the literature of to-day than they have had before. I hope the bill will pass. I know it will pass. I hope any amendment to the bill may be defeated. It should pass in the shape given it by the committee.

Mr. Chairman, in addition to what other Members have said here to-day, when Miss Helen Keller appeared before the Committee on the Library and gave her testimony relative to this bill it was the most touching thing I have ever witnessed in all my life, and something that I will carry with me in memory to the end of my days. To see this woman, deprived by nature of two of her five senses, and therefore of the gift of speech, able to come there to make a plea in behalf of the unfortunate blind people of this country was to me one of the great moments of the six years I have spent in Congress.

We also have the sanction of one institution in the United States which is above reproach, namely, the Congressional Library, one of the most splendid of all of our American institutions. This library, we may be sure, will handle the duty delegated to it, to distribute these books throughout the country, as it should be done. We may be certain that fine results will flow from the passage of this bill, which is imminent. I hope every Member here will see fit to support the bill, one of the finest and best pieces of legislation that has come through this Congress since I have been a Member. [Applause.]

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. SCHAFER of Wisconsin. Mr. Chairman, I move to strike out the last two words.

Mr. Chairman and members of the committee, I am a member of the Committee on Education, which held extensive hearings on the so-called Crail bill. If you will read those hearings you will see that I attempted, in my humble way, to cross-examine witnesses so that we could get the full facts before the committee.

I am one of the Members of this House who believes that a Government institution should not be subsidized to the tune of $75,000 a year and be exempted from personal property, State, and Federal income taxes, and then go out in the open competitive field and compete against a private institution, which must pay its taxes and which does not have a Federal subsidy. I am just as strongly opposed to the Crail bill as I am to the subsidized Louisville Printing House for the Blind. It comes with poor grace for the proponents of the Crail bill to advocate that the Federal Gov-

ernment give $75,000 or $100,000 subsidy to a private institution and at the same time condemn the subsidy to another institution.

In the final analysis, I am in favor of having the Federal Government double or treble the appropriation for books for the blind and have the printing done by a Government agency. But we are in the closing days of the session. We must have legislation for the relief of these blind people. As a member of the Committee on Education who believes that the Crail bill is fundamentally wrong in principle, I urge the enactment of the pending bill without amendment, particularly in view of the statement of the chairman of the Committee on the Library that he understood the money that is provided in the bill will be expended under competitive bidding. If the California institution can underbid the subsidized Louisville concern, as the gentleman from California [Mr. CRAIL] has stated, they should be willing to accept this bill as it is, submit their bids, and underbid them and get all of the work. So in the closing days of Congress let us not jeopardize the passage of a bill to furnish additional books which the blind need. I hope that the pending bill will be passed without amendment. [Applause.]

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. ALMON. Mr. Chairman, ladies and gentlemen of the committee, I am heartily in favor of this bill. I think it is our duty to administer the affairs of this great Library of Congress in the interest of all of the people and especially of the blind.

I have risen to express my very great appreciation of what has been said by the gentlewoman from New York [Mrs. PRATT], the author of the bill, by the gentleman from Indiana [Mr. LUDLOW], and others, in regard to Helen Keller. Not only Alabama but the Nation is justly proud of the achievements of that wonderful woman. I take occasion to say this because she is a native of my home town, Tuscumbia, Ala. The Keller home, where Helen was born, is just across the street from my residence. It is still owned by a member of the Keller family. There are thousands and thousands of tourists from every State in the Union who visit that place every year; and when you all come down to Muscle Shoals to see me I will show you that wonderful historic home where Helen Keller was born. [Applause.]

Mr. REED of New York. Mr. Chairman, I move to strike out the last four words. Mr. Chairman and gentlemen of the committee, it was not my intention to say a word with reference to this bill or any proposed amendments. It occurred to me, however, that as chairman of the Committee on Education the Members of the House might like to get my ideas with reference to the bill, in view of the fact that the Crail bill was before us and long and earnest hearings were held with reference to the merits of this bill.

My position is this: I am for the present bill because no service would be rendered to the blind by entering into any controversy at this time as to just what we should do. I am satisfied in my own mind, however, that the blind population of this country, especially in view of the number of soldiers who were made blind by the war, should receive more consideration than has been given to them. [Applause.] In the first place, this Congress should appropriate money, in my judgment, as soon as we convene again so that some research work may be done by the best scientists we can get, so that we may look the whole field over, the world-wide field, and see whether some new method can be devised that is simpler than the present method of preparing books for the blind. The books are now very bulky, and they are very expensive to print. I believe that with the great facilities of research now available some better method can be devised so that all of the best literature, ancient and modern, may be placed before the blind of this country. I think they are entitled to it.

You will pardon me, I am sure, if I tell just one little story in the short time I have, touching the life of one person who, it seems to me, has made a great contribution to the literature and to the spirit of America. I refer to that beautiful and angelic character, Miss Helen Keller. When Helen Keller was four years old, her mind had never been disturbed by any information from the outside world. Through instruction and by sense of touch when she was 12 years old she was ready to receive her religious instruction. She was turned over to Rev. Phillips Brooks for her religious instruction. He taught this blind girl and he told her for the first time about God, the goodness and kindness of God, and how He loved her and loved everybody. When he had finished Helen Keller said, "Doctor Brooks, I knew all of that before but I did not know His name." Helen Keller has held up to the world an optimism, a courage, and a spirit that ought to take any person with normal faculties over the roughest spots of a tempestuous life. There may be many more Helen Kellers in the world, and I feel that this great legislative body, representing the spirit of America, should spare no means in coming to the assistance and aid of the blind population of this country. I believe that in justice to the blind readers of this country this bill should pass. [Applause.]

Mr. KVALE. Mr. Chairman, I rise in opposition to the pro forma amendment, for the purpose of completing the sentence——

Mr. DYER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DYER. As I understand it, the rule provided for one hour of general debate and then that the bill should be read for amendment. I wish to state that after the gentleman from Minnesota has spoken I shall insist upon the rule before the House.

The CHAIRMAN. The rule is being complied with.

Mr. DYER. There is no amendment before the committee for consideration, except a pro forma amendment.

Mr. JOHNSON of Washington. If the gentleman will permit, I would like to say that there is some confusion about the program for the rest of the afternoon. The telephones are ringing continuously. Seventy-five per cent of this House wants to have an opportunity to vote on the immigration restriction bill. I am afraid a motion may be made to adjourn when we go through the next suspension, and I hope that all here will stay on the floor in sufficient numbers to prevent adjournment and to choke off all further attempts to filibuster against the immigration suspension bill.

Mr. KVALE. When the gavel fell while I was speaking last, I was in the midst of a sentence, in which I was trying to tell the membership of this House what is happening in the research into printing for the blind.

Listen to me: In the Patent Office there is a little box about that size [indicating], less than a foot in diameter, I think. That box is capable of carrying a little roll, much after the fashion of a piano player.

Instead of having these bulky volumes [indicating volumes], you have a compact little roll that goes over a prepared and patented surface, permitting the reader to read in that fashion. These developments are going forward rapidly.

I do not think any fundamental issue is involved here, except getting books to blind readers, and I appreciate the validity of the argument that any amendment at this stage of the session is going to retard, and probably endanger, the passage of the bill. For that reason I do not care particularly about the fate of this amendment. I say it frankly.

But I am going to support the Crail amendment, and I would really like to see it prevail. I think the readers want it.

I do object strenuously to the attacks upon the character and the work that Mr. Atkinson has done, however. He heads the institution in California that we have been hearing about. The gentleman from California [Mr. CRAIL] probably will not have time to tell you about him. I ask you, in fairness, to read the hearings before the Committee on Education and discover for yourselves how one man, through a God-given inspiration, and by incessant and unselfish toil, has been able to make further advancement in the progress of efficient and clear printing in work of

higher quality and in a larger field than this industry has had in the past 75 years of its existence.

I think Mr. Atkinson deserves this tribute, here and now, regardless of the fate of the amendment that might involve his printing plant.

I say it is a miserable display when he or his plant becomes the object of attack, and when his motives in this proposition are questioned or impugned. There is not a member of the Committee on Education that will dare say he did not make a splendid impression, and that we were not all convinced that he has done a wonderful work, in which he has a surprisingly solid support from blind readers spread all over this Nation. He wants only what he is convinced is for the greatest good to the greatest number of blind readers. He knows and they know what he has done for them in his plant and his organization. You will agree with me if you read these hearings I refer to.

I predict he will continue his unselfish work for blind readers regardless of the outcome of this poor controversy, and that the proponents of the present bill will be more than glad to see that he and his plant are given every fair consideration. Further than that, I dare say that he will be found to be the leader in any development along the lines I have suggested for new methods in providing blind readers with less bulky and with more convenient ways of reading, if those ways prove to be practicable. Read the hearings, then make your estimate of this man Atkinson and of the work he has done and is doing. I have only the profoundest admiration for him.

Mr. CRAIL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRAIL: Page 1, line 9, after the word "Columbia," strike out the period, insert a comma and the following:

"*Provided*, That no expenditure of more than $100 of said fund shall be made excepting to the lowest bidder under fair competition; *and provided further*, That no part of said funds shall be paid to any corporation, institution, or concern which receives or enjoys directly or indirectly any subsidy from the Federal Treasury."

Mr. CRAIL. Mr. Chairman, ladies, and gentlemen, if this amendment is adopted it will make of a vicious bill a very good bill, which will provide books for the blind of this country. With this amendment the bill will have my hearty support and I would plead with you to pass the bill if the amendment is added to it, because it carries out the American conception of justice and fair play between man and man, and business.

Now, they drag in the name of Helen Keller, that grand, brave woman. To use her name is just like grabbing Old Glory and waving it above your head and shouting, "Come on, boys." Of course, Helen Keller is a wonderful woman and I am one of her greatest admirers. I would not for a minute say anything against her. I attended the hearings when she testified and I approved every word she said. She did not say a word in favor of this bill as against any other bill. No other bill was mentioned by her. She did not go into the terms or the provisions or the conditions of this bill at all. What she wanted was books for the blind. She wanted to take the blind readers out of midnight darkness, take them out of their intolerable idleness, and we all want this. With this amendment we will not only accomplish this purpose, but we will do it in an honest, fair, American way.

Gentlemen, I am earnestly hoping you will consider this bill on its merits and not merely from the standpoint of the claim that the Helen Kellers of this country need books. You will make of it a fair and a good bill if you adopt this amendment which I have offered.

Mr. WARREN. Mr. Chairman, I just want to take half a minute, in reply to what the gentleman from California has said about Miss Keller's attitude on this measure. I call the attention of the committee to her closing sentence in her testimony before the committee:

I ask you to show your gratitude to God for your sight by voting for this bill.

Mr. SCHAFER of Wisconsin. Mr. Chairman, I rise in opposition to the amendment.

I am opposed to the very adroitly drawn amendment, which, if adopted in the closing days of the session of Congress, means the death of any additional relief for the blind readers.

In my brief talk a few moments ago I neglected to indicate one additional reason that should cause Congress to approve the additional appropriation for the blind, as authorized in this bill.

The gentleman from New York [Mr. REED] has called attention to the many thousands of blind war veterans who would use these books. I agree with his position with reference to these veterans, but I want to call your attention to another class of citizens who would also read said books. Uncontradicted statistics indicate that thousands of American people have become totally blind by reason of the eighteenth amendment and sumptuary laws enacted thereunder, which have made available for consumption poisonous bootleg liquor which destroys the optic nerve and causes complete blindness. I urge in the name of all of the blind of this country, including those who I have just called to your attention, that the amendment now pending be defeated. [Applause.]

Mr. LUCE. Mr. Chairman, this amendment is so clearly unwise that I have no expectation that it will get support. Its effect would be to tie our own hands. As I pointed out, the present bill contemplates that the work shall be done by Congress, working through the Library Committee and in turn through the Library of Congress.

I am sure that the membership of the House will believe that it is unwise to pass legislation tying our own hands.

Being so confident that such will be the judgment of the House, I would at once move that all debate close on this amendment if it were not for the fact that I would shut off my good friend from New York, Mr. BOYLAN. If he desires to speak, I will yield the floor, but I give notice that after his remarks I shall move to close all debate.

Mr. BOYLAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. DYER. Mr. Chairman, I make the point of order that all debate on this amendment has expired.

Mr. BOYLAN. There has been no motion to close debate.

The CHAIRMAN. Under the rules of the House the amendment has been debated.

Mr. BOYLAN. Mr. Chairman, I move to strike out the last two words.

The CHAIRMAN. The gentleman from New York is recognized.

Mr. BOYLAN. Mr. Chairman, I think it would be a mistake to pass any amendment to this splendid bill at this time. I rose particularly to call your attention to the fact that we have in the city of New York in the very district represented by the gentlewoman, Mrs. PRATT, the author of this bill, a splendid institution for the blind, known as the Lighthouse. It really is a lighthouse, because there the blind are taught not only to read but also many gainful occupations.

But more than the mere reading, more than the gainful occupations, they are taught to help themselves. They are taught to develop a new mental attitude, and that, to my mind, especially to those afflicted with blindness, is of more and greater value to them than any other possible thing. They acquire a new mental attitude, a new view of life, and I am sure there is no legislation that we can possibly pass at this session of the Congress that will redound to our greater credit than the passage of this bill, because, as you know, "Hope springs eternal in the human breast," as has been well said. If we can renew the hope in those who have been physically incapacitated, what greater good can we do?

Of course, in our little course of transit through the world we must play our little part, and if in playing that little part we make the world a little brighter place to live in, if we smooth out the rough places in the daily path, we will, indeed, have done something worth while, we will have done something creditable as representatives of the people who have sent us here. I am sure that there is no piece of legislation that has come before this Congress worthy of more careful and greater attention than this particular bill.

I think if the distinguished gentlewoman from New York [Mrs. RUTH PRATT] does nothing else during her legislative career in Congress than to pass this bill she will, at the expiration of her service, have something noble and creditable to look back upon as a memento of her period of service in this body, and we all agree with her in feeling that she has done something of substantial worth in that she has added a new ray of hope to the blind of America. If we had more legislation of this kind, it would redound to the greater credit of the Congress. [Applause.]

Mr. LUCE. Mr. Chairman, I move that all debate upon the pending section and all amendments thereto do now close.

The motion was agreed to.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was rejected.

The Clerk concluded the reading of the bill.

The CHAIRMAN. There being no further amendments, the committee automatically will rise under the rule and report the bill back to the House.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. MICHENER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill S. 4030, and he reported the same back to the House without amendment.

The SPEAKER. The previous question is ordered under the rule. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider the vote by which the bill was passed was laid on the table.

THE TARIFF

Mr. BRUMM. Mr. Speaker, I ask unanimous consent that my colleague [Mr. ESTEP] may extend his remarks in the RECORD by inserting two articles written by Senator REED, of Pennsylvania, on the tariff.

The SPEAKER. Is there objection?

There was no objection.

Mr. ESTEP. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following articles written by Senator REED, of Pennsylvania, on the tariff:

[The Saturday Evening Post, Philadelphia, Pa., January 3, 1931]

TARIFF TINKERING

By United States Senator DAVID A. REED

It was 11 o'clock on April 8, 1789. The blue surface of New York Harbor was dotted with sailing ships. At the docks vessels flying many flags unloaded their cargoes. Spring importations were beginning to arrive. Iron from England, tea from China, rum and molasses from Jamaica. Saddles, clothing, carriages, canes, luxuries from everywhere. Winter had passed and the roads and trails had opened to travel. Settlers were coming down for supplies, visitors to see the sights, traders to inspect new stocks. Business was brisk. The city was excited and expectant.

There was more to account for the crowds than the swelling stream of commerce. Already the metropolis, with a population of 32,000, New York had become, in addition, the temporary capital of the country. The new Constitution had been finally ratified. The creaking machinery of government was beginning to function. In February the Electoral College had chosen George Washington as President and John Adams as Vice President of the United States. After waiting a month for a quorum, the first Congress had canvassed the election and reported the results two days before. A committee was on its way to Mount Vernon with the official notification. The House of Representatives, a step ahead of the Senate, was about to hold its first legislative session. In the old City Hall, hastily remodeled for the use of the National Government, the sound of hammers rang through the corridors even as Congress met.

On that April morning 34 of the 65 Members provided for in the constitutional apportionment were in their seats as Speaker Frederick Augustus Muhlenberg called the House to order. With New York's chief justice administering the oath of office, each solemnly swore to support the Constitution. Thereupon, we are told, "the House resolved itself into a Committee of the Whole on the state of the Union, Mr. Page in the chair."

A thin, frail figure arose—"a shy, blushing little man, with a quiet, thin little voice," as one biographer describes him, "which sank to a whisper at the end of every sentence." Short of stature, unimpressive in appearance, James Madison, of Virginia, addressed the Chair.

"I take the liberty, Mr. Chairman," he said, "to introduce a subject which appears to be of the greatest magnitude; a subject, sir, which requires our first attention and our united exertions. No gentleman here can be unacquainted with the numerous claims upon our justice; nor with the impotency which prevented the late Congress of the United States from carrying into effect the dictates of gratitude and policy.

"The Union, by the establishment of a more effective Government, having recovered from the state of imbecility that heretofore prevented a performance of its duty, ought, in its first act, to revive those principles of honor and honesty that have too long lain dormant.

"The deficiency in our Treasury has been too notorious to make it necessary for me to animadvert upon that subject. Let us content ourselves with endeavoring to remedy the evil. To do this a national revenue must be obtained, but the system must be such a one that, while it secures the object of revenue, it shall not be oppressive to our constituents. Happy it is for us that such a system is within our power; for I apprehend that both of these objects may be obtained from an impost on articles imported into the United States. In pursuing this measure, I know that two points will occur for our consideration. The first respects the general regulation of commerce; which in my opinion ought to be as free as the policy of nations will admit. The second relates to revenue alone; and this is the point that I mean more particularly to bring into the view of the committee.

"Not being at present possessed of sufficient materials for elucidating these points, and our situation admitting of no delay, I shall propose such articles of regulations only as are likely to occasion the least difficulty.

"The propositions made on this subject by Congress in 1783 having received, generally, the approbation of the several States of the Union, in some form or other, seem well calculated to become the basis of the temporary system which I wish the committee to adopt. I am well aware that the changes which have taken place in many of the States, and in our public circumstances, since that period, will require, in some degree, a deviation from the duties then affixed; nevertheless, for the sake of that expedition which is necessary, in order to embrace the spring importations, I should recommend a general adherence to the plan.

"This, sir, with the addition of a clause or two on the subject of tonnage, I will now read, and, with leave, submit it to the committee, hoping it may meet their approbation, as an expedient rendered eligible by the urgent occasion there is for the speedy supplies of the Federal Treasury, and a speedy rescue of our trade from its present anarchy."

THE PROTECTIONISTS' FIRST VICTORY

Madison's resolution called for a specific duty on rum, spirituous liquors, molasses, wines, teas, pepper, sugar, cocoa, and coffee. On all other imports it was proposed to levy a flat ad valorem duty of 5 per cent, based on their value at the time and place of importation—the first application of American valuation, so hotly debated more than a century later. Such was the beginning of tariff legislation in the United States.

As sponsored by Madison, the resolution was strictly a revenue measure. It was imperative that money be raised at once. The public purse was flat. The country was deeply in debt. In addition to its own obligations, the Federal Government had assumed those of the States. Revenue was needed to discharge the debt, pay the Army, restore the national credit, give value to an all-but-worthless currency, and to run the Government itself. The tariff was a ready answer. Six years earlier, in 1783, the Congress of the Confederation had recommended a similar schedule of duties to the 13 separate States. With modifications, these in the meantime had been approved by most of the State legislatures. Now, clothed for the first time with the power to tax, the new Congress turned naturally to the system championed by Hamilton and already seen in successful operation.

But the tariff law which passed almost three months later differed radically from that proposed by Madison. For though he clung to the hope that free trade could be restored and opposed amendments offered for the protection of struggling industries, the protectionists had their way with the measure he introduced. As signed by President Washington on July 4 and limited by its own terms to a life of seven years, it emerged as a full-fledged protective tariff, its purpose proclaimed in the preamble. The new duties were declared to be "necessary for the support of the Government, for the discharge of the debts of the United States, and the encouragement and protection of manufactures." It was hoped that the customs collections would yield $3,000,000 a year of the $8,000,000 needed. During the first and only year of its operation—for the duties were increased a year later—it did yield the sum of $2,239,746.75, with an additional $157,376.24 in duties on tonnage.

Never since then, nor, in fact, since the Revolution, has the Nation known free trade. From that day to this, in the 141 years of its history, while the country has grown from a population of 3,929,000 to its present proportions, has built up an annual foreign trade of $9,000,000,000 and has collected $20,000,000,000 in revenue from customs duties, Congress has passed 85 tariff bills imposing or changing duties on imports. The average is one every 20 months. Included in this number were 33 general revisions, each representing a complete readjustment of the existing tariff structure. These have occurred at average intervals of a little more than four years. No tariff law has ever lasted more than 12 years. The Dingley law enjoyed the longest life of any,

remaining undisturbed from 1897 to 1909. Only one other, enacted in 1846 and in force for 11 years—one of the two lowest tariffs of the last century—endured for a comparable period. At times the tariff has been revised annually or biennially, usually in time of war or during intervals of political upheaval or economic readjustment, to meet rapidly changing conditions. Revisions came in clusters during the first decade and again during the Civil War. Among its tariff enactments, in addition to the 33 general revisions, Congress has passed 52 separate laws dealing either with individual items, a limited group of miscellaneous imports, or providing for horizontal increases or reductions in the general level of duties.

A HARDY PERENNIAL OF AMERICAN POLITICS

This compilation does not take into account any legislation dealing with purely administrative problems, reciprocal agreements with other countries, or laws affecting our insular possessions or providing for embargoes, subsidies, or preferential treatment of American shipping or goods shipped in American vessels, of which there have been a considerable number, and all of which were protective in character. The list is confined to tariff acts fixing duties for the continental United States.

Thus we discover that in our own country tariff tinkering has been almost a continuous process. It has become a national habit. Like other habits of long indulgence, it will be hard to break.

As a partisan issue, the tariff is, of course, the hardiest perennial of American politics. Originating in opposite opinions with respect to protection and free trade, it has been nurtured by the necessity of finding durable materials for party platforms. At the moment, however, I am not concerned with its partisan aspects, or the merits or demerits of particular tariff laws, or in the consequences of our legislative debauch. I shall neither abuse nor defend the tariff act of 1930, about which the country has heard so much and understood so little. If it is a good tariff, we should know it in a year or two. If it is a bad tariff, that should be equally evident. In either case, unless we change our habits, it will enjoy at best a transitory existence. For if our tariff history means anything, there will be another revision by 1940, at the latest. I venture that prediction now. Notwithstanding the early promise of the new Tariff Commission and notwithstanding the prospect that a number of duties will be changed by presidential proclamation, it is reasonable to suppose that the present law will have outlived its usefulness in less than a decade.

Conditions are changing rapidly throughtout the world. The currents of trade are never constant. A world-wide drop in commodity prices, superinduced or complicated by overproduction, faulty distribution, and other factors, has occurred in recent months, leaving a wake of economic wreckage. Business, though gradually recovering its breath, has not returned to a steady stride. New forces are also at work. Old methods of business are giving way to innovations born of the competitive struggle. Big business has turned to retailing—to the distribution of its own product. Farmers are experimenting with cooperative marketing of crops. New inventions, new mechanical processes, new discoveries in the field of chemistry and physics, and the rapid replacement of men by machinery are changing the whole character of our civilization. Chain ownership of stores, theaters, utilities, banks, and newspapers has become a commonplace in the business scheme. Who can tell how far the new industrial revolution will reach, or its ultimate implications? Who can tell how long it will take for several million idle workers to become reoriented and again to find regular employment? What will happen to the small business man who has been forced from the field by chain-store competition?

Let us look abroad. Industries rehabilitated with American gold; France apparently busy, prosperous, self-contained, with the second largest gold reserve of any world power; Germany, until the recent collapse of commodity prices, an industrial beehive, her internal indebtedness wiped out by a program of currency inflation and her people unencumbered by the cost of a large army and navy, asking now for a moratorium to assist her recovery; Italy and Czechoslovakia in the midst of an industrial renaissance, their people toiling long hours at pitiable wages in a desperate effort to capture some of the world's wealth; England top heavy with taxes, searching for a solution of her own unemployment problem, trying to interest the dominions in a scheme for an economic union and turning to tariff protection at home; Russia awakening from centuries of sleep to a vision of political and economic conquest; Japan industrially efficient and constantly seeking outlets for her surplus production and population; South America restless, ambitious, and overrun with revolutions; the whole world studying our success with mass production and hoping to apply the lessons learned. In addition, we know that every nation with anything to sell beyond its own borders is casting covetous eyes at the richest market of all, sustained by the vast wealth and tremendous purchasing power of the American people.

STRENGTHENED TARIFF DEFENSES

That we are entering an era of extraordinary competition is self-evident. Foreign goods and foreign workers will press with renewed vigor for entry into America. Our first concern, as always, must be the domestic market. To protect it against attack we have strengthened our tariff defenses and restricted immigration. We may cut the quotas again or stop immigration entirely. But who can foretell the trend of trade one year or two years hence? Business forecasts seldom attempt to look more than six months ahead. No one can say with certainty that American business will boom, go along at its present gait, or fall off further in the next few years.

I am impressed by the amount of business that is being done, and believe the volume will grow until we get back to normal. In time we will establish new records. But how utterly futile, with the echoes of the war still reverberating and the world in the grip of an economic and political upheaval of unprecedented proportions, to expect a tariff bill written in 1930, on the basis of competitive conditions existing a year or more ago, to meet our requirements 10 years hence!

Congress can anticipate national necessities within the limits of its capacity, but legislators are not omniscient. Nor do they always act in what is clearly the national interest. Much as we may deplore it, we all know that is true. Often they are persuaded by local sentiment or personal prejudice to take a contrary course. Yet Congress is what we make it, and the country gets what it deserves. If the tariff is not what it ought to be, we have only ourselves to blame.

FREE TRADE FOR UTOPIA

I have strayed into these byways to emphasize the fact that most tariff revisions occur because they are bound to occur. They may be forced by economic changes or by public opinion, or both.

Business is not a tideless sea, but a swift and turbulent stream. So long as we are to have a tariff at all, whether for revenue or protection, it will be necessary periodically to readjust its rates to meet changes in its volume and behavior. Tariff duties are the controls by which we regulate the flow of foreign products to our shores. As the waters rise or fall, we open or close the gates to maintain an even flow. Fixed dams are out of fashion. They no longer meet the needs of commerce.

In everything I say about the tariff I speak, of course, as a protectionist. As a Senator from Pennsylvania, that, perhaps, could be assumed. But even if I were not a Senator or a citizen of the State which from the first has fought for protection, I should be a protectionist. I believe thoroughly in protection, not as an abstract principle of government but as a practical means of encouraging domestic industry, keeping our people employed at high wages, and expanding the national wealth. In the beginning it may have been necessary to experiment with different systems. Whether necessary or not, we did so. It was a slow and at times a painful process, as the country tried tariffs of various sorts. Now, however, with our lessons at least partially learned we seem to know where we are going. With both political parties committed to the principle of protection, and the members of the minority party in the recent tariff battle disclaiming any desire to reduce the rates below the 1922 level, I think we may safely say that protection has come to stay.

As a theory free trade has in it an evangelical appeal. It presupposes a world at peace with nations living together as neighbors in Christian charity and with goods and populations moving over the face of the earth without artificial restraints. It fails to take into account such things as national rivalries, racial prejudice, immigration laws, natural or acquired monopolies of raw material, variations in wage levels and living standards, unbalanced wealth, differences in national character, and the whole range of social and economic problems inherent in nationalism and the competitive system. I will not argue with those who would change the system, but only remind them that it has been tried before.

It is quite possible that, over a period of centuries, the world would be better off under free trade. At that we can only guess. But with the world as it is, it would be suicidal to abandon the American protective-tariff system. In too many ways we already have allowed ourselves to be the doormat for Europe. To surrender all our domestic markets to them while they continue their own high tariffs against our goods would be sheer economic folly

An editorial in the Saturday Evening Post recently referred to the tariff as too technical for the average American to understand. It is true that tariff making is a technical process. To understand the tariff, however, it is not necessary to become involved in the intricacies of comparative costs, to know the price of pig iron in Philadelphia, the consumption of window glass in New York, or the imports of canned tomatoes. These are problems for the statisticians and specialists, who more and more are being relied upon to supply the materials for legislative action. For those who seek detailed information concerning any aspect of the tariff, there is a voluminous and accurate mass of material in the reports of the Tariff Commission and other Government agencies.

But for Americans generally, engaged in the never-ending struggle for existence, and, on the whole, making a better job of it than the people of any other part of the world, results are all that count. If protection protects them in their jobs, their profits, and their homes, they will fight for it. If it fails in this, it fails completely. For its only justification is in the benefits it claims to confer on the American people.

BULWARKS OF PROSPERITY

To this I would add one word of warning: Prosperity will always remain in part an unknown quantity. The tariff is only one of the pillars—I think the principal one, next to a sound currency—on which our prosperity rests. There will be business booms and business depressions, periods of inflation followed by deflation, which bear no relation to the tariff. When these storms come, no matter what their cause, the tariff is an anchor to wind-

ward. It is to be judged at any time, and in times of business recession particularly, with an eye on conditions in other countries.

The question for Americans to ask themselves is not "If protection means prosperity, why am I not prosperous?" It should be "Are we as a people more prosperous than the people of other countries?" If we are—and by every standard of judgment the answer is in the affirmative—the individual sooner or later will get his share. And lest we become too pessimistic or impatient over the failure of business to rebound as quickly as we should like to see it, let us remember that, relatively, we are infinitely better off in a material sense, enjoy more of the comforts and luxuries of life, eat far more food, and are better clothed and housed than any other people in the world. If proof is needed, we have only to look at our 25,000,000 automobiles, on which we spend $15,000,000,000 annually. I do not give the tariff entire credit for this happy state of affairs. But I do think that it and the restriction of immigration are the chief bulwarks of our high-wage level, and that this in turn is the channel through which our wealth is diffused and prosperity sustained. When recessions do occur, our recovery should be quicker for this reason, and I think we will find it so now.

At its best, a protective tariff encourages the establishment of new industries and protects those already established by giving them a reasonable competitive advantage in the home market. At its worst, it may cut off foreign trade and foster monopoly at home. The cure for monopoly, so far as it is fostered by the tariff, is to remove or lower the tariff.

WORK FOR 11,000 MEN

If the monopoly is due to popular preference, lower price, or superiority of product, as in the case of the American automobile industry, there is nothing to fear from it, nor need the industry fear the removal of tariff protection. In the recent revision we saw leading automobile manufacturers, acquiescing cheerfully in a reduction of the duty on passenger cars from 25 to 10 per cent. In the Payne-Aldrich Act of 1909 the duty on passenger automobiles was 45 per cent. The Underwood Act of 1913 reduced this to 30 per cent on cars valued at less than $2,000 and provided a duty of 45 per cent on more expensive models. When the Fordney-McCumber law was written, in 1922, the industry offered no objection to a reduction to 25 per cent on all types. In the 1930 law the 25 per cent duty was retained only on trucks. It has been evident from the first that Americans prefer American cars. It is also clear that, sustained by the wealth and buying power of the American people, the industry, producing on an enormous scale, can make and sell automobiles at a price which foreign competitors can not touch. Sure of their ability to hold the home market, our manufacturers are turning to foreign fields to sell their surplus output, and, consequently, are less concerned over tariff protection than over foreign tariffs.

As an example of what the tariff will do in enabling new industries to become established in competition with foreign monopolies, the story of the coal-tar chemical industry should be familiar to every American. In all our industrial history there is no better illustration of the value of protection. In less than 15 years we have seen the industry grow from practically nothing to one in which more than $100,000,000 has been invested, which employs more than 11,000 American workers, produces nine-tenths of our domestic dyes and exports a sizable surplus, and for the first time in our history makes us independent of Germany and all other countries in manufacturing processes and industrial equipment which, in the event of another war, could be converted overnight to the manufacture of explosives and military chemicals. There are more dye plants in the United States now than in all the rest of the world. This development could not have occurred except for the tariff.

It may interest critics of protection to know that with the establishment of the American industry the domestic prices of dyes have declined. They are lower now than before the war. Far from increasing the cost to the consumer, the net result of protection has been to reduce it. The explanation is simple: Before the war, German manufacturers enjoyed what amounted to a world-wide monopoly. They charged what they pleased and profited accordingly. All this has been changed by competition, both as between America and Germany, and among our own manufacturers. The American industry has learned how to make dyes and other coal-tar chemicals equal to any which can be imported, and is spending more money in research each year than the total investment of the domestic industry prior to the war.

Although dyes had been manufactured in the United States for many years, there were only seven manufacturers in this country when the World War began. Their total investment was less than $3,000,000. They employed 520 persons. In 1914, while we were importing 46,000,000 pounds of dyes from Germany, domestic manufacturers produced 6,619,720 pounds, valued at $2,470,096. All of these were made from imported intermediates—the intermediates being the raw materials which, themselves separated from coal tar by a simple chemical treatment, are in turn converted by complex chemical processes into dyes, drugs, perfumes, flavors, photographic chemicals, synthetic resins, and tanning materials. Nine-tenths of all our finished dyes came from abroad. By contrast, we are now producing 95 per cent of our domestic requirements by quantity and 85 per cent by value. In 1927 our production of dyes was 95,167,905 pounds, valued at $38,532,795. In 1929 we produced 111,000,000 pounds and exported one-third of our production. Before the war imported dyes cost the consumer from 44 to 53 cents a pound. The average price of all dyes sold now is 43 cents a pound. Of the low-cost bulk colors—indigo and sulphur black—we produce a large exportable surplus.

THE DUTIES ON DYES

What of the tariff during this development? For many years prior to the war, all dyes, with the exception of certain specified colors which were alternately transferred from the free list to the dutiable list and back again, with successive tariff revisions, carried a duty of 30 or 35 per cent ad valorem. Then came the war and the British blockade of Germany. Our last direct shipment of dyes from Germany reached the United States on March 19, 1915. Scattering supplies—and these were mostly German dyes—came thereafter from China, Japan, British India, and from England. Our stocks were soon exhausted. Prices soared to unprecedented levels. Many dyes were not obtainable at any price. In 1916, to encourage their manufacture in the United States, Congress passed a special act giving increased protection to dyes and other coal-tar products and intermediates. In addition to the ad valorem duty of 30 per cent provided by the Underwood Act of 1913, the new law imposed a specific duty of 5 cents a pound on dyes, with certain specified exceptions.

In October, 1917, the trading with the enemy act was passed. Four months later, on February 16, 1918, President Wilson issued a proclamation prohibiting the importation of dyes and chemicals except under license; not strictly an embargo, that was its practical effect. In February, 1919, three months after the armistice, licenses were granted for the importation of Swiss dyes not of German origin. In the fall of the same year the embargo was removed on German dyes, and they were again admitted under license. This license control was continued in the emergency tariff enacted in 1921, and remained in force until the passage of the Fordney-McCumber law in September, 1922. The latter measure provided a temporary duty on dyes, limited to two years, of 60 per cent ad valorem and 7 cents a pound, based on the American selling price of comparable domestic dyes. At the end of two years the ad valorem duty dropped automatically to 45 per cent and 7 cents a pound. There was no further revision until 1930, when the new tariff law reduced the duty on synthetic indigo and sulphur black to 3 cents a pound and 20 per cent ad valorem, without changing the remaining duties.

WHAT OF RETALIATORY TARIFFS?

There is the story of protection in a nutshell. At the close of the war the new industry, so important in time of peace and indispensable in war, faced a resumption of ruinous competition from Germany, which, incidentally, still makes more dyes than we do, with a smaller number of plants. Congress came to the rescue. The industry was saved. Not only saved but enabled to become so efficient that we are selling bulk dyes abroad in competition with Germany. Prices have come down and the tariff duty on these products has come down. The consumer is better off and the country no longer is dependent on foreign supplies. It has heeded the admonition of President Wilson, in his annual message to Congress on May 20, 1919:

"Although the United States will gladly and unhesitatingly join in the program of international disarmament, it will, nevertheless, be a policy of obvious prudence to make certain of the successful maintenance of many strong and well-equipped chemical plants."

Now, as for the fear expressed in some quarters that the 1930 tariff will result in retaliation and ruin our foreign trade. Two answers occur at once:

First. Our foreign trade not only has grown steadily for many years but has reached its greatest proportions under so-called high tariffs.

Second. If England, Canada, and other countries go in for increased tariff protection, it will be because they think it good business to do so, and not because of resentment over our tariff policy.

Tariff protection is an economic expedient to be employed when conditions seem to warrant its employment, and modified or discarded otherwise. Modern nations have prospered at different times under all systems, from free trade to high protection. England herself protected her industries until after the Napoleonic wars. Then, gradually, over a period of 50 years, she abandoned protection. Now, as pointed out in Mr. Isaac Marcosson's able article in the Saturday Evening Post of September 13, she is returning to a protective policy. In the future as in the past the world will experiment with protection and be guided by results. It is hardly conceivable that our foreign trade will suffer, for the fundamental reason that the American market is the richest in the world, and it is more to the advantage of competing nations to sell their goods in this country than it is to our advantage to sell our goods in theirs. Moreover, we are less dependent than they on foreign trade, and except for France, are more nearly self-contained. Under the circumstances, retaliation for its own sake would defeat itself by hurting others more than it could possibly hurt us.

A final word about the tariff act of 1930. It is not perfect. But it is too much to expect perfection. Tariff bills are always a patchwork. Like its predecessors, it bears the scars of the historic conflict between the agrarian South and West and the industrial East. In the present stage of our development that can hardly be avoided. Until all of us see the problem similarly and learn to act as Americans and not as sectionalists it is inevitable that tariff laws will be conceived in controversy and born in bitterness. The new law is not necessarily the best we are capable of producing under present conditions. It represents the customary compromise between extremes of opinion both as to the general value of protection and the particular merit of individual items and groups.

THE WISDOM OF COMPROMISE

If I were writing it, I should do it differently. I cheerfully grant those who disagree with me the same right of dissent. But I saw no immediate prospect that a better bill could be written on the eve of a national election, or with Congress constituted as it is. I thought it quite possible, even probable, that another attempt at revision would produce results even less acceptable. It was clear that if this bill were to fail, the clamor for revision would continue. That would mean going through it all again—the same arguments, the same speeches, the same facts, the same tedious and painful processes, to a somewhat similar conclusion. In the end the law would entirely please no one, violently displease many, and cost the country more than it would be worth.

To have defeated the Hawley-Smoot bill would have kept the country in suspense for two years more. Business could not stand the uncertainty. It had stood all of us it could stand. And I doubt whether some of those who took a leading part in the revision of 1930 could have stood the physical strain of another, right on its heels. I voted for the bill, not because I liked it but because it seemed to me the best of the alternatives offered. On the whole, I believe it will be helpful. In any event, it is a closed incident. If we are wise, we shall not attempt another revision for several years.

There are many reasons why the tariff can not be taken out of politics. Among them are: The Constitution of the United States; the Congress of the United States; the Supreme Court of the United States; the President of the United States; the people of the United States. One might go on and speak of the business interests of the United States, the workers of the United States, and such things as sectional jealousies, occupational rivalries, economic conflicts, local necessities, political habit, political tradition and the innumerable by-products of our political system. I shall get to these later. They are, after all, subordinate to the general grouping, and come under the head of "the people." And it is the American people, ultimately, who have kept the tariff in politics for more than a hundred years through the operation of public opinion.

As the sovereign authority in a democratic political system, the people, or public opinion, or the collective will of the majority—call it what we may—can do about as it pleases with governments, governmental forms, and governmental policies. Constitutions, courts, presidents, legislators, and laws are subject to its sway. From this it might be reasoned that if the tariff remains in politics we have ourselves to blame. But digging deeper still, we shall find beneath it all the fundamentals of all we know of human competition. In the end the tariff comes down to a struggle for advantage, even for existence, national, sectional, or individual. And that can not be changed.

In saying this I am aware that many Americans have hoped that the tariff could be taken out of politics. I sympathize with that viewpoint. I wish that it could. When I say it can not I mean under the conditions with which we are familiar at present. By changing our Constitution and our habits and eliminating selfishness from human nature, it might be done. Yet, looking at things as they are, I must reach a contrary conclusion. To some extent we can, if we choose, take politics out of the tariff. But it is too much to expect that the tariff can be taken out of politics. In the present article I propose to show why.

Let us begin with General Hancock. It was Gen. Winfield Scott Hancock, born in Montgomery County, Pa., who remarked in an interview that "the tariff question is a local question." That half truth, twisted into "the tariff is a local issue," probably cost him the Presidency of the United States. At the time, in October, 1880, he was the Democratic candidate for President. His opponents instantly capitalized the remark to his disadvantage. General Garfield defeated him in the ensuing election by the small popular plurality of 9,464 votes.

What General Hancock said was true as far as it went. The trouble was that he stopped halfway. The whole truth is that the tariff is both a local issue and a national issue. It is a mosaic of local issues, the sum of which makes the pattern of our national tariff policy. More explicity, we have a protective tariff because a majority of Americans believe in protection and, believing it in, are able, through their Representatives in Congress, to agree on a series of tariff schedules whose rates provide protection for innumerable local industries and local interests, as well as for those industries and interests which are more nearly national in character. Always in a tariff revision there are groups which, seeking their own advantage, lose sight of the larger interest of the Nation and fight with all the weapons at their command for a purely parochial viewpoint. When that happens, one side or the other suffers disappointment and defeat, or they compromise their differences and each side takes half a loaf rather than none.

What General Hancock did not see is that the tariff is first of all a national question. If we are to protect our industries, our farmers, and our labor against foreign competition, protection will have to be adopted and applied nationally. In so applying it, local interests which need protection will naturally come under the protective mantle.

If we were to go on a free-trade basis—something we have never done—obviously there would be no protection for anyone. In that sense the local and national interests are inseparable. One trouble with our tariff tinkering is that we too often allow local influences to blind us to the larger needs of the Nation as a whole. We see only what is before our noses. Considering political exigencies, this at times can hardly be helped. For Congress, it must be remembered, is likewise a mosaic of many minds and many viewpoints, characteristic of the country, and at no time serves a single master but responds to the lash of many whips.

To understand the tariff as we know it in the United States we must trace it to its source. And doing so, we come finally to the Constitution, and discover that the right to levy duties on imports is vested exclusively in Congress. In article 1, section 8, clause 1, we find this language: "The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises, shall be uniform throughout the United States." In clause 3, of the same section, Congress is given the power "to regulate commerce with foreign nations." Section 10 of the same article denies to the States, which formerly collected customs duties for their own account, the right to do so thereafter except under the control of Congress and "except what may be absolutely necessary for executing its inspection laws." Duties so collected would be transferred to the Federal Treasury. As Congress has concentrated all authority over the collection of customs in the Federal Government its jurisdiction is absolute.

From that point it is as easy to follow the development of America's tariff policy as it is the development of the country. In the beginning it was not necessary to protect American agriculture against foreign competition. America had the cheapest and most productive lands in the world. The South, in addition, produced its crops with slave labor. After the Revolution we imported molasses, coffee, tea, sugar, cocoa, cheese, salt, pickled and dried fish, and some salted provisions, but little else in the way of foodstuffs. For export we produced a surplus of tobacco, wool, and cotton, and were finding foreign markets for American lumber. Generally speaking, American agriculture has always been on an export basis. It was then, and has remained on an export basis since in such staples as wheat, corn, cotton, packing-house products, and exportable crops generally. In other farm products we are practically self-sustaining. Only rarely do we import in any volume foodstuffs which we are capable of producing at home in sufficient quantity to supply the domestic demand.

It was further apparent in the South, prior to the Civil War, that the mechanic arts could not develop in a slave-holding district. In the North, on the other hand, with free labor, a more rigorous climate and less fruitful soil, the population turned naturally to other forms of industry. New England bought the cotton of the South, wove it into textiles, and supplied the South with cotton cloth. As the wool and metals industries developed and manufacturers sprang up under the encouragement of a growing domestic demand and the moderate protection provided in earlier tariff acts, the North came in time to look upon the tariff first as a means to an end—the development of an industrial civilization in the United States—and later as the best safeguard of the industries so developed. As American wages advanced—and real wages as well as dollar wages have always been higher in the United States than in older countries—and labor acquired a larger share in the profits of industry, the worker joined with the employer in demanding that the protective system be continued and strengthened. This sentiment spread slowly as industry expanded westward.

For a time in the early part of the past century the South also favored protection. Gradually, however, a different philosophy developed, rooted in the free-trade tradition and strengthened by the knowledge that industry as the North knew it could not flourish in the slave States. First of all, there was no satisfactory labor supply. Except for the negroes, the South was thinly populated. Much of the land was held, after the English manner, in large estates or plantations. It was also thought for many years that the climate of the South would not permit the physical exertion required in industry—a fallacy since disproved. It was natural under the circumstances that the South should return to its early ideal of a simple agricultural State, selling its surplus abroad and receiving in exchange the manufactures of England and France. It had no need of protection for its own products, and its resentment against the tariff grew as the North flourished and forged ahead under the ægis of an economic system which, in the opinion of the Southern States, was one-sided in its benefits and simply increased the cost of living to Southern people. It was not then realized that the North was the South's best customer, and that whatever contributed to the prosperity of the Northern States would benefit the South by increasing the demand for its products.

The conception of an interlocking, interdependent, self-contained civilization, able to supply most of its own requirements, whether of food or clothing, raw materials or manufactures, in which the prosperity of the parts means the prosperity of the whole, was a later development. Although elemental in economics and the fundamental basis of free-trade doctrine, a few Americans continue to look abroad for its realization. They fail to perceive that we have built just such a civilization at home. Free trade among our own people, in a geographic area equal to the whole of Europe outside of Russia, and a slice of Russia besides, has been an important factor in building it. But there is this to be remembered by our free-trade doctrinaires: In the United States we not only have managed to maintain an approximate uniformity of wages and working conditions, the natural product of free trade, but have maintained them on a higher level by far than may be found in any other country in the world. I do not think we want to sacrifice it on the altar of a theory. Even if we knew the free-trade theory to be sound in international application, we would hardly plunge the present generation into misery that a future generation might prosper. There will be time enough to consider a change in our tariff policy when other nations meet our standards.

AN ISSUE EVER PRESENT

Thus with the North and South moving in opposite directions economically, it was inevitable that they should do so politically. And so for a hundred years we have had a protectionist preponderance in the North and a free-trade or revenue-tariff preponderance in the South, with variations and exceptions in both sections at different times. As industry invades the South and West and we try to think in national terms, the protective principle gains. Such has been our history from the beginning.

Political parties have praised and denounced the policy of protection. Political platforms have pointed to it with pride and viewed it with alarm. Within our own memory opponents have gone so far as to declare it unconstitutional to levy customs duties for purposes of protection—an obviously unsound position. It has been said that the tariff has never been the principal issue in a presidential contest. Technically that may be true. Yet it is and will remain one of the most important issues around which presidential and congressional campaigns revolve.

For our Government is really representative. Right or wrong, from our own viewpoint it represents us as a people more closely than we imagine. On an issue like the tariff the President necessarily expresses the will of the majority so far as he is able to do so. Similarly, the Congressman who fails to think as his constituents think or act as they want him to act does not as a rule remain in public life. With Americans in different parts of the country thinking differently on many things, it is as impossible to take the tariff out of politics as it is to make a Nebraska progressive out of a Wall Street financier. There may come a time when we shall all think alike about the tariff. It will not be this year, or next, or before the next elections.

WHO IS NONPARTISAN?

But why not turn it over to a nonpartisan, scientific commission of tariff experts?

Although there are several answers, they all boil down to one: It can't be done. In the first place, there are limits to the power of Congress to delegate to another branch or agency of Government the functions vested in it by the Constitution. It may lay down the rule and leave its application to others, but it can not avoid the responsibility for fixing the country's tariff policy.

Again, there is no such thing as a "nonpartisan commission," nor can there be while its members are appointed by a partisan President and confirmed by a partisan Senate, nor while those appointed possess partisan views on such subjects as protection and free trade.

Let us suppose that a scientific commission could be named. A scientific commission presumably would be a commission of economists. And it is the conflicting views of economists which have done more than anything else to keep the world stirred up over the relative merits of protection and free trade. Most economists, dealing in theory as they do, are free traders. So that would not "take the tariff out of politics," but push it further in. Whether called experts, economists, or merely a nonpartisan commission, any tariff commission organized on that basis would have to do one of two things—take orders from Congress in fixing the tariff policy, which would involve a surrender of its scientific, nonpartisan character, or defy Congress and the Constitution and go its own way, either with or without the approval of the President as the appointing power. Thus there is no solution there. That much is certain.

"But suppose the President could find such a commission, and suppose Congress approved of it, and suppose the commission and Congress were in accord as to the policy to be followed in fixing tariff duties?"

I can answer best by asking these further questions: How much of Congress would be in agreement with the commission? And what would the rest of Congress be doing—sitting idly by and saying nothing, or viewing with alarm and trying to abolish the commission? And what of the country at large? Is it conceivable that Nebraska and Wall Street will sit down at the same tariff table? Is it even conceivable that all Nebraskans will think alike on the tariff, or all Wall Street financiers? It has been my observation that there is as wide a difference of viewpoint on the tariff in Wall Street as between Eastern manufacturers who want protection and Western farmers who do not. And I know that all Nebraskans do not agree. There is, in short, no such thing as a general acceptance by the whole country of any viewpoint with respect to the tariff. It is clear enough that a majority of Americans are protectionists. I think it is a big majority. But at that point opinions began to diverge, and we have high protectionists, low protectionists, protectionists for agriculture only, and protectionists for industry only, all thoroughly honest and all equally convinced that those who disagree with them are wrong.

Is it possible that these differences, based on tradition and prejudice and distrust, or on different lines of reasoning, will suddenly subside, and that the country as a whole will accept a tariff written by experts? I think not. Not while every section and every group interest wants a high tariff on its own products and little or none on the products of other sections or other groups. It may be that in writing our tariffs we are approaching a you-scratch-my-back-and-I'll-scratch-yours philosophy. But there is plenty of evidence that a good many American producers still want their own backs scratched without being willing to scratch that of the other fellow. That's where the rub comes in.

Suppose that the President were to find a scientific, nonpartisan commission and appoint it. What would prevent his opponent, in the next presidential campaign, from appealing to every dissatisfied element in the country—everyone who thought the tariff too high or too low, or too high or low on some things and too low or high on others, or that there should not be a tariff at all? It has happened so often in the past that it could be anticipated as surely as night follows day. It is the best—or worst—thing our politicians do. It is the way the outs get in and the ins get out. It has been a favorite brand of politics since men first began to experiment with democratic institutions, and will remain the recourse of politicians as long as the world knows popular rule.

THE TARIFF COMMISSION'S POWERS

In presidential campaigns the tariff can be made an issue as long as there are Americans who think it ought to be changed. In congressional campaigns it will remain an issue in every district where sentiment is divided on the tariff. When the question reaches Congress itself, Congress simply carries on the battle in conformity with the will of the voters.

There remains the Supreme Court, in considering the development of our tariff policy. For the Supreme Court construes the Constitution, and it is for the court, in conjunction with Congress, to say how far Congress may go in delegating its duty-fixing powers to other agencies of Government. As a matter of fact, this never has been definitely determined. In the tariff act of 1922, Congress for the first time conferred on the Tariff Commission, which has been in existence in substantially its present form since 1916, the power to conduct investigations for the purpose of ascertaining differences in production costs of similar commodities at home and abroad, for the information of the President. The same act conferred upon the President the power to increase or decrease any tariff duty, within limits of 50 per cent either way, when necessary to equalize competitive conditions. The Supreme Court has held that this was constitutional, in that it was not a delegation of legislative authority but a use of the Executive authority to carry out the intent of Congress in conformity with a clearly defined principle. This decision, upholding the so-called flexible provision of the 1922 act, offers a wide field of speculation as to how far Congress may go in the same general direction.

The tariff act of 1930 further enlarged the authority of the Tariff Commission by empowering it to specify the required changes in existing tariff duties under the same rule and within the same limits, and report these to the President, instead of leaving it to the President to apply the facts received from the commission and say what changes were needed to equalize competitive conditions. The President, however, alone is given the power as under the old law to proclaim the changes found by the commission to be necessary, thus making them effective. If he disapproves them the duties remain as before.

THE PROTECTIVE PRINCIPLE

This effort on the part of Congress to find a solution for the problem of changing tariff duties to meet changing conditions without further legislative action, thus lengthening the intervals between tariff revisions, is to my mind the most significant step yet taken in that direction. It represents an honest attempt to take the tariff out of politics. If it could be taken out it would be by an extension of this principle. It would necessarily have to be supported by public opinion—not negatively or apathetically, but with sufficient vigor to convince both political parties that the country prefers this method of revision to the log-rolling tactics and patchwork product of other days. As yet, however, I am not satisfied that this represents a real solution. Nor does the delegation of power to the President to carry out a rule of tariff making laid down by Congress hold out a hope in itself that politics can be eliminated from tariff revisions, whether initiated by Congress or by the executive branch of the Government.

Whatever hope there is burns dimly, and lies in the complete conversion of the public to a wholly new conception of the tariff as an economic expedient to be employed when necessary for the protection of American producers against low-cost foreign competition. We should have to forget our inherited or acquired prejudices in favor of prohibitive tariffs, free trade, and the various arithmetical or philosophical gradations to be found between these two extremes. That will take time. The institutions of government are of gradual growth. Our tariff policy, such as it is—and except for our general adherence to the protective principle, it can not be said that we have a permanent policy—has required a century and a half for its development. It is hardly to be expected that we shall accept a new principle, still in the experimental stage, without submitting it to the test of experience. And even if it should prove practical, it would not end the conflict between rival schools of thought on the essential issue of protection.

The tariff-commission idea was not mentioned in the political platforms of 1884, and it was not until many years later, during the Roosevelt era, that the discussion of a nonpartisan, scientific commission began to be taken seriously. From then on the proposal grew in favor. In 1916 the present commission came into existence as an advisory body with fact-finding powers, but without the additional authority conferred by the acts of 1922 and 1930. In its present character it maintains headquarters in Washington, offices in New York, and a European office at Brussels, Belgium, and has become one of the most important fact-finding agencies functioning under the Federal Government.

Next to the gathering of facts for the information of Congress and the President—and I have never seen a more workmanlike statistical compilation than the Summary of Tariff Information submitted to Congress in connection with the recent revision—its chief function under the law is that of ascertaining and reporting differences in production costs in the United States and foreign countries, under the authority of the flexible pro-

visions of the tariff law. This may be done in response to a resolution of Congress, at the request of the President, on its own motion, or upon application by any party at interest

It was in a test case brought under the act of 1922 that the Supreme Court, in April, 1928, upheld the constitutionality of the flexible provision. The opinion was delivered by Chief Justice William Howard Taft, who had been a protectionist President. No dissenting opinions were reported.

THE DANGER OF UNCERTAINTY

It is perfectly possible under the broad language of this opinion for Congress to give the Tariff Commission a jurisdiction over customs duties equal to that exercised over railroad rates by the Interstate Commerce Commission. I do not think it will do so for many years, if at all. Yet the experiment points in that direction, and I am not at all sure that some Congress of the future will not throw up its hands, and rather than go through a tariff revision such as those to which we have become accustomed in recent years, turn over to a tariff commission organized as a quasi judicial body the entire task of adjusting tariff duties. That can never happen, however, until the country and Congress find themselves able to agree on some permanent principle of tariff making. Whether we adopt protection as a principle, cost of production as a guide, and competitive equality as a goal, or whether we find some satisfactory substitute for what seems now the most reasonable rule for the adjustment of duties, we must proceed from a fixed point of some sort and lay down definite rules for applying whatever principle we adopt.

I should like to think of the tariff as an economic and not a political instrument, to be left in the hands of capable men, under general instructions to use it to equalize competitive conditions as between America and foreign producers offering their wares in American markets. Such a tariff commission, approaching its responsibilities in a judicial spirit and guided in its decisions by dependable information gathered by its own specialists, would be of great assistance in dealing with a difficult problem. But even then there would be the danger of keeping the country in a state of uncertainty—the one thing business can not stand. As between that evil and the evil of periodic revisions by Congress, coming 8 or 10 years apart, or possibly at longer intervals, I should prefer the latter.

Finally we come to the mechanics of tariff making, as modern tariffs are made. I wonder how many persons realize how much of a task it is to revise the tariff—the serious study, hard work, and downright drudgery that go into it?

THE MECHANICS OF TARIFF REVISION

What happens when the tariff is about to be revised? Long before the bill is reported to either branch of Congress, as a rule, the Ways and Means Committee of the House and the Finance Committee of the Senate have begun their work. And long before that the Tariff Commission has brought its statistical information down to date, made a specialized study of competitive conditions in hundreds of different industries producing thousands of different commodities, and prepared for the submission of these data to Congress in condensed and quickly accessible form. The Summary of Tariff Information, on which many of the rates in the 1930 law are based, required almost a year for its compilation. Subsequently there were three revisions. And much of the material was already at hand, needing only to be freshened. With the index, the summary contains 2,753 pages. The Tariff Commission staff started work on it on May 4, 1928. It was finished between January 7 and March 11 of the following year, and delivered to Congress in sections. The hearings held by the Ways and Means Committee began on January 7, 1929, and ended February 27, lasting 43 days and 5 nights. About 1,100 witnesses were heard and 11,000 pages of testimony taken. In the Senate, hearings were begun by the Finance Committee on June 14 and ended July 18. Several hundred more witnesses were heard and 8,600 pages of additional testimony taken. The printing bill for the 1930 revision was a little more than $500,000.

The country need not be reminded how long the debate dragged out, nor of the weeks required to reach an agreement in conference on points in dispute between the Senate and the House. It is sufficient to recall that the law was signed by President Hoover on June 17, 1930, at 12.59 p. m., and that the new duties became effective from that moment, more than two years after the Tariff Commission began to assemble the basic material for the revision, and 17 months after the House began its hearings. And that was better time than was made in the revision culminating in the act of 1922.

In the tariff act of 1930, 3,218 dutiable commodities are designated by name, an increase of 378 over the dutiable list in the 1922 law. In the free list appear the names of 694 articles which may come in without the payment of any duty, representing an increase of 70 over 1922. Altogether there are 517 paragraphs dealing with duties in the 194 pages of the new law, excluding an extensive index. There are 295 separate sections in the administrative provisions, which account for half of its text. These alone required weeks of study and consumed several additional weeks of debate, dealing as they do with a multiplicity of problems quite as important and frequently more technical than those involved in the fixing of duties. And the 3,912 articles named in the law are only a start, for many thousands of others are caught in the so-called basket clauses of the law, by the use of the language "all other machinery" or "all other jewelry" not otherwise specified.

Everything in the world comes to the ports of the United States for entry into consumption, and all of it can be found somewhere in the tariff law by specific or general reference. It is estimated that not less than 25,000 different articles pay a duty at ports of entry, although only one-eighth of this number are named. The basket clauses catch the rest.

In writing the law Congress had the assistance of legislative drafting experts of the House and Senate; of the Attorney General's office, which worked with the legislative counsel continuously, calling attention to decisions and suggesting clarifications; of 40 or 50 experts from the Tariff Commission, whose technical knowledge was invaluable; and of customs officials and Treasury specialists concerned with the administration of the law.

Although the tariff lobby was large and active, I saw little of it. But I know that it was on hand, arranging or attending hearings, interviewing Members of Congress, gathering information, following the progress of the bill, and trying in various ways to influence the action of the committees or of the two Houses of Congress in their own or their clients' interests.

YOU CAN'T SATISFY EVERYBODY

Several thousand letters appealing for assistance or seeking information regarding the tariff reached my office in the course of the revision. Other Senators were similarly deluged, though as a rule less heavily. I have no way of estimating the number of callers who passed in and out of my own office. They came in a steady stream for months, beginning before the bill reached the Senate and continuing until after it was signed by the President.

For the most part these were legitimate appeals. Not everyone who came to Washington during the revision wanted the duties changed. Not all of those who did want them changed sought increases in the rates. Many of the letters were plain propaganda, of course. It was a monumental job simply to separate the wheat from the chaff and bring all the available information bearing on the same subject together when it was needed.

I can imagine what would happen if the task of revising the tariff as a whole were turned over to the Tariff Commission. It would not relieve Congress of political pressure, but merely force those concerned in the revision to divide their time between Congress and the commission. The commission itself would be under a double pressure—from the tariff lobby and from Congress. And if the resulting revision proved unpopular with the country, as most revisions do, the whole subject would be thrown into the next political campaign with the usual demand for a change—a change in the tariff, in the White House, in the make-up of Congress, the make-up of the Tariff Commission, in methods of tariff tinkering. The whole trouble is that no tariff law can possibly satisfy everyone. And that keeps it in politics.

DISTRIBUTION AND PROMOTION OF COMMISSIONED OFFICERS OF THE NAVY

Mr. SNELL. Mr. Speaker, I call up House Resolution 353, which I send to the desk and ask to have read.

The Clerk read as follows:

House Resolution 353

Resolved, That immediately upon the adoption of this resolution it shall be in order to take from the Speaker's table the bill (S. 550) entitled "A bill to regulate the distribution and promotion of commissioned officers of the line of the Navy, and for other purposes," and to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of such bill. That after general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Naval Affairs, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment the committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto to final passage without intervening motion, except one motion to recommit.

The SPEAKER. The question is on agreeing to the resolution.

Mr. SNELL. Mr. Speaker, I yield 15 minutes to the gentleman from New York [Mr. O'CONNOR].

Mr. O'CONNOR of New York. Mr. Speaker, I yield 10 minutes to the gentleman from Oklahoma [Mr. McCLINTIC].

Mr. McCLINTIC of Oklahoma. Mr. Speaker, ladies and gentlemen of the House, as I view this rule, it should not come up for consideration at this time, when there is business of far more importance than a piece of legislation which I dare say practically no one other than those on the Naval Committee has the least conception what it contains. I ask now if there is any Member on this floor who knows what is in this bill, other than the members of the Naval Committee. If there is, I want him to hold up his hand.

Mr. LAGUARDIA. I know what is in the bill.

Mr. McCLINTIC of Oklahoma. One other gentleman holds up his hand. Therefore, only two Members indicate that they know anything about the bill. It seems to me it would be in order to attempt to tell the Members of the

House something about what will be brought about if the bill is enacted into law. Section 1 provides that for every admiral there shall be 4 in the grade of captain, 7 in the grade of commander, 14 in the grade of lieutenant commander, and so on down to ensigns. In other words, you have an ultimate increase.

Section 2 provides for a selection board to convene once in each year, and there is nothing in this legislation to prevent a member of the selection board from passing upon his own promotion, and that is radically wrong.

Section 3 is a discrimination against naval officers who have come up from the ranks, and should be eliminated. There is a term in the Navy which they use to indicate naval officers who are not graduates of the Naval Academy. They call them mavericks. They want the Navy to be a silk-stocking Navy. They do not want the rank and file of the American people to ever be represented in the form of a naval officer. I am against any such discrimination. Whenever you build up a Navy or an Army without having officers in it that represent the rank and file of the people you destroy initiative and all of those virtues necessary to take care of an emergency, and you know it just as well as I do.

Section 4 relates to promotions, and unless amended it would have the effect of taking away the right of the President to appoint officers as guaranteed by the Constitution, Article II, section 2.

Section 5 relates to the disposition of officers who are not recommended for promotion and makes unjust discrimination between lieutenants who are graduates of the Naval Academy and those who are not by saying, "You can go down to the status of warrant officers."

Another discrimination, if you please, is against those who came up from the ranks and in favor of the graduates from the Naval Academy.

Section 6 relates to pay, and makes a special discrimination in favor of Naval Academy classes. It should be stricken from the bill for the reason that it gives Naval Academy students credit for one year when they only served a period of nine months.

Section 8 should be stricken from the bill for the reason that, according to our system of promotion which gives an officer a running mate, it would result in the promotion of two officers or the creation of two grades every time there was a fraction of a grade involved.

Section 9 was evidently put into the bill for the purpose of preventing captains and certain other officers being retired when they reach a certain age, thereby encumbering the promotion possibilities for those entitled to this consideration that have a lower rank.

In other words, this elimination makes it possible for Annapolis graduates to be commissioned in the future.

Section 10 would have the effect of causing every officer who was commended during the World War to receive special consideration of retirement by giving them a retirement status with an increased rank. In other words, by a special promotion system and a special selection system, it places all of the machinery that rightfully belongs to the Congress in the hands of a special board and allows them to run riot with procedure that ought not to be unless governed by law.

When this bill was considered before the Naval Affairs Committee, at first I thought it contained some merit. I was inclined to support the legislation, but when I made a careful study of it, dug into every phase of it, I found that the different sections of the bill will bring about, if I have interpreted them right, that which I have told you to-day.

So in the name of fairness, in the name of those officers who do not have any legislative rights, and who have no one to stand here and speak for them, I would ask you not to pass legislation that will wipe them out of service and bring about the kind of injustice and discrimination that should not be countenanced by this House. [Applause.]

Mr. O'CONNOR of New York. Mr. Speaker, I believe this bill should receive the serious consideration of the House.

There is one feature that I want to call to the attention of the House, that was brought to my attention in the hearing before the Rules Committee, and which has been referred to by the gentleman from Oklahoma [Mr. McCLINTIC].

I am sure there is not a man in this House who would admit he was a snob, or who would promote the creation of any caste in this country, but before the Rules Committee the chairman of the Naval Affairs Committee said in so many words, and I would like to have him explain in general debate more fully what he meant, that one of the purposes of this bill was to get rid, by retirement, of the men who came up from the ranks and became officers in the Navy because they just did not fit into the social situation. That is the way it was interpreted by myself and other Members, I am sure. If we are going to build up a military or naval caste in this country, it is time we paid some attention to it, and either do it deliberately or not do it indirectly. If it is the purpose of the bill to eliminate the so-called "mavericks," a term I resent, from the naval service by retiring them out, and that was the inference carried in the statement before the Rules Committee, no Member of the American Congress should ever vote for it.

Mr. McSWAIN. The gentleman will remember that the chairman of the Committee on Naval Affairs, the gentleman from Illinois [Mr. BRITTEN] stated on the floor of this House about a week ago that there were six or seven hundred officers who came up from the ranks during the war whom they desired to eliminate.

Mr. O'CONNOR of New York. Certainly.

Mr. McSWAIN. He told this House they desired to eliminate them. I say they are the backbone of the fighting men of this Navy. [Applause.] They will never be eliminated, however, with my consent.

It will be done over my protest if it is done.

Mr. O'CONNOR of New York. And it will be done over my protest, but the gentleman should not use all of my time. Before the Rules Committee the gentleman from Illinois gave the reason for eliminating them that they just did not fit into the "equation," and the inference was that they did not fit socially, and he did not deny he meant that inference.

Mr. BRITTEN. Will the gentleman yield?

Mr. O'CONNOR of New York. I yield.

Mr. BRITTEN. I would suggest to the gentleman and the preceding speaker that it is highly unfair to take this so-called backbone of the Navy and refer to them as mavericks.

Mr. O'CONNOR of New York. Well, I did not; you did.

Mr. BRITTEN. They are the best men in the service.

Mr. O'CONNOR of New York. It is time the gentleman said so.

Mr. McSWAIN. Why does the gentleman want to get rid of them? The gentleman said he did.

Mr. BRITTEN. Will the gentleman wait a moment please? I may say to both gentlemen that this bill to-day is written in their relief and was dictated by them.

Mr. McSWAIN. To scoot them out of the Navy. That is the way you want to get rid of them.

Mr. BRITTEN. No. We want to help them.

Mr. McSWAIN. How? Help them out? You said you wanted to get rid of them.

Mr. BRITTEN. Oh, no. The gentleman is entirely in error.

Mr. McSWAIN. Why, the gentleman said it standing right here on the floor of the House.

Mr. SNELL. Mr. Speaker, I move the previous question.

The question was taken; and on a division (demanded by Mr. SABATH) there were 115 ayes and 54 noes.

Mr. McCLINTIC of Oklahoma. Mr. Speaker, I suggest the absence of a quorum.

The SPEAKER. The Chair will count. [After counting.] Two hundred and thirty-two Members are present—a quorum.

The resolution was agreed to.

SECOND DEFICIENCY BILL

Mr. CRAMTON. Mr. Speaker, the conferees on the second deficiency bill have reached an agreement on the

greater part of the Senate amendments. The clerks are preparing the report. It must be acted on first in the Senate, and the House conferees would like to get approval of the report by the House to-night if it proves to be possible to do so.

DISTRIBUTION AND PROMOTION OF COMMISSIONED OFFICERS OF THE LINE OF THE NAVY

Mr. BRITTEN. 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 (S. 550) to regulate the distribution and promotion of commissioned officers of the line of the Navy, and for other purposes.

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 S. 550, with Mr. BACON in the chair.

The Clerk read the title of the bill.

Mr. BRITTEN. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BRITTEN. Mr. Chairman, will the gentleman on the other side use a portion of his 30 minutes, and I hope it will not be necessary to use all of the time on either side, in order that we may expedite the business of the House.

Mr. VINSON of Georgia. Mr. Chairman, I yield myself 15 minutes.

Mr. Chairman and members of the committee, notwithstanding the colloquy that occurred between the gentleman from South Carolina [Mr. McSWAIN] and the gentleman from New York [Mr. O'CONNOR] and the chairman of the committee, I shall, in the brief time allotted to me, endeavor to point out to this committee the wisdom and justification in passing this legislation. I think I can prove conclusively to every member of the committee that the objections raised by the gentleman from New York [Mr. O'CONNOR] and the gentleman from South Carolina [Mr. McSWAIN] are not founded upon facts, but, on the contrary, we are trying to do exactly what they would like to have done; that is, to protect the nongraduates who enlisted and who served during the war.

Mr. Chairman, the provisions of this bill are not new to the House, for this identical bill passed the House during the Seventieth Congress but died in the legislative jam in the Senate.

During this Congress the Senate has passed this measure. There is nothing new or radical in this bill. It simply smooths out the method of promotion now existing in the Navy and by certain provisions provides a safeguard for officers against elimination from the naval service without being given a chance or an opportunity of being selected and promoted.

At the very outset let me impress this one fact upon you—that this bill does not increase the total number of officers in the Navy by a single officer. The total number of officers in the Navy is regulated by law. Four per cent of the authorized enlisted strength of the Navy is the number of line officers authorized for the Navy, hence there are in the Navy 5,499 officers, and when this bill becomes a law there will be the same number of officers in the service. There is nothing in this bill authorizing the appointment of any additional admirals or captains. Under the law to-day, 1 per cent of the number of officers of the line in the Navy are admirals, which is 55; 4 per cent of the number of officers are captains, which is 220. There is not a single line in this bill which permits an additional admiral or captain to be created.

Let me call to your attention some of the results to be accomplished by this measure:

It will increase the regularity of periods or the length of time spent by each officer in each of the higher grades. Under the present law the period is irregular, an admiral spending a minimum of 8 years in that grade, whereas the normal length of time for the captain's grade is made 6 years, and for the commander's grade 5 years. The present law provides that officers who are not promoted to the grade of commander by the time they reach the age of 45, or to the grade of captain by the time they reach the age of 50, or to the grade of rear admiral by the time they reach the age of 56, shall be retired with a graded retirement pay of 2½ per cent of their base pay for each year's service they have rendered to the Government.

Under this bill admirals, captains, and commanders will spend 7 years in each of these grades, thereby equalizing the flow of promotion, affording better opportunity for acquiring the experience necessary for advanced rank and thereby increasing the efficiency of the officer personnel. This bill increases the length of time spent in the grade of captain by 1 year and in the grade of commander 2 years. This additional time spent in their respective grades qualifies them far better for higher command than the time spent under the present law.

By this bill we seek to increase the number of commanders 1 per cent. The law to-day specifies that 7 per cent of the total number of officers shall be commanders, which allows us 385 commanders. This bill proposes that 8 per cent of the officers be commanders, giving a total of 440 commanders, or an increase of 55. The percentage of commanders in the British Navy is 14.04, and they have to-day 691 commanders. The percentage of commanders in the Japanese Navy is 13.7, and they have to-day 518 commanders. Japan, with a navy three-fifths the size of our own, has to-day about 133 more commanders than have we. Under the law to-day we are entitled to 14 per cent of our line-officer strength in the grade of lieutenant commander, giving us 770 lieutenant commanders. This bill makes 15 per cent of the line-officer strength lieutenant commanders, or a total of 825, an increase of 55 lieutenant commanders. In the British Navy 27.68 per cent of its officers are lieutenant commanders, or 1,367. In Japan 20 per cent of its officers are lieutenant commanders, or 754. The slight increases provided for in these grades are compensated by reductions in the grade of lieutenant. But even with the very slight increases, the percentages are far below those prevailing in other navies.

Therefore, you will observe that the officer strength of the Navy has not been increased, but this bill merely rearranges the distribution in various ranks, increasing 1 per cent the number of commanders and lieutenant commanders, decreasing the number of lieutenants from 32½ to 30 per cent, and increasing the numbers in the two lower grades by one-half of 1 per cent. We have 1,787 lieutenants; we are reducing that 2½ per cent—down to 30 per cent—giving us 1,630 lieutenants. Likewise, we are increasing the total number of lieutenants (junior grade) and ensigns from 41½ to 42 per cent. To-day there are 2,282 lieutenants (junior grade) and ensigns, and under the proposed law the total number in that grade will be 2,309. Now, the object and reason that this is being done is on account of the changed characteristics of the present-day Navy. In 1916 the Navy was composed largely of battleships and armored cruisers, with a relatively small number of destroyers, submarines, and smaller craft. To-day the Navy is composed of a much smaller number of battleships and a very much larger number of light cruisers, destroyers, and submarines. The duty as a subordinate upon a large ship is quite different from the duty in command of a destroyer, costing $3,000,000, and moving with the speed of an express train. Where a lieutenant commander might then, and might now, perform the duties of first lieutenant on a battleship, a destroyer should be commanded by an officer with the rank of a commander. The submarines of 1916, which were then commanded by lieutenants, are small and antiquated ships compared to the submarines of to-day, and with the increase in the size of the submarine it has become necessary to assign to them officers with more rank and experience. Even on the battleships the great developments made in the electrical and mechanical appliances used in the control of gunfire have made it desirable that more experienced officers be assigned in charge of this all-important work on board the battleships. This redistribution in the grades is necessary for the most efficient operation of the Navy, but let me again

impress upon you that the total officer strength is not increased. We are merely changing the numbers in the grades of commander, lieutenant commander, lieutenant, lieutenant (junior grade), and ensign.

The bill also equalizes opportunity for selection as between the members of the same Naval Academy class and guarantees protection to the older officers in such class or group against retirement before receiving an opportunity for selection. Midshipmen enter the Naval Academy between the ages of 16 and 20. Under the present law the midshipmen who entered at 20 might have an opportunity of appearing before one selection board, whereas the officers who entered at 16 would have an opportunity of appearing before four selection boards. It is no fault of these officers that one happened to be older than another when he entered the Naval Academy, and it seems only fair that officers who enter the service at the same time should be granted equal opportunity for consideration for promotion, in spite of a slight difference in their ages. They have served the identical number of years and rendered almost identical service. The law that will be effective on March 5 unless this bill or other legislation is enacted will grossly discriminate against the officer who entered the service at a somewhat greater age than the average of his classmates. Without the passage of this bill 2 captains who have never been passed over by a selection board and 17 lieutenant commanders who have not been passed over by a selection board will be forced to retire prior to the 4th day of March, 1932. These are officers who are older than the average of their class and the selection boards have not gotten down to them. They would feel, and quite properly, that they had not been given an equal opportunity before the selection boards, and this would be true, but it would be no fault of the individual, only the fault that he happened to be a few months older than his classmates. Only one of all this number would be forced out if this bill passed. This bill seeks to correct this injustice and will necessarily add to the efficiency and morale of the naval service.

The bill evens out the number of selections for promotion to each grade annually, without increasing the actual number of promotions, which may remain subject to the occurrence of actual vacancies in the grade above. The number of officers who should be selected under ideal conditions for promotion to the next higher grade should be 14⅔ per cent of the number in that grade, that is one-seventh of the number in the grade; but ideal conditions do not exist in the line of the Navy. There are variations in the size of the classes; a large class will be followed by a small class, and a small class followed by a large class, and the actual number of vacancies will vary accordingly from year to year. This bill provides that not less than 10 per cent of the number in the next higher grade shall be selected, regardless of the actual vacancies in sight, but the officers selected shall not be promoted until the vacancies actually occur. Thus there will be selected each year not less than 22 commanders for promotion to captain, and not less than six captains for promotion to the grade of rear admiral. These officers are placed on a promotion list and they remain there until vacancies occur, when they are promoted in accordance with their standing on the promotion list to fill such vacancies. It might happen that in one year there would be only 2 or 3 vacancies in the grade of rear admiral, whereas in the following year there might be 12 or 14. In the first case, 6 captains would be selected, whereas there were only 3 vacancies in sight, but the 3 captains selected for whom no vacancies were available would remain on the promotion list until some of the vacancies that would occur in the following year actually became available, when they would be promoted to fill such vacancies. The excessive retirements from the first group of officers would be reduced and the excessive number of promotions from the second group of officers would be somewhat reduced, and a more nearly equitable opportunity for promotion given to both groups.

There would similarly be a minimum of 44 lieutenant commanders selected each year for promotion to commander. It is only under exceptional circumstances that the promotion list will be made use of, as I previously pointed out that under normal conditions the vacancies should equal 14⅔ per cent, instead of 10 per cent, which is provided for as the minimum number to be selected each year. This promotion list prevents excessive retirements in any one year and equalizes opportunity for promotion as between members of classes of varying sizes.

This bill safeguards the rights of an officer selected for promotion by insuring that once his name is on the promotion list it shall remain there until he is promoted, unless removed by the Secretary of the Navy for cause; and if, after his name has been removed, he is again selected for promotion, it insures that his name shall be reinstated on the promotion list in the position it occupied before it was removed.

This bill will accomplish a material improvement in the promotion system of the Navy, leading directly to increased efficiency because of the assurance of permanency of career and equal treatment accorded to all officers, subject, of course, to the normal competition with their contemporaries.

This bill provides that no excessive number of forced retirements can be made during any one year. The maximum number of captains that can be retired is limited to 23; the maximum number of commanders, 32; the maximum number of lieutenant commanders is 55. Under the present law there is great variation in the number that will be retired, due to the variation in the size of the classes.

Without the enactment of this bill, or similar legislation, it will be necessary for the class of 1912 to retire, in the year 1933, 62 lieutenant commanders out of a total of 99 at present in the class. These officers will be forced to retire after 21 years' service, at an average age of about 43½. This bill would restrict the number of these retirements to a maximum of 55 in that year, the Government retaining the services of the excess above 55, who would otherwise be retired. With a small class coming out the following year, this excess of 7 would probably be taken care of; but should the class of 1913 have more than 55 retirements, the 7 retained from 1912 and such additional number from 1913 as would bring the number up to 55 would be retired.

Protection is given to that large group of war-time officers, nongraduates, naval reservists, warrant officers, and former enlisted men who were, in 1920, amalgamated with the regular Navy. These nongraduate officers—I mean by that, officers who had not had the opportunity of going to the Naval Academy—were by the act of 1920 made regular officers in the Navy, and all the laws to-day relating to qualifications and promotions apply to these officers, and they are in competition with the graduates of the Naval Academy.

This bill seeks to protect these officers who rendered gallant and faithful service to the Government during the World War. Under the present law they must meet in competition with every officer that graduated from the Naval Academy, must pass the identical examination, and must qualify in exactly the same manner for promotion. On account of their limited educational qualifications a great many of these brave officers can not meet the acid test. It would be a hardship for these officers, who have rendered the service they have, to be thrown out of the service, and this bill permits them to retire after reaching the age of 45 or after 20 years of total service, with retired pay based upon the length of time they have served the Government.

If this measure is not enacted, these officers who fail are discharged with one year's pay, or those officers who were former warrant officers must revert to their former warrant status. For one, I am opposed to the hardship the present law imposes on these officers. It is nothing but fair, after they have served the Government in time of war, that they should be taken care of, and unless this measure is enacted they are kicked out of the service with one year's pay.

Let me impress this one fact: This bill does not make any increase in the number of officers in the service. It merely readjusts the percentage in several grades in order to make a more regular flow of promotion and afford more equal opportunity for promotion to the officers. It creates a pro-

motion list, but no promotion can be made until an actual vacancy occurs. It merely permits the selection board to select officers, place their names on the promotion list where their names remain until a vacancy actually exists, when they fill such vacancies in order of seniority. This bill will greatly improve the conditions and enhance the efficiency of the naval service, and by all means it safeguards and protects the rights of the nongraduate officers who amalgamated in the service in 1920, and takes care of these brave and patriotic officers who served the Government in time of war.

The distinguished gentleman from Idaho [Mr. FRENCH], the vice chairman of the Joint Pay Committee and the chairman of the Naval Appropriations Subcommittee, has objected to all personnel legislation on the ground that the Pay Committee is considering this subject matter and that any legislation along this line would tend to embarrass the work of the Joint Pay Committee.

With all deference to the distinguished gentleman from Idaho, in my opinion his ground for objection is baseless. The Joint Pay Committee when it was created by Congress was given jurisdiction only over the question of pay. By that resolution Congress did not confer upon the Joint Pay Committee the authority to deal with the question of promotions, or the distribution of officers in the various grades.

The Joint Pay Committee's jurisdiction by the very language of the resolution is confined exclusively to the question of pay. As an evidence of the correctness of my statement, he has offered in the House a resolution extending the life of the Joint Pay Committee and broadening its jurisdiction to deal not only with the question of pay, but, to use his own language, "distribution in grade and promotion of commissioned personnel of the services."

The enactment of this measure should not in the slightest degree embarrass or hamper the work of the Joint Pay Committee, but on the contrary it should aid the Joint Pay Committee, for Congress will have determined the grades and promotions prior to the Joint Pay Committee fixing the pay.

The gentleman from Idaho, in his remarks on this subject to the House, suggested "that promotion legislation should go hand in hand with pay legislation, or should precede it." Now the Joint Pay Committee not having the jurisdiction to consider promotion legislation, we are doing as the gentleman from Idaho suggested, seeking to enact a measure that should precede the work of the Joint Pay Committee.

The gentleman from Idaho suggested that promotion legislation should go hand in hand with pay legislation or should precede it. All we are seeking to do by this measure is to precede the pay committee's conclusions and findings, for by doing so—that is, settling the promotion legislation—it enables the pay committee to make a correct statement as to what the total cost of the service will be.

It would be putting the cart before the horse to enact pay legislation and then follow it with promotion legislation. The proper way to legislate is to create the grades and then apply the pay to the grades, so let no Member become confused that this bill is interfering with the work of the pay committee. As I have previously stated, it should aid the pay committee in its work.

The Joint Pay Committee was created more than a year ago and, I grant you, has collected voluminous data; but up to this hour neither the distinguished gentleman from Idaho nor the chairman of the committee has called a single hearing. For over a year they have been investigating and studying the question of pay, and yet no decision has been reached. Now they seek to broaden their jurisdiction to take in the question of promotion, and, basing the future upon the past, it will be many years before a report is submitted to Congress. The legislative committees dealing with these services should not surrender this jurisdiction to the Joint Pay Committee.

The 63 members of the Military Affairs, the Interstate and Foreign Commerce, and the Naval Affairs Committees, in my humble judgment, are amply qualified to handle the question of personnel legislation for their respective services. It would be an enormous additional burden placed upon the Joint Pay Committee, and if the Joint Pay Committee has not, in dealing with the question of pay, been able to have a hearing after a lapse of one year on that question, I grant you there would be no telling, if other subject matter were brought into the consideration of the Joint Pay Committee, when a final decision would be reached.

The distinguished gentleman from Idaho has at various times contended that no personnel legislation should be enacted because it would be piecemeal legislation and might hamper the enactment of general legislation which he so greatly desires.

Now, what does the gentleman from Idaho desire? He desires a unified promotion law for the Army, the Navy, the Coast Guard, the Coast and Geodetic Survey, and the Public Health Service. It is his dream and desire that there be one promotion law for these various services, that an officer in the Army reaches a certain rank at a certain age; that an officer in the Navy, Coast Guard, and these other services should have the same rank at the same age.

This is beautiful in theory but impracticable of attainment. The requirements of the Navy are far different from the requirements of the Army. The organization of a regiment differs materially from the organization of a ship. The number of admirals in a fleet has no relation whatever to the number of generals required in an army, but the number of admirals required is dependent upon the units composing the fleet, and the tasks to be performed, and the number of generals is similarly dependent upon the number of units composing the Army and the tasks to be performed. The number of units may differ greatly and the tasks are far different. The number of lieutenants on a battleship depends in part upon the number of turrets, and two ships of relatively the same size will require a different number of officers if they have a varying number of turrets or if their engineering power differs materially. The Navy requires a definite number of officers in each grade to perform certain definite tasks that must be performed, but there is no justification for assigning more or less officers to the Navy than are required just because some other service needs a greater or a fewer number. Why should an officer of the Navy be promoted because an officer in the Marine Corps, the Coast Guard, the Coast and Geodetic Survey, the Army, or the Public Health Service is promoted, or vice versa? The distribution of officers in each of the services and the promotion in each of the services must be based upon the needs of that service and not upon the needs of some other service.

In the Navy we have two systems of promotion. From ensign up to commander, promotion is by seniority; from commander to admiral, promotion is by selection, a board being appointed that selects officers regardless of seniority to fill vacancies in the next higher grade. In the Army an entirely different system prevails; the principle of seniority runs from second lieutenant to colonel, and only the generals are selected. Where systems of promotion differ so radically, it is not possible to have one law dealing with promotion of the various services. The Joint Pay and Promotion Board from the various services worked all last summer in an endeavor to reconcile their differences and to evolve some system that would insure to the officers of all services promotion to corresponding grades at approximately equal age, but the situation in the services was so different that it was not possible for the Army to even approximate the system in vogue in the Navy and even those concessions which they did make were rejected by the Secretary of War. The work of the Coast Guard and the Public Health Services is of a very different character than the work of the Navy and the conditions existing in those services differ materially from those in the Navy. So you can readily see that the gentleman from Idaho's contention is not sound. It is not feasible to have a unified promotion law applying to the various services. The very Joint Pay and Promotion Board which worked last summer combined under a single heading six separate and distinct bills, which, while they might be referred to as a single bill, were in reality six bills.

The bill now under consideration was taken by the other services as the foundation of the report which they made to the Joint Pay Committee. The enactment of this measure should not in the slightest degree embarrass the work of the distinguished gentleman from Idaho and the other distinguished members of the Joint Pay Committee. I most seriously object to broadening the jurisdiction of the Joint Pay Committee to include the question of promotion. That should be left with the Legislative Committee, and what we are seeking here is to comply with the statement of the gentleman from Idaho that promotion should go hand in hand with pay legislation or should precede it. We are seeking to precede pay legislation with this constructive piece of personnel legislation, which is vitally necessary for the Navy at this time.

Mr. BRITTEN. Will the gentleman yield?

Mr. VINSON of Georgia. Yes.

Mr. BRITTEN. The gentleman in his haste has forgotten that in the Navy supply bill which was passed day before yesterday the very provision that is in the present bill was inserted and was agreed to by the conferees, and this permits these very able men to retire of their own volition. In other words, it does the very thing that this bill does, and it is a relief measure, gentlemen.

Mr. VINSON of Georgia. Of course, it is a relief measure to these men who are involved.

Let me call the attention of the gentleman from South Carolina [Mr. McSWAIN] to the fact that under the law to-day if these men can not meet in competition the graduates of the Naval Academy and can not make the grade, they are to be kicked out of the service with one year's pay.

What do we propose to do? We propose that these nongraduates shall continue to stay in the Navy until they have served 20 years, all time counted, and then be put upon the retired list, if he fails to qualify.

Now, who is protecting these nongraduates? Is it the gentleman from Oklahoma [Mr. McCLINTIC] or the gentleman from New York [Mr. O'CONNOR]? This bill is protecting them by according them the same right and the same advantage that a graduate of the Naval Academy would have.

Mr. McSWAIN. Will the gentleman yield for a question?

Mr. VINSON of Georgia. Yes.

Mr. McSWAIN. What does the gentleman mean by "all service counted"? Does that mean counting the time from the day he enlisted up to the present time?

Mr. VINSON of Georgia. If he were a warrant officer, and under the law as it is to-day he failed to pass the examination, he would revert to his former status or be kicked out of the Navy. If he fails to pass the examination, we would permit him to count the time that he served as a warrant officer, in making up his 20 years' service, giving him 2½ per cent of his base pay.

Mr. BRITTEN. In other words, his total time in the Navy is computed, not only his time in the warrant-officer grade but also his time as an enlisted man?

Mr. VINSON of Georgia. Exactly.

Mr. McSWAIN. And there is hardly one of them who has not already been in the Navy 20 years from the day he enlisted up to the present time.

Mr. VINSON of Georgia. The gentleman is absolutely mistaken.

Mr. McSWAIN. They can not be commissioned under 16 years of age.

Mr. VINSON of Georgia. The gentleman is mistaken. The bulk of these men received commissions as emergency officers, and in 1920 came into the Navy. They have a regular Navy status and have approximately 10 years more to serve in the Navy; and if we do not pass this bill by the 5th day of March, these men who served their country in time of war, who were not educated at the Naval Academy, will be kicked out with one year's pay. These are the very men that the gentleman from Illinois and myself, and the other members of the committee, except the gentleman from Oklahoma and the gentleman from Texas, are fighting to protect.

Mr. LaGUARDIA. Will the gentleman yield?

Mr. VINSON of Georgia. Yes.

Mr. LaGUARDIA. Is not the main purpose of the bill to increase the percentage of commanders to take care of that hump, and then have it apply all the way through, and is it not also true that by doing this you will not appreciably increase the appropriation by reason of the fogies?

Mr. VINSON of Georgia. It will decrease the appropriation. Here is a table running over a period of 20 years and this shows that the first reduction in 1931 is $15,000, and then in 1932 it amounts to $64,000, and in 1933 there will be a reduction of $108,000, and so on down the list with a reduction every year until 1947.

Mr. BRITTEN. Mr. Chairman, I yield five minutes to the gentleman from Idaho [Mr. FRENCH].

Mr. FRENCH. Mr. Chairman, the gentleman from Georgia [Mr. VINSON], who has just spoken, has proceeded with the apparent prescience of a seer in undertaking to anticipate what I should say to the House. The main objection that he directs against me is that the Joint Pay Committee did not report a pay bill. I recognize that there are several factors touching pay that involve consideration of inequalities, but, generally speaking, the problem involved increase not readjustment of pay. Our joint committee felt that no adequate pay bill could be passed in advance of promotion legislation and this we felt should be general and be handled at one time for all the services involved.

Again with world-wide economic depression the Joint Pay Committee felt that this was not the time to report out a pay bill, and I think so now. Officers generally are not feeling this depression as are others. I tell the gentleman and tell this House that if there is any group in the country that is favored above another from the standpoint of ability of its every member to have his pay check cashed every time it is received in the envelope and what it stands for by way of salary allowances and retirement, it is the officer of the Navy, the Marine Corps, the Army. [Applause.]

Now, then, for this bill. I did not propose to take very much time and do not want to. Now is not a good time to consider this promotion bill because in the rush of the closing hours it can not receive adequate attention.

Again, promotion legislation for one service should not be considered independently of promotion plans for the other services.

The Navy, the Marine Corps, the Army, Coast and Geodetic Survey, the Public Health Service, all from the standpoint of personnel and promotion are kindred. Promotion legislation and pay legislation should be considered for all these services at a given time. If we attempt to handle the matter by piecemeal legislation and if we shall pass the pending bill fixing promotion for the Navy, the very features of the measure that will give advantageous status to naval officers will be used as the basis of demands in the next Congress for each of the several services.

In other words, if we enact piecemeal legislation such as this, we do something that will come back to plague us in other Congresses when we shall be called upon to consider other legislation affecting other kindred groups.

But this bill is inconsistent with our action of yesterday. It contains language touching the graduations of the Naval Academy at Annapolis which, if it becomes law, in my judgment, will repeal the amendment that was placed upon the naval appropriation bill which provides for commissioning as ensigns all the graduating class of 1931. Upon this subject I have spoken to the chairman of the committee. He thinks there is some doubt about it. There ought not to be any doubt. We ought to write clearly into this bill language that will not be in conflict with what we approved yesterday with regard to the graduates at Annapolis.

Mr. BRITTEN. Will the gentleman yield?

Mr. FRENCH. I yield.

Mr. BRITTEN. If, as the gentleman contends, this bill does repeal what we did the day before yesterday, then it will be doing precisely what the gentleman desires. Why should the gentleman complain?

Mr. FRENCH. Oh, no; the gentleman is begging the question when he proposes that. I might have my individual notion, but when the Congress of the United States acts

one day it ought not to be called upon by the distinguished gentleman from Illinois to reverse its action upon the day following. That is what the gentleman is proposing here.

When we come to the provision for the emergency officers, the gentleman who preceded me referred to them and said this language is practically the spirit of the language carried in the appropriation bill. Again I am certain the gentleman is in error. Under the language of the appropriation bill of yesterday, which, by the way, is the language of another bill reported by the Naval Affairs Committee, the emergency officers are permitted to retire after certain length of service, but under this bill they are required to do so if they fail to pass certain examinations.

Mr. VINSON of Georgia. Under the law to-day they would be kicked out.

Mr. FRENCH. No. I am talking about the law which was passed yesterday. Under the law passed yesterday they are permitted to resign. Under the law proposed to-day you are forcing them out.

Mr. VINSON of Georgia. If a man stands an examination to-day and fails, he goes out with one year's pay. Under this bill if he fails he goes out with his proper retirement.

The CHAIRMAN. The time of the gentleman from Idaho [Mr. FRENCH] has expired.

Mr. BRITTEN. I yield to the gentleman from Idaho two additional minutes.

Mr. FRENCH. My friend from Georgia forgets that the language of the appropriation measure of yesterday will supersede the former law to which he refers.

In the minute that I have left, may I emphasize again the unwisdom of piecemeal legislation by citing two or three illustrations to show how special consideration given to one branch of the service is seized upon at once for similar legislation for the other. Last spring a bill was passed providing for adjusting the salaries of the Naval Academy Band. Within 24 hours after that bill had passed, a colonel in the Army, a friend of mine, was in my office, and he brought his fist down on my desk and he said, "We have got to do that for the band leaders at West Point"; not that they needed it, but just because it was being done for the Navy.

I have in my hand another bill reported by the gentleman's committee, the Naval Affairs Committee, providing for the retirement of three officers of the Navy. This bill is on the calendar. May I read one sentence of the report as to why that bill should pass.

"The Congress on the 1st of July, 1890, passed an identical law for the Army officers, and so forth." In other words, what had been done 40 years ago for certain Army officers must now be done for officers of the Navy.

Gentlemen, if you pass the bill that is before you this evening, the Army officers next year will come to you and want everything that is more advantageous than what they are receiving in the Army now applied to them. Then next year, if you pass a bill fixing the pay or compensation or promotion for the officers of the Army, every officer of the Navy will come in and want you to do the same thing for the officers of the Navy, if by any chance you give an Army officer an advantage. That is the viciousness of this legislation. There should be a joint pay committee. There should be a joint promotion committee. Personally, I should be glad to be spared from service upon either one of them, but let some committee handle the question that could consider promotion and pay for all services at one common time. [Applause.]

The CHAIRMAN. The time of the gentleman from Idaho has again expired.

Mr. BRITTEN. Mr. Chairman, I yield three minutes to myself.

Ladies and gentlemen of the committee, the gentleman who has just preceded me has not made one objection to the principles of this bill. The gentleman says, generally speaking, and he is correct, the pay and promotion should some day be cared for by some committee. That is all right, but that is not being done now, and the gentleman's committee dies on March 4.

The truth of the matter about this legislation is that in the Seventieth Congress it was passed unanimously by the House in its present form. It went to the Senate where it died in the legislative jam over there. Since then the Senate has passed it unanimously, just as it was passed by us in the previous Congress.

This legislation is desired by the administration, by the officers and men of the Navy, and when I say "men," I am thinking about the men that my friend Mr. McSWAIN is thinking about. This bill is a relief bill for them; men who have come up from the ranks and have become officers of the Navy. They have written certain legislation into this bill, through the committee, and we are aiming to aid their desires. No one wants to get them out of the service. They are the backbone of the service.

Mr. McSWAIN. Will the gentleman yield?

Mr. BRITTEN. I yield.

Mr. McSWAIN. Was it a slip of the tongue when the gentleman said about a week ago, standing right over there on the floor, "We want to get rid of them"?

Mr. BRITTEN. My impression is I said we wanted to get rid of that hump in the service.

Mr. McSWAIN. Well, they make the hump.

Mr. BRITTEN. Of course, the gentleman is placing a wrong conclusion on what I said. They are in the Navy. We want to relieve those men from their present position. On the day before yesterday the naval supply bill for which the gentleman voted carried the very language that is in this bill, with this exception:

The language in the supply bill said that these men may retire now. It said nothing about length of service or age. The language of this bill says these men may retire provided they have had 20 years' service or have reached 45 years of age. They may retire. There is nothing compulsory about it at all. The gentleman himself does not have any higher regard for those men than I have. They should be kept in the service if they want to stay there and if they can qualify. They are very valuable.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. BRITTEN. Mr. Chairman, I yield myself two additional minutes. Now, as to this bill. In 1916, 15 years ago, we passed line-personnel legislation in this House, and since then we have not passed any except an occasional bill. The line has withstood the rigors of time for 15 years, with the exception of these few suggested amendments. These amendments iron out a number of difficulties in the old act of 1916. It neutralizes the prospects of promotion as between large and small classes. Some classes coming out of the Naval Academy have been very large, so that competition for promotion in those classes is severe. A subsequent class may be very small and competition for promotion in that class, of course, is less severe.

Mr. BLANTON. Will the gentleman yield?

Mr. BRITTEN. Yes.

Mr. BLANTON. After spending four years to educate an officer in the Navy, does the gentleman believe in retiring him at the age of 45, when he is able-bodied?

Mr. BRITTEN. No; I do not.

Mr. BLANTON. Officers could be retired under this bill when they have had 20 years' service, or reached 45 years of age.

Mr. BRITTEN. The gentleman does not understand the bill. It has nothing to do with men at the Naval Academy, the provision the gentleman is talking about.

Mr. BLANTON. I understand the bill thoroughly. Under it 600 officers will be retired, either because they have had 20 years' service or have reached the age of 45 years. I am not in favor of retiring any able-bodied men at the age of 45 years. I do not care where he comes from or in what department he serves.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

Mr. VINSON of Georgia. Mr. Chairman, I yield 10 minutes to the gentleman from Texas [Mr. SANDERS].

Mr. SANDERS of Texas. Mr. Chairman, I ask unanimous consent to revise and extend my remarks, and to include therein quotations from the hearings and from various other articles and documents bearing on this question.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. SANDERS of Texas. Mr. Chairman, ladies and gentlemen of the committee, this is one of the most vicious and pernicious bills that has ever been brought up in the American Congress for consideration. [Applause.] It was conceived in favoritism. It was based upon the testimony of only two witnesses, and I have never seen such side-stepping and dodging in all my experience as a Member of the House. It does not represent the hope and the aspirations of the great body of officers in the American Navy. In opposing this bill I am doing so not because I am not in favor of a Navy, because the Constitution of the United States makes it our duty to establish and maintain a Navy, but because of the fact, my friends, it is one of the worst blows that can be struck at the Navy.

I was surprised at my friend Mr. VINSON. I want to say to you I have great admiration for him, because I believe he is one of the smartest men I ever saw. When we had hearings upon this bill my good friend the distinguished chairman of this committee said he did not know much about it. Let me quote his language, and then I want to get to the gentleman from Georgia [Mr. VINSON]. The gentleman from Oklahoma [Mr. McCLINTIC] asked everybody in this House who understood this bill to hold up their hands, and only three hands went up. Here is what Mr. BRITTEN said about the bill:

Mr. BRITTEN. I am very dense on it. Let me put it in my own way. You are going to promote a number of lieutenants to lieutenant commanders the first year if this bill goes into effect, are you not?

Admiral LEIGH. Yes, sir.

Mr. BRITTEN. Why are you not going to do that same thing in the tenth year if this bill goes into effect; and if you do, why will it not affect them in the tenth year the same as it does in the first year, the second year, and the third year?

Admiral LEIGH. Because they will have reached by length of service a pay grade that will not increase their pay when they are promoted.

Mr. BRITTEN. That is too deep for me.

I want to call Mr. VINSON's attention to page 3302 of the hearings. He said:

Now, I think that you are making fish of one and fowl of the other on account of the age.

Therefore, if this bill is too deep for the chairman and if Mr. VINSON, who knows so much about it, says that they are trying to make fish of one and fowl of the other, I do not see how any of the other Members on the floor can understand it. That, my friends, was a quotation from the first hearings; and in the second hearings, on page 437, we find Mr. VINSON saying:

Mr. VINSON. What effect would this bill have on the retirement budget? How much would it increase it? I refer to the retirement pay. Are you not building up a very large retirement obligation against the Treasury?

Admiral LEIGH. No, sir.

Mr. VINSON. Is it not a fact that officers would be weeded out under this bill faster than under present law?

Admiral LEIGH. They would go out in the lower grades faster but their pay on the retired list would be less. The less years they have served the less would be their pay on the retired list.

Mr. VINSON. But they would receive 75 per cent of their base pay on the retired list. That is the maximum.

It has been stated that this bill would cause no additional expense. The Secretary of the Navy sent a letter to us, and he said that the expense would be increased by $31,000 each year for the first three years and after that it would be decreased, that there will be a saving in 1940.

I am not interested in saving money in 1940. I would like to save a little in this year of our Lord 1931. [Applause.]

Mr. BRITTEN. Will the gentleman yield there?

Mr. SANDERS of Texas. Yes.

Mr. BRITTEN. In the very letter that the gentleman refers to from the Secretary of the Navy he states that in 1931 there will be a saving of $15,000.

Mr. SANDERS of Texas. Well, since the gentleman from Illinois [Mr. BRITTEN] refers to that, I want to state to him that I am standing now where he did six years ago in a letter that he then wrote.

Mr. BRITTEN. In other words, is the gentleman admitting he knows nothing about the bill now?

Mr. SANDERS of Texas. I have not admitted in the record that I am "dense" on it or that it is "too deep for me." [Laughter.]

I want to say to you, my friends, the trouble about this bill is that it was conceived in favoritism. I have here on the table a book which was written by a high naval officer and if the Members of the Congress could read this book and see what this legislation is trying to do, it would not get 36 votes in this House. You are taking it on faith.

I started to tell you a negro story just then. You do not understand the bill. You failed to hold up your hands and indicated that you did not understand it.

A colored boy went into court and the judge informed him of his rights under the law and the boy said, "Well, Judge, I believe I will just impose myself on the ignorance of the court and the mercy of the jury," and that is what you are doing here with this legislation. [Laughter.]

But the gentleman from Illinois [Mr. BRITTEN] sidetracked me a moment ago. Let me call your attention to this quotation in a letter that he wrote on June 19, 1924:

Some nine years ago Congress substituted for existing law a provision for "selection up" in the Navy.

It was the thought of Congress that promotion by seniority was wrong in principle, and that selection would provide an incentive for advancement, which, in turn, would promote ambition, thrift, constancy, and efficiency in the Navy.

In other words, an opportunity for promotion ahead of his class was to be given the ambitious, progressive, superior-minded young officer.

I think that the Navy generally has already indicated its disappointment in some of the selections for promotions, and that it feels that "real" selection up does not prevail.

Selection boards are too often composed of the same members who sat on preceding boards, and this fact may work against the best interests of a selective system.

For the past five years it has been quite evident to me that a select ring of Washington line officers have thoroughly dominated the Navy and have assigned to themselves—and to their friends—all of the military and social plums.

The Naval Academy, London and Paris embassies, command of the fleets, special European assignments, Mediterranean cruises, and topside Washington appointments have been jealously parceled out to those in the "butterfly" set, and to none others, and I might say that this condition is not too happily received by the officer aboard ship who is on the outside looking in.

It is no wonder that so many Members, in response to the invitation of the gentleman from Oklahoma [Mr. McCLINTIC], acknowledged they did not know anything about this bill. It is highly technical. It was drawn that way on purpose. It was drawn by disciples of Talleyrand, who claimed that the "proper use of language is to conceal ideas." I do not know how I could better illustrate its technicality than to give you an example. I received a letter from a railroad man, who said:

DEAR MR. SANDERS: We'd just pulled the drag off the main stem onto the two streaks of rust, but she hung over. The hoghead was down on the ground greasing the pig, and the tallow pot was up on the deck crackin' diamonds. The con was in the doghouse fumblin' tissues, and the hind shack was cooling a red hub; he ought to been a tryin' to put 15 sticks between him and the hind end. I was up a head bendin' the rails when the streak of varnish and plate glass came round the bend. The eagle eye seen us and throwed her in the big hole on two streams of seashore, but he'd been pounding her over the back, and they slid into us.

Of course, I did not understand that language, because it resembled a naval personnel bill so much. Hence, I wrote to my friend and asked him if he would not give me that same thought in my native tongue, and this he did, and this is the explanation:

MY DEAR MR. SANDERS: The interpretation of that letter is as follows: We had just pulled in front of the main track to the siding but the rear end of the train was not into clear. I was up ahead of the locomotive reversing an intermediate switch, so that we could complete the movement. The engineer was on the ground oiling the locomotive. The fireman was on the deck of the engine breaking up some large lumps of coal to firing size. The conductor was in the caboose checking over his copies of train orders, and the rear brakeman was cooling a heated journal under one of the cars, instead of attempting to get back the required 15 telegraph poles from the rear of the train in order to afford the necessary flag protection against following trains. Just then the passenger train came round the curve and while the engineer saw our train and made an emergency application of the airbrakes, in

addition to sanding both rails; he had been running at such high speed that the efforts were futile, and the train collided with ours.

In the report of this bill the chairman of our committee says in part:

This system of promotion has been in effect for over 13 years and has in the main proved satisfactory.

Now, if that be true, what is the necessity of rushing this bill in here in the last days of this session under a rule which does not afford that full and free discussion that ought to be given to this bill?

This is a similar bill to H. R. 13683, upon which hearings were held in 1928. Prior to that time hearings were held on a similar bill. When this bill, now styled H. R. 1190, was taken up for consideration before the Naval Affairs Committee on May 21, 1928, Mr. VINSON of Georgia said (p. 3213 of the hearings):

Mr. Chairman, I want to make this comment for the record. At the beginning of this session we promptly took up the Navy building program and passed it. It is still in the Senate. Much to our regret, it does not look like it is going through. Now, we are asked at the end of the session to take up the personnel legislation and a building program all in one year, for the reason that whenever we finish a building program then the Navy has nothing else to do but bring up legislation for the personnel.

Now, I am perfectly willing to take up each subject during one session of Congress, but I think we ought to establish a policy that in the years when we build ships there will be no promotions and in the years when we do not build ships then we will hear the Navy on promotions. They are pressing us a little too fast now, building ships and promoting officers at the same time. I am willing to take up one subject at each session of Congress and let the Navy Department select it, but I, speaking as one Member, am unwilling to go in and build ships and promote officers in the same year, because they have only two things to do in the Navy, either to build ships or to promote officers. I am perfectly willing to give them one year on each one, but after that one subject has been disposed of we should stop for that session and not work this committee further along that line.

They then called Admiral Leigh, who on page 3216 of the hearings states:

Because of the faults of the present system, that of selection up, rather than selection out—that is to say, selection of officers for promotion as those best fitted to perform the duties of the next higher grade rather than selection for retirement of those least efficient—was instituted by the act of August 29, 1916. By this system annually a board of nine rear admirals is convened to select for promotion to the grade of rear admiral, captain, and commander those officers, in number equal to the prospective vacancies during the ensuing year, who are best fitted among those officers eligible for such selection (by reason of having spent at least four years in their grade) to discharge the duties of the next higher grade. This system has been in effect for nearly 12 years, and has in the main proved satisfactory.

Then, if this system has been in effect so long as that, and it had the O. K. of the Navy Department or it would never have been passed, why change it? Then the admiral further says:

Referring directly now to the bill, section 1 of which provides for a change in the percentage distribution by increasing the previous percentages of 7 in the grade of commander and 14 in the grade of lieutenant commander to 8 and 15, respectively. With the present authorized strength of the Navy this will have the effect of adding 55 commanders and 55 lieutenant commanders.

Then why this in peace times? I read further from the hearings:

Mr. VINSON. You have 83,000 enlisted men in the Navy?

Admiral LEIGH. Eighty-three thousand two hundred and fifty.

Mr. VINSON. Yes; but you have based your calculation upon an authorized enlisted strength of 137,485, giving you 5,499 officers to command 83,500 men.

Admiral LEIGH. Yes, sir.

* * * * * * *

Mr. VINSON. Admiral, is it not a fact that you have not a place to assign one admiral, and therefore he is not assigned to duty at all, and has not been for six months?

Admiral LEIGH. I have three vacancies now, sir, to which I would like to assign admirals.

Mr. VINSON. Is it not a fact that a vacancy has been pending at the New York yard for six months, with one admiral floating around with no assignment?

Admiral LEIGH. There has been a vacancy pending since the 15th of February. (This testimony was given on May 21, 1928.)

Mr. VINSON. You have three vacancies that you want to put admirals in; yet you have one admiral who is not assigned to duty?

Admiral LEIGH. Yes, sir.

Mr. VINSON. Who is drawing pay as an admiral, and the Government is paying him every month, and yet the Government is not getting any benefit of his services?

Admiral LEIGH. Well, I do not know.

Mr. VINSON. If you do not want me to conclude that you have more admirals than we need, why do you not assign them?

Admiral LEIGH. There are special reasons why the Secretary of the Navy does not assign that particular admiral to duty. He feels that it is for the best interests of the Naval Service not to assign him at present.

Mr. VINSON. Then why should the Navy pay him and not assign him to duty?

Mr. BRITTEN. Is he not assigned to duty?

Admiral LEIGH. No, sir; he is not assigned to duty.

Mr. VINSON. We are now dealing with the question of percentage in officers. We are confronted right now with a case where you have vacancies and one admiral not assigned to duty. We are going to let the Government continue to pay the officers who are not assigned to duty while we have vacancies?

Admiral LEIGH. I think we are going to let the Government continue to pay for a certain length of time.

Mr. VINSON. Why does it not follow then that we have too many admirals? If we have one admiral that we can not assign and one that we have got to pay, why should not Congress step in and say, "There are too many in the grade of admiral, and we should cut them down"? * * *

* * * * * * *

Mr. VINSON. Of course, I would not for one moment suggest to the department the assignment of any officer. That is a matter with which this committee has nothing to do. But my point is this: We have one admiral to-day who has no assignment; and you can not escape this conclusion: Either you have got too many admirals or the admiral should be put to work. The Government is under no obligation to pay the admiral his full salary unless he is performing some duty. Then there are other things to deal with. But the point is, Why should the Government waste $13,000 a year for which the Government is getting no service? * * *

Admiral LEIGH. The pay of an admiral is $9,700.

Mr. VINSON. You propose to add 55 more commanders. That would make 467. Is that correct?

Admiral LEIGH. Yes, sir. * * *

Mr. VINSON. Admiral, how many officers have you stationed in Washington city?

Admiral LEIGH. This shows 454.

On pages 3238–3239 of the hearings it will be seen that we have three admirals writing a history of the World War. That war has been over 13 years, and yet they have not completed the book and do not know when they will complete it. These hearings were resumed on pages 3242–3243 of the hearings, and it shows that this history writing is going on at an extra cost of $8,000 per year.

Mr. VINSON. When will the public read this book?

Mr. BRITTEN. The public will not read it, but their children will.

Page 3249 of the hearings:

Mr. VINSON. They take the last five on the list and promote them?

Admiral LEIGH. Yes, sir.

Mr. VINSON. Now, is that not satisfactory to-day?

Admiral LEIGH. No; that is not satisfactory, for this reason——

Mr. VINSON (interposing). Wait one minute. You propose then that the selection board shall have the right, under your bill, to select from the same list of 125 five men and put them on a preferential list, and the only difference between your proposal and the law is merely putting them on a preferential list?

Mr. BRITTEN. Oh, no.

Mr. VINSON. Wait one minute. If you have five vacancies to-day, under your bill, the selection board would select only 10 per cent of your rank of admirals, which would be five, and they could take the last five men and promote them under this bill, could they not?

Admiral LEIGH. Surely.

Mr. VINSON. That is exactly what you are doing to-day, is it not?

Admiral LEIGH. Yes, sir.

Then why change, I ask in all seriousness?

* * * * * * *

Mr. VINSON. Then, why would you not be jumping two officers over the balance of the captains when there is no vacancy to fill?

Admiral LEIGH. I do not think that would be true at all.

Mr. VINSON. You have two vacancies in the grade of rear admiral, and under this plan you would select five captains, although you would only promote two of them to the grade of rear admiral. Then you would put three captains on this preferential list to wait until another vacancy in the grade of rear admiral occurred?

Admiral LEIGH. Yes, sir.

Mr. VINSON. Then, if you did that, would you not somewhat embarrass every officer, except those first two, in the rank of captain, by selecting them from the entire list of captains and jumping them over a great many others? By putting them on the preferential list you jump them over the others, and they must stand there some years waiting promotion. For instance, you could take the one hundred and fiftieth man, you could take the thirtieth man, you could take the fifty-sixth man, and so on down the list, and yet make only two appointments or promotions.

Then the balance of the captains could say, "They jumped us over this year; there is no vacancy but they have a preferential list of three captains." They would have to wait another year, because they would have been jumped over. The selection board changes every year, and the next selection board, under this system might not have jumped over a single one of those men, but they would have the preferential list and would be bound by it. It occurs to me that you would affect the morale of the officers of that list when you have a preferential list standing in his way.

Admiral LEIGH. I do not know. Of course, there is another opinion about this matter, but I do not agree with you that it would affect the morale.

Mr. VINSON. It would embarrass them.

* * * * * * *

Mr. VINSON. What about the officers on the list? You might have the one hundred and fiftieth man on the preferential list; there might not be a vacancy for the year, but he would be promoted when the vacancy occurred. There would have been a whole year in which the men who were jumped over, if they were qualified, could have helped to fill the vacancy. It seems to me that would be a benefit in itself, because they would be eligible for the vacancies that occurred during the year in which the vacancies would run to this preferential list.

Admiral LEIGH. You are getting down to one of the points that we want to avoid. We want to get the best officers in the service. They are the officers we are trying to promote, and that is what the selection board is for.

Mr. VINSON. You are actually doing that to-day, are you not?

Admiral LEIGH. Yes, sir.

Mr. VINSON. Then why the necessity of this law? You are getting the best officers now, under the present system, are you not?

Admiral LEIGH. Yes, sir.

On pages 3254–3255 of the hearings, Mr. HALE asks some very important questions which indicates that he has some doubt about this bill, and then Mr. VINSON makes the remark:

From what Mr. HALE says, it seems to me that you would be precluding new blood from filling vacancies at that time.

Page 3256 of the hearings indicates that Mr. DREWRY has some doubt about the merit of this bill, for we find him making the observation:

It seems to me there is very little difference between the present law and what you want. I suppose this bill was called for by your desire to be fair to certain men who, by reason of vacancies, would be entitled to promotion, but who, because of the fact that the selection board does not meet until a later time, might not be promoted—that is, something might happen that would prevent it. Now, you want to be fair to those men and give them an opportunity to be promoted to a higher rank, if possible. That is the idea back of the bill, I suppose.

Admiral LEIGH. No, sir; that is only one idea. That is part of it.

Mr. DREWRY. That seems to be the main idea, to my mind. If I were an officer in the Navy, it seems to me that I would think it was just and fair to take my chances when the selection board met. Everybody knows when they will meet, because it meets at a specified date. It seems to me that this would be trying to jump those few men to reach a position which they have not in fact reached just because there is a vacancy and the selection board has not met.

Then Admiral Leigh dodges the question and Mr. DREWRY asks:

And three vacancies?

Admiral LEIGH. And three vacancies. Now, those people have not the same chance now that they will have next year when 11 men will be selected.

Mr. DREWRY. There are three vacancies, and you say there are 125 officers who are eligible.

Admiral LEIGH. Yes, sir.

Mr. DREWRY. If those vacancies were filled, some of those 125 men would immediately get the higher rank to which they would be entitled if the selection board should meet to-day and fill the vacancies.

Admiral LEIGH. No, sir; they would not get the higher rank until the vacancies occur.

Mr. DREWRY. But the vacancies that have already occurred must be filled, and they must be filled if the selection board met to-day instead of meeting next month. They would then have a chance to get this higher rank, but, as you say, something might happen to some of those men before they could be selected. They might have a chance to get the higher rank within the next 30 days, but they might be precluded from getting it a year from now. As I understand it, this bill comes in because of the desire to give those men an opportunity to get the higher rank before the selection board meets. Now, why is it not fair to let everybody know that the selection board meets at a certain time, and let all of them take their chances?

Then Admiral Leigh makes no satisfactory explanation and Mr. DREWRY says:

When they go into service they must take their chances, just as we have to take our chances on having our constituents send us back.

Page 3258 discloses the following information which is very pertinent and important just here.

Mr. VINSON. There should not be any promotion until the vacancy occurs.

Admiral LEIGH. There will not be any promotion until the vacancy occurs.

Mr. VINSON. But he goes on the eligible list, which is a promotion, because they must take him from that preferential list.

The fact is that this bill was changed so that Mr. BRITTEN did not recognize it, for on page 3284 of the hearings we find him asking this question:

Mr. BRITTEN. This was not in the bill before the committee in the last Congress?

Admiral LEIGH. It was in the bill reported out, House bill 12535, Sixty-ninth Congress.

The next witness is Captain Taussig, who testifies on page 3289:

Mr. VINSON. How does this law itself insure more efficient officers reaching command and flag rank when we still have the selection board with the same list of officers to select from?

Captain TAUSSIG. I do not know that this law does insure any more than the past law on that phase of it. I think as far as that part of it is concerned, the most efficient officers reach command and flag rank. That is in the hands of our selection boards and this law does not give the selection board any more power than the last law.

Page 3291 of the hearings:

Mr. VINSON. There is nothing in this bill to change the method of selecting officers by the selection board?

Captain TAUSSIG. No, sir.

Page 3296 of the hearings:

Mr. VINSON. Is the hump you speak of caused by the officers who are not Naval Academy graduates, who came in during the war?

Captain TAUSSIG. That is one of the humps.

Mr. VINSON. How do you dispose of that hump?

Captain TAUSSIG. This hump is not disposed of in this law until they get to the top of the lieutenant commanders' grade, unless they fail in their promotion.

Page 3302 of the hearings:

Mr. VINSON. That is true; but you probably find men who have served long years in the Navy and during the war received commissions as lieutenant commanders, some of them 35 years of age, who may not be able to pass this professional examination, which is one of the necessary things that they must be able to comply with before they can be promoted. So they go out with one year's pay. But another warrant officer who received a commission during the war as a lieutenant, and who was 46 years of age when he came on for examination, goes on the retired list. Now, it looks to me as though you are trying to do justice on account of the apprehension that he can not pass a physical examination in the latter instance, but in the first instance you put the yardstick on them just as you do on any other officer. Now I think you are making fish of one and fowl of the other on account of the age.

Let me suggest that they "are making fish of one and fowl of the other"; that Mr. VINSON was right then and wrong now. The ones discriminated against are the ones who came up from the ranks and who are not graduates of the Naval Academy. It is proposed that 600 of them shall be eliminated by this bill. The proponents of this vicious bill remind me of the fellow who is trying to catch a frying chicken to kill. He throws out the grains of corn and calls, "Chick!" "Chick!" in most endearing terms. Then he gets affectionate and reminds them that he does not want to hurt them; that all he means to do is to ring their heads off. That is what they are doing in this bill—ringing the heads off of 600 who have come up from the ranks, 600 who, according to our distinguished chairman, know how to handle ships but who do not understand Greek and Latin and possibly might make some mistake in the use of the knife and fork. George Washington did not know much about Greek and Latin; perhaps he did not know much about the proper use of the knife and fork; and were he here to-day he would be eliminated under this nefarious bill. We have too much social climbing in the Navy to-day and too less of practical horse sense. I may be "old-timey," but I have great respect for the rank and file. I have great respect for those who have labored under adverse circumstances and who have shown their worth in spite of such circumstances. If we should eliminate from our country's history that great crowd who did not know the ordinary rules of "etiquette," but who had a lot of "horse sense," the history of our country to-day

would be entirely different; and instead of having the United States of America we would be subject to Great Britain, with no glorious and inspiring history to teach us that we have a free democracy where no one is so humble but that his faintest whisper may be heard; that no one can get so high but what the strong arm of the law will pull him down. I am not in favor of retiring those who came up from the ranks and became officers in the Navy because they do not fit into the social equation. I am against building up a naval caste in this country. One of the objects of this bill is to retire 600 officers who came up from the ranks during the war. They are the backbone of the fighting Navy of this country. I am against retiring men at 45 years of age. It will be a deplorable condition when we have a lot of men of that age loafing around drawing retirement pay while the taxpayers are having to dig up for it. There is no justification for it. No reason for it, and yet that is what this bill proposes to do. The hearings before the Naval Affairs Committee of the House and before the Rules Committee, which brought in this nefarious rule, discloses the intent of the powers that be.

Under these hearings and under the testimony there is no excuse for even the "wayfaring man" to make a mistake. I assert that the rank and file in the Navy do not know the provisions in this bill. If they know, they are afraid to protest. I make this statement despite the argument made by the gentleman from Alabama [Mr. OLIVER]. In the Army and Navy Register, under date of July 27, 1929, under the heading "Service Personnel Legislation," the following statement is made:

> The penalty of court-martial obviously confronts any officer of the Navy or Marine Corps who undertakes to foil the plans of the Navy Department for the enactment of legislation that is submitted to Congress with urgent request for its adoption by the House and Senate as a measure intended and destined to meet an emergency.

If you have any doubt about that statement, then let me call your attention to a statement made by William D. Falaise, a high ranking officer in the Navy:

> Whenever promotion by selection is under discussion in Congress good care is taken by the hierarchy that only those in favor of the system appear before the committees of Congress. Those opposed to the system and the victims of the system are not permitted to testify.

I have never heard a witness before the Naval Affairs Committee oppose any bill offered there along this line. The hierarchy know who to call, and only those favorable can be heard. Mr. OLIVER of Alabama is simply mistaken. He does not know the Navy Department is in the grasp of a select few who think of their own interest and not of the interest of the rank and file.

While we are dealing with this subject and while the chairman of our committee is reciting in his report on this bill a history of the "selection board," it is worth while to consider just how that "selection board" has functioned. William D. Falaise, a high ranking naval officer, has had the courage to tell us something about it, and in the preface of the document he published on that question he says:

> This pamphlet was written by an officer of the Navy of high rank who had no personal grievance against the selection system, but who felt, after careful consideration, that allegiance to the Navy itself demanded an indictment of this pernicious system.

He further says:

> Without the aid of that system [promotion by selection] our country had won all its wars, including the Great War of 1917–18 (for promotion by selection had been in operation so short a time that it had no effect), and had shown a loyalty, an efficiency, an esprit de corps, and an unconquerable spirit that was admired and emulated by the rest of the world and that could never hope to be surpassed.

He further says:

> It is the kind of treatment of officers that shakes to its very foundation the confidence of the Navy in its ranking officers. The traditions of the Navy are a national heritage and any board or bureau that impairs those traditions does a disservice to the United States. Promotion by selection is a grave menace to the efficiency of the United States Navy. It has already done much to destroy the contentment, the loyalty, and the service spirit of the commissioned personnel for which the Navy has had such an enviable reputation since its establishment and without which it will fail in its mission to safeguard this country. In 1916 the method of promotion by seniority theretofore in vogue in the Navy was modified, in so far as promotion to the grades of commander, captain, and admiral was concerned, to promotion by selection by a board of nine admirals. Promotion by selection has therefore been in effect in the Navy for a period of 14 years, and an examination of the results obtained by this method is of interest. In theory, promotion by selection is ideal, for, if carried out to perfection, it would insure the promotion of the officers of outstanding ability only, and the Navy would gain by the more rapid promotion of such officers to the higher grades at younger ages, enabling the officers promoted to remain in the higher grades for a longer period. The ideal results to be looked for from such a system will always be modified by the fact that the members of the selection board are human and are subject to human errors. These errors include conscious or unconscious personal prejudice against an officer, of which certain members of the board could not rid themselves. These errors also include a natural and unavoidable disposition by each member of the board to vote for a good officer who has served under his immediate command rather than to vote for an officer who has never come under his personal observation, even if the official record of the personally unknown officer is superior to the record of the personally known officer.

> The intent of the section law is to promote only those officers of outstanding ability, but in actual practice the intent of the law has not been carried out; for in the Navy, as in civil life, frequently the power of preferment is used to reward those who are liked and to punish those who are disliked. It is known beyond a doubt that personal prejudice for or against has far greater weight with certain members of the selection board than official records and service reputation.

> While the law requires at least four adverse votes out of a total of nine to prevent an officer being promoted, it is known throughout the naval service that even if one member of any selection board is strongly opposed to the promotion of any officer, and so expresses himself, as he would do, other members of the board who might otherwise vote for that particular officer would be so influenced by the opposition of one member to make it fairly certain that at least three other members of the board would cast their votes against the officer who was under consideration and thereby prevent his promotion.

> While the intent of the law was that if any officer was passed over by one board, the fact that he had been so passed over should not prejudice succeeding boards against him, practically an officer who has once been passed over is done for because of the disinclination of one selection board to reverse the action of a previous board. This disinclination is accentuated by the fact that any board always includes admirals who were members of the preceding board. Admirals who have served as members of selection boards have stated that only under extraordinary circumstances would they vote to promote an officer who has been previously passed over. An examination of the selections made shows clearly that it is very seldom that an officer who has once been passed over is ever selected by any succeeding board.

> To cite specific instances to support the statement made in the last paragraph: The records of the selection boards of 1925, 1926, 1927, 1928, and 1929 show that out of 32 captain selected for promotion to admiral by these five boards not 1 officer was selected who had been passed over by any previous board, and the records of the selection boards of 1926, 1927, 1928, and 1929 show that out of 115 commanders selected for promotion to captain by these four boards only 8 officers were selected who had been passed over by any previous board.

> In the selection especially of captains for promotion to admiral the selection boards have made such grave errors in judgment, both among officers selected and among officers passed over, and their selections have at times been so influenced by personal antagonism and by personal favoritism as to convince the Navy that the boards can not perform this important duty with justice and equity. The membership of the 1927 board (convened in June) was made public in April. Immediately the rumor started and was widespread that Captain "Z," who stood twenty-ninth on the list of captains, would be the last captain on the list selected to be admiral. This rumor was based on the fact that Captain "Z" had lately served directly under and was a warm personal friend of the two senior members of the board. The board selected 11 captains to be admirals, and Captain "Z" was the eleventh. To select him the board passed over 18 captains, several of whom were excellent officers fully deserving of promotion.

> Under the previous system of promotion by seniority, all captains were promoted to admiral, many of them were admirals of high grade, others were not. Promotion by selection has not resulted in improvement in the average quality of admirals. It is the consensus of opinion of the Navy that of the present list of admirals at least 25 per cent of them are not proper material to hold that rank. If the captains, commanders, and lieutenant commanders of the Navy were required to record by secret ballot which of the 57 admirals on the active list (January 1, 1930) they would be willing to follow into battle, these keen junior observers have so accurately estimated the admirals that 13 or 14 of them would receive a very heavy adverse vote, and these 13 or 14 could be named by practically any officer. How is this system of promotion regarded by the officers themselves? One admiral, who has been a member of various selection boards, has stated that it was the most unpleasant duty that he had ever been called upon to perform; that "selection" was robbing the officers of the Navy of independence, of fearlessness, of moral courage, and of initiative, and making the Navy an organization of "yes, yes" men as far as the commissioned officers were concerned.

Another admiral expressed himself as follows:

Promotion by selection is the worst thing that has ever been inflicted upon the Navy. It has never done the Navy any good; on the contrary, it has done the Navy great harm. It is destroying the morale of the Navy.

Another admiral who has served on various selection boards has stated:

If the arguments and statements made by certain members of the board that prevented the promotion of Captain ——— were made public, it would result in the biggest scandal the Navy has ever had.

Another admiral has stated:

I have come to the conclusion that the ways of selection boards are past finding out, and that it is impossible to figure the reasoning they went through, if any, in selecting certain officers for promotion and passing over others.

Admiral Benson, who was Chief of Naval Operations during the war, stated in no uncertain terms before the House Naval Committee (in the case of Captain Belknap) that promotion by selection was a grave error that would seriously and adversely affect the efficiency of the Navy.

An absolutely definite indication of how promotion by selection is regarded by the officers themselves is shown by the large number of captains who have retired upon their own application in the last seven years, since the evils of promotion by selection have become apparent. There are 33 captains who have thus retired, none of whom had been passed over, as they had not been reached by the selection boards. All of these officers were young, energetic, and able-bodied when retired, and the list of 33 includes some of the most brilliant and successful officers that the Navy has developed. All of these captains are doing very well in civil life. One of the ablest of them all expressed himself thus:

I have an excellent record—none better—and I love the Navy, but I am not certain of promotion to admiral * * *. Remember what happened to Belknap, not to mention others whom the selection boards have slaughtered. I have an excellent opening now in civil life. I'd be an utter fool to continue on the active list of the Navy for two or three more years with the risk of being passed over for promotion to admiral and then be retired on the same pay that I can retire on now.

In the last three years (1927-1929) 298 officers, Naval Academy graduates, in rank from ensign to lieutenant commander, have resigned. Many of them give as their reason, "Uncertainty of promotion beyond the grade of lieutenant commander—that is, 'promotion by selection.'" Why should the officer who has outside opportunity offered him remain in the Navy? He feels that no matter how brilliant his record, he will not be promoted to high rank if a member of the selection board harbors a prejudice against him. The following are some of the officers of outstanding ability who were considered for promotion by various boards, but who were passed over, with the record in brief of the officers concerned: Reginald Belknap, Mark Bristol, J. F. Hines, A. W. Hinds, M. C. Mustin, Allen Buchanan, T. A. Kearney, and K. M. Bennett.

REGINALD BELKNAP

(All information herein relating to Belknap is from official records)

An officer of outstanding ability and exceptional services from the time that he was a young officer, who has performed duties of great responsibility with great credit to the Navy. About 1909, while a comparatively young officer, he was in the Mediterranean at the time of the volcanic eruption and earthquake in southern Italy and Sicily. He took charge of the immediate operations of rescuing, housing, transporting, and feeding the thousands of Italians involved in this catastrophe. He received letters of appreciation from the Department of State, the Navy Department, and from the King of Italy, who desired to award Belknap with membership in one of the highest orders of Italy.

During the Great War he was given command of the organization of the mine-laying squadron, and actively commanded that squadron in laying the northern mine barrage in the North Sea. During the period of organization (November, 1917, to March, 1918) eight merchant ships were altered and equipped to join to the nucleus of two ships from the former mine force. The mine-laying squadron consisted of 10 mine layers, commanded by captains or commanders, and averaging 21 officers and 420 men each, a total of 210 officers, 4,200 men, and had an aggregate mine-laying capacity of 5,600 mines (carrying 800 tons of T. N. T.) in less than four hours. Mine-laying operations began in the North Sea on June 7, 1918. There were 13 American mine-laying excursions and 11 British. In all, over 70,000 mines were laid, of which four-fifths were American. The capacity and performance of the converted American mine layers was the subject of much favorable comment and careful study by the British admiralty. The northern mine barrage in the North Sea was characterized in the Secretary of the Navy's Annual for 1918 as "the outstanding antisubmarine project of the year * * * one of the most successful efforts of the whole war." The commander of the United States naval forces in European waters declared it—

One of the finest accomplishments of the Navy on this side * * * the admiration of foreign navies * * * of considerable moral effect on the German naval crews * * * caused no small amount of panic in some of the submarine flotillas * * * probably played a part in preventing raids on allied commerce by fast enemy cruisers.

The official records credit it with six or eight enemy submarines sunk and as many more disabled or turned back. And, wherever referred to, the operation has been mentioned as an exceptional undertaking which reflected great credit on the Navy of the United States. It had much to do with shortening the war and the consequent saving of scores of thousands of American lives. The Secretary of the Navy, in his report for 1918, named Captain Belknap for his "service in mine laying, deserving commendation in this report." And on recommendation by his immediate superior, by the commander in chief, Atlantic Fleet, and by the Chief of Naval Operations, the distinguished-service medal was presented by the President to Captain Belknap, with this citation:

For exceptionally meritorious service in command of Mine Squadron 1, of the mine force, during the operation of laying mines in the North Sea, and his excellent work in connection with the equipping of these ships for mine-laying duty.

American initiative, ingenuity, enterprise, faith, and push forced this undertaking on the doubting British Admiralty. In the American Navy also not a few doubted its successful outcome. Discredit and chagrin, besides great loss and waste, would have attended its failure. Success of the whole barrage depended first upon its preparation, the coordination of which was under Captain Belknap's immediate charge, and its effective placing depended decisively upon the American mine-laying squadron, which from its beginning in 1914 with a single ship was organized and developed under his command. In the Atlantic crossing in the first six, two extra, and last four mine-laying operations (12 out of a total of 13), and the homeward passage of the still mine-laying squadron, Captain Belknap was the senior officer present in personal and supreme command of the mine squadron. After the war, Belknap was on duty at the Naval War College as director of training for higher command, for which he showed marked aptitude. He then commanded the new battleship *Colorado*, making her one of the most efficient ships in the Navy. Belknap was repeatedly recommended by his superior officers for advancement to the grade of admiral. In any other Navy in the world, Captain Belknap would have been immediately promoted to admiral for his services in the Great War, but under the method of promotion by selection in the United States Navy, this officer was passed over by three successive selection boards for promotion to admiral, and these boards selected officers who were markedly inferior in comparison with Belknap. He was finally forced on the retired list as captain. Congress, in passing an act promoting him to be an admiral on the retired list, rendered him such justice as was then possible. It is common belief in the Navy that the slaughtering of Belknap was caused by the intense personal enmity of an admiral who was a member of the first two selection boards that considered this brilliant officer. It is understood that the last board that passed over Belknap decided by a majority vote, as a preliminary measure, that they would not

consider any captain who had been passed over by any previous board. That understanding is based upon a statement by one of the members of that board.

If correct, it would seem that the board, in certifying that: "The board has carefully considered the case of every officer eligible for consideration under the provisions of this law," had knowingly signed a false certification, and based on that certification four captains were selected to be admirals and eight captains—five of whom, including Belknap, were most efficient officers—were again passed over, "not having been considered" by the board. The case of Belknap is known throughout the Navy. Its effect has been appalling. It has destroyed the Navy's faith in the justness of a considerable portion of its highest personnel.

MARK L. BRISTOL

Mark Bristol was another officer of splendid ability. During the war, as a temporary admiral, he commanded the naval base, Plymouth, England, and was awarded the Navy distinguished-service medal and a letter of commendation by the War Department. He assumed command—as a temporary admiral—as senior naval officer in Turkey on January 15, 1919, and was appointed as United States high commissioner to Turkey on August 16, 1919. Bristol's work as high commissioner to Turkey is one of the highest achievements that any officer of the United States Navy has ever accomplished, as is indicated by the following letter from the President of the United States:

RAPID CITY, S. DAK., *June 20, 1927.*

It is with sincere regret that I accept your resignation as high commissioner in Turkey. For more than eight years you have been an ambassador in all but name, and an ambassador, moreover, charged with duties of unusual difficulty and delicacy. The success which you have achieved, the position which you have secured for the United States in Turkey, has been notable in the annals of American diplomacy. In the name of the United States Government and in my own name, I thank you for your services, and I wish you every success in the new and important duties upon which you are about to enter as commander-in-chief of the Asiatic Fleet.

Very truly yours,

CALVIN COOLIDGE.

Rear Admiral MARK L. BRISTOL,
United States Navy, care Navy Department,
Washington, D. C.

Yet, after Bristol had been acting with great ability in Turkey, with all the responsibility and prestige that went with that office, for nearly a year prior to the meeting of the 1920 selection board, that board was so incapable of appreciating the inestimable value to the United States of Bristol's work and the great prestige he was adding to the Navy's reputation that it passed him over and promoted eight officers over his head, not one of whom was as competent as Bristol. Bristol was selected by the 1921 selection board, and one of the reasons he was then selected was because President Harding had expressed his emphatic disapproval of the passing over of this officer by a previous board, and the 1921 board understood that no list of promotion to admiral would be approved by President Harding unless it included the name of Mark Bristol. But his selection by the 1921 board did not restore to him the eight numbers he had lost by being passed over by the 1920 board.

J. F. HINES

An able and brilliant officer. Awarded the Navy cross and the Army distinguished-service medal for services in the Great War. After the war he commanded the battleship *Pennsylvania* when that ship won the prize of standing highest in battle efficiency. Passed over for promotion to admiral and retired as a captain.

A. W. HINDS

An officer of outstanding ability and efficiency; awarded the Navy cross and a special letter of commendation from the War Department for services in the Great War. An excellent battleship captain. Was also chief of staff of the Scouting Fleet and then chief of staff of the battleship divisions of the Battle Fleet. Passed over for promotion to admiral and retired as a captain.

H. C. MUSTIN

(All information herein relating to Mustin is from official records)

An officer of unusual ability, who was brilliant in several lines of endeavor in the Navy. Extracts follow from his record: Awarded the Santiago battle medal and West Indies campaign medal for active service in the Spanish War. While in command of the gunboat *Samar* in the Philippine insurrection he was specially commended in the dispatch of the commander in chief Asiatic Station for his part in the action at San Fabian, Luzon, during the landing of Brigadier General Wheaton's brigade. Received official letter of commendation from Capt. B. H. McCalla, United States Navy, for conduct in action at the landing of the U. S. S. *Oregon's* battalion at Vignan, Luzon Island, and for swimming through the surf with dispatches during a typhoon at San Fernando, Luzon. Awarded the Philippine campaign medal. Mustin was one of the Navy's first aviators, having learned to fly in 1912 (Navy air pilot's certificate No. 3 and Aero Club of America's expert aviator's certificate). The naval air station at Pensacola, Fla., was established under the direction of this officer in January, 1914. He was in command of all of the operations of all naval aviation before and during the occupation of Vera Cruz, Mexico, by the United States forces in 1914, and was awarded one of the 1914 Aero Club of America's medals of merit for these services. Ordered to Europe in the early days of the war, his observations and reports upon the progress of aviation in the allied countries were of great value. In January, 1918, he was awarded the gold life-saving medal for going overboard from the battleship *North Dakota* and rescuing a seaman who was washed overboard in a winter gale off Cape Hatteras. In February, 1918, ordered to special duty for developing material and training personnel for a series of air raids on Heligoland and the northern German submarine bases which were planned for the spring of 1919, but not carried out because of the ending of the war. Commissioned captain (temporary) September 21, 1918, for meritorious services during the Great War.

In May, 1919, ordered to duty with Assistant Secretary of War Crowell as a member of the American Aviation Mission to Great Britain, France, and Italy to study and report on aviation organizations and material abroad. Wrote valuable report on information gained. Received the order of the Crown of Italy. Commanded the naval aviation base at San Diego, Calif., and in 1920 he was appointed assistant chief, Naval Bureau of Aeronautics. There has never been an officer in the naval service who had a finer record for personal bravery and heroism, and few officers whose services have been of greater value to the Navy and to the country than Mustin's, and in testimonial of this fact, following his death in 1923, the Navy flying field at Philadelphia was named for him. And yet he was passed over by several selection boards for permanent promotion from commander to captain and dropped from his class of 1896 down to the middle of the class of 1900, losing 71 numbers in grade. While he was finally promoted to captain, his belated advancement did not restore the 71 numbers he had lost.

ALLEN BUCHANAN

Graduated No. 2 in his class at the Naval Academy. An officer of exceptional ability, whose record was always most commendable. He was awarded the congressional medal of honor with this citation:

Distinguished conduct in battle, engagements of Vera Cruz, April 21 and 22, 1914; commanded first seaman regiment, was in both days' fighting and almost continually under fire from soon after landing, about noon of the 21st, until we were in possession of the city about noon of the 22d. His duties required him to be at points of great danger in directing his officers and men, and he exihibited conspicuous courage, coolness, and skill in his conduct of the fighting. Upon his courage and skill depended in great measure success or failure. His responsibilities were great and he met them in a manner worthy of commendation.

The award of the Navy cross was made him for distinguished conduct in active service overseas during the Great War. Passed over by several selection boards for promotion from commander to captain and dropped from the top of his class of 1899 to the bottom of the class of

1900, losing 55 numbers in grade thereby; was finally selected for promotion to captain, but his belated advancement did not restore the numbers he had lost.

T. A. KEARNEY

While Assistant Chief of the Bureau of Ordnance in 1916–1918 was primarily and principally responsible for the initiation, manufacture, and organization of the 14-inch naval gun railway batteries and their railway crews, whose service in France played such havoc with the Germans during the great allied offensive in 1918. Commanding officer of the flagship *Brooklyn* and chief of staff to the commander in chief of the Asiatic Fleet, 1919. In 1919–1921, with the rank of captain, he commanded the United States naval forces in the 3,000-mile Yangtse River patrol—an admiral's job—in cooperation with a British admiral and a Japanese admiral during a time of great unrest among the Chinese themselves and between the Chinese and the Japanese. Kearney's vision, tact, and ability to cooperate with all parties accomplished remarkable results with the minimum of friction, and with little or no loss of life among Americans or due to Americans. He established such cordial relations with the Chinese that he received a high military order from the Chinese Government. In 1922 he was designated from among all the captains in the Navy for a most responsible duty, that of assistant chief of staff to Admiral Vogelgesang, the first chief of the United States Naval Mission to Brazil, a duty of the highest importance and offering opportunity for gaining far-reaching advantages for the United States in South America.

Passed over for promotion to admiral by the 1928, 1929, and 1930 selection boards.

K. M. BENNETT

Another officer of outstanding ability. While in command of the U. S. S. *Castine* in 1916 he performed a most noteworthy feat in taking his ship to sea from the harbor of Santo Domingo City in the teeth of a hurricane—at the same time and place the U. S. S. *Memphis* was driven ashore, a total loss. This feat of Bennett's, in resolute courage and consummate seamanship, surpassed that of the captain of the H. M. S. *Calliope* at Apia, Samoa, in 1889. In recognition Bennett was awarded a letter of commendation from the Secretary of the Navy. For services during the Great War he was awarded the Navy Cross and a letter of commendation from the War Department.

Passed over for promotion to admiral by the 1927, 1928, 1929, and 1930 selection boards and retired as a captain.

The above cases by no means exhaust the list. Other excellent officers have been passed over because of erroneous entries and incorrect diagnoses on their medical records, of which they were in ignorance, and while some of these officers have had their medical records corrected and have been selected by subsequent boards, the loss of numbers they have suffered through errors of this character have been a permanent loss. There are two other cases of officers who have been passed over that are of unusual interest to the naval service for the reason that any officer may find himself in the same situation—the cases of Commander Cleary and Captain Gherardi, both of whom were incapacitated for sea service on account of wounds received in the line of duty. These two officers are entitled to the benefits of section 1494 of the Revised Statutes, which reads as follows:

> The provisions of the preceding section [requiring physical ability to perform duties at sea] shall not exclude from the promotion to which he would otherwise be regularly entitled any officer in whose case such medical board may report that his physical disqualification was occasioned by wounds received in the line of duty and that such wounds do not incapacitate him for other duties in the grade to which he shall be promoted.

This section of the Revised Statutes has been the subject of several opinions from the Attorney General, all strongly upholding the absolute and unqualified right to promotion of such officers if they can perform shore duty. Cleary and Gherardi have been repeatedly denied their promotion by the selection boards because their wounds received in the line of duty prevent their performing duty at sea, and for no other purpose.

A captain who, while holding a high position in the Navy Department, was involved in the oil scandal, and was regarded by a great body of the citizens of the United States as being of the same type as Fall, Doheny, and Sinclair. While he was generally considered by the officers of the Navy as possessing personal honesty and integrity, still the Navy knew that he was largely responsible for the transfers of the naval fuel oil reserve lands from the custody of the Department of the Navy to the custody of the Department of the Interior, and was also largely responsible for the leases made between the Secretary of the Interior Fall, Doheny, and Sinclair. For his part in this transfer and these leases the great majority of understanding naval officers consider him guilty of one of the gravest errors of judgment ever committed by an officer of the United States Navy; yet at this very time he was selected to be an admiral by the selection board that passed over Reginald Belknap. President Coolidge very properly refused to send this officer's name to the Senate for confirmation as an admiral, and he was retired as a captain.

A commander who was tried by a general court-martial in time of war and sentenced to a loss of 35 numbers in grade and deprived of the command of his ship for "conduct to the prejudice of good order and discipline" and for "culpable negligence and inefficiency in the performance of duty in time of war." Selected to be a captain by a selection board.

A commander who was tried by a general court-martial and sentenced to a loss of 6 numbers for scandalous conduct and intoxication. Selected to be a captain by a selection board.

A commander who was tried by a general court-martial and sentenced to a loss of 10 numbers for grounding and damaging his ship. Selected to be a captain by a selection board.

A commander who was selected to be a captain by a selection board. As he was well known to his associates as a care-free officer of indifferent ability, given to hasty and ill-founded decisions, it appeared that his principal qualification for promotion rested on the fact that he was the son of a prominent admiral. His first sea duty in his new rank was "commander of a squadron of destroyers." Some months after he took command, when at sea in bad weather, this officer, in violation of all of the dictates of prudence and common sense, and disregarding the advice of some of his subordinates and the plain indication of danger shown by radio signals from a radio-compass shore station, ran his squadron on the rocks, resulting in a total loss of seven destroyers, valued at $22,000,000 and a loss of 22 lives. He was tried by general court-martial and found guilty of "culpable negligence and criminal carelessness." This officer was responsible for the loss of nearly as many ships as the Navy lost in 18 months of the Great War. The inability of the selection boards to select only the best officers is well exemplified in this case.

Promotion by selection was intended to secure the promotion of only those officers whose outstanding ability was recognized by the entire naval service, and in such case there would be no resulting discredit to those who were passed over. In actual operation, the system has never functioned as intended. On the contrary, it has been so operated that the entire naval service regards being passed over as the greatest blow to his prestige that an officer can suffer. The only thing that is more damaging to an officer's reputation than being passed over is to be dismissed from the naval service by sentence of a general court-martial. Each of the many capable and efficient officers who has been passed over and has been compelled thereby to serve under officers who for many years were his juniors, is a nucleus, remaining on the active list, of discontent of bitterness and a sense of injustice that has been continually growing until the entire commissioned personnel has been affected.

The officers of the Navy in the old days were "a band of brothers," of loyal comradeship who were forgetful of self for the good of their comrades, their Navy, and their coun-

try. Inquiry of and conversation with a considerable number of the senior officers of the Navy who are immediately affected by the system convince one that the method of promotion by selection as conducted in the Navy has had a most serious effect upon the contentment and efficiency of the commissioned personnel. It has practically destroyed the old feeling of loyal comradeship. Officers are in a constant state of unrest, uneasiness, and uncertainty. It has been demonstrated that no matter how loyal, conscientious, and efficient an officer may be, as shown by his record and the general service opinion, he is not sure of his promotion. On the contrary, an officer who is shown by his record and is known in the service at large as being relatively incompetent may be selected for promotion even to the highest grade. As a result, conditions have reached the point where many an officer considers beforehand any action he may take, not in the old light of "Is my contemplated action right and to the best interest of the Navy?" But in the new light of "What effect will my contemplated action have upon my chances for selection?" It is realized that to have a good chance for promotion, a captain must have had an important, spectacular command. As there is a scarcity of these commands, it behooves each captain to secure one for himself, and if, by "catering" to some admiral, he can secure it, even by "cutting the throats" of classmates and brother officers, why that is the lookout of the classmates and brother officers. He is forced by the system to serve his own interest—a policy of "save yourself and the devil take the hindmost." Each year when the recommendations of the selection board are made public it is the main topic of discussion in the Navy for days. The board in its recommendations are, many times, adversely and bitterly criticized, and when even an officer like Reginald Belknap, Mark Bristol, Mustin, or Buchanan is passed over the news is greeted with derision and expressions of contempt for the method of selecting and of the selection board. Promotion by selection has largely destroyed the feeling of trust and confidence that the other officers of the Navy should be able to repose in the officers of the highest grade.

The question naturally arises, if promotion by selection is so bad for the Navy, why do not the admirals who control the Navy bring its bad features to the attention of Congress and recommend changes in the law governing promotions? The answer is simple—it is this: Any military organization, by its very nature, is the hierarchy which is ruled by its small upper grade (admirals or generals), the members of which are responsible to themselves. The Navy hierarchy presents a perfect solidarity, and anything done by any member or group thereof, be it ever so erroneous or detrimental to the Navy, will be upheld by the full hierarchy which will resist to the utmost the reversal of any act of a member if he is in good standing among them. Many of them are so egocentric that they honestly believe that the Navy would collapse like a pricked balloon if the actions of any one of them were reversed. Furthermore, the present-day admirals have reached the top over the destroyed hopes and ambitions of many of their brother officers, and are thenceforth above the workings of the selection system. Former dislike and fear of the system are soon forgotten by these admirals, and the ever-present realization of the fact that promotion by selection gives them an absolute control of the Navy and exacts a personal service and a loyalty and an unquestioned acceptance of their dicta from the officers under them, which they never had before and never would have under any other system of promotion, creates a state of mind akin to that of all dictators.

Promotion by selection as applied in the Navy is directly contrary to the principles of American justice. While an officer under consideration may know that one or more members of the selection board are bitterly antagonistic to him, he can not protest the consideration of his case by such member. The proceedings of the board are secret. Officers under consideration are not permitted to be present either personally or by counsel before the board, and no matter how erroneous or unjust the action of the board in the case of an individual officer may be, that officer has no appeal from its decision, and he is never officially informed of the reasons why he is passed over so that he can make an honest endeavor to improve in that particular so as to better his chances before the next board.

While the law does not deny the officers under consideration the right of personal appearance before the board, officers requesting such a personal hearing have been denied it by the "hierarchy."

Quite contrary to this pernicious, unfair, and unjust practice, an officer who is believed to have committed an offense, serious enough to warrant disciplinary measures is always called upon for an explanation. If this is not satisfactory, a court-martial is ordered upon him. He is present in person before the court-martial and represented by counsel. Informed beforehand of the charges against him, he has had time to prepare his defense. He has the right to object for cause to any member of the court, and if his objection is sustained, as it frequently is, that member is not permitted to sit in judgment upon him. He can cross-examine the prosecution's witnesses and call witnesses in his own behalf. He is privileged to present documentary evidence, and can take the stand in his own behalf. And, even if the court finds him guilty of the offense charged against him, his case is carefully gone over by several reviewing authorities, including the Chief of the Bureau of Navigation, the Judge Advocate General, and the Secretary of the Navy, all of whom carefully consider the evidence, and if error or injustice is found, the right to mitigate, set aside, or disapprove the findings and sentence of the court is exercised by the reviewing authority.

These reviewing authorities are fair-minded and unprejudiced, and will give the officer under trial the benefit of the doubt, as in the procedure in civil courts, and even if found guilty, the court-martial, unless it dismisses him from the Navy, can not inflict any punishment that can be as severe and nasty in its effects as the punishments inflicted by the selection board. The secret methods of the selection board, from which there is no appeal, would not be tolerated for an instance in any other walk of American life. An alleged criminal on trial before any legal body in the United States, regardless of his previous record, has a right to a trial before judge and jury, where he is present with counsel and informed of the charges against him. His legal rights are safeguarded and the right of appeal from the decision of the court of first instance to that of several superior courts is his to exercise. But the loyal naval officer who has served his country practically all his life, to the best of his ability, who has again and again jeopardized life and limb, and who stands ready at any time to make the supreme sacrifice for his country, is tried and judged in secret, condemned without a hearing, and punished without being informed of his offense and without being granted an appeal.

It is evident from a careful examination of the procedure of the selection boards and of the results obtained that the sooner this method of promotion is abolished or radically modified, the better it will be for the contentment and the morale of the commissioned personnel and the efficiency of the Navy itself.

The Navy is to be used in the future, as it has been used in the past, to safeguard the interests of the people of the United States. Does not then a duty devolve upon the people and upon the Congress to see to it that the Navy continues to be "the strong arm of the Nation"; that it should be as it has been heretofore, and to remove this grave menace to the Navy before the present pernicious system of promotion to the highest grades completely undermines its morale and permanently impairs its efficiency.

Thus we have the opinion of one naval officer about the selection board, but we did not get it from the hearings.

Section 4 of the bill is subject to the criticism emphasized by the report of the Senate Committee on Commerce on a bill to coordinate public-health activities submitted to the Senate on January 18, 1930. A similar bill was vetoed by former President Coolidge on May 18, 1928, on the ground that there was an attempt to limit his constitutional authority. The veto message contained the following statement:

This act contravenes section 2, Article II, of the Constitution of the United States, in that it creates offices of the United States

to be filled by appointment by the President, with the advice and consent of the Senate, and at the same time not only limits the choice for appointees to such offices to persons who possess the qualifications of passing an examination conducted by a board of officers convened by the Surgeon General of the Public Health Service, but also limits the choice among individuals possessing such qualifications, to persons who are recommended by such board, and by the Surgeon General, thereby attempting to vest in such board and in the Surgeon General participation in the Executive function of appointment of officers of the United States, which function can be vested in and exercised only by the President, with the advice and consent of the Senate, the President alone, the courts of law, and heads of departments.

The provisions upon which this statement was based have been entirely eliminated from the pending Public Health Service bill.

In his message to Congress on December 3, 1929, President Hoover said:

Our Army and Navy are being maintained in a most efficient state under officers of high intelligence and zeal. The extent and expansion of their numbers and equipment as at present authorized are ample for this purpose. We can well be deeply concerned at the growing expense. From a total for national defense in 1914 of $267,000,000, it naturally rose with the Great War, but receded again to $612,000,000 in 1924, when it again began to rise until during the present fiscal year the expenditures will reach $730,000,000, excluding all civilian services of those departments. Programs now authorized will carry it to still larger figures in future years. While the remuneration paid to our soldiers and sailors is justly at a higher rate than that of any country in the world, and, while the cost of subsistence is higher, yet the total of our expenditures is in excess of those of the most highly militarized nations of the world.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. VINSON of Georgia. Mr. Chairman, I yield five minutes to the gentleman from New York [Mr. O'CONNOR].

Mr. O'CONNOR of New York. Mr. Chairman, I did not intend to be unfair in my discussion on the rule as to what the chairman of the Naval Affairs Committee said before the Rules Committee with respect to why he wanted to get rid of these officers of the Navy who rose from the ranks. There are about 600 of them, and I want to read to you from the hearings before the Rules Committee what was said in reference to that matter. I am going to pass from place to place and only pick out the material parts of the discussion.

I realize that the gentleman from Georgia [Mr. VINSON] has never had these sentiments of snobbishness. He has been telling me that there is no snobbishness in this bill. I believe him, and he is arguing to other Members that there is no snobbishness in this bill, but he can not get away from the statement of the chairman of the committee, the gentleman from Illinois [Mr. BRITTEN], who desires to see a caste set up in America:

Mr. BRITTEN. There are some 600 men who came out of the ranks during the war and became officers. They did not expect to be line officers when they came into the service.

Mr. BANKHEAD. Are many of these highly paid officers clamoring for retirement?

Mr. BRITTEN. These men are men who came out of the ranks of enlisted men, with no particular scholastic education. It is true they knew how to handle ships, and during the war we promoted them by giving them the rank of ensigns and then from that they went to lieutenant grade, finally to lieutenant commanders, but many of them would like to retire because of the equation which they find in the service.

The "equation" and, of course, a stenographic or a printed record does not display the mannerism of the gentleman who is uttering the remarks.

Mr. BANKHEAD. You say it will induce them to retire?

Mr. BRITTEN. This will allow them to retire after they have reached 45 years of age. The higher officers, 99 per cent of them, outside of the 600, come from the Naval Academy.

Mr. MICHENER. What is the theory of retiring men 45 years of age?

Mr. BRITTEN. We are going out of the way to allow these men to retire at 45 who are unable to compete or qualify or equip themselves for the higher grade and who simply stand in the way of others. * * *

There are 600 of them, say, who have had no advanced education in the subject of electricity or navigation or engineering, and none whatever in the languages, for instance.

Mind you, none of these 600 men ever had any training in Greek or Latin. They are not qualified. Please listen to this:

Mr. O'CONNOR. After this remark about their training in the languages, do you not know and realize that they must understand Latin in order to steer a ship?

[Laughter and applause.]

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. BRITTEN. Mr. Chairman, I yield five minutes to the gentleman from Alabama [Mr. OLIVER].

Mr. OLIVER of Alabama. Mr. Chairman, in this short time I can not undertake the discussion of the provisions of this personnel bill. The bill I believe is well drawn, well considered; it passed the House once and has passed the Senate and is not justly subject to many of the criticisms you have listened to. Ad hominem arguments may please sometimes, but are not very persuasive in an intelligent consideration of important constructive legislation.

Take, for instance, the question asked by the distinguished gentleman from Idaho [Mr. FRENCH] of the gentleman from Georgia [Mr. VINSON] with reference to what he would fix as the salary of this or that officer. Such questions have absolutely nothing to do with this bill. Irrelevant? Of course they are.

I will say to the gentleman from Idaho that I think I know something of the provisions of the pay bill. I was the one member who submitted a dissenting report on that bill. It is generally recognized now in many of its provisions as an unjust bill, and some day when the facts are known to this House you will, with wonderful unanimity, right the injustices and wrongs thereby done to many now commissioned in the service not only of the Navy but of the Army and the other allied services.

The questions asked and not answered had nothing in the world to do with this bill.

Perhaps in the short time allowed me I might also add that much has been said here in defense of those splendid men who received commissions in 1920, and many of the speakers have exhibited great enthusiasm in their behalf and have expressed alarm and apprehension lest great injustice would be done them by this bill.

Perhaps the best way to answer that is to say that this bill has not been kept in secret—there is not a man in the service who came up from the ranks that does not know its provisions. Two years ago or longer it passed the House, it has also passed the Senate, and been open to the study of all men in and out of the service for more than two years, and I venture now to declare that no one on the floor has heard any complaint of the bill from those who were commissioned from the ranks in 1920, and in whose behalf pathetic appeals have been uttered.

The gentleman from Idaho wisely acquiesced on yesterday in an amendment placed on the pay bill by the Senate that would have been subject to a point of order in the House, whereby liberal provision is made for the men who were commissioned in 1920 and who might, by the harsh provisions of existing law, been placed in a very embarrassing position had not liberal retirement privileges been accorded them under the Senate amendment.

This bill is not just what I would want it to be; and if I had the writing of it, I would change several provisions; but in the main I think you will find that it seeks to do justice to the officer personnel of the Navy. I have been here a good many years, and I have yet to find any important constructive legislation that represents the individual views of any single Member. [Applause.]

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. BRITTEN. Mr. Chairman, I ask that the Clerk read the bill for amendment.

The CHAIRMAN. The Clerk will read the bill.

The Clerk read as follows:

Be it enacted, etc., That so much of the naval appropriation act approved August 29, 1916 (Stats. L., vol. 39, p. 576; U. S. C., title 34, sec. 4), as provides: "That the total number of commissioned line officers on the active list at any one time, exclusive of commissioned warrant officers, shall be distributed in the proportion of 1 of the grade of rear admiral to 4 in the grade of captain, to 7 in the grade of commander, to 14 in the grade of lieutenant commander, to 32½ in the grade of lieutenant, to 41½

in the grades of lieutenant (junior grade) and ensign, inclusive:" is hereby amended to read as follows: "That the total number of commissioned line officers on the active list at any one time, exclusive of commissioned warrant officers, shall be distributed in the proportion of 1 in the grade of rear admiral, to 4 in the grade of captain, to 8 in the grade of commander, to 15 in the grade of lieutenant commander, to 30 in the grade of lieutenant, to 42 in the grades of lieutenant (junior grade) and ensign, inclusive: *Provided*, That no officer shall be reduced in rank or pay or separated from the active list of the Navy as the result of any computation made to determine the authorized number of officers in the various grades of the line."

Mr. BLANTON. Mr. Chairman, I move to strike out the last word. The gentleman from Alabama [Mr. OLIVER], whom we all love, said that none of these 600 officers who could be retired under this bill had any objection to it. Of course, you won't find objection from any man who has a chance to be retired at 45 years of age on three-quarters of his salary for life. Any person will agree to that, because they get their pay for life and can then sell all of their time to big corporations for big salaries additional. Of course, that meets with their approbation, but what I am thinking about is the American people, who will have to pay the bill, who are not willing to retire able-bodied men at 45 years of age on three-quarters of their salaries for life.

Mr. BRITTEN. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. I have only five minutes.

Mr. BRITTEN. Let me correct the gentleman.

Mr. BLANTON. If the gentleman can correct me in half a minute, I yield to him.

Mr. BRITTEN. It is not 75 per cent of their salary. It is two and a half per cent per annum for their total service, not to exceed 75 per cent.

Mr. BLANTON. There never has yet been a bill written for and by the Navy or the Army Department that has not been written in such technical language that not a single Member of the House can understand what it means. We know this, that the 600 officers are to be retired under this bill on retired pay at 45 years of age, and that is what I am objecting to. And we know that some will be retired on three-fourths pay for life. There have been admirals in the service retired on admirals' pay, thereafter drawing for years $50,000 a year from private corporations. I can name you General Harbord, and other generals who have been retired on generals' pay in the Army, drawing for years $50,000 a year from private corporations. It is not right. They were all educated by the people at tremendous expense.

I once heard my distinguished colleague from Texas, Mr. Black, state on this floor that the time would soon come, if we kept on, when we would have half the people retired on big retirement pay, with the other half of the people working hard trying to earn enough money to pay their salaries. It ought to stop. This bill ought to be killed. We ought not to retire any able-bodied man at 45 years of age.

Mr. OLIVER of Alabama. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. The gentleman did not have time to yield to me, but I always yield. Is the gentleman in favor of retiring able-bodied men at 45 years of age?

Mr. OLIVER of Alabama. That is a fair question, and I will answer it, and I will ask that the gentleman be granted more time if I consume too much of his time.

Mr. BLANTON. I doubt whether in this impatient atmosphere the House would give it.

Mr. OLIVER of Alabama. There are existing laws now providing for retirement at the ages of 45 and 56. This bill does not affect those laws. Vote down this bill, and it would not change them. These laws were here before the gentleman came, they were here when I came, under which officers at the ages of 45 and 56 are retired if not selected for promotion, and that is why the gentleman unconsciously does an injustice to this bill by calling attention to retirements provided for in laws passed by other Congresses.

Mr. BLANTON. Since the gentleman has taken most of my time, I shall try to use the balance of it. We should repeal every law that retires able-bodied men under 60 years of age. If we set this precedent by passing this bill, under which these 600 naval officers will be retired at 45 years of age, although able-bodied and sound mentally, you will set a precedent that will later on retire every other officer in the Army and Navy and the Marine Corps, and the Coast Guard, able-bodied and sound at 45, for they would likewise ask for retirement at 45 years of age. Are you men in this House who are strong, able-bodied men 45 years of age willing to admit that when a man reaches the age of 45 years he ought to be retired? There have been men here, like Uncle Joe Cannon, who served in this House until they reached almost twice the age of 45, and they rendered to the last good service to the public.

In this disorder and impatient atmosphere this bad bill will pass, and we can not stop it, and we will not be able to force a record vote, but we can protest against it.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. O'CONNOR of New York. Mr. Chairman, I rise in opposition to the pro forma amendment. I did not complete my statement of what happened before the Committee on Rules. Of course these 600 men, in answer to the gentleman from Alabama [Mr. OLIVER], who are going to be permitted to retire at the age of 45 are not complaining. Naturally. They are going to be retired at huge salaries, thousands and thousands of dollars, as high as $7,800, I believe. They are not complaining. They are being kicked upstairs into retirement to get them out of the service because they do not fit socially. The distinguished chairman of the Committee on Naval Affairs, that great patriot, the social lion from Chicago, has said that these men did not understand the languages. I have yet to find out what the knowledge of Latin or Greek has to do with steering a ship.

Mr. BRITTEN. I might have said the same thing about the gentleman from New York himself.

Mr. O'CONNOR of New York. Oh, I will gladly take the social lion from Chicago on any time when it comes to intelligence. He said they were not mentally qualified. Here are his own words:

> You know the difference in caliber between the men who graduate from the Naval Academy and those who come up from the service.

All right! If the gentleman from Illinois wishes, in line with his social ambitions to establish caste in America, I shall not say "more power to him," but rather let him try it in this country and in these days of real democracy.

The Clerk read as follows:

> SEC. 2. The selection board established by the act of August 29, 1916, shall be convened at least once each year and at such times as the Secretary of the Navy may direct. The Secretary of the Navy shall furnish the selection board with the names of all officers who are eligible by law for consideration by said board for selection for promotion as herein authorized, together with the record of each officer. Each board shall recommend for promotion from among those officers who are eligible such number as may be directed by the Secretary of the Navy, which number shall be 10 per cent of the authorized number of officers in the grades to which promotions are to be made as determined by the existing computation, and in addition thereto the number, if any, of vacancies then existing and which may occur on or before June 30 in said grade in excess of the number of officers in the next lower grade on the promotion list provided for in section 4: *Provided*, That if the number of officers in any grade on the promotion list is in excess of the number of vacancies then existing and which may occur in the next higher grade on or before June 30, as aforesaid, and said excess shall equal or exceed 10 per cent of the authorized number of officers in said next higher grade as above determined, the number to be furnished the board for recommendation for promotion to said next higher grade shall be reduced to 8 per cent of said authorized number: *Provided further*, That if the number of officers in any grade on the promotion list shall at any time be insufficient to fill vacancies then existing and which may occur in the next higher grade prior to the convening of the selection board next ensuing, the Secretary of the Navy may, in his discretion, convene a selection board to recommend for promotion such additional number of officers as may be necessary to fill said vacancies.

Mr. McCLINTIC of Oklahoma. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Oklahoma [Mr. McCLINTIC] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. McCLINTIC of Oklahoma: Page 3, line 24, add "*Provided*, That no officer shall be promoted or retired until the findings of the board shall be approved by the President of the United States."

Mr. McCLINTIC of Oklahoma. Mr. Chairman, every Member of the House should desire to deal fairly with every class of officer in the Navy or Army. It has been repeatedly brought to your attention that it is the object of this legislation to retire approximately 600 officers at the age of 45. The chairman of the committee has made that statement in his testimony. If that is true, then, we who are interested in giving to those officers that which is called a square deal should be willing to allow the findings of the board to be reviewed by the President of the United States. Not only is that a bad situation with respect to the board, but there is nothing in this bill to prohibit a member of the board considering his own promotion when serving in that capacity. I say to you without fear of contradiction that there exists to-day in the United States Navy a prejudice on the part of naval graduates against those who come up from the ranks. Everybody who has had time to make an investigation of that subject knows it to be true. Therefore, if you want to be fair, if you want to deal with these men who are entitled to have some one sponsor their cause, then vote for the amendment which will cause the action of the selection board to be reviewed by the President of the United States, and then you will know they will get a fair and just deal.

Mr. BRITTEN. Mr. Chairman, if the gentleman's amendment is adopted, every warrant officer, every machinist's mate, every carpenter in the Navy must submit his record to the President of the United States before he can be promoted in these minor grades.

Mr. McCLINTIC of Oklahoma. They should be submitted to some higher power, then there could be no complaint from any source.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Oklahoma [Mr. McCLINTIC].

The question was taken; and on a division (demanded by Mr. McCLINTIC of Oklahoma) there were 25 ayes and 91 noes.

So the amendment was rejected.

Mr. McSWAIN. Mr. Chairman, I move to strike out the last word. Mr. Chairman, and ladies and gentlemen of the committee, some emphasis has been laid on the fact that the Senate unanimously passed this bill. The Senate on the second day of the present Seventy-first Congress, now nearly two years ago, passed unanimously a promotion bill for the Army, and that promotion scheme came to this House, and is resting, securely embalmed with the Committee on Military Affairs, and as far as I can remember now, nobody has ever opened his mouth about bringing it up for consideration in the full committee. [Applause.]

The unanimous passage of such a bill as this or the other bill to which I referred, under the circumstances, means nothing at all. Now, what is the obvious fact? If this bill becomes law, in a very few months there will not be an officer in the United States Navy except those who graduated from the Naval Academy. Now, I am for national defense. I am for a good Navy and a good Army, and I would regret it as a most unfortunate thing for the Army for anything approaching 75 per cent of the officer personnel of the Army to be graduates from the Military Academy. It is a fortunate fact, a fact of which I am proud, that to-day practically only 30 per cent of the officer personnel of the Army is composed of graduates of the Military Academy, and the rest of them came from the rank and file, came out of the mass of civilian emergency Army officers, who are natural and tested leaders of men.

It has been said that these officers, who came up from the ranks, do not have all the refinements of higher mathematics and foreign languages; that they do not know French and German; do not know differential calculus or analytical geometry and all such things. I may say to the gentleman from Illinois [Mr. BRITTEN], who has paid a tribute to those members of the officer personnel of the Navy by calling them "the backbone of the Navy," that they may not know so much about higher mathematics but they know the ship.

Mr. HOUSTON of Hawaii. Not necessarily.

Mr. McSWAIN. They do know the ship; and the graduates of the Naval Academy never get their hands greasy or dirty on the ship. Not one of them got dirty or greasy even while they were midshipmen except when carried on a little experimental or practice cruise.

I will ask the gentleman where did John Paul Jones learn his higher mathematics? [Applause.]

Where did David G. Farragut learn his higher mathematics? [Applause.]

Where did Horatio Nelson learn his higher mathematics? [Applause.]

Mr. Chairman, my opposition to this measure is fundamental. Undoubtedly the graduates of the Naval Academy are well educated and therefore able to comprehend the broad problems of naval strategy as well as the narrower problems of naval tactics. But when it comes to the intimate and personal knowledge of seamanship and the handling of a vessel under emergencies, that is something which may be learned only by long years of experience and may not be acquired from books. Of the more than 80,000 young men who enlist in the Navy, undoubtedly there are many thousands who have natural ability, fine character, and great ambition. These young men should be encouraged to hope for a career in the Navy. With this encouragement, they will make better seamen and will be promoted more quickly as a result of their attention to duties and their study of the general problems of naval warfare. If the door of hope is to be shut in their faces, and if they are to be told that they can never rise above the grade of chief warrant officer, then they will not exert the same energy and not be stimulated by the same initiative that they would be if the way were open for them to rise to the highest place in the Navy.

Mr. Chairman, I am proud that some of the highest officers of the United States Army have entered the Army as enlisted men. That is true, also, of the British Army. That great soldier, Sir William Robertson, who represented the British Nation on the Inter-Allied War Council for a part of the time during the World War and held in the British service a position analogous to our office of chief of staff, entered the army as a private soldier. By diligence, by study, and by devotion to duty he overcame all obstacles, he overcame a strong feeling of caste and official prejudice in the British Army and, finally, by force of his personality and by the power of his accomplishments, compelled the recognition of the leaders of the British Nation and was knighted at the hand of the British King.

So, Mr. Chairman, it has often been in the history of American Armies. I hope it will be true many, many times in the future. We must leave hope for advancement in the hearts of men if we may expect them to do their very best. It was so in the early days of our Navy. But under the program contemplated by this bill, all of those splendid officers of the Navy who were commissioned during the war period because of their superior ability as leaders and because of their unusual knowledge of naval problems will be eliminated and then there will be no officer in the United States Navy except graduates of the United States Naval Academy.

Let us be perfectly frank about the situation. I feel sure that more than 50 per cent of the young men who go to the Naval Academy would have accepted an appointment to the Military Academy if they could have gotten the latter and not the former. In other words, the majority of the young men in seeking these appointments have no special choice of the Navy over the Army, nor of the Army over the Navy. As a matter of fact, they are merely seeking a free education with a prospect of going into the service of the Government at a guaranteed salary to commence with, and with an assurance that they will be advanced from time to time as they grow older and more experienced.

Mr. Chairman, if I were seeking for a superintendent of a cotton mill I would not pick out a graduate of Harvard University, however much theoretical knowledge he might have of the textile art. I would pick a man out of the cotton mill, who entered as a boy and who had worked through all the grades in the cotton mill and who knows not only the machinery but who knows the people, their ways, and wishes and, therefore, knows how to handle both the man and the machine. So, in like manner, if I was seeking the manager of a large store I would not pick out a graduate of Princeton University, however much he may have studied the theory of commerce and the academic problems of finance. I would pick out a man who had risen from doorkeeper or cash boy through all the grades of salesmanship, and through all the stages of buying, until he knew the mercantile business from the bottom to the top. So as to the president of a bank. So as to the superintendent of a farm.

In other words, it is more important that the managers and superintendents of these businesses should be men who know the business, rather than know books about the business. Therefore, if I were selecting the captain for a war vessel, who should know every piece of machinery in the ship, who should know what to do in case of storm, who should know how to guide the vessel in conformity with the commands of the admiral in time of battle, I would pick out some man of the 80,000 American citizens in the Navy, who entered the Navy before he was 20 years of age, who had lived on the boat maybe for 20 or 30 years, who had worked in every part of the boat, who had traveled over all the seas, who had experienced storms of all degrees of ferocity, who had maneuvered the boat under every difficulty or variety of position, and who, therefore, could take charge of the boat and the crew upon the boat, just like a boy raised on a western farm can handle a young horse. Such a captain of a boat, we find often in the mercantile marine. These old skippers have sailed over the face of the earth many times, have braved a hundred storms, they know the sea in all its moods, and they know the sailors in all their moods. They can, therefore, handle every situation as it arises. The heroism, the fortitude and the cool judgment of these old mercantile marine sea captains have commanded the admiration of the thoughtful people of the earth for hundreds of years. They have responsibilities to face and to discharge every day of the year, and the constant meeting of their responsibilities develops them. It is not like the naval officer, who has a chance at annual sham battles, except during the war periods which are very occasional, and we hope will gradually grow more remote.

One other thing, Mr. Chairman, about this bill. It is the principle of permitting selection boards to decide who may be advanced and who must be retired. As a member of the committee on Military Affairs and knowing something of the spirit of the Army, I think I can say safely that such a system of promotion would not be thought of for the Army for one minute. It is true we have selection boards for the selection of general officers, but from second lieutenant through the grade of colonel men rise by seniority, provided they can pass the examinations. If they can not pass the examinations, then they are dropped from the rolls and thus penalized for their inattention to duty. But if a selection board were permitted to meet in secret and to pass upon the qualifications of officers in secret, and there to decide who might be promoted and who must be retired, would be so repugnant of the sense of military justice as not to be countenanced for the Army a single minute. Under such a system the selecting board would be bombarded in behalf of relatives and friends, sons and sons-in-law, nephews by blood and nephews by marriage, all operating in a secret selecting board on the principle of "you tickle me and I'll tickle you," which will certainly not make for the selection of the highest merit and the strongest character. Certainly no man ought to be discharged from the Navy or retired until he is given a chance to show out in the open before either the President or a separate and independent board appointed by the President that he has the ability and has the knowledge and that he can carry on the work. Of course, Mr. Chairman, I believe in education, but I know that there is such a thing as education without formal scholastic training.

I know that education, in a true and genuine sense, means mental discipline and spiritual discipline, both combined into one compact personality, called character. This mental discipline may be obtained anywhere. This spiritual must be obtained anywhere. Books and teachers are a great help to education, but there are many educated men who never went to a college, and on the contrary, there are men who went through college and received diplomas but are not genuinely educated. Education results in ability to accomplish results, and to do worthwhile things. Some of the most efficient and useful men I know never got a high-school education in the ordinary sense, but they received a high education from the school of experience, from the college of duty well done, and from the university of contact with the very real forces of the world. Such men are, in fact, truly educated.

So, Mr. Chairman, I properly asked the question as to where John Paul Jones was educated, and where were educated all those truly heroic leaders of the Navy, like Decatur and Preble and Farragut, and many others? Through the daily discharge of duty extending over long periods of years, they were developed into real leaders of men, knowing the ship and knowing the sea, and knowing the human forces operating the ship, and knowing the fighting machinery upon the ship and having acquired all this knowledge by intimate personal character, they were constantly in complete possession and the master of themselves, of their crews, and of their vessels.

I would not abolish the Naval Academy, and I would not discourage the graduates thereof, but I would increase the number of midshipmen who may come from the rank and file of the Navy. In fact, I am disposed to believe that it would be the best thing for every midshipman appointed by a Member of Congress to be required to serve one year with the fleet as an ordinary seaman before entering the academy. Thus he would have first-hand knowledge of the life of the ordinary seamen, and therefore have an understanding of their feelings, and be able better to command them in the future. In the next place, he would be able to decide if he would like the life of the Navy. If he should not like it at the end of one year he could resign and not clutter up the student body with young men not interested in the Navy and not seeking careers in the Navy but merely seeking a free education. But if it comes to pass that all the officers of the Navy of high and low degree are graduates of the academy and have no first-hand knowledge, by actual personal experience, of the work and life and feelings of the enlisted men of the Navy, then the Navy will be to that extent weakened and to that extent the efficiency of the Navy as a force of national defense decreased. I stand for the application of the broad principles of American democracy to the Army and the Navy. All can not be equal in rank nor authority, because there are different degrees of natural ability and character, but all should have an equal opportunity at the beginning.

This principle has made America great in business, great in industry, great in invention, and great in finance. It is a sound principle for application anywhere and at any time.

The CHAIRMAN. The time of the gentleman from South Carolina has expired.

Mr. BRITTEN. Mr. Chairman, I move that all debate on this section and all amendments thereto close in seven minutes.

The motion was agreed to.

Mr. CONNERY. Mr. Chairman, I move to strike out the last word, and I ask unanimous consent to revise and extend my remarks.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. CONNERY. Mr. Chairman, I asked for this time for the purpose of interrogating the chairman of the committee. On general principles I am in favor of this bill, but I certainly do not want to vote for any bill which will discriminate against the enlisted personnel of the Navy who

have become officers in favor of the Annapolis graduates. [Applause.] I would like to ask the gentleman from Illinois a question or two. I have been conferring with some gentlemen on my side of the House and have been informed that there is a provision in the bill which will discriminate against the enlisted man who may have become an officer. I have been told that there is a provision in the bill which provides that if an enlisted man has become an officer and desires to do so he can go back to his rank as a warrant officer and receive higher retirement pay than he would if he had remained an officer. Is that true?

Mr. BRITTEN. That is correct. The committee as a whole feels as the gentleman does about these men. This is a relief measure for them and they themselves wrote the language that is in the bill.

Mr. CONNERY. I do not agree with my distinguished colleague from South Carolina in his criticism of the Annapolis graduates. I believe these men have greased their hands and have gone out and taken practical tactical training on their cruises. They have done everything which will tend to make them good officers in the Navy. Furthermore, I do not want to criticize any of our Annapolis men in their duties as officers in the Navy. There possibly may be a discrimination in favor of the Annapolis graduates and against enlisted men; and, of course, I would not approve of that for a moment; but if the chairman assures me that there is no discrimination in this bill against the enlisted man becoming an officer, then I will be glad to vote for the bill.

Mr. BRITTEN. The gentleman from Massachusetts may be fully assured that this bill is in the interest of the very men he is talking about.

Mr. McCLINTIC of Oklahoma. Will the gentleman yield?

Mr. CONNERY. Yes.

Mr. McCLINTIC of Oklahoma. On page 4, at the top of the page, the gentleman will find this language:

Except as provided in section 7, captains, commanders, and lieutenant commanders, who shall not have been recommended for promotion to the next higher grade by the report of a line selection board as approved by the President prior to the completion of 35, 28, or 21 years, respectively, of commissioned service in the Navy, shall be ineligible for consideration by a line-selection board, and any officer in said grades shall likewise be ineligible for consideration who on June 30 of the calendar year of the convening of the board shall have had less than four years' service in his grade.

In other words, if he fails, he is ineligible and out he goes.

Mr. O'CONNOR of New York. And every one of the 600 men whom the Chairman said the purpose of this bill is to retire at 45 years of age, because they do not know the languages, is an enlisted man.

Mr. CONNERY. Every one of the 600?

Mr. O'CONNOR of New York. Every one of the 600 men is a man who came up from the ranks. Let the gentleman deny that.

Mr. BRITTEN. Of course, everybody understands that but the gentleman himself.

Mr. O'CONNOR of New York. Well, what are the facts? Is it not the fact that every one of the 600 men that you want to retire under this bill is an enlisted man who came up from the ranks?

Mr. BRITTEN. Everybody who has talked on the bill has said that very same thing five or six times, but the gentleman did not understand it.

Mr. O'CONNOR of New York. Oh, yes; I understood it.

Mr. CONNERY. After listening to both sides of this question, Mr. Chairman, I have decided to vote for the bill. [Laughter and applause.]

Mr. OLIVER of Alabama. Mr. Chairman, I rise in opposition to the pro forma amendment.

I have asked for recognition for two minutes to make a statement in connection with the speech made a few minutes ago by my distinguished friend from South Carolina [Mr. McSWAIN], for whom I entertain the warmest affection, as do other Members of the House, because we regard him as a man of outstanding ability and one who would not knowingly mislead the membership of this House.

I will say to my friend that I was a member of the legislative committee when we extended larger opportunities to the enlisted men to enter the academy at Annapolis, and there are in the service to-day some of the finest officers who have come from the enlisted ranks, and some of these have been commissioned as admirals.

One hundred appointments are now given to the enlisted men. We first started with 25 and afterwards increased it to 100, and at my suggestion at this session, we have sought by law to exclude from unfair competition with the enlisted man the college boy who comes prepared to take the entrance examination. If you could go into the Navy and find its officers of high rank volunteering to give freely of their time in training these enlisted men on ship and shore so that they may qualify for the entrance examination to Annapolis, you would then understand that there is no feeling against the enlisted man. I would like to increase the number of appointments given the enlisted men to 200, and surrender, if necessary, some of our congressional appointments, if assured that announced number from the enlisted ranks can qualify for the entrance examinations so as to pass from the academy into the commissioned ranks of the Navy. [Applause.]

The Clerk read as follows:

SEC. 3. Except as provided in section 7, captains, commanders, and lieutenant commanders, who shall not have been recommended for promotion to the next higher grade by the report of a line selection board as approved by the President prior to the completion of 35, 28, or 21 years, respectively, of commissioned service in the Navy, shall be ineligible for consideration by a line-selection board, and any officer in said grades shall likewise be ineligible for consideration who on June 30 of the calendar year of the convening of the board shall have had less than four years' service in his grade: *Provided*, That the commissioned service of Naval Academy graduates, for the purpose of this section only, shall be computed from June 30 of the calendar year in which the class in which they graduated completed its academic course, or, if its academic course was more or less than four years, from June 30 of the calendar year in which it would have completed an academic course of four years: *Provided further*, That except as provided in section 7, officers of any grade commissioned in the line of the Navy from sources other than the Naval Academy, shall become ineligible for consideration by a selection board when the members of the Naval Academy class next junior to them at the date of their original permanent commission as ensign or above become ineligible for consideration under the provisions of this section.

Mr. McCLINTIC of Oklahoma. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLINTIC of Oklahoma: On page 4, in line 18, after the word "years," strike out the balance of the section.

Mr. McCLINTIC of Oklahoma. Mr. Chairman, I respectfully desire to call the attention of the committee to these words:

That except as provided in section 7, officers of any grade commissioned in the line of the Navy from sources other than the Naval Academy, shall become ineligible for consideration by a selection board when the members of the Naval Academy class next junior to them at the date of their original permanent commission as ensign or above become ineligible for consideration under the provisions of this section.

Now, if this is not the finest tailor-made language that was ever devised on the top side of the earth to kick these officers out, then I need somebody, other than members of the committee, to tell me what such language means. What are you going to do? Destroy your Navy? Are you going to fix it so that nobody unless he comes from the Naval Academy can be charged with such responsibility in the future?

If we had adopted such a policy during the period of our Revolutionary War, we would not have any nation to-day; and when you tell me that nobody but naval officers shall be commissioned in the future, then I say that you strike down initiative, you strike down ambition, you strike down everything that is necessary on the part of an officer to take care of an emergency, because you know just as well as I do that when it comes to quick perceptive capabilities those who come from the ranks, those who come from the farms,

those who come from the common people are always the ones that put forth the right kind of initiative at the proper time; and I protest with all the vehemence within my power against any such provision in a bill. I think this part of the bill ought to be stricken. [Applause.]

Mr. BRITTEN. Mr. Chairman, I rise in opposition to the amendment.

The proviso which the amendment aims to strike out of the bill is the very proviso inserted in the bill to give these former enlisted men, who are now commissioned officers, a preference over those who came out of the Naval Academy. The amendment should be voted down.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 5. All officers who are not on the promotion list and who, after completion of the designated periods of service as prescribed for their respective grades, become ineligible for consideration by a line-selection board in accordance with this act, or who, if on said promotion list, undergo the required examinations for promotion and are found not professionally qualified, shall be transferred to the retired list of the Navy. All lieutenants who are 45 or more years of age, or who have completed 20 or more years of service, counting all service for which they would be entitled to credit for voluntary retirement, and who undergo the required examination for promotion to lieutenant commander and are found not professionally qualified, shall be transferred to the retired list of the Navy: *Provided*, That if such lieutenants were permanently appointed as ensign or above in the permanent line of the Navy while holding permanent warrant or permanent commissioned warrant rank in the Navy, they shall have the option of reverting to such permanent warrant or permanent commissioned warrant status in the lineal position to which their seniority would have entitled them had their service subsequent to such appointment been rendered in the status to which they revert.

Mr. McCLINTIC of Oklahoma. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 6, line 26, after the word "Navy," strike out the balance of the section.

Mr. McCLINTIC of Oklahoma. Mr. Chairman, this amendment would have the effect of striking out of that section of the bill the language which relates to the retirement of those 45 years of age, and who no doubt have come up from the ranks. In addition, it would prevent penalization of those who were formerly warrant officers, causing them to revert to their former status, going back several grades.

The House knows very well that the subject I have been talking about is referred to in this legislation in three or four places. It has been testified to by the chairman of the committee that it was the intention to rid the Navy of a certain class of officers. When you take into consideration that there is this in the mind of those who have graduated from the Naval Academy—the feeling that those who have not graduated are not competent to perform the service—if you favor that idea, you will vote against the amendment, but if you are in favor of allowing these men who come up from the ranks an opportunity to remain in the service you will vote for the amendment.

Mr. BRITTEN. Mr. Chairman, if this amendment was adopted, it would take away from the enlisted man who has become an officer his permanent right to revert to his original warrant grade if he wants to. In many instances he will want to go back to the former warrant grade, because it will be best for him to do so. If he does want to go back, the provision that the gentleman moves to strike out would permit him to do so. I think the amendment should be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma.

The question was taken; and on a division (demanded by Mr. O'CONNOR of New York) there were 20 ayes and 79 noes.

So the amendment was rejected.

The Clerk read as follows:

SEC. 6. Officers retired pursuant to any section of this act shall receive pay at the rate of 2½ per cent of their active-duty pay multiplied by the number of years of service for which they were entitled to credit in computation of their longevity pay on the active list, not to exceed a total of 75 per cent of said active-duty pay: *Provided*, That because of variations in the date of entry into the Naval Academy of members of the classes of 1906 to 1916, inclusive, ranging from June to September, a fractional year of nine months or more shall be considered a full year in computing the number of years of service of members of those classes by which the rate of 2½ per cent is multiplied.

Mr. McCLINTIC of Oklahoma. Mr. Chairman, I offer the following amendment:

The Clerk read as follows:

Page 7, strike out section 6.

Mr. McCLINTIC of Oklahoma. Mr. Chairman, this section provides for the payment of officers on the basis of nine months per year. If the House wants to establish that precedent I can not prevent it. I am not in favor of legislating nine months to make twelve months. I do not see why such a provision is contained in legislation. Therefore it would seem to me that if the House wants to do that which is right it will not agree that any officer may have credit for one year when he has only served nine months.

Mr. BRITTEN. Mr. Chairman, the amendment that the gentleman from Oklahoma moves to strike out is existing law and has been for 30 years. The amendment should be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma.

The question was taken, and the amendment was rejected.

The Clerk concluded the reading of the bill.

The CHAIRMAN. There being no further amendment, the committee will automatically rise.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. BACON, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (S. 550) to regulate the distribution and promotion of commissioned officers of the line of the Navy, and for other purposes, and he reported the same back to the House without amendment.

The SPEAKER. The question is on the third reading of the bill.

The bill was ordered to be read a third time; was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and on a division (demanded by Mr. BLANTON) there were—ayes 170, noes 63.

So the bill was passed.

On motion of Mr. BRITTEN, a motion to reconsider the vote by which the bill was passed was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Craven, its principal clerk, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 4727. An act for the relief of the Federal Real Estate & Storage Co.; and

S. 6254. An act for the relief of United States Marshal George B. McLeod.

The message also announced that the Senate had agreed to the amendments of the House to bills of the following titles:

S. 1496. An act for the relief of Edith Barber;

S. 3404. An act to authorize the city of Fernandina, Fla., under certain conditions, to dispose of a portion of the Amelia Island Lighthouse Reservation Fla.;

S. 5139. An act to extend the provisions of certain laws relating to vocational education and civilian rehabilitation to Porto Rico; and

S. 5743. An act to authorize 24-hour quarantine inspection service in certain ports of the United States, and for other purposes.

The message also announced that the Senate had agreed to the reports of the committees of conference on the disagreeing votes of the two Houses on the amendments of the Senate to bills and a joint resolution of the following titles:

H. R. 531. An act for the relief of John Maika;

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

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

H. R. 8242. An act for the relief of George W. McPherson; and

H. J. Res. 357. Joint resolution classifying certain official mail matter.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 255) entitled "An act for the promotion of the health and welfare of mothers and infants, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JOHNSON, Mr. JONES, and Mr. FLETCHER to be the conferees on the part of the Senate.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4022) entitled "An act to regulate the erection, hanging, placing, painting, display, and maintenance of outdoor signs and other forms of exterior advertising within the District of Columbia.

The message also announced that the Senate insists upon its amendments to the bill (H. R. 10672) entitled "An act to amend the naturalization laws in respect of posting notices of petitions for citizenship," 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. JOHNSON, Mr. REED, and Mr. KING to be the conferees on the part of the Senate.

The message also announced that the Senate had concurred in House Concurrent Resolution No. 53, relative to the engrossment and enrolling of bills and joint resolutions during the remainder of the present session of Congress.

RESTRICTION OF IMMIGRATION

Mr. SNELL. Mr. Speaker, by direction of the Committee on Rules I call up privileged House Resolution 370, which I send to the desk and ask to have read.

The Clerk read as follows:

House Resolution 370

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of House Joint Resolution 500, further restricting for a period of two years immigration into the United States. That after general debate, which shall be confined to the joint resolution and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Immigration and Naturalization, the joint resolution shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the joint resolution for amendment the committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and the amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The question is on agreeing to the resolution.

Mr. O'CONNOR of New York. Mr. Speaker, may I have some arrangement with the chairman of the Committee on Rules for time?

Mr. SNELL. We are very anxious to get through with this bill to-night, and it is getting late.

Mr. O'CONNOR of New York. I know that the gentleman is anxious to get through. When this matter was brought before the Committee on Rules the proponents of the bill, the chairman of the committee, and so forth, asked for four hours of general debate, if I recall correctly. Then the matter was discussed in the Committee on Rules. It was decided that not only four hours of general debate would be used, but one hour under the rule. Now, not the proponents of the bill but the Rules Committee reduced it to three hours, with the understanding that an hour will be used in this highly controversial bill on the rule, where there are some six or seven dissenting minority members. We need surely one hour, the usual time under the rule, on this side of the House for a discussion of the matter. I ask the gentleman from New York to yield me 30 minutes.

Mr. SNELL. I would be very glad to give all the time necessary, but it is getting late, and we want to put this bill through to-night [Applause], and because of the lateness of the hour and the lateness in the session I had in mind offering an amendment to cut the general debate from three hours down to one hour. As a matter of fact that will answer every purpose. [Applause.]

Mr. O'CONNOR of New York. Oh, I know with what impetuosity such things are rushed through, but let us be fair about it. There is no reason why we should not be as fair on this matter as on any other matter, when it is determined after due deliberation that this bill requires that much debate to develop the side of the opponents of the measure, in order to determine whether or not Congress should pass it. It is no answer to come in and say because of the lateness of the hour and the closing days of the session that this can not be done. I could mention 20 bills that will not be considered in this Congress because of the closeness of adjournment. Why come in at this late hour and violate all of the real sportsmanship agreement of giving the minority members of the Rules Committee a fair share of time and of complying with the rule of having three hours of general debate.

Mr. DICKSTEIN. Mr Speaker, will the gentleman yield?

Mr. SNELL. Yes.

Mr. DICKSTEIN. This bill has been discussed in committee for almost four months, and we have at least five members of the minority, all of whom would like to have some time. Does the gentleman think it is fair and just to the members of the minority and to a number of Members of the House to cut it down to one hour?

Mr. SNELL. I appreciate the fact that some gentlemen have never been for any immigration bill that has ever been before the House of Representatives, and I am not criticizing the gentleman from New York [Mr. DICKSTEIN] for his attitude on the matter.

Mr. O'CONNOR of New York. And on the other hand there are some who have never been against any immigration bill.

Mr. DICKSTEIN. This particular bill should be discussed, because it is a fraud on the Congress and on the American people, and if the Congress after we get through explaining what the bill proposes to do decides to pass it, then you can close the doors, so far as I am concerned.

Mr. BOX. Mr. Speaker, I hope the gentleman from New York will make the motion to cut this down to one hour, and I hope that everyone who believes in restriction of immigration will vote for that amendment.

Mr. SNELL. Mr. Speaker, I yield 30 minutes to the gentleman from New York and then I shall move the previous question.

Mr. DICKSTEIN. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. DICKSTEIN. I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from New York makes the point of order that there is no quorum present. The Chair will count. The Chair desires to make this statement and have the attention of the House. Originally the Chair was asked to entertain a motion to suspend the rules and pass this bill. He thought that the bill was of such major importance that it would perhaps be better, even though the season is so late, to have it brought in under a rule; but if it becomes evident that a filibuster is being conducted, the Chair will seriously consider the question of entertaining a motion to suspend the rules and pass the bill. It is evident that there is no quorum present.

Mr. TILSON. Mr. Speaker, I move a call of the House.

Mr. LAGUARDIA. Mr. Speaker, I move that the House do now adjourn.

Several Members rose and addressed the Chair.

The SPEAKER. The Chair recognizes the gentleman from Connecticut.

Mr. TILSON. Mr. Speaker, I move a call of the House, if we are to go on with the business of the House.

Mr. GARNER. Oh, it is after 7 o'clock.

Mr. TILSON. Does the gentleman want to adjourn?

Mr. CRISP. Mr. Speaker, I move a call of the House.

The SPEAKER. A motion to adjourn takes precedence.

Mr. TILSON. Does the gentleman insist upon his motion?

The SPEAKER. A motion to adjourn has been made.

Mr. LaGUARDIA. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. LaGUARDIA. Does not a motion to adjourn take precedence over a motion to order a call of the House?

The SPEAKER. It does.

Mr. TILSON. I moved a call of the House the moment the Chair declared that there was no quorum present. That is all that I could do.

The SPEAKER. The question is on the motion of the gentleman from New York that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. LaGuardia) there were—ayes, 23, noes, 222.

Mr. LaGUARDIA. Mr. Speaker, I demand tellers.

The SPEAKER. As many as favor taking this vote by tellers will rise and stand until counted. [After counting.] Twenty-four Members have risen, not a sufficient number, and the tellers are refused.

So the motion to adjourn was rejected.

Mr. JENKINS. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H. J. Res. 500) further restricting for a period of two years immigration into the United States.

The SPEAKER. The gentleman from Ohio [Mr. Jenkins] moves to suspend the rules and pass a joint resolution (H. J. Res. 500), which the Clerk will report.

Mr. O'CONNOR of New York. Mr. Speaker, I have been recognized for 30 minutes already.

The SPEAKER. The Chair recognizes the gentleman from Ohio [Mr. Jenkins] to suspend the rules. The Clerk will report the bill.

The Clerk started the reading of the bill.

Mr. O'CONNOR of New York. Mr. Speaker, I have not had my say.

Mr. SABATH. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SABATH. After a gentleman is recognized under a special rule for a certain time and has the floor, can another gentleman take him off the floor?

Mr. DOWELL. Mr. Speaker, I make the point of order the gentleman is not entitled to the floor while the Clerk is reading the bill.

The SPEAKER. The Chair will answer the parliamentary inquiry.

Mr. SABATH. This is a parliamentary inquiry. The Speaker recognized the gentleman from New York [Mr. O'Connor] under a special rule which the House passed.

The SPEAKER. The Chair did not recognize the gentleman from New York [Mr. O'Connor] who was yielded 30 minutes. The Chair had not recognized him.

Mr. SABATH. The gentleman from New York [Mr. O'Connor] had the floor at that time.

The SPEAKER. The Chair had not recognized the gentleman from New York [Mr. O'Connor]. The Chair recognized the gentleman from Ohio [Mr. Jenkins].

Mr. O'CONNOR of New York. Mr. Speaker, a parliamentary inquiry. I know the Speaker intends to be fair.

The SPEAKER. Absolutely.

Mr. O'CONNOR of New York. The resolution by which this bill was brought from the Rules Committee was adopted. What has happened to that?

The SPEAKER. It was not adopted. It was pending a while ago, but it is not pending now. The Clerk will read the joint resolution.

Mr. LaGUARDIA. Mr. Speaker, I rise to a question of privileges of the House.

The SPEAKER. The gentleman will state it.

Mr. LaGUARDIA. Under the rules of the House the Speaker can not recognize unless there is a quorum present. I submit we are entitled to a count to ascertain whether a quorum is present, and I make the point of order that there is no quorum present.

The SPEAKER. The Chair will count. [After counting.] Two hundred and sixty-five Members are present, a quorum.

The Clerk will report the joint resolution.

The Clerk read the joint resolution (H. J. Res. 500) as follows:

Resolved, etc., That for each of the fiscal years beginning July 1, 1931, and July 1, 1932, respectively, the quota in the case of any nationality for which a quota has been determined and proclaimed under the immigration act of 1924, as amended, shall be 10 per cent of such quota, but the minimum quota of any nationality shall be 100.

Sec. 2. During such fiscal years no immigration visas shall be issued under subdivision (c) of section 4 of the immigration act of 1924, but in each of such fiscal years all the provisions of the immigration laws shall be applicable to immigrants born in any of the geographical areas specified in such subdivision as if each of such areas had a quota for such year equal to 10 per cent (but not less than 100) of the number of nonquota immigration visas issued, during the fiscal year ending June 30, 1930, to immigrants born in such area.

Sec. 3. Whenever before July 1, 1933, the Secretary of Labor, upon the application of any person interested and after full hearing and investigation of the facts in the case, determines that a bona fide employer in the United States needs a person trained and skilled in an art, craft, technique, business, or science, of a particular class and qualifications, and that a person of such class and qualifications can not be found unemployed in the United States, he shall transmit to the Secretary of State his decision, including a detailed statement of the particular qualifications found essential, and the Secretary of State shall transmit such decision to the consular officer. A nonquota immigration visa may be issued to an alien found by the consular officer to possess the qualifications set forth in the decision of the Secretary of Labor and to be otherwise admissible under the immigration laws, at any time between July 1, 1931, and June 30, 1933, both dates inclusive, without regard to quota, but not to exceed 300 in the aggregate of all classes in any one fiscal year. In the case of any such aliens who are subject to the contract-labor provisions of the immigration act of 1917, the decision of the Secretary of Labor shall also be considered, for the purposes of the fourth proviso of section 3 of such act (the so-called contract-labor waiver provision), as his determination of the necessity of importing such skilled labor.

Sec. 4. The provisions of this resolution are in addition to the provisions of the immigration laws now in force, and shall be enforced as a part of such laws, and all the penal or other provisions of such laws, not inapplicable, shall apply to and be enforced in connection with the provisions of this resolution. An alien, although admissible under the provisions of this resolution, shall not be admitted to the United States if he is excluded by any provision of the immigration laws other than this resolution, and an alien, although admissible under the provisions of the immigration laws other than this resolution, shall not be admitted to the United States if he is excluded by any provision of this resolution.

Sec. 5. Terms defined in the immigration act of 1924 shall, when used in this resolution, have the meaning assigned to such terms in that act.

Sec. 6. This resolution may be cited as the "Immigration act of 1931."

The SPEAKER. Is a second demanded?

Mr. DICKSTEIN. Mr. Speaker, I demand a second.

Mr. JENKINS. Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

Mr. LaGUARDIA. Mr. Speaker, I object.

The SPEAKER. The vote for demanding a second is taken by tellers.

The Chair appointed Mr. Jenkins and Mr. Dickstein as tellers.

The House divided; and the tellers reported that there were—ayes 153, noes 2.

Mr. LaGUARDIA. I make the point of order that there is no quorum present.

The SPEAKER. There was no quorum on the teller count; but if the gentleman makes the point of order of no quorum, the Chair will count.

Mr. SNELL. Mr. Speaker, do I understand if the motion has been seconded by teller vote this would be the unfinished business on Monday morning?

The SPEAKER. The gentleman from New York objects on the ground that the teller vote does not disclose a quorum. Therefore the Chair will count to see whether there is a quorum present. In case a quorum develops a second will be ordered. [After counting.] The Chair has counted with the utmost care and has counted 238 Members present, a quorum.

So a second was ordered.

The SPEAKER. The gentleman from New York [Mr. Snell] asked if, when a second is ordered or a quorum is present, this matter would be unfinished business at the

next meeting of the House. The Chair replies, "Yes." The Chair holds it would be unfinished business at the next meeting of the House, inasmuch as a second has been ordered, a quorum being present.

Mr. SNELL. Mr. Speaker, I should like to finish this to-night, but if it is going to take long and we must keep Members late, if it will be the first order of business on Monday, I will prefer a unanimous-consent request that the House adjourn at this time to meet at 11 o'clock on Monday.

The SPEAKER. Is there objection to the request of the gentleman from New York [Mr. SNELL]?

Mr. SPROUL of Illinois. I object.

Mr. DICKSTEIN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. DICKSTEIN. As a member of the Committee on Immigration, and one who is entitled to control of the time on this side, can we not make a gentleman's agreement by which this bill will be the first order of business for disposition on Monday at 11 o'clock and give this minority and some of the Members a fair chance for fair American play? If we can get that, we will go on Monday.

The SPEAKER. The Chair holds that if the House now adjourns this will be the first order of business on Monday.

Mr. JOHNSON of Washington. Mr. Speaker, I desire recognition.

It is clear that if this performance of to-night is repeated again on Monday, even if we meet at 11 o'clock, this bill will not get to the Senate in time to be handled over there. That is all there is to it. It must be passed to-night.

The SPEAKER. The gentleman from New York [Mr. DICKSTEIN] is entitled to 20 minutes; the gentleman from Ohio [Mr. JENKINS] to 20 minutes.

Mr. DICKSTEIN. Mr. Speaker, I understand I have control of the time on this side?

The SPEAKER. The gentleman has 20 minutes.

Mr. DICKSTEIN. Mr. Speaker, I yield two minutes to the gentleman from Massachusetts [Mr. CONNERY.]

Mr. CONNERY. Mr. Speaker, ladies and gentlemen of the House, I am not at all stirred up on this matter so far as getting very excited about it is concerned. I have watched the Speaker of this House since he has been Speaker. I have always had the highest admiration for his fairness and justice in dealing with this House. To-day I am afraid, for the first time, I must make a criticism of the Speaker. I do not know whether it is because the Speaker's dinner hour is approaching that he is getting a little worked up about this. The rest of us are hungry, too. But it seems to me that this is the first time since he has presided over this House that he has ever approached anything that seemed unfair to the American people.

Mr. DOWELL. Mr. Speaker, the gentleman is out of order. He is not discussing the question before the House.

Mr. CONNERY. All right. I will discuss the question before the House, if the gentleman wants to take it that way.

Mr. DOWELL. The gentleman should proceed in order.

Mr. CONNERY. This is a question which affects vitally every State of the Union to-day, and I do not believe that anybody in their sane, thoughtful moments on this side or on that side of the House would want to rush through legislation that should have consideration.

You are going to pass it. That is all right. But in the name of the American people and justice, give full consideration to this bill. Do not try to rush it through under suspension of the rules, when you know it is one of the most important things before the American people to-day. That is all I have to say. [Applause.]

Mr. Speaker, I yield back the balance of my time.

Mr. JENKINS. Mr. Speaker, I yield five minutes to the gentleman from Washington [Mr. JOHNSON].

Mr. JOHNSON of Washington. Mr. Speaker and Members of the House, you can all see this is a contentious subject. I have not time to go into detail as to this bill, but it is a correct bill. The United States is not dividing families. The enforcement of the present 1924 restriction law limits the chances for wives to come to about 10 per cent. We want that continued by law and not by regulation, until business recovers in the United States. The State Department can not stand the pressure. The same thing goes on at the doors of State and Labor Departments that you see going on here.

This bill is absolutely necessary. The Dominion of Canada has already suspended all immigration for two years, with the single exception of orphan boys who are sent by the churches from the cities of the British Isles to be put on farms and raised, just as thirty and more years ago New York sent its orphan boys out to the West to be adopted and raised and where later some of them became governors of States. Canada has suspended immigration for two years in this world emergency. Mexico has done nearly the same thing. In the last three or four days Canada has placed an embargo on soviet-made goods. Canada is for Canada. It is time for the United States, my friends, to do something for the United States. [Applause.]

Mr. Speaker, I yield back the remainder of my time.

Mr. JENKINS. Mr. Speaker, I yield five minutes to the gentleman from Texas [Mr. BOX].

Mr. BOX. Mr. Speaker and gentlemen, this bill reduces the quota immigration from all quota countries by 90 per cent. It does not touch nonimmigrant or immigrant of nonquota classes. It takes nonquota countries, such as Canada and Mexico, divides their immigration during the last fiscal year by the figure 10 and gives them 10 per cent of their immigration during last year.

The 10 per cent that comes from quota countries will be used almost wholly by near relatives. Large numbers of near relatives come as nonquota immigrants. The 10 per cent which is thus given to them will be used chiefly by immigrants of the preferred classes.

There is a necessity for this legislation. Your humble servant and others have been trying for 10 years to have enacted legislation of this character, and this House knows it. We have had just such opposition as developed here to-night. If we had passed this immigration bill five years ago, there would be two or three million less hungry men and women in the United States right now.

Talk about constructive legislation! This is constructive legislation. We have allowed labor of the classes that have been coming in from Mexico and elsewhere to accumulate in our centers of industry until there is a greatly increased amount of hunger.

Our State Department has found that under present conditions it needs this legislation. The administration has come to see the matter in an entirely different light, and I am exceedingly grateful that I have the privilege of standing before you to-night and contending for this legislation.

Moreover, I do not see anything in the action that our Speaker has taken to-night that is unbecoming or improper. [Applause.] The time comes sometimes when the Speaker has to rule, and when he is so weak he will not rule we have mobs, and one of the things we are going to need in the American Congress is orderly procedure. There has been nothing disorderly in the Speaker's action, and some of these gentlemen who have gone into such fits of hysteria about the orderly ruling of our Speaker to-night need to go back to some of the old countries and see the hell that has prevailed there, from which we are trying to save America. Pass this bill, gentlemen.

Mr. DICKSTEIN. Mr. Speaker, I yield three minutes to the gentleman from New York [Mr. O'CONNOR].

Mr. O'CONNOR of New York. Mr. Speaker, ladies and gentlemen of the House, in parliamentary procedure there is something worse than a filibuster, I may tell the distinguished, 100 per cent American from Texas, and that is rushing through roughshod by mob rule legislation which is controversial and which the proponents themselves admitted would take four hours to properly debate.

O Mr. Speaker, back there in the hills of Illinois, under a little mound, with a single tablet with his name inscribed thereon, lie the remains of a distinguished bearded old gentleman whose immortal soul has undoubtedly left those remains. His bust adorns the main corridor of the House Office Building. He was a notorious Speaker of this House,

a much advertised Speaker of this House; but if there were any power of expression left in his body, or if his immortal soul in heaven had the power to make comment on the happenings of to-day, this 28th day of February, in the year of our Lord 1931, he would express envy at the arbitrary boldness of that "liberal" from Ohio who has made so many arbitrary and unfair rulings to-day, who has made so many quorum counts to-day, who has counted quorum after quorum when none existed. No man in this House is doing more or has done more to pass this un-American, bigoted immigration bill than the "liberal" from Ohio.

Mr. DOWELL. Mr. Speaker, I make the point of order the gentleman is out of order, because he is not discussing the question before the House.

The SPEAKER. The gentleman will proceed in order.

Mr. O'CONNOR of New York. The distinguished gentleman from Illinois, long since deceased, and longer since shorn of his arbitrary powers, would envy his successor's boldness as presiding officer of the House to-day when, for instance, I myself—and I maintain the RECORD will show this if it is not edited, which would not surprise me—when I had already been yielded 30 minutes to discuss this bill, and in the mad rush, the fanatical, hysterical urge to answer the command of the hooded figure which always stalks this Chamber—the liberal from Ohio—brushed me off my feet and recognized the distinguished 100 per cent American from Ohio to suspend all rules of the House so this bill could be rushed through. Incidentally, I call it to your attention that the gentleman recognized is also a "liberal," unprejudiced resident of the Speaker's State—what more can possibly come out of Ohio? The Speaker, and I am sure he must regret it now, violated all the rules in taking me off my feet and brushing me aside and in recognizing the gentleman to suspend the rules in violation of all fair parliamentary procedure in this House this year or in any year in the past.

O gentlemen, I hope that no one on this side of the House, a Member of which has demanded a second, will ever debate the merits of this bill, for the reason that we have no opportunity in this one of the saddest days in the American Congress. Let the Johnsons debate it. Let that phlegmatic patriot from Washington, of the Johnsons only recently arrived, who now wants to keep out all his Scandinavian relatives—Scandinavians who have contributed and can still contribute so much to America. Let him exhibit the cross of the "invisible empire." Let him, with his customary hysteria, rail at the Jews and Italians, but do not, please, anybody on this side dignify this un-American procedure by debating the merits of the bill. It has no merits but must pass to satisfy the howling bigots.

Mr. DICKSTEIN. Mr. Speaker, I yield two minutes to the gentleman from Minnesota [Mr. KVALE].

Mr. KVALE. Mr. Speaker, in two minutes I can not debate the merits of the bill and I shall not, nor do I want to. But, Mr. Speaker, if this is an example of the conduct of the House of Representatives, if this is to be evidence of the indispensable spirit of tolerance and of the responsibility of legislators, I think it will pretty soon be time that somebody asks each Member of the House of Representatives to read carefully and soberly his or her oath of office taken on entrance into this Chamber. We are supposedly lawmakers. [Applause.]

Now, I am young as far as membership in this House goes, I know, but, oh, I have been here, on the ground for eight years, watching things with some interest; and the procedure to-night makes me sick at heart. I do earnestly hope there will be a better chance for calm consideration and orderly action than we now have.

I do not direct my remarks against the Speaker, for something tells me that this whole proceeding has been more than a little distasteful to him.

I hope the membership now present will not permit any one man to decide for them, or will not put the responsibility on any one Member, but will themselves take appropriate action, and let this go over until Monday, when we can have a full membership and decent and calm consideration. [Applause.]

Mr. JENKINS. Mr. Chairman, I yield two minutes to the gentleman from Ohio [Mr. CABLE].

Mr. CABLE. Mr. Speaker, this bill has had the consideration of the Immigration Committee for several years. This is a temporary measure. It is to be effective for two years only.

Nonquota immigration comes to this country at the rate of 100,000 a year. That class of immigration is not affected. The record shows that for every two immigrants coming into the United States one takes the job of an American. I say the time has come when, as between foreign born and Americans, the American shall have the right to keep his work for himself and for his family. [Applause.]

In closing I wish to say that it is with regret that we lose one of the most valuable members of the Immigration Committee, the gentleman from the State of Texas, Judge Box. He has served on that committee for several years with credit to the membership of the House. He has been giving the best of his ability to the bills that have been considered by that committee. The restrictive-immigration policy of this Union stands on our statute books as a result, to a great extent, of his untiring effort and his great ability as a legislator. In saying that his work and constructive statesmanship will be missed by all, I express the thought of the entire membership. This resolution provides for further restriction. On the statute books it will express to the world that America believes that Americans are entitled to protection from foreign competition.

Mr. SNELL. Mr. Speaker, it has become evident that there is much excitement, and it seems to me that it would be better if this matter could go over as unfinished business until Monday. [Applause.]

The SPEAKER. Will the House allow the Chair to make a suggestion? The Chair does not believe that anyone seriously thinks that the Chair would consciously be unfair to anyone or any group. The Chair is never consciously unfair. May the Chair suggest that it is evident that some Members have allowed their tempers to get rather warm, and the Chair would urge that under the circumstances, holding that this will be unfinished business before the House on Monday, that the House accept the suggestion of the gentleman from New York. [Applause.]

Mr. TEMPLE. Mr. Speaker, if the House adjourns now, will the 20 minutes debate on each side begin where we left off to-night?

The SPEAKER. It would. It would be in exactly the same position we are now.

MEETING AT 11 O'CLOCK ON MONDAY

Mr. SNELL. Mr. Speaker, I ask unanimous consent that when the House adjourns to-night it adjourn to meet at 11 o'clock on Monday.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

ENROLLED BILLS SIGNED

Mr. CAMPBELL of Pennsylvania, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H. R. 3309. An act to provide extra compensation for overtime service performed by immigrant inspectors and other employees of the Immigration Service;

H. R. 2366. An act authorizing the Secretary of War to convey a certain portion of the military reservation at Fort McArthur, Calif., to the city of Los Angeles, Calif., for street purposes, and to amend an act to authorize the acquisition for military purposes of land in the county of Montgomery, State of Alabama, for use as an addition to Maxwell Field, approved July 1, 1930;

H. R. 9199. An act for the relief of John F. Williams and Anderson Tyler;

H. R. 9599. An act to authorize the Secretary of Agriculture to carry out his 10-year cooperative program for the eradication, suppression, or bringing under control of predatory and other wild animals injurious to agriculture, horti-

culture, forestry, animal husbandry, wild game, and other interests, and for the suppression of rabies and tularemia in predatory or other wild animals, and for other purposes;

H. R. 15263. An act to relieve restricted Indians in the Five Civilized Tribes whose nontaxable lands are required for State, county, or municipal improvements or sold to other persons, or for other purposes;

H. R. 16969. An act making appropriations for the Navy Department and the naval service for the fiscal year ending June 30, 1932, and for other purposes; and

H. R. 17071. An act granting the consent of Congress to the State Highway Department of Pennsylvania to construct, maintain, and operate a free highway bridge across the Mahoning River near New Castle, Lawrence County, Pa.

The SPEAKER announced his signature to enrolled bills and joint resolutions of the Senate of the following titles:

S. 17. An act to amend section 12 of the act entitled "An act to readjust the pay and allowances of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service," approved June 10, 1922, as amended;

S. 988. An act for the relief of Franz J. Jonitz, first lieutenant, Quartermaster Corps, United States Army;

S. 1042. An act for the relief of Mary Altieri;

S. 1251. An act for the relief of the Ayer & Lord Tie Co. (Inc.);

S. 3924. An act for the relief of the First State Bank & Trust Co., of Mission, Tex.;

S. 4070. An act for the relief of Patrick J. Mulkaren;

S. 4120. An act for the relief of McIlwraith McEacharn's Line, Proprietary (Ltd.);

S. 4353. An act for the relief of the Orange Car & Steel Co., of Orange, Tex., successor to the Southern Dry Dock & Ship Building Co.;

S. 4489. An act for the relief of the heirs of Harris Smith;

S. 5083. An act to authorize the Secretary of the Navy to proceed with certain public works at the Naval War College, Newport, R. I.;

S. 5920. An act authorizing the attendance of the Army Band at the annual encampment of the Grand Army of the Republic, to be held at Des Moines, Iowa;

S. 6032. An act amending section 1 of Public Resolution No. 89, Seventy-first Congress, approved June 17, 1930, entitled "Joint resolution providing for the participation of the United States in the celebration of the one hundred and fiftieth anniversary of the siege of Yorktown, Va., and the surrender of Lord Cornwallis on October 19, 1781, and authorizing an appropriation to be used in connection with such celebration, and for other purposes";

S. 6098. An act relating to the adoption of minors by the Crow Indians of Montana;

S. 6099. An act authorizing the Secretary of the Interior to change the classification of the Crow Indians;

S. 6106. An act to authorize the Leo N. Levi Memorial Hospital Association to mortgage its property in Hot Springs National Park;

S. 6136. An act for the enrollment of children born after December 30, 1919, whose parents, or either of them, are members of the Blackfeet Tribe of Indians in the State of Montana, and for other purposes;

S. J. Res 222. Joint resolution relating to the authority of the Secretary of the Interior to enter into a contract with the Rio Grande project; and

S. J. Res. 226. Joint resolution authorizing the distribution of the judgment rendered by the Court of Claims to the Indians of the Fort Berthold Indian Reservation, N. Dak.

BILLS PRESENTED TO THE PRESIDENT

Mr. CAMPBELL of Pennsylvania, from the Committee on Enrolled Bills, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H. R. 2366. An act authorizing the Secretary of War to convey a certain portion of the military reservation at Fort McArthur, Calif., to the city of Los Angeles, Calif., for street purposes, and to amend an act to authorize the acquisition for military purposes of land in the county of Montgomery, State of Alabama, for use as an addition to Maxwell Field, approved July 1, 1930;

H. R. 3309. An act to provide extra compensation for overtime service performed by immigrant inspectors and other employees of the Immigration Service;

H. R. 9199. An act for the relief of John F. Williams and Anderson Tyler;

H. R. 9599. An act to authorize the Secretary of Agriculture to carry out his 10-year cooperative program for the eradication, suppression, or bringing under control of predatory and other wild animals injurious to agriculture, horticulture, forestry, animal husbandry, wild game, and other interests, and for the suppression of rabies and tularemia in predatory or other wild animals, and for other purposes;

H. R. 15263. An act to relieve restricted Indians in the Five Civilized Tribes whose nontaxable lands are required for State, county, or municipal improvements, or sold to other persons, or for other purposes;

H. R. 16969. An act making appropriations for the Navy Department and the naval service for the fiscal year ending June 30, 1932, and for other purposes; and

H. R. 17071. An act granting the consent of Congress to the State Highway Department of Pennsylvania to construct, maintain, and operate a free highway bridge across the Mahoning River near New Castle, Lawrence County, Pa.

ADJOURNMENT

Mr. SNELL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 35 minutes p. m.) the House, under its previous order, adjourned until Monday, March 2, 1931, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

869. A letter from the Secretary of War, transmitting a copy of a resolution adopted by the provincial board of the provincial government of Capiz, P. I., on December 20, 1930, protesting against alleged injustices committed against Filipinos in the United States; to the Committee on Rules.

870. A letter from the treasurer of the Washington Rapid Transit Co., transmitting copy of the annual report of the Washington Rapid Transit Co. to the Public Utilities Commission of the District of Columbia for the year ending December 31, 1930; to the Committee on the District of Columbia.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. UNDERHILL: Committee on Accounts. H. Res. 372. A resolution to pay Mattie Long, sister of Samuel J. Long, six months' compensation, and an additional amount, not exceeding $250, to defray funeral expenses of the said Samuel J. Long (Rept. No. 2910). Ordered to be printed.

Mr. UNDERHILL: Committee on Accounts. H. Res. 381. A resolution to pay Grafton E. Jackson, son of Lloyd Jackson, late an employee of the House, a sum equal to six months' salary and an additional sum of $250 for funeral expenses (Rept. No. 2911). Ordered to be printed.

Mr. UNDERHILL: Committee on Accounts. H. Res. 382. A resolution to pay out of the contingent fund a sum not exceeding $200 for additional clerical services in the enrolling room; (Rept. No. 2912). Ordered to be printed.

Mr. UNDERHILL: Committee on Accounts. H. Res. 347. A resolution to pay James W. Boyer, jr., for extra and expert services as expert legal examiner to the Committee on World War Veterans' Legislation; (Rept. No. 2913). Ordered to be printed.

Mr. WASON: Joint Committee on the Disposition of Useless Executive papers. A report on the disposition of useless papers in the Department of Labor; (Rept. No. 2919). Ordered to be printed.

Mr. WASON: Joint Committee on the Disposition of Useless Executive papers. A report on the disposition of useless papers in the Navy Department; (Rept. No. 2920). Ordered to be printed.

Mr. SCHNEIDER: Committee on Immigration and Naturalization. S. 202. An act to provide for the deportation of certain alien seamen, and for other purposes; with amendment (Rept. No. 2922). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. SINCLAIR: Committee on War Claims. H. R. 11304. A bill for the relief of Stanton & Jones; with amendment (Rept. No. 2914). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. S. 4260. An act for the relief of the American-La France & Foamite Corporation of New York; without amendment (Rept. No. 2915). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. S. 5192. An act for the relief of Donald K. Warner; without amendment (Rept. No. 2916). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. S. 5408. An act for the relief of Kate M. Hays, Nancy H. Rouse, Clara H. Simmons, W. H. Hays, Hallie H. Hamilton, and Bradford P. Hays; with amendment (Rept. No. 2917). Referred to the Committee of the Whole House.

Mr. KOPP: Committee on Pensions. S. 6225. An act granting an increase of pension to Jessie R. Greene; without amendment (Rept. No. 2918). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. S. J. Res. 112. A joint resolution concerning a bequest made to the Government of the United States by S. A. Long, late of Shinnston, W. Va.; without amendment (Rept. No. 2921). 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. RAMSPECK: A bill (H. R. 17324) to amend section 7 of the Federal reserve act, as amended; to the Committee on Banking and Currency.

By Mr. JAMES of Michigan: A bill (H. R. 17325) to protect the water supply of the town of Highlands, Orange County, N. Y., and for other purposes; to the Committee on Military Affairs.

By Mr. GAVAGAN: A bill (H. R. 17326) relative to the transportation of merchandise or property by common carrier for hire between ports of the United States by way of the Panama Canal; to the Committee on the Merchant Marine and Fisheries.

By Mr. CHINDBLOM: A bill (H. R. 17327) appropriating $500,000 for Federal participation in a century of progress, Chicago, Ill., in 1933; to the Committee on Appropriations.

By Mr. ALLGOOD: Resolution (H. Res. 385) to investigate the American Red Cross, its works, activities, and services in the drought areas of the United States; to the Committee on Rules.

By Mr. GARBER of Oklahoma: Resolution (H. Res. 386) directing the Tariff Commission to investigate the difference in cost of production of crude petroleum, gasoline, fuel oil, and lubricants; to the Committee on Ways and Means.

By Mr. COLLINS: Joint resolution (H. J. Res. 522) creating a joint committee to investigate and report upon matters respecting private claims; to the Committee on Rules.

By Mr. CROWTHER: Joint resolution (H. J. Res. 523) providing for an investigation into economic and labor conditions in Soviet Russia; to the Committee on Rules.

MEMORIALS

Under clause 3 of Rule XXII, memorials were presented and referred as follows:

Memorial of the Legislature of the State of Minnesota, memorializing Congress of the United States to provide for the establishment of a fur-breeding experiment station in said State as soon as possible; to the Committee on Agriculture.

By Mr. KVALE: Memorial of Minnesota State Legislature, submitted by the secretary of state, Hon. Mike Holm, urging adoption of Senate bill 5109 at the earliest possible date; to the Committee on Agriculture.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. HOGG of Indiana: A bill (H. R. 17328) granting an increase of pension to Susan L. C. Patton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17329) granting an increase of pension to Ellener Russell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17330) granting an increase of pension to Mary M. Welder; to the Committee on Invalid Pensions.

By Mr. LUDLOW: A bill (H. R. 17331) granting a pension to Margaret Patten; to the Committee on Pensions.

By Mr. STALKER: A bill (H. R. 17332) granting a pension to Edward H. Latterell; to the Committee on Pensions.

By Mr. STRONG of Kansas: A bill (H. R. 17333) granting an increase of pension to Caroline Rahn; to the Committee on Invalid Pensions.

By Mr. SULLIVAN of Pennsylvania: A bill (H. R. 17334) for the relief of Alfred J. Buka; to the Committee on Military Affairs.

By Mr. VESTAL: A bill (H. R. 17335) granting an increase of pension to Commodore P. Fuller; to the Committee on Pensions.

Also, a bill (H. R. 17336) granting an increase of pension to Naomi B. Reed; 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:

10278. By Mr. BACON: Petition of sundry residents of Long Island, N. Y., favoring passage of House bill 7884, to exempt dogs from vivisection; to the Committee on the District of Columbia.

10279. By Mr. BROWNE: Resolution of Wausau Central Labor Union, Wausau, Wis., and its affiliated unions, resolving that it is the duty of the congressional Representatives elected by the people of the several States to convene on March 4, 1931, in a special session of Congress and continue until all needed legislation is disposed of; to the Committee on Labor.

10280. By Mr. COCHRAN of Pennsylvania: Petition of members of Coolspring Woman's Christian Temperance Union, Missionary Society, and Sabbath School, submitted by Lillian Kemm, president Coolspring Woman's Christian Temperance Union, Mercer, Pa., rural free delivery, urging the passage of the Sparks-Capper resolution proposing to amend the United States Constitution so as to exclude unnaturalized persons in each State from the count to determine the number of persons in each State for apportionment of Representatives in Congress; to the Committee on the Judiciary.

10281. By Mr. COOPER of Wisconsin: Petition of certain residents of Walworth County, Wis., urging passage of so-called Sparks-Capper stop-alien representation amendment; to the Committee on the Judiciary.

10282. By Mr. CULLEN: Petition of the Medical Society of the county of Kings, N. Y., resenting the characterization of Senate bill 4582 as "the doctors' bill" as misleading and untrue, disapproves of the provisions of the bill, and opposes its enactment; to the Committee on the Judiciary.

10283. By Mr. HALE: Petition of Roger E. Thompson and 24 additional voting citizens of East Rochester, N. H., urging passage of House Joint Resolution No. 356, the proposed Sparks-Capper stop-alien representation amendment to the Constitution; to the Committee on the Judiciary.

10284. Also, petition of Sarah M. Lane, of Hampton, N. H., and 16 additional citizens of Hampton, supporting House Joint Resolution No. 356, the proposed Sparks-Capper stop-

alien representation amendment; to the Committee on the Judiciary.

10285. By Mr. HOPE: Petition of J. W. Berger and 43 others of Ransom, Kans., urging the passage of House Joint Resolution No. 356; to the Committee on the Judiciary.

10286. Also, petition of Mary Whitmer and 20 others of the seventh district of Kansas, urging the passage of House Joint Resolution No. 356; to the Committee on the Judiciary.

10287. By Mr. MAAS: Resolution by the City Council St. Paul, Minn., disapproving passage by Congress of the Knutson bill, providing for certain minimum levels for the upper Mississippi reservoir lakes and for limiting the regulatory power of the War Department as to discharges from the said reservoirs; to the Committee on Rivers and Harbors.

10288. By Mr. MAGRADY: Petition of numerous citizens of Berwick, Pa., and vicinity, urging support of the proposed Sparks-Capper stop-alien representation amendment (H. J. Res. 356); to the Committee on the Judiciary.

10289. Also, petition of numerous citizens of Berwick, Pa., and vicinity, urging support of the proposed Sparks-Capper stop-alien representation amendment (H. J. Res. 356); to the Committee on the Judiciary.

10290. Also, petition of numerous citizens of Montandon, Pa., urging support of the proposed Sparks-Capper stop-alien representation amendment (H. J. Res. 356); to the Committee on the Judiciary.

10291. By Mr. ROBINSON: Resolution from the Clayton County (Iowa) Guernsey Breeders' Association, which met on February 20, 1931, at Garnavillo, Iowa, and which is signed by the president of the association, W. L. Schulte, urging the passage of the Brigham oleomargarine bill; to the Committee on Agriculture.

10292. Also, petition of Emily A. Reeve, Hampton, Iowa, and 12 other citizens of Hampton, Iowa, urging the passage of the Sparks-Capper stop-alien representation amendment; to the Committee on the Judiciary.

10293. By Mr. SHOTT of West Virginia: Petition of the Woman's Christian Temperance Union, of Williamson, W. Va., signed by Mrs. L. D. Whitmore, president, and Mrs. P. B. Maynard, treasurer, urging that Congress take action to provide legislation providing for the supervision of motion pictures; to the Committee on Interstate and Foreign Commerce.

10294. By Mr. SPARKS: Petition of Reorganized Church of Jesus Christ, of Osborne, Kans., for the Federal supervision of motion pictures as provided in the Grant Hudson bill, H. R. 9986; to the Committee on Interstate and Foreign Commerce.

10295. Also, petition of Young Women's Christian Association, of Downs, Kans., for the Federal supervision of motion pictures as provided in the Grant Hudson motion picture bill, H. R. 9986; to the Committee on Interstate and Foreign Commerce.

10296. Also, petition of Women's Relief Corps, No. 119, of Lincoln, Kans., for the Federal supervision of motion pictures as provided in the Grant Hudson motion picture bill, H. R. 9986; to the Committee on Interstate and Foreign Commerce.

10297. By Mr. STRONG of Pennsylvania: Petition of citizens of McGees Mills, Pa., and vicinity, in favor of amending the Federal Constitution to exclude unnaturalized aliens from the count of population for congressional apportionment; to the Committee on the Judiciary.

10298. By Mr. SWANSON: Petition of Rev. Francis E. Cooper and others, of Council Bluffs, Iowa, favoring a constitutional amendment for the exclusion of aliens in congressional apportionment; to the Committee on the Judiciary.

10299. By Mr. SWING: Petition of Sarah Peters and 240 citizens of San Diego Calif., urging the passage of House Joint Resolution No. 356, Sparks-Capper stop-alien representation amendment; to the Committee on the Judiciary.

10300. By Mr. TEMPLE: Petition of the Ever Faithful Woman's Bible Class, of Waynesburg, Pa., in support of the Hudson motion picture bill, H. R. 9986; to the Committee on Interstate and Foreign Commerce.

10301. By Mr. WYANT: Petition of members of Methodist Episcopal Church of Trafford, Westmoreland County, Pa., urging support of Sparks-Capper amendment to eliminate unnaturalized aliens from count in proposed congressional reapportionment; to the Committee on the Judiciary.

10302. By Mr. YATES: Petition of H. C. Neale, president National Association of Postal Supervisors, Chicago, Ill., requesting the consideration of House bill 14908 and Senate bill 5243 relative to salaries of station supervisors; to the Committee on the Post Office and Post Roads.

10303. Also, petition of Mrs. A. Kingsley, president of the Up-to-Date Club, of North Maywood, Ill., urging Congress to pass the Sparks-Capper amendment to the Constitution; to the Committee on the Judiciary.

10304. Also, petition of the Thomas Cloudeo Post, No. 70, West Oak Street, Chicago, Ill., urging the passage of House bills 15621, 14059, and Senate bills 5073, 5074; to the Committee on World War Veterans' Legislation.

10305. Also, petition of Clifford V. Gregory, editor Prairie Farmer, Chicago, Ill., urging the passage of the Brigham-Townsend bill, as in his opinion if this bill is not passed the dairy industry of Illinois will suffer; to the Committee on Agriculture.

SENATE

MONDAY, MARCH 2, 1931

(Legislative day of Tuesday, February 17, 1931

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

DEATH OF REPRESENTATIVE HENRY ALLEN COOPER

Mr. LA FOLLETTE. Mr. President, it becomes my sad duty to announce the death of Representative HENRY ALLEN COOPER, of Wisconsin.

Mr. COOPER was the dean of the House of Representatives, having been elected to the Fifty-third and each succeeding Congress, with the exception of the Sixty-sixth. A distinguished statesman, scholar, and a noble gentleman, his death is a great loss to the Nation and to the State of Wisconsin.

Mr. President, I offer the following resolutions and ask unanimous consent for their immediate consideration.

The resolutions (S. Res. 437) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. HENRY ALLEN COOPER, late a Representative from the State of Wisconsin.

Resolved, That a committee of 15 Senators be appointed by the Vice President to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Under the second resolution the Vice President appointed as the committee on the part of the Senate the senior Senator from Wisconsin [Mr. LA FOLLETTE], the junior Senator from Wisconsin [Mr. BLAINE], the senior Senator from Indiana [Mr. WATSON], the senior Senator from Arkansas [Mr. ROBINSON], the senior Senator from Idaho [Mr. BORAH], the senior Senator from Nebraska [Mr. NORRIS], the junior Senator from Utah [Mr. KING], the senior Senator from Tennessee [Mr. MCKELLAR], the senior Senator from North Dakota [Mr. FRAZIER], the junior Senator from Nebraska [Mr. HOWELL], the senior Senator from Minnesota [Mr. SHIPSTEAD], the senior Senator from New Mexico [Mr. BRATTON], the senior Senator from Kentucky [Mr. BARKLEY], the junior Senator from Oklahoma [Mr. THOMAS], and the junior Senator from Texas [Mr. CONNALLY].

Mr. LA FOLLETTE. Mr. President, I offer the following resolution and ask for its immediate consideration.

The VICE PRESIDENT. The resolution will be read.