the three ways, namely, gas tax, bonding, and, if necessary, a limited and controlled currency inflation, or provide some other suitable solution, etc.; to the Committee on Ways and Means.

10014. By Mr. RUDD: Petition of the World's Poultry Science Association, Ithaca, N. Y., favoring the participation of the United States in the Fifth World's Poultry Congress to be held in Rome in 1933, and for the necessary appropriation; to the Committee on Foreign Affairs.

10015. Also, petition of Sapolin Co. (Inc.), New York, opposing the oils and fats tax in the domestic allotment bill, H. R. 13991; to the Committee on Agriculture.

10016. Also, petition of the Silk Association of America (Inc.), New York City, referring to the Connery bill, H. R. 14105; to the Committee on Labor.

10017. Also, petition of New York State Builders Branch, Utica, N. Y., opposing the passage of House bill 9921, the Goss bill; to the Committee on Expenditures in the Executive Departments.

10018. By Mr. SELVIG: Petition of the Woman's Christian Temperence Union of Thief River Falls, Minn., urging establishment of a motion-picture commission for Federal regulation of motion-picture industry; to the Committee on Interstate and Foreign Commerce.

10019. By Mr. STALKER: Petition of 400 members of the churches of Painted Post, N. Y., signed by the following secretaries of classes: John Griswold, Men's Bible Class of the Baptist Church; Mrs. Whiley, Ever Ready Class of the Methodist Episcopal Church; Mary Mills, Hamilton Circle, Woman's Christian Temperance Union; and George Randall, Men's Bible Class, Methodist Episcopal Church, protesting against the return of beer and the repeal of the eighteenth amendment; to the Committee on the Judiciary.

10020. Also, petition of Effie L. Courtright and 25 other residents of Lowman, N. Y., opposing legalization of alcoholic liquors stronger than one-half of 1 per cent; to the Committee on Ways and Means.

10021. Also, petition of Mrs. John Hamilton and 50 other citizens of Horseheads, N. Y., opposing legalization of alcoholic liquors stronger than one-half of 1 per cent; to the Committee on Ways and Means.

10022. Also, petition of Mrs. L. A. Van Arnam and 50 other residents of Millport, N. Y., opposing legalization of alcoholic liquors stronger than one-half of 1 per cent; to the Committee on Ways and Means.

10023. Also, petition of Emma Cooper and 25 other residents of Chemung, N. Y., opposing legalization of alcoholic liquors stronger than one-half of 1 per cent; to the Committee on Ways and Means.

10024. Also, petition of 500 citizens of Elmira, N. Y., and vicinity, opposing legalization of alcoholic liquors stronger than one-half of 1 per cent; to the Committee on Ways and Means.

10025. By Mr. THURSTON: Petition signed by 177 citizens of Taylor County, Iowa, protesting against the modification or repeal of existing prohibition laws; to the Committee on the Judiciary.

SENATE

MONDAY, JANUARY 30, 1933

(Legislative day of Tuesday, January 10, 1933)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The VICE PRESIDENT. The Senate will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Haltigan, one of its clerks, announced that the House had passed a bill (H. R. 14363) making appropriations for the Departments of State and Justice and for the judiciary, and for the Departments of Commerce and Labor, for the fiscal year ending June 30, 1934, and for other purposes, 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:

S. 212. An act for the relief of Messrs. Short, Ross, Shaw, and Mayhood;

S. 213. An act authorizing adjustment of the claim of Kenneth Carpenter;

S. 219. An act authorizing adjustment of the claims of Orem Wheatley, Kenneth Blaine, and Joseph R. Ball;

S. 252. An act authorizing adjustment of the claim of Johnson & Higgins;

S. 563. An act for the relief of George T. Johnson & Sons; and

H. R. 14436. An act making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1933, and prior fiscal years, to provide supplemental appropriations for the fiscal year ending June 30, 1933, and for other purposes.

CALL OF THE ROLL

The VICE PRESIDENT. The Senator from Tennessee [Mr. McKELLAR] has the floor on the unfinished business.

Mr. FESS. Mr. President, will the Senator yield to enable me to suggest the absence of a quorum?

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

Mr. McKELLAR. If I may do so without losing the floor.

The VICE PRESIDENT. The Senator will not lose the floor if he yields for that purpose.

Mr. McKELLAR. Very well.

The VICE PRESIDENT. The clerk will call the roll.

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

Ashurst	Cutting	Kendrick	Schuyler
Austin	Dale	Keyes	Sheppard
Bankhead	Davis	King	Shipstead
Barbour	Dickinson	La Follette	Shortridge
Barkley	Dill	Logan	Smoot
Bingham	Fess	Long	Steiwer
Black	Fletcher	McGill	Stephens
Blaine	Frazier	McKellar	Swanson
Borah	George	McNary	Thomas, Idaho
Bratton	Glass	Metcalf	Thomas, Okla.
Brookhart	Glenn	Moses	Townsend
Broussard	Gore	Neely	Trammell
Bulkley	Grammer	Norbeck	Tydings
Bulow	Hale	Norris	Vandenberg
Byrnes	Harrison	Nye	Wagner
Capper	Hastings	Oddie	Walcott
Caraway	Hatfield	Pittman	Walsh, Mass.
Carey	Hawes	Reed	Walsh, Mont.
Connally	Hayden	Reynolds	Watson
Coolidge	Howell	Robinson, Ark.	Wheeler
Copeland	Hull	Robinson, Ind.	White
Costigan	Johnson	Russell	
Couzens	Kean	Schall	

Mr. FESS. I desire to announce that the Senator from Missouri [Mr. PATTERSON] is detained by reason of a death in his family. I ask that this announcement may stand for the day.

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

SENATOR FROM VERMONT

Mr. AUSTIN presented the credentials of PORTER H. DALE, chosen a Senator from the State of Vermont for the term commencing on the 4th of March, 1933, which were read and ordered to be placed on file, as follows:

STATE OF VERMONT.

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 8th day of November, 1932, PORTER H. DALE was duly chosen by the qualified electors of the State of Vermont a Senator from said State to represent said State in the Senate of the United States for the term of six years beginning on the 4th day of March, 1933.

Witness: His excellency our governor, Stanley C. Wilson, and our seal hereto affixed at Montpelier, this 12th day of January, A. D. 1933.

STANLEY C. WILSON, *Governor.*

By the governor:
[SEAL.]

RAWSON C. MYRICK,
Secretary of State.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

CHANGE OF DATE OF INAUGURATION

The VICE PRESIDENT laid before the Senate a letter from the Secretary of State, transmitting a letter from the Governor of Arizona, together with a certified copy of House Joint Resolution 1, ratifying the proposed amendment to the Constitution of the United States fixing the commencement of the terms of President and Vice President and Members of Congress and fixing the time of the assembling of Congress, which, with the accompanying paper, was ordered to lie on the table and to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, January 27, 1933.

The Hon. CHARLES CURTIS,
President of the Senate.

DEAR MR. CURTIS: I inclose a letter dated January 20, 1933, addressed to you by Governor Moeur, of Arizona, transmitting a certified copy of House Joint Resolution No. 1, "Ratifying the proposed amendment to the Constitution of the United States fixing the commencement of the terms of President and Vice President and Members of Congress and fixing the time of the assembling of Congress." The letter, with its inclosures, was referred to me by the White House.

I may state for your information that I have also received a certified copy of House Joint Resolution No. 1 from the Governor of Arizona.

Sincerely yours,

H. L. STIMSON.

(Inclosures: Letter, Governor Moeur, of Arizona, to the honorable the President of the United States Senate, with inclosure.)

EXECUTIVE OFFICE, STATEHOUSE,
Phoenix, Ariz., January 20, 1933.

The honorable the
PRESIDENT OF THE UNITED STATES SENATE,
Washington, D. C.

SIR: I have the honor to transmit House Joint Resolution No. 1, ratifying the proposed amendment to the Constitution of the United States fixing the commencement of the terms of President and Vice President and Members of Congress and fixing the time of the assembling of Congress, as passed by the eleventh legislature, now in session.

Very truly yours,

B. B. MOEUR, *Governor.*

STATE OF ARIZONA,
OFFICE OF THE SECRETARY.

UNITED STATES OF AMERICA,
State of Arizona, ss:

I, James H. Kerby, secretary of state, do hereby certify that the within is a true, correct, and complete copy of House Joint Resolution No. 1, regular session, Eleventh Legislature, State of Arizona, entitled "Ratifying the proposed amendment to the Constitution of the United States fixing the commencement of the terms of President and Vice President and Members of Congress, and fixing the time of the assembling of Congress," all of which is shown by the original engrossed copy on file in this department.

In witness whereof I have hereunto set my hand and affixed the great seal of the State of Arizona. Done at Phoenix, the capital, this 16th day of January, A. D. 1933.

[SEAL.] JAMES H. KERBY,
Secretary of State.

House Joint Resolution 1 ratifying the proposed amendment to the Constitution of the United States fixing the commencement of the terms of President and Vice President and Members of Congress, and fixing the time of the assembling of Congress

Whereas the Seventy-second Congress of the United States of America in both Houses, by a constitutional majority of two-thirds thereof, has made the following proposition to amend the Constitution of the United States in the following words, to wit:

"Joint resolution proposing an amendment to the Constitution of the United States fixing the commencement of the terms of President and Vice President and Members of Congress, and fixing the time of the assembling of Congress

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the following amendment to the Constitution be, and hereby is, proposed to the States, to become valid as a part of said Constitution when ratified by the legislatures of the several States as provided in the Constitution:

"SECTION 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

"SEC. 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

"SEC. 3. If at the time fixed for the beginning of the term of the President the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

"SEC. 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

"SEC. 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

"SEC. 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission":

Therefore be it

Resolved by the House of Representatives and the Senate of Arizona—

First. That the said proposed amendment to the Constitution of the United States of America be, and the same is hereby, ratified by the Legislature of the State of Arizona.

Second. That certified copies of this preamble and joint resolution be forwarded by the secretary of state to the Secretary of State at Washington, to the Presiding Officer of the United States Senate, and the Speaker of the House of Representatives of the United States.

Adopted by the house January 10, 1933, by the following vote—63 ayes, 0 nays, 1 absent, 0 excused.

S. A. SPEAR,
Speaker of the House.
LALLAH RUTH,
Chief Clerk of the House.

Adopted by the senate January 13, 1933, by the following vote—19 ayes, 0 nays, 0 not voting.

HARRY W. HILL,
President of the Senate.
W. F. GRAHAM,
Secretary of the Senate.

House concurred in senate amendments January 13, 1933, by the following vote—56 ayes, 0 nays, 0 absent, 7 excused.

S. A. SPEAR,
Speaker of House.
LALLAH RUTH,
Chief Clerk of House.

EXECUTIVE DEPARTMENT OF ARIZONA,
OFFICE OF GOVERNOR.

This resolution was received by the governor this 13th day of January, 1933, at 2.15 o'clock p. m.

H. H. HOTCHKISS,
Secretary to the Governor.

Approved this 14th day of January, 1933.

B. B. MOEUR,
Governor of Arizona.

EXECUTIVE DEPARTMENT OF ARIZONA,
OFFICE OF SECRETARY OF STATE.

This resolution was received by the secretary of state this 14th day of January, 1933, at 3.06 o'clock p. m.

JAMES H. KERBY,
Secretary of State.

The VICE PRESIDENT also laid before the Senate a letter from the Governor of Delaware, transmitting copy of House Concurrent Resolution No. 6, adopted by the General Assembly of the State of Delaware, which, with the accompanying resolution, was ordered to lie on the table, as follows:

STATE OF DELAWARE, EXECUTIVE DEPARTMENT,
January 26, 1933.

Hon. CHARLES CURTIS, *Vice President,*
The United States Senate, Washington, D. C.

SIR: Pursuant to section 2 of House Concurrent Resolution No. 6, adopted by the General Assembly of the State of Delaware, ratifying a proposed amendment to the Constitution of the United States, fixing the commencement of the terms of President and Vice President and Members of Congress, and fixing the time of the assembling of Congress, I, C. D. Buck, Governor of Delaware, herewith transmit to you a copy of said House Concurrent Resolution No. 6, duly certified, as required by law.

Respectfully,

C. D. BUCK, *Governor of Delaware.*

I, Charles H. Grantland, secretary of state of the State of Delaware, having custody of the great seal of said State, do hereby certify that the resolution hereto attached is a true and accurate copy of House Concurrent Resolution No. 6, approved by the General Assembly of the State of Delaware on January 19, 1933.

[SEAL.] CHARLES H. GRANTLAND,
Secretary of State.

House Concurrent Resolution 6 relative to the proposed amendment to the Constitution of the United States fixing the commencement of the terms of President and Vice President and Members of Congress, and fixing the time of the assembling of Congress

Whereas at the first session of the Seventy-second Congress of the United States of America it was resolved by the Senate and House of Representatives of the United States in Congress assembled (two-thirds of each House concurring therein), that the following article be proposed as an amendment to the Constitution of the United States, which, when ratified by the legislatures of three-fourths of the several States, shall be valid to all intents and purposes as part of the said Constitution, viz:

"ARTICLE —

"SECTION 1. The terms of the President and Vice President shall end at noon on the 20th day of January and the terms of Senators and Representatives at noon on the 3d day of January of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

"SEC. 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

"SEC. 3. If at the time fixed for the beginning of his term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified, and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

"SEC. 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

"SEC. 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

"SEC. 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission":

Therefore be it

Resolved by the House of Representatives of the State of Delaware (the senate concurring therein)—

SECTION 1. That the said proposed amendment to the Constitution of the United States of America be, and the same is hereby, ratified by the General Assembly of the State of Delaware and shall be to all intents and purposes a part of the Constitution of the United States.

SEC. 2. That certified copies of this preamble and concurrent resolution be forwarded by the governor of this State to the Secretary of State of the United States and to the Presiding Officer of the United States Senate and to the Speaker of the House of Representatives of the United States.

SEC. 3. That the secretary of the senate and the clerk of the house of representatives be, and are hereby, directed to deliver to the said governor a certified copy of this resolution at their earliest convenience.

J. THOMAS ROBINSON,
Speaker of the House.
W. A. SIMONTON,
President pro tempore of the Senate.

Approved January 26, 1933.

C. D. BUCK, *Governor.*

The VICE PRESIDENT also laid before the Senate a letter from the Governor of Idaho, transmitting a certified copy of House Joint Resolution No. 1 of the Legislature of the State of Idaho, which was ordered to lie on the table, and, with the accompanying resolution, to be printed in the RECORD, as follows:

STATE OF IDAHO,
OFFICE OF THE GOVERNOR,
Boise, January 24, 1933.

Hon. CHARLES CURTIS,
President of the Senate, Washington, D. C.

DEAR SIR: I have the honor to transmit herewith House Joint Resolution No. 1 of the twenty-second session of the Idaho State Legislature in accordance with its terms.

Yours very truly,

C. BEN ROSS, *Governor.*

STATE OF IDAHO,
DEPARTMENT OF STATE.

I, Franklin Girard, secretary of state of the State of Idaho, and legal custodian of the original enrolled copies of all acts passed at the various sessions of the Legislature of the State of Idaho, do hereby certify that the annexed constitute a full, true, and complete transcript of the original enrolled copy of House Joint Resolution No. 1, enacted by the twenty-second session of the Legislature of the State of Idaho, and filed in this office the 21st day of January, 1933.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State. Done at Boise, the capital of Idaho, this 23d day of January, A. D. 1933.

[SEAL.]

FRANKLIN GIRARD,
Secretary of State.

House Joint Resolution 1 (by Graham and Harrington)

A joint resolution ratifying a proposed amendment to the Constitution of the United States of America fixing the commencement of terms of President and Vice President and Members of Congress, and fixing the time of the assembling of Congress.

Received and filed January 21, 1933.

FRANKLIN GIRARD,
Secretary of State.

House Joint Resolution 1 (by Graham and Harrington)

A joint resolution ratifying a proposed amendment to the Constitution of the United States of America fixing the commencement of terms of President and Vice President and Members of Congress, and fixing the time of the assembling of Congress

Whereas at the first session of the Seventy-second Congress of the United States of America it was resolved by the Senate and House of Representatives of the United States in Congress assembled (two-thirds of each House concurring therein) that the following article be proposed as an amendment to the Constitution of the United States, which, when ratified by the legislatures of three-fourths of the several States, shall be valid to all intents and purposes as part of the Constitution, viz:

"ARTICLE —

"SECTION 1. The terms of the President and Vice President shall end at noon on the 20th day of January and the terms of Senators and Representatives at noon on the 3d day of January of the years in which such terms would have ended if this article had not been ratified, and the terms of their successors shall then begin.

"SEC. 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

"SEC. 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

"SEC. 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice may have devolved upon them.

"SEC. 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

"SEC. 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission":

Now, therefore, be it

Resolved by the Legislature of the State of Idaho:

SECTION 1. That the said proposed amendment to the Constitution of the United States of America be, and the same is, hereby ratified by the Legislature of the State of Idaho.

SEC. 2. That certified copies of this preamble and joint resolution be forwarded by the governor of this State to the President of the United States, to the Presiding Officer of the United States Senate, and to the Speaker of the House of Representatives of the United States.

This house joint resolution passed the house on the 21st day of January, 1933.

ROBERT COULTER,
Speaker of the House of Representatives.

This house joint resolution passed the senate on the 21st day of January, 1933.

GEO. E. HILL,
President of the Senate.

I hereby certify that the within House Joint Resolution No. 1 originated in the house of representatives during the twenty-second session of the Legislature of the State of Idaho.

DONALD D. STEWART,
Chief Clerk of the House of Representatives.

The VICE PRESIDENT also laid before the Senate a letter from the Governor of Missouri, transmitting copy of a joint resolution adopted by the Legislature of the State of Missouri, which was ordered to lie on the table, as follows:

EXECUTIVE OFFICE, STATE OF MISSOURI,
Jefferson City, January 26, 1933.

Hon. CHARLES C. CURTIS,
Vice President, United States Senate, Washington, D. C.

SIR: By virtue of the attached resolution which has been ratified by both the Missouri Senate and House, I am hereby forwarding the same to you duly certified by myself as governor.

Yours very truly,

GUY B. PARK, *Governor.*

Senate Joint Resolution No. 1 (introduced by Senator Donnelly), relating to the proposed amendment to the Constitution of the United States fixing the commencement of the terms of President and Vice President and Members of Congress, and fixing the time of the assembling of Congress

Whereas at the first session of the Seventy-second Congress of the United States of America it was resolved by the Senate and House of Representatives of the United States in Congress assembled (two-thirds of each House concurring therein) that the following article be proposed as an amendment to the Constitution of the United States, which, when ratified by the legislatures of three-fourths of the several States, shall be valid to all intents and purposes as part of the Constitution, viz:

"ARTICLE —

"SECTION 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified, and the terms of their successors shall then begin.

"SEC. 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

"SEC. 3. If at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified, and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

"SEC. 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

"SEC. 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

"SEC. 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission":

Therefore be it

Resolved by the Legislature of the State of Missouri, That the foregoing amendment to the Constitution of the United States of America be, and the same is hereby, ratified to all intents and purposes as a part of the Constitution of the United States.

That the Governor of the State of Missouri is hereby requested to forward to the Secretary of State and to the Presiding Officer of the United States Senate and to the Speaker of the House of Representatives of the United States an authentic copy of the foregoing resolution. The secretary of the senate and the chief clerk of the house are hereby instructed to send to the governor a certified copy of the action of the Senate and House on this resolution.

We, R. E. L. Marrs, secretary of the Senate of Missouri, and Joseph A. Bauer, chief clerk of the House of Representatives of Missouri, hereby certify that the foregoing resolution was regularly adopted by the Legislature of Missouri on January 24, 1933.

R. E. L. MARRS,
Secretary of Senate.
J. A. BAUER,
Chief Clerk of House of Representatives.

EXECUTIVE OFFICE, STATE OF MISSOURI,
Jefferson City.

I, Guy B. Park, Governor of the State of Missouri, do hereby certify that the above and foregoing resolution is a full, true, and complete copy of Senate Joint Resolution No. 1, ratified by both branches of the General Assembly of Missouri, as fully as the same appears on file in my office and as certified to me by R. E. L. Marrs, secretary of the senate, and Joseph A. Bauer, chief clerk of the house of representatives of the fifty-seventh general assembly.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Missouri, in the governor's office in Jefferson City, Mo., this 24th day of January, 1933.

[SEAL.] GUY B. PARK, *Governor.*

The VICE PRESIDENT also laid before the Senate a joint resolution of the Legislature of the State of South Dakota, which was ordered to lie on the table, as follows:

House joint resolution introduced by Mr. Painter

A joint resolution relating to the ratification of the "lame duck" constitutional amendment

Be it resolved by the Legislature of the State of South Dakota—

Whereas both Houses of the Seventy-second Congress of the United States of America, by a constitutional majority of two-thirds thereof, proposed an amendment to the Constitution of the United States of America, which should be valid to all intents and purposes as a part of the Constitution of the United States when ratified by the legislatures of three-fourths of the States, which resolution is in words and figures following, to wit:

"SECTION 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

"SEC. 2. The Congress shall assemble at least once every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

"SEC. 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

"SEC. 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

"SEC. 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

"SEC. 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission."

Be it resolved by the house of representatives (the senate concurring), That said proposed amendment to the Constitution of the United States of America be hereby ratified by the Legislature of the State of South Dakota; be it further

Resolved, That copies of the resolution be forwarded by the governor of this State to the Secretary of State at Washington, D. C., to the Presiding Officer of the United States Senate, and to the Speaker of the House of Representatives of the United States.

I hereby certify that the within act originated in the house as Joint Resolution No. 2.

JOE ATKINS,
Secretary of the Senate.
H. A. USTRUD,
President of the Senate.

Attest:

JOE ATKINS,
Secretary of the Senate.
GEORGE ABILD,
Speaker of the House.

Attest:

A. L. BODLEY,
Chief Clerk.

STATE OF SOUTH DAKOTA,
Office of Secretary of State, ss:
Filed January 25, 1933, at 3.10 o'clock p. m.

MYRTLE MORRISON,
Secretary of State.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate resolutions adopted by the Powers Lake National Farm Loan Association, of Powers Lake, N. Dak., favoring the passage of the so-called Frazier farm relief bill, which were referred to the Committee on Agriculture and Forestry.

He also laid before the Senate a communication from William J. Mundt, of Pierre, S. Dak., submitting a relief plan for the present economic situation providing for the issuance by the Government of $40,000,000,000 of full legal tender United States notes, based on the national wealth and not on bank credits or gold, etc., which was referred to the Committee on Banking and Currency.

He also laid before the Senate a resolution adopted at a meeting in Coliseum Hall, Minneapolis, Minn., under the auspices of the Friends of the Soviet Union, favoring immediate recognition of the Government of Soviet Russia, which was referred to the Committee on Foreign Relations.

He also laid before the Senate a letter from D. A. Skinner, secretary of the Chamber of Commerce of the United States

of America, transmitting copy of a resolution regarding depreciated currency legislation, adopted by the Legislature of California, favoring the passage of legislation to afford adequate protection to the industries and agriculture of the Nation in connection with depreciated currencies, which was referred to the Committee on Finance.

He also laid before the Senate resolutions adopted at a joint meeting of the executive and unemployment committees, League of Wisconsin Municipalities, at Madison, Wis., favoring the passage of legislation granting Federal unemployment relief, which were ordered to lie on the table.

He also laid before the Senate resolutions adopted by the Legislature of the State of Utah in support of measures to initiate a movement to stabilize the monetary and credit bases so as to improve world commodity prices, which were referred to the Committee on Banking and Currency.

(See resolutions printed in full when presented to-day by Mr. SMOOT.)

The VICE PRESIDENT also laid before the Senate a joint resolution adopted by the Legislature of the State of Wisconsin, favoring the passage of legislation giving protection to American producers of wood pulp against unfair competition resulting from the depreciation of foreign currencies, which was referred to the Committee on Finance.

(See joint resolution printed in full when presented to-day by Mr. LA FOLLETTE.)

The VICE PRESIDENT also laid before the Senate a joint resolution of the Legislature of the State of California, favoring the passage of legislation transferring certain oil lands in Kern County, Calif., from the jurisdiction of the Navy Department to the jurisdiction of the Department of the Interior, which was referred to the Committee on Naval Affairs.

(See joint resolution printed in full when presented to-day by Mr. JOHNSON.)

The VICE PRESIDENT also laid before the Senate the following resolution of the House of Representatives of the State of Nebraska, which was referred to the Committee on Agriculture and Forestry:

Resolution memorializing the Congress of the United States favoring the speedy passage of a bill providing for the liquidation and refinancing of farm mortgages and farm indebtedness at a reduced rate of interest through the Federal farm-loan system (Frazier bill—S. 1197)

Whereas the seventy-second session of Congress had before it for its consideration a bill to liquidate and refinance agricultural indebtedness and to encourage and promote agriculture, commerce, and industry by establishing an efficient credit system; and

Whereas this bill was designed to remove the unjust and unequal burdens placed upon agriculture, by providing for the liquidation and refinancing of farm mortgages and farm indebtedness at a reduced rate of interest through the Federal farm-loan system; and

Whereas it appears that through the passage of such a bill the burdens placed upon agriculture may be greatly lightened: Now, therefore, be it

Resolved by the House of Representatives of the State of Nebraska in forty-ninth regular session assembled—

1. That it is the conclusion of this house, based on a thorough survey of the agricultural conditions of the State of Nebraska as they now exist, that the Frazier bill (S. 1197) should be immediately considered and passed without delay by the Congress.

2. That the clerk of this house is hereby ordered and directed forthwith to forward a copy of this resolution, properly authenticated, to the Vice President of the United States, the Speaker of the House of Representatives, to the United States Senators representing the State of Nebraska, and to the Congressmen in the House of Representatives of the United States representing the State of Nebraska to work and to vote for the immediate adoption of said bill or similar legislation which will bring to our Nebraska farmers the constructive agricultural relief which is desperately needed by agricultural interests in Nebraska.

FRANK J. KLOPPING.
ED. F. LUSIENSKI.
R. C. VANCE.
EMIL ANDERSON.
W. H. O'GARA.

LINCOLN, NEBR., *January 27, 1933.*

I hereby certify that the above and foregoing is the true and correct copy of a resolution adopted by the house of representatives of the forty-ninth session of the Nebraska Legislature on January 24, 1933.

MAX ADAMS, *Chief Clerk.*

The VICE PRESIDENT also laid before the Senate the following resolution of the House of Representatives of the State of Nebraska, which was referred to the Committee on Appropriations:

Resolution memorializing the Congress of the United States for discontinuance of any further appropriation for the development of inland waterways

PREAMBLE

Whereas the Congress of the United States has during the past 12 years authorized the expenditure of millions of dollars for the purpose of improving the channel of the Missouri River and for the development of a system of inland waterways in the United States; and

Whereas, under general conditions, it is the sense of the House of Representatives of the State of Nebraska that all such appropriations for new construction of inland waterway projects should cease, at least during the years 1933 and 1934: Now, therefore, be it

Resolved by the House of Representatives of the State of Nebraska in forty-ninth regular session—

1. That the House of Representatives of the State of Nebraska does hereby emphasize its position for discontinuance of all further appropriations for new construction projects relating to the inland waterway system of the United States; and that it hereby memorializes and petitions the United States House of Representatives and the United States Senate to defeat any proposed appropriation which may come before it which contemplates the expenditure of any public funds whatsoever for such purposes.

2. That certified copies of this resolution be sent to the Vice President of the United States, the Speaker of the House of Representatives, and to each of the United States Senators and Representatives from Nebraska.

J. L. CARMAN.
CLINTON J. MITCHELL.
JOE E. GUNNERSON.
JAMES E. REED.
ED. F. LUSIENSKI.

LINCOLN, NEBR., *January 27, 1933.*

I hereby certify that the above and foregoing is the true and correct copy of a resolution adopted by the house of representatives of the forty-ninth session of the Nebraska Legislature on January 23, 1933.

MAX ADAMS, *Chief Clerk.*

The VICE PRESIDENT also laid before the Senate the following resolution of the House of Representatives of the State of Nebraska, which was referred to the Committee on Finance:

Resolution memorializing the Congress of the United States favoring sound inflation of the currency

Whereas the economic and financial tides of the United States are at their lowest ebb since the price of commodities have decreased to a point where it now requires four, five, and, in many instances, ten times more commodities to purchase the necessaries of life than it did in 1927 and 1928 when the major portion of our national debt was contracted; and

Whereas it is estimated that from ten to fourteen millions of people are now out of employment, which curtails the buying power and thus greatly decreases home consumption until we, as a Nation, have reached the point where the supply of necessary commodities on hand is in excess of the public's power of consumption; and

Whereas money is an invention of civilized man and was intended to serve as a medium of exchange in place of the ancient barter system that prevailed among uncivilized peoples in the Dark Ages; and

Whereas our money system, which was by the fathers of this country intended to be a medium of service in the process of exchange of commodity values, or for labor or service rendered, has become the master of the captains of trade, commerce, and industry, and the weapon of financial tyrants to oppress the weak and unprotected citizen and his family; and

Whereas America, under the gold standard, has failed to provide an adequate medium of exchange for the vast commerce of our land, and, hence, which is responsible, more than any other factor in the present unprecedented business collapse; and

Whereas there is now pending in the Congress of the United States a bill to reestablish a bimetallic system of currency, employing gold and silver, to fix the relative value of gold and silver, and to provide for the free coinage of silver; and

Whereas it is the sense of this house that the theory of money volume has been vindicated and that a sound inflation of our currency is the only way to relieve distressed America: Now, therefore, be it

Resolved by the house of representatives in forty-ninth session assembled—

1. That this house hereby memorializes and petitions the United States House of Representatives and the United States Senate favorably to consider the Wheeler bill, S. 2487, now referred to the Finance Committee of the United States Senate, and this house further urges that the United States Senators and Congressmen from Nebraska exercise all possible influence for the passage of said Wheeler bill.

2. That the chief clerk of this house be ordered and directed forthwith to forward to the Vice President of the United States, to the Speaker of the House of Representatives of the United

States, and to each of the United States Senators and Congressmen from Nebraska a copy of this resolution, properly certified, to the end that our representatives in the Congress shall have before them the views of this house on said currency legislation.

JOHN HAVEKOST.

LINCOLN, NEBR., *January 27, 1933.*

I hereby certify that the above and foregoing is the true and correct copy of a resolution adopted by the house of representatives of the forty-ninth session of the Nebraska Legislature on January 23, 1933.

MAX ADAMS, *Chief Clerk.*

The VICE PRESIDENT also laid before the Senate the following resolution of the Senate of the State of Nebraska, which was referred to the Committee on Immigration:

Resolution—Mexican migratory labor memorial to the Congress of the United States introduced by Senators McCarter and Van Kirk

PREAMBLE

Whereas the regulations and the restrictions of aliens migrating from the Republic of Mexico into the State of Nebraska and surrounding States is a Federal problem; and

Whereas the Bureau of Immigration and Naturalization of the Departments of Labor and Commerce has been designated by Federal law with the duty of enforcing Federal statutes on the subject of alien immigration; and

Whereas all questions relating to the entrance of aliens into the United States and the restrictions upon their movements while within the United States have many times been held to be Federal problems and within the purview of the Federal Labor Department; and

Whereas Mexican migrants, constantly increasing each year in number, are each year coming into the State of Nebraska and lowering the standard of living of our splendid citizens who are skilled and trained in connection with the production of sugar in the sugar-beet industry of the State of Nebraska; and

Whereas no legislation enacted by the State of Nebraska can ever be enacted which will bring relief to the great mass of our sugar-beet workers without remedial legislation by the Congress of the United States limiting the quota of the Republic of Mexico or by more general powers granted to the Bureau of Immigration and Naturalization: Now, therefore, be it

Resolved by the Senate of the State of Nebraska in forty-ninth regular session assembled—

First. That we hereby memoralize and petition the United States House of Representatives and the United States Senate to act favorably upon any proposed legislation which will restrict and limit the perennial influx of cheap Mexican labor which seeks admission to the United States, and that at least during the present session of Congress that the Bureau of Immigration and Naturalization be directed to investigate ways and means of relieving Nebraska labor from competing with Mexican labor;

Second. That a certified copy of this resolution be sent to the Vice President of the United States, the Speaker of the House of Representatives, and to each of the United States Senators and Representatives from Nebraska.

Introduced January 18, 1933.

Adopted January 20, 1933.

The VICE PRESIDENT also laid before the Senate the following joint resolution of the Legislature of the State of Minnesota, which was referred to the Committee on Finance:

Joint resolution memorializing Congress to properly protect the owners of farm wood lots and American workmen in industries facing unfair competition resulting from the depreciation of foreign currencies.

Whereas it has come to the attention of the Minnesota Legislature that the products of foreign manufacturers, especially wood pulp, canned vegetables, and manganese ore are now being shipped into the United States and sold on the American market for much less than it costs American manufacturers to produce these products, even at the present low prices of materials and mill wages; and

Whereas it is apparent that importers of these products are being given an unfair advantage over American industries in view of the fact that they are paying for these products in depreciated foreign currency and selling them for American gold dollars; and

Whereas this competition has resulted in hardship, not only upon the American manufacturer, but also upon all large and small producers of the raw materials used in such industries, including farmers and wood-lot owners, and the employees of the same, together with all other persons directly or indirectly engaged in these industries; and

Whereas a continuation of this situation will result in the closing down of such American industries as can not meet this foreign competition and the throwing out of employment additional thousands of men in this State of Minnesota: Now, therefore, be it

Resolved by the house of representatives (the senate concurring), That the State of Minnesota, respectfully memorializes the Congress of the United States to enact remedial legislation to protect domestic producers against this unfair competition, due to depreciated foreign currencies, and so give employment to large numbers of American workmen in such industries, and be it further

Resolved, That properly attested copies of this resolution be submitted to both Houses of the Congress of the United States, the Ways and Means Committees of such Houses, and to all Minnesota Members thereof.

CHAS. MUNN,
Speaker of the House of Representatives.
K. K. SOLBERG,
President of the Senate.

Passed the house of representatives the 23d day of January, 1933.

FRANK T. STARKEY,
Chief Clerk, House of Representatives.

Passed the senate the 24th day of January, 1933.

G. H. SPAETH,
Secretary of the Senate.

Approved January 26, 1933, for transmittal.

FLOYD B. OLSON,
Governor of the State of Minnesota.

Filed January 26, 1933.

MIKE HOLM,
Secretary of the State of Minnesota.

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 H. F. 281, being Resolution 7, Laws of 1933, 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, Minn., this 26th day of January, A. D., 1933.

[SEAL.]

MIKE HOLM,
Secretary of State.

The VICE PRESIDENT also laid before the Senate the following joint resolution of the Legislature of the State of Minnesota, which was referred to the Committee on Foreign Relations:

Joint resolution memorializing the United States Senate to ratify at the instant session of Congress the treaty between the United States of America and the Dominion of Canada for the building of the Great Lakes-St. Lawrence seaway.

Whereas the project of connecting the Great Lakes with tidewater by a deep waterway channel is of vital interest to all of the people of the State of Minnesota and others residing in the central and western part of the country; and

Whereas there has recently been concluded a treaty between the United States of America and the Dominion of Canada for the building of such channel; and

Whereas hearings have been held by a subcommittee of the Foreign Relations Committee of the United States Senate on such treaty; and

Whereas there are sound reasons for believing and expecting the Foreign Relations Committee of the United States Senate to report out said treaty for such seaway early in January of the present session of the United States Congress with the recommendation that said treaty be ratified: Now, therefore, be it

Resolved by the House of Representatives of the State of Minnesota (and the Senate of the State of Minnesota concurring), That the State of Minnesota memorialize the Senate of the United States, now in session, and by the adoption of this joint resolution the State of Minnesota does memorialize the Senate of the United States to ratify at the present session of the Congress of the United States the treaty between the United States of America and the Dominion of Canada providing for the building in accordance with the terms of said treaty a deep waterway channel connecting the Great Lakes with tidewater; and be it further

Resolved, That the governor of this State is hereby requested to forthwith transmit to the Senate of the United States a properly authenticated copy of this joint resolution of the House of Representatives and the Senate of the State of Minnesota.

CHAS. MUNN,
Speaker of the House of Representatives.
K. K. SOLBERG,
President of the Senate.

Passed the house of representatives the 12th day of January, 1933.

FRANK T. STARKEY,
Chief Clerk, House of Representatives.

Passed he senate the 20th day of January, 1933.

G. H. SPAETH,
Secretary of the Senate.

Approved January 26, 1933, for transmittal.

FLOYD B. OLSON,
Governor of the State of Minnesota.

Filed January 26, 1933.

[SEAL.]

MIKE HOLM,
Secretary of the State of Minnesota.

Mr. ASHURST presented the following joint memorial of the Legislature of the State of Arizona, which was referred to the Committee on Agriculture and Forestry:

Senate Joint Memorial No. 1

To the Senate and House of Representatives of the Congress of the United States:

Your memorialist, the Eleventh Legislature of the State of Arizona, in regular session assembled, respectfully represents:

Practically all Arizona farms are encumbered by some form of mortgage, and during the past two years or more owners have been faced with the necessity of meeting their principal payments and interest, plus taxes, water charges, and other operating costs on a 100 per cent basis, with products representing approximately 35 per cent of their former sale value.

In spite of this apparently impossible situation, farmers have with courage and determination continued their activities, kept production at a normal point, and, by great sacrifices, succeeded in meeting imperative obligations.

Liquid assets have necessarily been expended, and in most cases totally exhausted in this effort. There is a large surplus of hay, alfalfa seed, and other farm products now on the farms and in storage for which there is no market. Such products as can be sold at all are being disposed of at prices which provide only the barest sort of a living for farm families and the payment of water charges—the irreducible minimum of expenditures necessary for the continuation of farming operations.

Farm owners can not pay interest on their indebtedness and can no longer meet principal installments until better prices are to be secured for farm products. They have no assurance that leniency will be granted by their creditors for any specified time. This uncertainty threatens the morale of those engaged in the agricultural industry and the uncertainty of the future promises to bring about a wholesale abandonment of farm property in this State.

Those who find it impossible to meet their obligations are, in most cases, farmers who are willing to continue their efforts in an attempt to protect their creditors' security and to salvage at least a portion of their life savings. Because of their experience, training, and personal interest, the farmers are in a far better position to protect creditors' interests than are the creditors themselves, and will, with reasonable cooperation on the part of the creditors, willingly make further sacrifices to conserve the value of the security for which they are individually responsible.

Short time credits, contemplating the resumption at an early date of prinicpal payments, the additional payment of delinquent and maturing interest and other payments, offers no relief. The uncertainty of future markets precludes any constructive farm program, except it be based on present conditions, and such conditions require leniency on the part of creditors if operations are to be continued.

Wherefore your memorialist, the Eleventh Legislature of the State of Arizona, respectfully prays that Congress enact a measure which will afford the needed relief; providing, if necessary, for the refinancing by the Federal Government of all legitimate farm loans on a long-term basis, with an interest rate based upon the cost to the Government of carrying out the program.

And your memorialist will ever pray.

Adopted by the eleventh State legislature, January 18, 1933.

Mr. SMOOT presented the following concurrent memorial of the Legislature of the State of Utah, which was referred to the Committee on Banking and Currency:

THE STATE OF UTAH,
OFFICE OF THE SECRETARY OF STATE,
Salt Lake City, January 25, 1933.

Hon. REED SMOOT,
Senate Chamber, Washington, D. C.

MY DEAR MR. SMOOT: I have the honor to transmit to you herewith House Concurrent Memorial No. 1, by the Governor and the Legislature of the State of Utah, memorializing the President and Congress of the United States to support or initiate a movement to stabilize the monetary and credit bases so as to improve world commodity prices.

Very truly yours, M. H. WELLING,
Secretary of State.

I, M. H. Welling, secretary of state of the State of Utah, do hereby certify that the attached is a full, true, and correct copy of House Concurrent Memorial No. 1, by Mrs. Lund, entitled "Memorializing the President and Congress of the United States to support or initiate a movement to stabilize the monetary and credit bases, so as to improve world commodity prices."

Passed by the Twentieth Legislature of the State of Utah and approved by the governor, January 20, 1933.

As appears on file in my office.

In witness whereof I have hereunto set my hand and affixed the great seal of the State of Utah, at Salt Lake City, this 25th day of January, 1933.

[SEAL.] M. H. WELLING,
Secretary of State.

House Concurrent Memorial 1 (by Mrs. Lund), memorializing the President and Congress of the United States to support or initiate a movement to stabilize the monetary and credit bases, so as to improve world commodity prices

Be it resolved by the Legislature of the State of Utah (the governor concurring therein):

Whereas the people of this State, this Nation, and the world in general are struggling to maintain themselves, retain their property and business and meet their private and public obligations under the heavy and increasing burdens of steadily falling commodity prices, with consequent unemployment and other forms of hardship and distress; and

Whereas the various efforts that have been made to restore prosperity and confidence, apparently based on the thesis that relief of special groups would relieve all other groups also, and that forced expansion of credit would raise commodity prices, have either failed or proved inadequate; and

Whereas it is our conclusion that any expansion of credit beyond a safe ratio to the volume of the metallic money available for the support and validation of such credit is inevitably followed by an equal and opposite reaction to the great disadvantage of all those engaged in productive enterprises and is not, therefore, at all desirable as a permanent policy and justifiable as a temporary policy only at a time of great stress and emergency; and

Whereas attempts to improve commodity prices through general reduction of the amounts of public and private debtor obligations constitute an undertaking too stupendous and intricate to be applied safely or equitably or without incalculable injury to future business confidence and stability; and

Whereas proposals to decrease the amount of gold contained in the United States gold dollar would increase the already existing maldistribution of the world's supply of monetary gold, increase gold hoarding, restrict the velocity of money circulation and thus intensify the present unsatisfactory money and credit situation; and

Whereas it is our conviction that experience has demonstrated the inefficacy of the foregoing and other remedies and palliatives that have been proposed or applied to relieve the world-wide economic depression: Therefore, be it

Resolved by the Legislature of the State of Utah (the governor concurring therein), That we earnestly recommend the use of silver in our monetary systems as a basic money, thereby increasing the supply of metallic money for use as a circulating medium and as a base for currency and credit which, by amplification of the supply of basic money, will stabilize currency, credit, and international exchange and increase and stabilize prices of commodities, with the many and great advantages that will result therefrom; and be it further

Resolved, That we respectfully petition the President and Congress of the United States to arrange for the participation of the United States in any international conference called by another nation or other nations to consider an international agreement for such increased use of silver as money, or if no such conference be held in the immediate future, to call or obtain an international conference for that purpose under the auspices of the Government of the United States, and if no such international conference can be obtained, to take individual action for increased use of silver as money by the United States; and be it further

Resolved, That we especially request that the question of such increased use of silver as money be considered and decided on its economic merits, as we sincerely believe the question is of such vital importance to all the world as to render the welfare of those engaged in the industry itself a comparatively inconsequential part of the great issues involved and that consideration of the question should not be complicated by the introduction of group or individual interests, either of silver producers or others; and be it further

Resolved, That a copy of this memorial be sent to the President of the United States, the President elect of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the United States Senators and Representatives from the State of Utah, the United States Senator elect and the United States Representatives elect from the State of Utah, and to the governors of the various States, with the request that said governors submit it for action by the legislatures of their States.

The foregoing House Concurrent Memorial No. 1 was publicly read by title and immediately thereafter signed by the president of the senate, in the presence of the house over which he presides, and the fact of such signing duly entered upon the journal this 18th day of January, 1933.

J. FRANCES FOWLES,
President of the Senate.

Attest:

LYNN S. RICHARDS,
Secretary of the Senate.

The foregoing House Concurrent Memorial No. 1 was publicly read by title and immediately thereafter signed by the speaker of the house, in the presence of the house over which he presides, and the fact of such signing duly entered upon the journal this 18th day of January, 1933.

I. A. SMOOT,
Speaker of the House.

Attest:

ERNEST R. MCKAY,
Clerk of House.

Received from the house this 18th day of January, 1933.

Approved January 20, 1933.

HENRY H. BLOOD, *Governor.*

Received from the governor and filed in the office of the secretary of state this 21st day of January, 1933.

M. H. WELLING,
Secretary of State.

Mr. LA FOLLETTE presented the following joint resolution of the Legislature of the State of Wisconsin, which was referred to the Committee on Finance:

STATE OF WISCONSIN

Joint resolution memorializing the Congress of the United States to give protection to American producers of wood pulp against unfair competition resulting from the depreciation of foreign currencies

Whereas the action of foreign countries which are large producers of wood pulp, in going off the gold standard, and the resulting depreciation in their currencies, has given foreign producers an unfair advantage over American producers and enabled them to flood the American markets; and

Whereas the effects of this situation are shown in the very great increase in the foreign wood pulp received at ports on the Great Lakes serving the Wisconsin and Michigan paper mills, no less than 146,540 net tons of foreign wood pulp being received at these ports in the year 1932, as compared with 16,173 tons in the year 1929, before the countries of origin went off the gold standard; and

Whereas the vast quantities of foreign wood pulp now imported deprive many thousands of American workmen of employment and will, if continued, completely ruin the American wood-pulp industry: Therefore be it

Resolved by the senate (the assembly concurring), That the Legislature of Wisconsin hereby respectfully memorializes the Congress of the United States to pass bill H. R. 13999, by Congressman HILL of Washington, or some similar measure, imposing a compensating tax on wood pulp and other articles imported from countries with depreciated currencies sufficient to offset the depreciation in their currencies; be it further

Resolved, That properly attested copies of this resolution be transmitted to both Houses of the Congress of the United States and to each Wisconsin Member thereof.

THOS. J. O'MALLEY,
President of the Senate.
R. A. COBBAN,
Chief Clerk of the Senate.
CORNELIUS YOUNG,
Speaker of the Assembly.
JOHN J. SLOCUM,
Chief Clerk of the Assembly.

Mr. SHIPSTEAD presented the following joint resolution of the Legislature of the State of Minnesota, which was referred to the Committee on Finance:

Joint resolution memorializing Congress to properly protect the owners of farm wood lots and American workmen in industries facing unfair competition resulting from the depreciation of foreign currencies

Whereas it has come to the attention of the Minnesota Legislature that the products of foreign manufacturers, especially wood pulp, canned vegetables, and manganese ore are now being shipped into the United States and sold on the American market for much less than it costs American manufacturers to produce these products, even at the present low prices of materials and mill wages; and

Whereas it is apparent that importers of these products are being given an unfair advantage over American industries in view of the fact that they are paying for these products in depreciated foreign currency and selling them for American gold dollars; and

Whereas this competition has resulted in hardship, not only upon the American manufacturer but also upon all large and small producers of the raw materials used in such industries, including farmers and wood-lot owners and the employees of the same, together with all other persons directly or indirectly engaged in these industries; and

Whereas a continuation of this situation will result in the closing down of such American industries as can not meet this foreign competition and the throwing out of employment additional thousands of men in the State of Minnesota: Now, therefore, be it

Resolved by the house of representatives (the senate concurring), That the State of Minnesota respectfully memorializes the Congress of the United States to enact remedial legislation to protect domestic producers against this unfair competition due to depreciated foreign currencies, and so give employment to large numbers of American workmen in such industries: And be it further

Resolved, That properly attested copies of this resolution be submitted to both Houses of the Congress of the United States, the Ways and Means Committees of such Houses, and to all Minnesota Members thereof.

CHAS. MUNN,
Speaker of the House of Representatives.
K. K. SOLBERG,
President of the Senate.

Passed the house of representatives the 23d day of January, 1933.

FRANK T. STARKEY,
Chief Clerk House of Representatives.

Passed the senate the 24th day of January, 1933.

G. H. SPAETH,
Secretary of the Senate.

Approved January 26, 1933, for transmittal.

FLOYD B. OLSON,
Governor of the State of Minnesota.

Filed January 26, 1933.

MIKE HOLM,
Secretary of the State of Minnesota.

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 H. F. 281, being resolution 7, Laws of 1933, 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, Minn., this 26th day of January, A. D. 1933.

[SEAL.] MIKE HOLM, *Secretary of State.*

Mr. JOHNSON presented the following joint resolution of the Legislature of the State of California, which was referred to the Committee on Naval Affairs:

SENATE, LEGISLATIVE DEPARTMENT,
STATE OF CALIFORNIA,
Sacramento, Calif., January 20, 1933.

To the President of the United States, to the Vice President of the United States, and to each Member of the Senate and the House of Representatives of the United States:

I am directed to inform you that the California Legislature has adopted the following:

Senate Joint Resolution No. 4 (by Senator Wagy), relative to memorializing and petitioning Congress to enact legislation transferring certain oil lands in Kern County, Calif., from the jurisdiction of the Navy Department to the jurisdiction of the Department of the Interior

Whereas on September 27, 1909, by presidential Executive order of that date, certain lands in Kern County, Calif., were withdrawn from entry and, by presidential Executive order of September 2, 1912, naval petroleum reserve No. 2 was created therefrom embracing originally 31,181 acres, of which 19,620 acres were or have been patented to private parties, and 9,991 acres have been leased to private parties for operation and are being operated under the provisions of the general leasing act of February 25, 1920 (c. 85, 41 Stats. 450), and 570 acres remain unleased; and

Whereas by the act of June 4, 1920 (41 Stats. 812, 813) the Secretary of the Navy was directed to take possession of all properties within the naval petroleum reserves as are or may become subject to the control and use by the United States for naval purposes, and on which there were no pending claims or applications for permits or leases under the provisions of the said general leasing act of February 25, 1920, or pending applications for United States patents under any law, and to conserve, develop, use, and operate the same in his discretion, directly or by contract, lease, or otherwise; and by the act of February 25, 1928 (45 Stats. 148), jurisdiction over and the administration and enforcement of all oil and gas leases on lands in naval petroleum reserves, issued pursuant to the provisions of sections 18 and 18 (a) of the said general leasing act of February 25, 1920, were transferred to the Secretary of the Navy; and

Whereas section 35 of the said general leasing act provides that 37½ per cent of all amounts derived by the Federal Government from bonuses, royalties, and rentals on leased oil or gas lands or deposits within the public domain shall be paid, at stated intervals, by the Secretary of the Treasury to the State within the boundaries of which such leased lands or deposits are located, for the use by said State, or the subdivisions thereof, for the construction and maintenance of public roads or for the support of public schools or other public educational institutions, and that 52½ per cent of the amounts derived from such bonuses, royalties, and rentals shall be paid into, reserved, and appropriated as a part of the reclamation fund created by the act of Congress known as the reclamation act, approved June 17, 1902, and that all moneys accruing to the Federal Government from bonuses, royalties, and rentals from naval petroleum reserve lands shall be deposited in the United States Treasury as "miscellaneous receipts"; and

Whereas neither the State of California, nor Kern County, Calif., nor the Navy Department of the United States, nor the said reclamation fund, receives any benefit from or part of the amounts derived by the Federal Government from bonuses, royalties, or rentals on said lands within said naval petroleum reserve No. 2; and

Whereas by the enactment of the said acts of June 4, 1920, and February 25, 1928, the Navy Department of the United States is empowered to enter into the business of producing petroleum and its products from the said naval petroleum reserves, particularly from said naval petroleum reserve No. 2; and if such operation shall be engaged in by the Navy Department one of the results thereof will be to deprive Kern County, Calif., and the State of California, annually of tax revenues in excess of $250,000, and this although the quality of the petroleum producible from said lands in said naval petroleum reserve No. 2 is such that neither the said petroleum nor the gas produced from said lands can be used by the Navy except for purposes of sale; and

Whereas the extensive and continued production of petroleum and gas from the patented lands in said naval petroleum reserve requires the continued production of petroleum from the Government lands in said reserve to prevent the drainage and depletion thereof by the aforesaid production on the patented lands, and the necessity for such continued production from the Government lands effectually prevents and will continue to prevent the said lands from being or becoming a petroleum reserve in any sense; and

Whereas so long as jurisdiction over said lands and the administration and enforcement of oil and gas leases therein remain in the Navy Department, the formulation and enforcement of any state-wide conservation program to which the State of Cali-

fornia has heretofore committed itself by appropriate legislation, with respect to oil and gas production from the lands aforesaid, may be prevented because of the inability of the lessees to secure cooperation from the said Navy Department in respect of the duration of their tenure of the said leased lands: Now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California hereby memorializes and petitions Congress to enact legislation restoring the public lands within the external boundaries of naval petroleum reserve No. 2 as now constituted, to the public domain of the United States, and transferring the jurisdiction over and the administration thereof and of all leases thereof, to the Secretary of the Interior, and revoking and repealing any and all Executive orders and acts of Congress creating or confirming the creation of said naval petroleum reserve No. 2; and be it further

Resolved, That a copy of this joint resolution be transmitted to the President of the United States, to the Vice President of the United States, and to each Member of the Senate and the House of Representatives of the United States.

FRANK F. MERRIAM,
President of the Senate.
J. A. BEEK,
Secretary of the Senate.
By K. E. MORLEY,
Assistant Secretary.
WALTER J. LITTLE,
Speaker of the Assembly.
ARTHUR A. OHNIMUS,
Chief Clerk of the Assembly.

Mr. BROOKHART presented memorials of Rev. W. A. Howe, jr., and other citizens of Burlington, and W. P. Williamson and other citizens of Fairfield, all in the State of Iowa, remonstrating against the repeal or modification of the national prohibition law, which were ordered to lie on the table.

Mr. COPELAND presented memorials and papers in the nature of memorials of sundry citizens and organizations, all in the State of New York, remonstrating against the repeal of the eighteenth amendment to the Constitution or the modification of the national prohibition law, which were ordered to lie on the table.

Mr. KING presented a telegram from Tracy R. Welling, executive secretary, embodying a resolution adopted by the Utah State Farm Bureau Federation, Salt Lake City, Utah, favoring the passage of the bill (S. 5390) to meet the existing emergency in the agricultural industry, to provide new capital for agricultural development, to refund existing farm mortgages so as to provide long-term loans at lower interest rates, to permit the repurchase of foreclosed farm lands, to amend and supplement the Federal farm loan act, to provide methods for the unification of the Federal farm-loan system, and for other purposes, which was referred to the Committee on Banking and Currency.

He also presented resolutions adopted by the Legislature of the State of Utah in support of measures to initiate a movement to stabilize the monetary and credit bases so as to improve world commodity prices, which were referred to the Committee on Banking and Currency.

(See resolutions printed in full when presented to-day by Mr. SMOOT.)

Mr. CAPPER presented resolutions adopted by a mass meeting of citizens of Hesston sponsored by the Woman's Christian Temperance Union, a union meeting of the Methodist and Congregational churches sponsored by the Woman's Christian Temperance Union, and also local chapters of the Woman's Christian Temperance Union of Burns, Elsmore, and Oxford, all in the State of Kansas, protesting against the repeal of the eighteenth amendment to the Constitution or the repeal or modification of the national prohibition law, which were ordered to lie on the table.

He also presented resolutions adopted by the Methodist Sunday School of Elsmore, the Women's Council of the Congregational Church and the Ladies' Aid Society of the Methodist Episcopal Church of Wakefield, the Young Peoples' Branch of the Woman's Christian Temperance Union of Emporia, the Jefferson County Ministerial Association, and local chapters of the Woman's Christian Temperance Union of Hesston, La Crosse, Minneola, Ottawa, Oxford, Richfield, and Wellington, all in the State of Kansas, favoring the passage of legislation to regulate and supervise the motion-picture industry, which were ordered to lie on the table.

THE LATE SENATOR WESLEY L. JONES

Mr. GRAMMER. Mr. President, my predecessor in this body, the late senior Senator from the State of Washington, Hon. WESLEY L. JONES, left a record of accomplishment which no contemporary of his who knew him will ever forget. His personal attributes may not be quite so well known. I have received a copy of an address on the life of Senator JONES, delivered at memorial services at Seattle, Wash., by Melvin G. Winstock, Esq., of that city, which treats of him both as a statesman and as a man. I ask unanimous consent that it may be printed in the RECORD.

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

We meet to pay tribute to a fallen leader, a patriotic citizen, a public servant, a Christian gentleman. Vain are mere tears. Memorial exercises are useful only as they lift us out of ourselves and give a proper inspiration.

Memory is the most important quality of the human mind. Without it all knowledge is useless. Hope is but the fragment of a shattered dream, affection would be a forgotten emotion. Experience would vanish in its effect upon human conduct.

WESLEY JONES began life in toil and humble struggle. He arose to great eminence but never lost humility of faith. Even in the midst of strife, passion, ambition, he always had God in his heart, the National Constitution as his guide, a thorough confidence in the stability of American institutions. His private life and public career were devoted to the highest ideals. He always subordinated private hopes and ambitions to the general good. For more than third of a century he played a great part on the stage of State and national action.

Along the path which great men have trod are stars that light the way. Through the deeds of great leaders that make history God gives illumination that we may see the way and avoid the pitfalls that beset men. Before Washington became a State, WESLEY JONES cast his fortunes with us and at Yakima, began the practice of law.

He had his youthful ambitions. He wanted to be a judge in his own county, but the party leaders were not too anxious to satisfy that desire. A situation arose whereby this daring youngster might be satisfied without weakening the organization. They gave him a nomination to Congress, fully believing that the honor would be an empty one. Mr. JONES eagerly accepted the opportunity. He went into the campaign with enthusiastic thoroughness, and astonished his party by the vigor and brilliancy of the fight—and he won.

At about the same time a fellow student, WILLIAM E. BORAH, located in Idaho. The complete personal attachment between these two men has lingered always. There has, however, been a striking difference in their attitude toward national affairs. Mr. BORAH has always felt that he could stand alone, independent of political ties. WESLEY JONES has always believed in party rule. He consistently declared that unless he could remain loyal to his party, in whose principles he believed, he would not accept honor at its hands. On pure party issues that was his undeviating course. In all other concerns he courageously fillowed the dictates of his conscience. Five times he won, and for 10 years retained his seat in the House.

In the House of Representatives he encountered brilliant men. This contact sharpened his wit, gave him self confidence, and began the process of fitting him for higher service. He worked his way upward to fine committeeships. He acquired the power to do things for his State. He formed lasting friendships. As business agent for Washington he began to secure recognition, in those practical accomplishments that resulted in appropriations that meant the development, of every section of the Commonwealth. Actual practical results focused the eye of his constituents on him. His destiny pointed to higher honors and still greater opportunities.

There is no nobler activity than that of the public service. It can generally be reached only through the medium of politics. The importance of this congressional work alone can be readily appreciated when we know into the hands of these public servants is committed the safety, happiness, and prosperity of a Nation of 128,000,000 people. The Constitution gives to the President but limited powers, but to Congress the highest and most complete authority in legislation.

Under our Constitution the legislative is the most important of the three coordinate branches of the Government. The presidential power is limited by the Constitution. Of the two sections of Congress, the Senate has always been held as the more important. America's most distinguished men have been its Members. It has ever been the safety brake of the Nation. It has generally been steadfast against unrighteous public clamor and has held the people to safe and sane action. To be a Senator is not only a high honor; it is an opportunity for service supreme.

To be an outstanding Member of the Senate of the United States required qualities of the highest character. Through slow stages of advancement WESLEY JONES had attained the highest position in this great body. He had reached the very apex of power.

No effort of mine would be complete without a slight résume of the record. A friend may praise, a foe may condemn, but the record stands as a living testimony to the truth. After Thomas

Jefferson, the great commoner, passed on there was found a note among his papers. It said: "If it is deemed advisable to erect a monument to my memory, let it be of plain white marble and let there be inscribed thereon, 'Here lies the body of Thomas Jefferson. Author of the Declaration of Independence. Author of the Statutes for Religious Liberty for the State of Virginia. Founder of the University of Virginia.'" I once stood uncovered at Monticello and read this. I was overwhelmed with the vastness of the service which this man had rendered, not only to America but to the world. Any single one of these would have given any man the gratitude of posterity.

This idea of service was the outstanding motive of the life of WESLEY JONES. Let us lift the curtain and take a panoramic view of a mere outline of what he did in Congress. He was an open advocate of woman's suffrage long before it became popular to stand for the granting of the franchise to the womanhood of this Nation. He supported every move ever made for the protection of childhood. He battled for every plan made for public education. He consistently believed in and fought for protection to industry and labor and for every righteous policy that looked to the improvement of living conditions for the man of toil. He was an ardent exponent of temperance. When he took the oath of office at the bar of the Senate he swore that he would uphold the Constitution and laws of his country. So he fought for enforcement. Who, by his silent tomb to-day, will dare scorn him for that. I say, all honor shall be given him for standing by his principles.

He was the author of the bill under which the Panama Canal was constructed and the wise laws under which that zone has been so successfully governed and operated. He was at the very head of irrigation and reclamation and promoted in every way the conservation of our natural resources. He was the sponsor of and the author of amendments to the Federal water power act, that properly enforced will give every right and protection to the people in their battle against special privilege or monopoly.

He was the author of the Jones-White shipping bill which even his political foes confess would alone entitle him to everlasting fame. Every American sea captain and sailor will revere his memory for what he has done for their welfare. In the last session of the Senate he stood for every honest measure of direct relief of distress, for the complete construction program for the restoration of prosperity, and wrought miracles in putting through an economy program that saved hundreds of millions of the Nation's funds.

Mistakes he made, but they were honest ones. Through all these tremendous activities he contrived to gain and retain the respect and, in many instances, the abiding affection of his colleagues, even of the opposition. Even before he passed on, some of the highest tributes ever paid a public man were voluntarily offered by the most renowned Members on the other side of the Senate. They, with one voice, declared that he was honest, industrious, capable, faithful to the State, and that he played the game with a squareness and sportsmanlike quality that stamped him as something conspicuously fine.

I have had no time to tell you of his fine humanness. All of a Senator's work does not appear in the study, the committee rooms, or on the floor of the august body. Hundreds of requests come from the voters of the State. Here is a touch that tells of that other side, the human-interest side. When such services were called for, the Senator never stopped to ask a man's religion, his local standing, or his political pull. Not once in all his long public life did WESLEY JONES turn down a call to help, if that help was within the realm of possibility.

He was an unspectacular man, never seeking the limelight. He spoke but seldom, and then with authority and power. He had reached one of the highest and most powerful positions at the National Capital. Had he so desired, he might have been front-paged daily. He preferred the quiet of the study, the incessant grind of committee work where he had to withstand the pressure of conflicting interests and the tremendous labors involved on the floor of the Senate where men met national political giants and their ambitions. It was this constant devotion to great projects that, perhaps, brought about that final illness that resulted in his sudden taking off. When the final summons came he met it with head erect and unafraid.

We do not conserve our true public servants. We extract all they have to give. Then when too late we weep and pile a ton of roses on 6 feet of earth. This is the tragedy of American politics.

Often we are so close to the mountain that we do not appreciate its height. The State of Washington accepted WESLEY JONES as an ordinary matter of fact. His nearness and naturalness made him so much one of us that we did not know the full measure of his place in the national scheme. The Capital of the Nation knew him. The President was glad to use his talents. His colleagues in the Senate relied upon and trusted him.

His was a definite philosophy of government, that of the good of the many, based on the Constitution, wrought through the principles of a political party. The flattery of friend, the threat of foe, could not stampede him from this course.

During 34 years in Congress under pitiless publicity brought forth but few acts that called for adverse criticism. I have examined each one of these, as I hope a just judge would. It is possible that on these controversial questions he might have been mistaken. But of this I am certain—he obtained the best information available. He gave great study to each matter. He acted according to the dictates of his conscience.

He had faith in the ultimate judgment of the American people. He accepted without a murmur their verdict. In or out of office he stood ever willing to serve. He was never exultant in victory nor ungenerous in defeat.

He did not thrillingly dramatize himself. He was drama incarnate, because he was a leading actor in tremendous and ever-changing national action. A great Nation has gained, not lost, in that this man served through both happy and troublous times with an unblemished personal and political record.

He was not an opportunist nor a disciple of expediency, but a real leader whose record of the enduring service will illumine our pathway for generations to come. As time softens all bitterness and melts away all human ambition, the figure of WESLEY JONES will loom high as one whose whole life exemplified intelligent progress, steadfast devotion to American ideals, and a never-ending battle for the rights of his fellow man. The mere flesh of such a man may wither, he may be cut down like a blade of grass, but the spirit and the inspiration thereof liveth eternally in the hearts of men. And so beloved, we bid the body of you a long farewell. But we dedicate ourselves anew with high resolve to carry on under the inspiration of your life so gloriously spent in the service of your country.

REPORT OF THE FINANCE COMMITTEE

Mr. SMOOT, from the Committee on Finance, to which was referred the bill (H. R. 13742) to provide revenue by the taxation of certain nonintoxicating liquors, and for other purposes, reported it without recommendation and submitted a report (No. 1127) thereon.

WATER RESOURCES OF THE SAN PEDRO RIVER, ARIZ.

Mr. ASHURST, from the Committee on Irrigation and Reclamation, to which was referred the resolution (S. Res. 292) authorizing an investigation of the subject of the utilization of the water resources of the San Pedro River in Arizona, reported it without amendment and moved that it be referred to the Committee to Audit and Control the Contingent Expenses of the Senate, which motion was agreed to.

ENROLLED BILLS PRESENTED

Mr. VANDENBERG, from the Committee on Enrolled Bills, reported that on to-day, January 30, 1933, that committee presented to the President of the United States the following enrolled bills:

S. 212. An act for the relief of Messrs. Short, Ross, Shaw, and Mayhood;

S. 213. An act authorizing adjustment of the claim of Kenneth Carpenter;

S. 219. An act authorizing adjustment of the claims of Orem Wheatley, Kenneth Blaine, and Joseph R. Ball;

S. 252. An act authorizing adjustment of the claim of Johnson & Higgins; and

S. 563. An act for the relief of George T. Johnson & Sons.

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. CAPPER:

A bill (S. 5553) to relieve destitution in the District of Columbia; to the Committee on the District of Columbia.

By Mr. BINGHAM:

A bill (S. 5554) relating to the enactment of laws in the Virgin Islands; to the Committee on Territories and Insular Affairs.

By Mr. SHORTRIDGE:

A bill (S. 5555) to authorize an exchange of lands between the city of San Diego and the United States; to the Committee on Naval Affairs.

By Mr. BROOKHART:

A bill (S. 5556) exempting States and their political subdivisions from certain provisions of the revenue act of 1932; to the Committee on Finance.

A bill (S. 5557) granting an increase of pension to Mary A. Kiggins (with accompanying papers); and

A bill (S. 5558) granting a pension to Bridget Wagner (with accompanying papers); to the Committee on Pensions.

By Mr. WAGNER:

A bill (S. 5559) to amend the standard baskets act of August 31, 1916, to provide for a 1-pound Climax basket for mushrooms; to the Committee on Agriculture and Forestry.

A bill (S. 5560) to amend section 4 of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906, as amended; to the Committee on Commerce.

By Mr. WALCOTT:

A joint resolution (S. J. Res. 246) to authorize the issuance of a special series of stamps commemorative of the one hundred and fiftieth anniversary of the naturalization as an American citizen of Brig. Gen. Thaddeus Kosciusko; to the Committee on Post Offices and Post Roads.

HOUSE BILL REFERRED

The bill (H. R. 14363) making appropriations for the Departments of State and Justice and for the judiciary, and for the Departments of Commerce and Labor, for the fiscal year ending June 30, 1934, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

GOVERNMENT PURCHASE OF AMERICAN GOODS—AMENDMENT

Mr. WAGNER submitted an amendment intended to be proposed by him to the bill (H. R. 10743) to require the purchase of domestic supplies for public use and the use of domestic materials in public buildings and works, which was ordered to lie on the table and to be printed.

AMENDMENT TO TREASURY AND POST OFFICE DEPARTMENTS APPROPRIATION BILL

Mr. KING submitted an amendment intended to be proposed by him to House bill 13520, the Treasury and Post Office Departments appropriation bill, which was ordered to lie on the table and to be printed, as follows:

On page 16, line 16, after the word "each," to insert the following: ": *Provided further,* That no refund in excess of $20,000 shall be paid until the determination by the Commissioner of Internal Revenue of the overpayment has been transmitted to and approved by the United States Board of Tax Appeals, under such rules as it may prescribe; and the commissioner shall disallow the part thereof not so approved."

WILLIAM B. THOMPSON

The PRESIDING OFFICER (Mr. FESS in the chair) laid before the Senate the amendment of the House of Representatives to the bill (S. 284) for the relief of William B. Thompson, which was, on page 1, line 6, after "$562.80," to insert "in full settlement of all claims against the Government."

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

The motion was agreed to.

SILVER AS SUPPLEMENTARY CURRENCY

Mr. WHEELER. Mr. President, I ask leave to have published in the RECORD an article appearing in the Washington (D. C.) Herald, in its issue of January 30, 1933, entitled "Horne Radios United States Plea for Use of Silver."

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

[From the Washington (D. C.) Herald of January 30, 1933]

HORNE RADIOS UNITED STATES PLEA FOR USE OF SILVER—FORMER BRITISH CHANCELLOR OF EXCHEQUER SAYS BIMETALLISM WOULD HELP STABILIZE

NEW YORK, January 29.—Sir Robert Horne, former British Chancellor of the Exchequer, in a radiobroadcast from London today expressed the belief that a larger use of silver as a supplementary currency would aid stabilization.

Sir Robert's talk was broadcast here over a National Broadcasting Co. network. He spoke under the auspices of the International Radio Forum.

TELLS OF CONDITIONS

He said in part:

"The whole world is in a condition of confusion. All mankind is in deep distress.

"The trade of the world has shrunk to a skeleton of what it was. Internal production has withered in most countries. These conditions sufficiently explain the appalling statistics of unemployment.

"To relieve the situation the United States has embarked on many schemes for expanding credit. In Britain we have taken the course of making the interest on money lent by the banks so low that the large mass of people may borrow freely. Unfortunately in both countries there are delaying factors. People have not yet acquired confidence.

"I rejoice at the invitation which the Government of the United States has recently conveyed to British ministers to send representatives to a meeting at Washington to discuss, among other things, monetary policies.

"THE SILVER QUESTION

"There is another important topic upon which I personally hope our two countries may possibly be found collaborating. That is the question of silver.

"It should be kept in mind that one-half the population of the world in India and China hold silver as their sole value for investment. Depreciation in silver has lessened the values of savings of thousands of millions of people in the east, and has imposed a check upon purchases which would have been made from the factories of America and Great Britain.

"If some of the leading nations were to adopt again the bimetallic standard of silver and gold this disintegrating process would be reversed."

TREASURY AND POST OFFICE APPROPRIATIONS

The Senate resumed the consideration of the bill (H. R. 13520) making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes.

Mr. McKELLAR. Mr. President, I want to discuss for a few minutes the provision in the bill which is to be found on page 57. The words are to be found in lines 4 and 5, as follows:

Provided, That no part of the money herein appropriated shall be paid on contract numbered 56 to the Seatrain Co.

The House inserted that language and the Senate Committee on Appropriations have struck it out, and the question arises on the approval of the action of the committee in striking out the language. I think the language ought to remain in the bill so that no payments can be made to the company under the appropriation.

Mr. President, let me briefly review, if I may, the Seatrain contract. The Seatrain Co. was organized some years ago by a Mr. Brush, who seems to be president of it. He undertook at first to organize in this country but did not succeed. Thereafter he organized a company in Canada or with Canadian capital. The ship, which is a kind of ferryboat with a capacity for carrying 90 freight cars, was built in England for the purpose of plying between New Orleans and Habana, Cuba. The ship was put under the British flag, of course. It was built in Great Britain, it was capitalized by Canadian money, and it was put under a foreign flag, naturally, and began operation.

After it began business it seems that Mr. Brush, the president of the company, felt that because he was an American citizen it ought to have the subsidy for carrying the mails. The fact was that two companies already had subsidies for carrying the mails from New Orleans to Habana, Cuba. One of the witnesses testified that the first company which obtained the contract carried about 1,500 pounds of mail a year, but the Post Office Department felt that the facilities were not sufficient and employed another company, making a contract providing some $400,000 a year to aid in carrying that 1,500 pounds of mail to Habana.

Then came the Seatrain Co., which at that time was a British company flying the British flag. Of course, it had no right to a subsidy, but Mr. Brush seems to have had great influence with the department. Negotiations were begun by which Mr. Brush sought a contract for the British company for carrying the mail from New Orleans to Habana. Of course, it could only operate in foreign commerce. It could not operate in coastwise shipping under our laws, but that did not seem to make much difference to Mr. Brush. The result was that Mr. Brush applied to the Postmaster General for the subsidy. He did not obtain it. It seems that the department finally concluded that inasmuch as they flew the foreign flag, although Mr. Brush was an American, the company could not receive the contract.

Thereupon it was suggested, by the Shipping Board apparently, that the Shipping Board would furnish three-fourths of the capital to Mr. Brush to build two other ships of exactly the same kind designed to carry 90 freight cars, the vessels being ferryboats or in the nature of ferryboats. Why any such vessels should be used for carrying United States mails it is almost impossible to conceive; but $600,000

was provided by the Shipping Board, at a low rate of interest, to Mr. Brush to build another ship of the kind that he had built in Great Britain.

Not satisfied with that, the Shipping Board loaned him another $600,000 to build another such ship. In other words, they furnished three-fourths of the money to build these two ships, and the Postmaster General, it seems, promised Mr. Brush that when he got the first one of these ships finished he would be allowed a mail contract.

Mind you, Mr. President, all this time during these negotiations Mr. Brush was acting as the head of the Seatrain Co. that was flying the British flag. The result was, I believe, that one of the ships has now been finished; but, at all events, whether finished or not, the Post Office Department entered into a contract with Mr. Brush on October 31, 1931, by which Mr. Brush was given the third contract to carry the mails from New Orleans to Habana, Cuba. Mind you, Mr. President, two other companies already had similar contracts for carrying the mail. Although the amount of mail is inconsequential, they had postal subsidies for carrying the mail from New Orleans to Habana. In the very nature of things two lines of shipping could have carried the mail; two lines of shipping were more than sufficient; but, even if they were not, it would seem to be a preposterous thing for the American Government to build two more ships in the nature of ferryboats for the purpose also of carrying mail from New Orleans to Cuba. Of course, it was merely the grant of a subsidy to this favored person, Mr. Brush, who seems to have had great influence with the Post Office Department. At all events that is the contract that is now under consideration.

After the new boat was built Mr. Brush found that there was not enough trade to keep his boats busy between New Orleans and Habana. Thereupon the proposal was made to the department that instead of plying only between New Orleans and Habana the boats should be allowed to ply between New Orleans and New York, stopping at Habana en route, and to carry loaded freight cars or empty freight cars, as the case might demand, from New York to New Orleans, stopping at Habana, thus engaging in the coastwise trade. So we have that peculiar situation.

What happened when they made that application? The Postmaster General was careful enough to say at that time, "If you do that you can not have a postal contract; you are debarred from having a postal contract if we let you engage in the coastwise trade." That action was very proper, it seems to me. So the Shipping Board and the Postmaster General required that the Seatrain Co. waive its claim to a subsidy, because they said if the company did not waive it they could not allow it to engage in the coastwise trade. The Seatrain Co. did waive its subsidy, but now Congress is asked to override what it itself did and to appropriate this money, and, if the company can get the Postmaster General and the Shipping Board to agree to it, to change the contract again and allow a subsidy to be paid for engaging in the coastwise trade.

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

Mr. McKELLAR. Yes.

Mr. REED. Is it not so that they waived it for only six months, and that the six months will expire before the beginning of the fiscal year for which we are now appropriating?

Mr. McKELLAR. Yes; that is true. But if the Shipping Board and the Postmaster General required the Seatrain Co. in the beginning to waive it there must have been some reason for it; there was some reason for it; and they did waive it for that length of time.

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

Mr. McKELLAR. I will yield in a moment. I think the Seatrain Co. ought to be required to waive it as long as they are engaged in the coastwise trade. It is not done for other companies and why should it be done for this company. Let me state what it means.

Mr. REED. Mr. President——

Mr. McKELLAR. I will yield in just a moment.

Mr. REED. Very well; I will speak in my own time.

Mr. McKELLAR. Let me tell you, Mr. President, what it means. This company, plying between New Orleans and New York, is going to be in direct competition with the railroads that now obtain business between those two points. It does not seem to me to be fair to the railroads, in the condition in which they now are, for the Congress to subsidize ships built in this way, to subsidize a line established in this way for the purpose of competing with our railroads that are already operating.

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

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

Mr. McKELLAR. I yield.

Mr. FLETCHER. Mr. President, it seems to me that the question comes down to one proposition, which is the gist and substance of the whole matter. We can well lay aside any question of whether the Missouri Pacific Railroad and its officers, with all their political influence, the Sun Shipbuilding Co., with its stockholders and directors and officers, with all their political influence, are for or against this amendment; we can well lay aside the question whether the Florida East Coast Railroad Co. or the Key West Ferry Co. or the coastal shipping interests or the railroads are for or against this amendment; the question is, Shall any Senator favor the giving of a subsidy or subvention to ships engaged in the coastwise trade? That is the whole subject. If we start upon that sort of policy now, this is as good a place as any, but if we are against it, then, we must vote down the amendment reported by the Senate committee. That is the whole question, whether the Senate is willing to vote subsidies or subventions, whatever one may care to call them, benefits, to ships engaged in the coastwise trade or whether we are against doing so. That is what they are doing; they are actually operating their ships in the coastwise trade.

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

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

Mr. McKELLAR. I yield.

Mr. WATSON. Is this the only coastwise line that is receiving a subvention from the Government?

Mr. McKELLAR. It is not receiving it as yet, but this is the only company that will receive one.

Mr. WATSON. The only one?

Mr. McKELLAR. The only one, so far as I know.

Mr. REED. Mr. President——

Mr. McKELLAR. I yield.

Mr. REED. If I may have the attention of the Senator from Indiana, this company is not receiving any subsidy whatever for coastwise operations. It has a mail contract for service between New Orleans and Habana, which it is performing regularly, and it is entitled to be paid for that. It is performing that service, and has two ships engaged in it, and it can perform the contract and still have a lot of idle time. So, quite regardless of the subsidy allowed, the company has put these ships in their spare time to carrying totally private cargoes to and fro between New York and Habana.

Mr. McKELLAR. It is fair to say, Mr. President, talking about their "spare time" only being used in the coastwise business, that 80 per cent of the business of this concern is in the coastwise trade.

Mr. PITTMAN. Mr. President——

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

Mr. McKELLAR. I yield.

Mr. PITTMAN. As I understand, the law with reference to subsidies applies only to ships engaged in foreign commerce?

Mr. McKELLAR. That is right; of course, it applies only to ships engaged in foreign commerce.

Mr. PITTMAN. I should like to ask the Senator a further question.

Mr. McKELLAR. Just a moment, and I will yield. I wish first to call the attention of the Senator to the fact that this company first started out on the representation that it was engaged in commerce between New Orleans and Habana; but, when it found that that was not as profitable as it thought, the company then sought for a permit to engage in the coastwise trade. It has engaged in the coastwise trade; 80 per cent of its business is in the coastwise trade, and it is just picking up this subsidy, if it can get it, as that much lagniappe, as I believe they call it in New Orleans.

Mr. PITTMAN. Does the law require the advertising for bids for such contracts?

Mr. McKELLAR. Of course it does.

Mr. PITTMAN. As I understand, the contract was made under a bid for the route from New Orleans to Habana?

Mr. McKELLAR. That is right.

Mr. PITTMAN. And not from New York to New Orleans by way of Habana?

Mr. McKELLAR. The Senator is entirely right about that; and, by the way, in my judgment as a lawyer, to change this contract without again advertising it would make it void; I have not the slightest doubt about that.

Mr. PITTMAN. Let me call attention to the case of the United States against the Pan-American Co. In that case the United States Government entered into a contract with the Pan-American Co. to sink offset wells along the line of oil reserve No. 1. That was advertised, as was required, and the Pan-American Co. made a bid and obtained the contract. Subsequently the United States Government attempted to change that contract without advertising the change; it attempted to extend the contract to the entire reserve and enter into a contract for the entire reserve; but the Supreme Court of the United States held that that new contract was absolutely void. Now, a suit has been started to declare the original contract void. If we should allow the Postmaster General to change this contract without advertising again—and that is the purpose, I suppose, of the proposal to strike out the House provision—it would be a violation of the law, as it was violated with regard to oil reserve No. 1, which the Supreme Court declared was absolutely null and void.

Mr. McKELLAR. I remember that case; I think the Senator is exactly right about it, and I am happy that he has brought the case forward.

Mr. TYDINGS. Mr. President——

Mr. McKELLAR. I yield to the Senator from Maryland.

Mr. TYDINGS. Will the Senator state what the amount of this contract in money actually is?

Mr. FLETCHER. It is $240,000 a year.

Mr. McKELLAR. It amounts to $240,000 a year, aggregating just $2,400,000 in the 10-year term if the contract shall be entered into.

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

Mr. McKELLAR. I yield.

Mr. TYDINGS. The basis of this contract is, of course, that it serves the public?

Mr. McKELLAR. Yes.

Mr. TYDINGS. To what extent does the service rendered by the Seatrain Co. duplicate services already in effect, thereby making it unnecessary?

Mr. McKELLAR. There are two companies already that hold contracts for carrying the small amount of mail that is transported between New Orleans and Habana. I think there are three companies already carrying mail from New York to Habana.

Mr. TYDINGS. Mr. President, is it not a fact also that airplanes are carrying the mail from the United States to Habana?

Mr. McKELLAR. My recollection is that they do; that Habana is on the direct route.

Mr. TYDINGS. So we have airplanes, the Seatrain boats, and the regular lines that have been running before the Seatrain boats were constructed?

Mr. McKELLAR. I think we have got everything except a tunnel under the Gulf of Mexico between Key West and Habana.

Mr. REED. Mr. President——

Mr. McKELLAR. I yield to the Senator from Pennsylvania.

Mr. REED. If I may have the attention of the Senator from Maryland, I gather that he does not approve of the competition, and that if there exists a service to-day he sees no reason why a competing service should be authorized?

Mr. TYDINGS. And according to the Senator's logic he would be in favor of having 10 more subsidies of the same kind to provide for doing the same work which one line can do.

Mr. REED. If we already had the competition, I would not expend money in order to get other competition.

Mr. TYDINGS. The Senator has argued that we ought to go ahead and encourage competition.

Mr. REED. If the Senator from Tennessee will permit me further, this company does not carry any mail between New York and Habana; it is not receiving any money for that; it has a contract for carrying mail between New Orleans and Habana, which service it has been performing.

Mr. TYDINGS. I am aware of that; and I say that we could very well do without this company carrying the mail and save the taxpayers a quarter of a million dollars a year. In my judgment, this contract was conceived not to benefit the people of America but to make money for the company that built the seatrains.

Mr. REED. Does the Senator think, the contract having been entered, that——

Mr. McKELLAR. Mr. President, I must ask my friends to allow me to proceed. I have only a few minutes.

Mr. REED. The Senator has been speaking on this question since we met, and we have an agreement to vote at 1 o'clock. Is the Senator going to give us any time?

Mr. McKELLAR. Oh, yes; I will. I shall be through in just a few moments. I have no desire to take up time—not a particle.

Mr. President, the Senator says this company does not propose to carry mail from New York to Cuba. I do not suppose it does; and, in like manner, it does not propose to carry mail from New Orleans to Cuba. Why do I say that? Why, who in the world, what reasonable man, what man with the intelligence of the ordinary moron, official of the Government or otherwise, would ever select a ship like this—a ferryboat for freight cars—to carry the mail? Who in the world would ever think of putting mail on a ship of that sort? The idea is preposterous. We all know that. The Senator would no more permit a letter that he might write to the ambassador to Cuba, for instance, or to some friend in Cuba, to go on such a boat as that than he would think of flying to heaven.

Mr. WALSH of Montana. Mr. President——

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

Mr. McKELLAR. I do.

Mr. WALSH of Montana. Will the Senator tell us how much mail this line does carry and what revenue it receives?

Mr. McKELLAR. I regret that I can not, for this reason: While this company has been for a long time seeking this contract—apparently that has been the principal business of the president of the company for a number of years, seeking this subsidy from the Government or from the departments here—while that is the case, they have never carried any mail yet; or, if they have carried any mail, no report has been made of it. My recollection is, however, from the hearings, that the first company carried about 1,500 pounds of mail a year from New Orleans to Habana; and I think it got about the same amount, $240,000 a year, for carrying it across there. Then that was such a burden upon that company that the Postmaster General and the

Shipping Board got together and gave another contract to divide up the work, and the second concern also received a subsidy of about $240,000 a year for that, as I remember the figures. I believe one of the companies received $400,000 a year; but that is immaterial. At any rate, it was a very large sum.

Now, having two ship lines to carry the mail from New Orleans to Habana, they come with a third. As I said before, as a carrier of mail, it is something that can not be considered for a moment. It is just in the nature of a subsidy for building up that kind of a ship line.

Mr. BROUSSARD. Mr. President——

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

Mr. McKELLAR. Yes; I yield.

Mr. BROUSSARD. When the amount referred to by the Senator was paid there was no subsidy. It was for carrying the mail by space.

Mr. McKELLAR. Perhaps that may have been. My recollection is that the whole amount paid for carrying the mail between these places was just a few thousand dollars, and now it will cost us something like twelve hundred thousand dollars a year to transport the mail by these three companies from New Orleans to Habana. It is a wicked waste of the American people's money, and I do not see how this body can go on record as thus wasting the money of the people.

I hope the Senate will vote down this amendment, which means keeping the provision of the House in the bill. I think it ought to be done. I think it ought to be done in justice to the taxpayers of America. I do not believe the amendment will help our foreign trade a particle. We see how it helps our foreign trade when we find this company going out of the foreign trade and getting into the domestic trade of the country, using this merely as a subterfuge, as a pretext for taking a Government subsidy.

Mr. BROUSSARD. Mr. President——

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

Mr. McKELLAR. In just a moment I will yield.

It reminds me of an aircraft company, the Pan American Aircraft Co. One of its officers is reported to have said—and I can see how he might have said it—that the principal reason for running an air line around America at this time was to draw the subsidy of $7,000,000 that the Government gave it.

Now I yield to the Senator from Louisiana.

Mr. BROUSSARD. Mr. President, does the Senator consider a sailing from Habana to New York coastwise trade?

Mr. McKELLAR. No; but from New Orleans to New York, the two points between which the Seatrain service is going, is coastwise trade.

Mr. BROUSSARD. Oh, no; that is not involved here at all.

Mr. McKELLAR. I have received many protests against the Government subsidizing this line for the purpose of carrying freight cars when we have railroads that are almost nearing bankruptcy doing the same business and competing with this subsidized American line. I do not think it is just, I am frank to say. I differ from the Senator. I am sorry I do, because I love him; but I differ from the Senator about this matter. I do not think the American Government ought to subsidize this Seatrain Line under any circumstances; but certainly when it is in the coastwise shipping business, and does not come within the law, and when it has waived its own contract——

Mr. BROUSSARD. I hope the Senator will come down to the question whether or not a sailing from Habana to New York is coastwise trade.

Mr. McKELLAR. No; I said it was not, from Habana to New York.

Mr. BROUSSARD. All right.

Mr. McKELLAR. But those ships run between New Orleans and New York and merely touch at Habana.

Mr. BROUSSARD. Oh, no; they run to Habana.

Mr. McKELLAR. Then they have misled the members of the committee who examined them on the stand.

Mr. BROUSSARD. They have not misled anybody.

Mr. McKELLAR. They operate from New York, and 80 per cent of their business is coastwise shipping.

Mr. BROUSSARD. They have never had a ship go to New York yet.

Mr. McKELLAR. That is what they propose to do if they are allowed to do it.

Mr. BROUSSARD. That is what they propose to do, and that is what they have amended their contract to do.

Last Saturday, I think, the Senator from Tennessee said that he thought 5 legal contracts had been entered into by the Shipping Board and the Post Office Department and 39 illegal contracts.

Mr. McKELLAR. I think so.

Mr. BROUSSARD. Why not abrogate the law if that is the case?

Mr. McKELLAR. I will vote to abrogate the law any time in the world, and have introduced a bill to that effect; but I can not get the Senate to pass it, so we are trying to hold them within the law as far as we can.

Mr. BROUSSARD. All that you are trying to do now is to violate a legal contract entered into under authority of the Congress of the United States.

Mr. McKELLAR. Mr. President, I have stated all that I think I should state.

Mr. HOWELL. Mr. President——

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

Mr. McKELLAR. I ought not to take up all the time. Other Senators want to talk about this matter, and I am going to yield the floor. I yield to my friend over here.

Mr. HOWELL. Mr. President, under the present law was the granting of this subsidy legal?

Mr. McKELLAR. Does the Senator mean to ask whether this particular contract was legal?

Mr. HOWELL. Yes.

Mr. McKELLAR. I think this particular contract is void for another reason: The Postmaster General advertised it in such a way that no company on the face of the earth except the Seatrain Co. could bid on it, and the subsidy act requires competition. Under those circumstances I think the contract is void, because it has not been properly advertised.

Mr. BROUSSARD. Mr. President——

Mr. McKELLAR. That, however, is a matter about which men may differ, and I do not want to pursue it any further.

Mr. HOWELL. Mr. President, I understand that this subsidy has been suspended for six months.

Mr. McKELLAR. Yes; by contract of the Seatrain Co. itself. It agreed to that because the Shipping Board would not let it go into the coastwise trade unless it did yield on that point and forego the subsidy. By special agreement, that ends in May, 1933.

Mr. HOWELL. In other words, there is a question as to whether this subsidy is legal under the law?

Mr. McKELLAR. It can not be legal if this line is engaged in coastwise shipping; and unquestionably it is engaged in coastwise shipping.

Mr. BROUSSARD. It is not, Mr. President.

Mr. HOWELL. In other words, the purpose of this provision in this bill is to extend the right of subsidy?

Mr. McKELLAR. Yes; to those engaged at least 80 per cent in coastwise shipping.

Mr. REED, Mr. BROUSSARD, and Mr. TRAMMELL addressed the Chair.

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

Mr. McKELLAR. I promised to yield to the Senator from Louisiana.

Mr. BROUSSARD. Mr. President, then the question involved here at this moment is whether or not this is a legal contract. I will propound several questions to the Senator at one time, and let him answer them.

Mr. McKELLAR. All right. I may not be able to do it, but I will try.

Mr. BROUSSARD. First, is a sailing from Habana to New York coastwise trade?

Mr. McKELLAR. I have answered that question several times some time ago. It is not if the line sails only between those two points; but, as a matter of fact, this line sails between New Orleans and New York, merely stopping at Habana, and of course it is engaged in the coastwise trade.

Mr. BROUSSARD. I want to say to the Senator from Tennessee that that is not a fact as I understand it; but, if it were a fact, they have agreed, under a contract, to collect only such part of the sum provided by the contract as applies to the mail to Habana.

Mr. McKELLAR. Yes; I know.

Mr. BROUSSARD. And the coastwise trade would affect it in no respect at all.

The other part of the question is this: The Senator stated a while ago that no other company could bid. That is not the fact. The facts are that the Government officials held this contract open for a whole year to permit anybody else to bid on sailing from New Orleans to Habana, and no other company agreed to build new ships. The Senator, of course, knows that these contracts are awarded to ships that are sold by the Shipping Board with an obligation to alter them, or to new ships. The Flagler Line, whose ships running from Florida had a capacity of 15 cars, wanted to come to New Orleans in order to get this contract. Under the law they could not get it.

The VICE PRESIDENT. The Chair suggests to the Senator from Tennessee that he can yield only for a question. The time for debate expires at 1 o'clock.

Mr. McKELLAR. Then I yield to the Senator from Florida, and then I will surrender the floor. I have finished.

Mr. REED. Mr. President——

Mr. TRAMMELL. Mr. President, I just want to ask the Senator——

Mr. REED. Mr. President, a point of order. Who has the floor?

The VICE PRESIDENT. The Senator from Tennessee yielded for a question to the Senator from Florida. The Chair understands, however, that the Senator from Tennessee has yielded the floor. The Chair recognizes the Senator from Pennsylvania.

Mr. BROUSSARD. Mr. President, I was speaking.

The VICE PRESIDENT. The Senator did not have the floor. The Senator has no right to speak without having the floor or being yielded to.

Mr. BROUSSARD. I was up, and the Senator from Tennessee had not yielded the floor.

The VICE PRESIDENT. The Senator from Pennsylvania has the floor.

Mr. BROUSSARD. I thank the Chair.

Mr. REED. I am glad to yield to the Senator for a question, Mr. President.

Mr. TRAMMELL. Mr. President, what I wanted to ask the Senator from Tennessee was if the original contract for the loan from the Shipping Board and for the subsidy was not made through the Postmaster General upon the proposition of operating a steamer, or line of steamers, from New Orleans to Habana. That was the original contract. Is that true?

Mr. McKELLAR. That is true.

Mr. REED. No, Mr. President; there were two contracts, one with the Shipping Board and one with the Postmaster General. The one with the Shipping Board provided for running from Gulf or Atlantic ports to Habana and other ports. It was quite broad. The one with the Postmaster General provided for the carriage of mail between New Orleans and Habana.

Mr. McKELLAR. Mr. President——

Mr. REED. If Senators will permit me to have a little of my own time, I think I will answer the Senator's question.

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

Mr. REED. This makes a nice duet. I wonder what the Reporter is getting.

Mr. TRAMMELL. That was the original proposition upon which the original contract was entered into. The situation is a different one now. The situation now is that they do not wish to carry out their original contract, but they are asking for a modification of it for an entirely different proposition, to operate from New Orleans to Habana, and from Habana to New York.

Mr. REED. Mr. President, in answer to the Senator's question, I say the answer is, no; that is not the fact.

Mr. McKELLAR. Mr. President——

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

Mr. REED. I do.

Mr. McKELLAR. The Senator from Pennsylvania would not want to make a mistake about what the contract provides. It is to carry all mails of the United States between New Orleans and Habana, Cuba.

Mr. REED. The Senator did not listen to me. That is exactly what I said. I said the contract with the Shipping Board provided for sailings from Gulf and Atlantic coast ports and in foreign trade.

Mr. President, there are only 15 minutes left before the time set for taking the vote; and Senators will understand that it is not through a desire to be rude on my part, but because I am pressed for time that I do not yield for further interruptions.

This Seatrain Co. is American owned. It has built two vessels of a novel design, which carry freight cars without unloading them. It is the only car ferry of importance in America to-day doing service on the Atlantic Ocean. I am aware that there are some small exceptions, but nothing of importance. These are boats of a new design, into which the loaded freight car is placed and carried across the sea. The car itself is unloaded from the steamer, but the contents of the car travel without disturbance from the point of origin to their ultimate destination.

The Army is of opinion that the existence of these two ships would be of the very highest importance in possible national emergency.

The ships have been built exclusively with American money. The ownership is American, as I have said. They fly the American flag. It is true that a predecessor of this company did at one time endeavor to operate with some British capital, but the owners of that British capital, I am told, have been wholly repaid, and the Seatrain Co. is an American concern whose ships fly the American flag.

They made their contract with the Shipping Board, which provided for the construction of these two vessels on the usual terms of advances by the Government toward construction. Among the securities for those advances is this postal contract, which they subsequently made, then believing it to be, and still believing it to be, in entire accordance with the law.

It so happened that the slump hit them when they began their service, and the amount of freight to be carried between Habana and New Orleans was not so great as they had expected. They found that they could perform their mail contract efficiently, in strict accordance with the letter of the mail contract, and still have so much idle time for these two vessels that they would be able to get in a further voyage each time from Habana to New York, and they applied to the Shipping Board, whose consent they had to have, for permission to extend their voyage in that way.

They made no contract for carrying mail between New York and Habana. They carry no mail between New York and Habana, or between New York and New Orleans. They carry mail only between Habana and New Orleans.

When they applied for the right to extend their private operation on to New York City, that raised a hornet's nest. For 50 years, probably, the Morgan Line, which is owned by the Southern Pacific Railroad Co., has had a practical monopoly of carriage by water between New Orleans and New York, and they have fought like tigers to keep that monopoly every time any competition has appeared over the horizon.

Back before the World War, about 1910, there was a little concern in my State, in Philadelphia, which tried to organize a shipping service between Philadelphia and New

Orleans, which would have come into competition with the Morgan Line, and the Southern Pacific went after it so hard, and used such improper methods in their competition, that they drove that little concern into bankruptcy in three years. I am not making that statement on my own authority, but on the authority of the findings of the Interstate Commerce Commission, which sat on an application by the Southern Pacific shortly thereafter for some extension of the service they had applied for, relying on the fact that this Pennsylvania concern had gone out of business. The Southern Pacific has a monopoly there, and they are going to fight to the last ditch to hold it.

Besides that, this company stepped on some other people's toes, because the Florida East Coast Railroad now has practically a monopoly of the all-rail traffic between New York and Habana. They take the cars down to Key West or Miami—I do not remember which—put them on the car ferry there, and run them across the straits of Florida, that short trip, and not only was the Southern Pacific aroused to protect its monopoly, but the Florida East Coast Railroad saw freight cars being carried down, without transshipment, from New York to Habana, and so both those competitors of the Seatrain Co. went to work.

The Seatrain Co. applied for permission to extend its sailings on strictly private terms, and without interfering with the mail contract, on from Habana northward to New York. They advertised their first sailing for 3 o'clock in the afternoon of October 6, 1932. As I have said, they had applied to the board previously, some 10 days before. The board fixed their meeting to consider that proposition for 5 o'clock in the afternoon of October 6, two hours after the time advertised for the sailing.

When they met they notified the Seatrain Co. that while they had no objection to their extending the service to New York in the way proposed they would not let them sail a ship until they had agreed to forego every cent of compensation due them from the American Government for carrying the mail between New Orleans and Habana. In other words, with darkness coming on, on the day set for the sailing of that ship, an ultimatum was handed down here in Washington to this effect, "You can not budge your loaded ship unless you forego for all the time of the permit every cent you are entitled to for the service between these totally different ports in the Gulf of Mexico."

The company, with the Shipping Board's hand on its throat, did what it had to do. It said, "Very well, we will agree to do the service for nothing; we will carry your mails for nothing rather than be choked out of the business this way."

The Postmaster General then began to assert his authority. He said, "It is none of the Shipping Board's business to get my mail carried for nothing. I have made a contract, and the Shipping Board has no right to interfere with it. If the contract is illegal the Comptroller General will say so and the Attorney General will say so. If the contract is not performed, I will say so and the Comptroller General will say so. But the Shipping Board has no right whatsoever to abrogate my mail contracts or to make a condition of their action the surrender of a contract outstanding with me."

After considerable discussion the Shipping Board gave in and retracted their statement. The board realized its mistake and its lack of authority and rescinded that portion of the resolution relating to the mail pay.

The Seatrain Co., in the hope of being able to settle this thing to the satisfaction of all Government authorities, came in and said, "We will accept a reduction in our mail pay by that percentage which our coastwise trade constitutes of all our trade. We do not want, even by implication, to have it said that we are being subsidized for a coastwise trade."

That proposition appealed to the Postmaster General, and the present understanding between him and the company is that this mail pay will be abated by just that percentage which the New York-New Orleans business constitutes of the total business of the company. The Postmaster General is entirely satisfied with that.

Now, Mr. President, the Senate is faced with this question, whether an existing contract is to be abrogated by congressional action because we, had we been in the Postmaster General's place, would not have made such a contract, or whether these questions of illegality, or absence of advertisement, are to be left to be decided judicially. The question is whether we shall be the prosecuting attorney and the court, or whether we shall allow our Department of Justice, and our Federal courts, and our Comptroller General, to function as we intended them to function when we created those offices.

I do not know whether I would have made such a contract as the one in question had I been in the shoes of the Postmaster General. When I remember the bearing on the national defense the existence of these ships is bound to have, I think that perhaps I would have made the contract. But that is not the question. We are not in a position to judge; and when the Senator from Nevada suggests that perhaps this ought to have been advertised in a different way from what it was advertised, that again is a judicial question. We are in no position to pass upon those things. We do not know enough about the facts, and we have created courts for the purpose of disposing of just such questions.

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

Mr. REED. I yield.

Mr. COUZENS. Would there be any objection, then, to leaving this item out until it shall have been settled in a judicial manner?

Mr. REED. It will have to be settled in a judicial manner before any payment is made. The Comptroller General is not going to authorize any payment until he is satisfied that this contract is legal.

Mr. COUZENS. Why not leave the item out of the legislation, then, until the matter shall have been determined and then legislate?

Mr. REED. How can any payment go up to the Comptroller General until we have made an appropriation for it? The question would never get to him unless we made an appropriation.

Mr. COUZENS. I understand; but there will be time enough between now and the effective date of the appropriation to have the matter determined.

Mr. REED. But unless we make the appropriation, unless we strike out the proviso, the question never can get to the Comptroller General. He will not pass on a moot question like that.

Mr. COUZENS. I quite understand, but I am not deceived by the suggestion of its being moot. I say that if the case shall be decided judicially in favor of the Seatrain Co., we can then legislate.

Mr. REED. Oh, yes; we can say that we are going to send this company into receivership by refusing to pay under our existing contract, so that the receiver then can bring suit in the Court of Claims, if we pass a special act to allow him to, and some day 8 or 10 years from now it will be decided that we were wrong, and then we will make an appropriation. But that is not the honest way to go about it.

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

Mr. REED. I yield.

Mr. FLETCHER. I want to ask the Senator whether or not it is not true that the original contract provided for service between New Orleans and Habana?

Mr. REED. It did; and that is the service that is being rendered.

Mr. FLETCHER. That being true, and the compensation for that service being fixed at $240,000 a year, is it not proposed to change that contract so completely in two essential respects as to enable them to do business between New Orleans and New York, a coastwise business?

Mr. REED. Not in the least.

Mr. FLETCHER. Mr. President——

Mr. REED. I can not yield further. I have only one minute more. It is not proposed to change the contract at all. The service called for by the contract is being performed, and will go on being performed; and the Seatrain Co., hav-

ing gotten the permission of the Shipping Board to go on to New York, it is no more the business of the Postmaster General than if they took their ships outside of Habana Harbor and sailed them around in a circle. As long as those ships perform faithfully the contract they have with the Post Office Department, it is no concern of the Post Office Department whether they lock them up in Habana Harbor or go on to New York.

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

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

The VICE PRESIDENT. The clerk will call the roll.

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

Ashurst	Cutting	Kendrick	Schuyler
Austin	Dale	Keyes	Sheppard
Bankhead	Davis	King	Shipstead
Barbour	Dickinson	La Follette	Shortridge
Barkley	Dill	Logan	Smoot
Bingham	Fess	Long	Steiwer
Black	Fletcher	McGill	Stephens
Blaine	Frazier	McKellar	Swanson
Borah	George	McNary	Thomas, Idaho
Bratton	Glass	Metcalf	Thomas, Okla.
Brookhart	Glenn	Moses	Townsend
Broussard	Gore	Neely	Trammell
Bulkley	Grammer	Norbeck	Tydings
Bulow	Hale	Norris	Vandenberg
Byrnes	Harrison	Nye	Wagner
Capper	Hastings	Oddie	Walcott
Caraway	Hatfield	Pittman	Walsh, Mass.
Carey	Hawes	Reed	Walsh, Mont.
Connally	Hayden	Reynolds	Watson
Coolidge	Howell	Robinson, Ark.	Wheeler
Copeland	Hull	Robinson, Ind.	White
Costigan	Johnson	Russell	
Couzens	Kean	Schall	

The VICE PRESIDENT. Ninety Senators have answered to their names. A quorum is present. The question is on the committee amendment.

Mr. REED. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will State it.

Mr. REED. A vote "yea" will sustain the action of our Appropriations Committee, will it not?

The VICE PRESIDENT. That is correct.

Mr. McKELLAR. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. KING. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. KING. A vote "nay" will sustain the action of the House, will it not?

The VICE PRESIDENT. That is correct.

Mr. BLACK. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BLACK. I am confused by the statements. Does a vote "yea" mean a vote for or against the subsidy?

The VICE PRESIDENT. A vote "yea" means to sustain the Senate committee and a vote "nay" sustains the action of the House.

Mr. BLACK. Did the Senate committee amendment strike out the provision for a subsidy?

The VICE PRESIDENT. The House provision struck out the subsidy, and the Senate committee amendment strikes out the House provision. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WAGNER (when his name was called). I have a pair with the junior Senator from Missouri [Mr. PATTERSON], who I understand is absent because of a death in his family. If he were present, he would vote "yea." If I were permitted to vote, I would vote "nay."

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

The roll call was concluded.

Mr. HASTINGS. On this question I have a pair with the junior Senator from Illinois [Mr. LEWIS]. Not knowing how he would vote, I withhold my vote.

Mr. FESS. I desire to announce that the Senator from Rhode Island [Mr. HEBERT] has a general pair with the Senator from North Carolina [Mr. BAILEY].

Mr. REYNOLDS. I wish to announce that my colleague the senior Senator from North Carolina [Mr. BAILEY] is necessarily out of the city. As just announced by the Senator from Ohio, he has a general pair with the Senator from Rhode Island [Mr. HEBERT]. If my colleague were present, he would vote "nay."

Mr. WAGNER. I am informed that I can transfer my pair with the junior Senator from Missouri [Mr. PATTERSON] to the junior Senator from Massachusetts [Mr. COOLIDGE], which I do, and vote "nay."

Mr. WALSH of Massachusetts. I desire to announce that my colleague the junior Senator from Massachusetts [Mr. COOLIDGE] is necessarily detained on official business.

Mr. SHEPPARD. I wish to announce that the junior Senator from Illinois [Mr. LEWIS] is necessarily absent on official business.

The result was announced—yeas 34, nays 53, as follows:

YEAS—34

Austin	Fess	Metcalf	Smoot
Barbour	Glenn	Moses	Steiwer
Bingham	Grammer	Norbeck	Townsend
Broussard	Hale	Oddie	Vandenberg
Carey	Hatfield	Reed	Walcott
Copeland	Johnson	Robinson, Ind.	Watson
Dale	Kean	Schall	White
Davis	Keyes	Schuyler	
Dickinson	McNary	Shortridge	

NAYS—53

Ashurst	Costigan	Kendrick	Sheppard
Bankhead	Couzens	King	Shipstead
Barkley	Cutting	La Follette	Stephens
Black	Dill	Logan	Swanson
Blaine	Fletcher	Long	Thomas, Okla.
Borah	Frazier	McGill	Trammell
Bratton	George	McKellar	Tydings
Brookhart	Glass	Neely	Wagner
Bulkley	Gore	Norris	Walsh, Mass.
Bulow	Harrison	Nye	Walsh, Mont.
Byrnes	Hawes	Pittman	Wheeler
Capper	Hayden	Reynolds	
Caraway	Howell	Robinson, Ark.	
Connally	Hull	Russell	

NOT VOTING—9

Bailey	Hastings	Lewis	Smith
Coolidge	Hebert	Patterson	Thomas, Idaho
Goldsborough			

So the amendment of the committee was rejected.

Mr. LONG obtained the floor.

Mr. TYDINGS. Mr. President——

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

Mr. LONG. I will yield to the Senator for a question.

Mr. TYDINGS. Will the Senator yield a couple of minutes while the result of the vote is before us? I wish to make a very brief statement.

Mr. LONG. Very well; I yield to the Senator from Maryland.

Mr. TYDINGS. I thank the Senator from Louisiana. I just want to observe that over on the other side of the Chamber, when I attempted to withdraw my economy motion the other day, there were numerous Senators who rose and told how anxious they were to vote upon that proposition. First, there was my good friend the senior Senator from Utah [Mr. SMOOT], who said we had marched up the hill and then marched down again. He was wild to pour out his wrath upon governmental expenditures and extravagance which had marked this and other Congresses. But I notice that at the very first opportunity on the very first vote tending to bring about any kind of economy the Senator from Utah, without even making a sortie, voted "yea" on the question just before the Senate and therefore against a saving for the Government.

There was my good friend the junior Senator from Michigan [Mr. VANDENBERG], who also made sport of my position on the floor in reference to economy. He, too, was wild to vote for economy, and he regretted that the Senator from Maryland had changed his position and "about faced"; but when we have a specific proposition before us, I note that

the Senator does not vote to economize, although he was eager to support the proposition that was pending. And last, but not least, there is my good friend from Delaware [Mr. HASTINGS]; he took me to task for not being sound; he has come prepared to support the proposition, and lions and horses could not hold him back in his desire to give the people relief from the burden of taxation; but, lo and behold, when his name is called, he rises and says, "I have a general pair with the Senator from so-and-so; not knowing how he would vote, I withhold my vote." He does not even tell us how he would vote if he had the opportunity.

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

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. The Senator from Louisiana has the floor. Does he yield; and if so, to whom?

Mr. LONG. I yield first to the Senator from Utah.

Mr. SMOOT. Mr. President, I have no apology to offer for the vote I have just cast. So long as the Government of the United States enters into a solemn contract, I want the Government of the United States to carry out the terms of that contract, just as I myself would expect to carry out any contract into which I entered. That is the reason I voted as I did.

Mr. REED. Mr. President, will the Senator from Louisiana yield to me?

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

Mr. LONG. I yield to all the Senators mentioned by the Senator from Maryland.

Mr. REED. I did not have the honor of being mentioned by the Senator from Maryland, but I should like to make a statement.

Mr. LONG. I yield.

Mr. REED. Mr. President, the Republican Party votes for upholding solemn contracts which its Government has entered into. It does not advocate economy on Thursday and retreat on Friday and come back and vote for what it calls economy on Monday, but it is consistent all along; and when we do vote for economy, we do not vote in order to perpetuate a monopoly of the Southern Pacific Railroad and the Florida East Coast Railroad.

Mr. TYDINGS. Mr. President, will the Senator from Louisiana yield to me?

Mr. LONG. I yield for one minute.

Mr. TYDINGS. The Senator from Pennsylvania dresses up the word "contract" with the adjective "solemn." I think if you will examine into the hearings, the adjective "fraudulent" would be a much more appropriate one to apply. [Laughter.]

Mr. FLETCHER. Mr. President, I rise to a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. FLETCHER. What is the next amendment to the pending bill?

The PRESIDING OFFICER. The next amendment has not, as yet, been stated. The Senator from Louisiana has the floor.

LOUISIANA SENATORIAL ELECTION—PERSONAL EXPLANATION

Mr. LONG. I send to the desk and ask the clerk to read a dispatch from the Washington Herald of Sunday, January 29, 1933, beginning with the headline "Senate to Send Election Probers into LONG's State."

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

The legislative clerk proceeded to read the article and read as follows:

NEW FRAUD CHARGE IN LOUISIANA BRINGS ACTION—"KINGFISH" IN IT—PAY ROLLS DECLARED PADDED TO FILL WAR CHEST

Aroused by startling new charges of election "racketeering" committed by the Louisiana political machine of Senator HUEY P. LONG, a senatorial investigating committee last night prepared to leave Washington immediately to conduct a sweeping investigation on the scene, the Washington Herald learned exclusively last night.

In a sweeping flank attack on the colorful "Kingfish," the Senate Committee on Campaign Expenditures will go to Louisiana to investigate the recent election of Senator-elect JOHN H. OVERTON, LONG's "crown prince."

ACCUSED BY BROUSSARD

Charges filed by Senator EDWIN S. BROUSSARD following his defeat by OVERTON and complaints by hundreds of Louisianans led to the investigation.

Undercover investigators working under direction of former Brig. Gen. Samuel Tilden Ansell have been in Louisiana for the past month gathering evidence against the Long machine, it was revealed.

Enemies of the "Kingfish" are rushing to battle against OVERTON, confident that if he can be kept out of the Senate, LONG will soon lose his place in the sun.

Among the charges to be investigated by the committee are:

1. A reported doubling of the State highway commission pay roll with one-half the funds going into the anti-Broussard campaign directed by LONG.

Mr. LONG. Mr. President, let me ask that those three charges be read a little more slowly and more distinctly. I want Senators to understand just what these startling charges are.

The PRESIDING OFFICER. The clerk will read, as requested.

The legislative clerk resumed and completed the reading of the article, as follows:

1. A reported doubling of the State highway commission pay roll with one-half the funds going into the anti-Broussard campaign directed by LONG.

2. Alleged irregularities in the appointment of precinct election judges.

3. Imprisonment of three newspapermen opposed to LONG for four days preceding the election.

LONG IS SILENT

Senator LONG had no comment to make on the investigation. Asked if he thought his enemies in the Senate were trying to attack him at home, the Kingfish said:

"They're barking up the wrong tree if they try to get me there."

A feud of long standing between LONG and BROUSSARD sent the Kingfish campaigning throughout the State last fall to obtain the election of OVERTON.

OVERTON, a boon companion of LONG's, was sent to the House of Representatives in 1930 to be groomed for the job of Senator. He was chief defense counsel for LONG in an abortive impeachment attempt when LONG was governor.

BREAK IS COMPLETE

When LONG came to the Senate a year ago, he refused to be escorted to the rostrum by BROUSSARD, in accordance with Senate custom, and since then has refused to cooperate with him.

Questioning of OVERTON's election marks the first major challenge of LONG's control over Louisiana in several years.

General Ansell has had five agents working day and night gathering evidence against the Long machine, it was said. The agents are said to have irrefutable evidence to lay before the committee.

One of the gravest charges laid before the agents was alleged arrests of qualified election judges favorable to BROUSSARD by LONG's "trusty State troopers."

Mr. LONG. Mr. President, that is only a sample of the publicity that has been going on. I myself am going to read a paragraph from the New York Times of January 28, 1933:

Inquiry ordered into Long faction.

I skip and read the following:

Interest has been heightened by Senator LONG's recent activities on the Senate floor in which he has vehemently opposed the leadership of his own party. * * * The contest is expected to develop into a controversy between Senator LONG and the committee of five, headed by Senator HOWELL.

It is stated in the reports, Mr. President—I will not read them all; they come along about one a day, and not always in the same newspapers—that I have been very silent amidst these sundry charges. I have been silent, Mr. President, more than anything else because I thought it was a gracious act, for I have never assailed a defeated opponent; I never after an election was a lion in victory, nor, I hope, have I been a craven in defeat.

FALSEHOODS ABOUT ARRESTS

The first charge which is reiterated and supposed to be published by the newspapers generally is that an organization with which I am connected in Louisiana arrested the election judges of the Broussard faction. A more damnable falsehood was never printed in a newspaper nor uttered anywhere else. My word does not have to be taken for that, Mr. President. When the contest between Representative OVERTON and Senator BROUSSARD started in the Democratic primary, it was stated in the newspapers to begin with that the Broussard element did not expect to win the election in

the State of Louisiana, but they wanted to build up a case to bring to the United States Senate.

On the day before the election a committee came to us, through me, stating that in order to avoid a charge of irregularity they asked that the election to be held in the city of New Orleans be placed in the hands of an arbitration committee composed of two elected from each side. I demanded that they come with responsible authority from Senator BROUSSARD himself. They came back authorized by the Broussard campaign committee asking for an arbitration committee to take charge of the election in the city of New Orleans, wherein it is alleged that these frauds have occurred. They appointed their two; we appointed our two. We made their appointee the chairman of the arbitration committee. We seated the arbitration committee in the mayor's parlor at the city hall. We gave them the police department; we gave them the absolute power to run the arbitration committee in the election, and the Overton men abdicated their functions into the hands of the two Broussard men and allowed them to run the election that day, as I will prove in a moment by written communications from them.

The only men who were arrested were some two or three election-law violators. Every Broussard man except one who was arrested was released immediately from prison and every Long supporter was incarcerated and kept there throughout the day, according to the report of the arbitrators themselves in the Broussard campaign.

Now I want to read a communication from this "honest" election crowd. I want to show what kind of publicity this is and how fair they have been in this matter. I want to show what advantages they have taken of efforts to support people who could not take care of themselves in that State. Mr. President, you do not have to go any further than the Broussard organization to get the proof. I have not been able to assemble all these data; some of what I have, had to be taken down over the telephone this morning; some of it I had, and some has been telegraphed to me; but here is a letter written on the letterhead of Sanders, Baldwin, Viosca & Haspel, which reads as follows:

NEW ORLEANS, *September 28, 1932.*

Hon. JOHN H. OVERTON,
Alexandria, La.

DEAR MR. OVERTON: In reply to your inquiry concerning the membership of the election arbitration committee in the recent primary election, I beg to say that it was understood that this committee should be composed of four members, two representing Senator BROUSSARD and two representing yourself, each side to have the privilege of substituting during the course of the day in order to relieve its members if necessary. Mr. Nicholas Callan and myself represented Senator BROUSSARD, and we did not find it necessary to make any substitution. You were represented at various times during the day by Mr. Michel Provosty, Mr. Bertrand Cahn, Mr. A. Miles Coe, and Mr. William J. Guste. While on some occasions more than two of your representatives were present, you were entitled in any disputes to only 2 votes, but this was of no importance, because, as stated in the written report, all decisions were unanimous. The most friendly feeling prevailed among the members of the committee, and all of them were extremely fair and were willing to make any necessary, reasonable concessions.

The written report is signed by all six of the members who acted from time to time, including myself as chairman of the committee.

Yours very truly,

RENÉ A. VIOSCA,
Chairman Election Arbitration Committee.

That is signed by René A. Viosca, chairman of the election arbitration committee, and a law partner of J. Y. Sanders, the leader of the anti-Long organization at the Chicago convention.

Now I want to read the few concluding lines of the report of this arbitration committee, in which they list everything that happened there during the day. Here is what they say. This is the conclusion. I will not burden the Senate with the whole report but will put it in the RECORD:

The committee began its proceedings at 5.45 a. m. and adjourned at 9 p. m.

All complaints came over the telephone with the exception of the one made by Mr. Garland, who called in person.

All complaints were investigated, fully discussed, and every decision was unanimous. It is the opinion of those members of the committee who have previously served on similar committees that there were far less complaints than in any previous election in recent years, and from the standpoint of the arbitration committee it was the most peaceful and orderly election in many years.

All public officials cooperated fully with the committee with a view to carrying out all of the committee's rulings.

That is signed by the entire six members, with René A. Viosca, the Broussard election arbitrator, as the chairman.

I send the entire report to the desk and ask that it be entered in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, that order will be made.

(See Exhibit A.)

Mr. LONG. Mr. President, the senior Senator from Louisiana was not defeated principally in the city of New Orleans. He was defeated in the country much more largely than he was in the city of New Orleans. He was defeated in practically every parish of the State of Louisiana, with the exception, perhaps, of eight, by outlandish majorities. The majorities in the country, outside of the city of New Orleans, were somewhere around 35,000, I think. The majority inside the city of New Orleans was around 25,000. I may misstate those figures. My recollection is that we defeated the senior Senator from Louisiana in the country by more than 30,000 votes, maybe 32,000, but in the city of New Orleans by about 26,000 votes. I am not giving the figures exactly accurately, although they are about accurate.

Mr. President, I have not the telegram with the exact details of the report that is made here. The telegram was sent from Louisiana some hours ago, although, for some reason, I have not been able to get it yet.

The next thing I want to come to is a reported doubling of the State highway commission pay roll, one-half the funds going into the anti-Broussard roll, campaign directed by LONG.

Before I conclude this speech I hope to have the details to put into this record. The facts are, according to my recollection is, on the highway-commission pay roll, and in roll having been doubled in that election year, we began that year with an employment of about 5,600 employees, my recollection is, on the highway commission pay roll, and in the month of September, when the primary election came off, we had about 2,000 employees on the highway-commission pay roll of the State of Louisiana; that instead of there having been an increase in the highway-commission pay roll in Louisiana in the year of this election, the facts will show that there had been a decrease from 5,600 employees down to somewhere around 2,000 or 2,500. I will not be exact on those figures, but it is somewhere close to that. The facts are that there was a material reduction in the highway commission pay roll in the year 1932 during this primary election.

Now, Mr. President, it is charged that funds were deducted from the wages of employees. That also is false. Employees in the State of Louisiana, and in the State of Wyoming, and in the State of Nebraska, and in the State of California, and in the District of Columbia did contribute. The time will never exist in politics, I think, as long as I am alive, and I am sure it has not existed since I have been alive, when people on the public pay roll will not voluntarily contribute, when they are asked to contribute, to the pay rolls of campaigns in which they are interested.

We do not have to go very far to find good examples of that in the last election from both parties. If the opposite party would be a criterion—and they are certainly no worse than ours—the speech of the Assistant Postmaster General certainly would have gone far enough to show that it was not any great crime for employees and persons holding public office to contribute to an election.

But here is the report that was given to the newspapers by the Louisiana Democratic Association. They have undertaken, knowing the facts to be to the contrary, to inform the people of the country at large—and that is all this effort has been made for; it is all that this kind of publicity has been for; it has been an effort, ex parte, to publish from day to day some so-called suspicion of some violent fraud that is unanswered, and can not be answered—they have undertaken to give the impression that several hundreds of

thousands of dollars that were deducted from the pay of employees of the city and State went into a campaign fund, when they know that to have been positively false.

The sums of money which were deducted from the employees, Mr. President, are here explained.

The amount was around $300,000. What was it deducted for? Five per cent of the wages of each employee on the pay roll of the State and on the pay roll of the city of New Orleans was deducted. Why?

A welfare committee was organized with the approval and under the sanction of friendly and contrary political forces and by the three newspapers of the city of New Orleans to take care of the unemployment of that city; and after having solicited private subscriptions and having received considerable money from private subscriptions, every employee on the State pay roll and every employee on the city pay roll was requested to contribute 5 per cent of his wages each month to care for the unemployed and the destitute people of that city. The money was turned over to a committee composed of business people of that city and social workers, under the approval of an opposition newspaper organization, who approved it in toto; and the $300,000 was deducted as a philanthropic proposition. Not one dime of it, in any remote corner, to any degree or extent whatever, has ever been charged—I should say, never should have been charged; I believe there was one irresponsible man who did charge it, but only one, and I do not think he charged it more than once—was ever charged except as having been deducted from the highest of good motives in order to care for the unemployed.

And what did the Government say about it? The reports of the unemployment-relief division of the Reconstruction Finance Corporation show that they took over the organization that we had down there in order to continue the work they had in Louisiana, and it has been rated by them, so I am reliably told from their own mouths, as being the best example of unemployment-relief work that is being done in the 48 States of America to-day. But the effort has been made to show that every dime of money that has been deducted and turned into a nonpartisan organization by the employees was deducted as a matter of politics, when, as a matter of fact, most of this money was deducted long before the campaign for the United States Senate ever started.

I will send to the desk in a moment the entire report of the Louisiana Democratic Association made on October 7, 1932. Now, there was solicitation of funds from officeholders and employees. We have done that, and everybody else has done that ever since there has been a political campaign going on in the United States.

Where are we going to get our campaign funds from?

We can not get them from the United Fruit Co., because we have been against keeping the soldiers in Nicaragua. [Laughter.] We can not get them from the Standard Oil Co., because we have raised their taxes; and they have tried to impeach the governors down there because we have done it. We can not get them from the interests we are fighting. We have to cover the State with circulars in campaigns, because in 90 per cent of the area of the State of Louisiana, I should say at least three-fourths to 100 per cent of the newspapers of the State are against us all the time; and it is only the rarest exception that any of them have ever been with us at any time. So the enormous thing was done that employees were asked to contribute to a campaign fund, for whom?

Why, our opposition in Louisiana announced that they were going to beat every man who had ever received the indorsement of the Long organization or of HUEY P. LONG individually. Every man had to be beaten who had ever been seen at a lunch table with me. Every man had to be beaten who had ever accepted my support. Oh, that was an ink and an odium that had to be erased from the clean escutcheon of anyone they were going to elect!

They did not say that the man who was running against us had received his nomination with my help six years before. That did not count. They did not say that the man who sat in the United States Senate before I came here held his office with my assistance. They did not mention anything about that. They did not say anything except that every man in that State who had accepted my support—eight Congressmen out of eight, the members of the courts, the Members of the Senate, and everyone else—had to be defeated in this campaign. So they put up a candidate against the justice of the supreme court. They put up candidates against all of the Congressmen. They put up candidates for the public-service commission. They had the member at that time, and they ran a great ticket, amply financed, as they have always been amply financed. They ran a great ticket from one end of the State to the other. They were going to lift the cover from the mantle and elect an entire set of officials who in no wise and in no manner, directly or indirectly, could not be held to have been on friendly speaking terms with the organization with which I was affiliated; but the election did not turn out quite so well. But they failed to elect anybody, Mr. President. Somehow or other, the vote did not turn out quite so well. None of the gentlemen that we heard about were sent out to redeem the State. It was following that election that this report was made; and here is the total sum collected, as reported, in all of it.

It was not during the election that any campaign fund was taken up, and there never was a campaign fund taken up for the senatorial campaign itself—not a copper cent. Here is the great collection against which they are contending, after having given it to be understood that the funds collected for unemployment relief fell in the same category:

Deficit for complete-the-work campaign, January, 1932, including candidates supported for governor, lieutenant governor, secretary of state, State auditor, treasurer, attorney general, superintendent of public education, registrar of the State land office, State senators and representatives	$9,500

That election had occurred 9 or 10 months before.

Obligations contracted for literature, stamps, stationery, sound truck, and traveling expenses for Wade O. Martin (candidate for public-service commissioner)	$4,500
Obligations contracted for circular issued in reference to J. Y. Sanders, jr., being on public pay roll	400
Deficit for special-train expense, New Orleans to Baton Rouge, for organization to opposition mass meeting opposing State administration's program	2,500

That is all right, Mr. President; they do not have to worry about a special train. If they get ready to get up a special train to go to Baton Rouge, they have the special train all right. They have plenty of them. If we want to bring a special train there in order to present opposition to these corncob and lightning-bug showings they make there, of course, that is bound to be called some fraudulent act. But this occurred clear outside of the campaign.

Deficit for account of unemployment-relief work in New Orleans and surrounding parishes	$8,500

That meant that when the Reconstruction Finance Corporation took over this work we owed $8,500 that we had to carry ourselves.

Deficit expense accompanying Federal Flood Control Committee	$650

The total was $26,050. Twenty-six thousand and fifty dollars was the total amount collected, whether it was 5 or 10 per cent, or more, or nothing. That was all explained, and put in the public press every time it was explained, covering work that had been done down in the city of New Orleans and in the State of Louisiana for a course of months; and I send the statement to the desk in order that it may be placed in the RECORD at the conclusion of my remarks, so that Senators may read the entire matter from one end to the other, if they see fit to do so.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

(See Exhibit B.)

Mr. LONG. Mr. President, I want the Senate to know where this row arose. I want the Senate to know how this thing came about. It came about when, as Governor of the State of Louisiana, I called the legislature into special ses-

sion in the month of April, 1929, I think it was, for the purpose of levying an occupational license tax of 5 cents a barrel on oil refined in the State. That is when this little fight started.

I had supported the junior Senator who sat in the United States Senate at that time, who is now the senior Senator; I had supported the senior Senator who sat in the Senate at that time. I had supported them against the very elements whom I was undertaking to tax at the time, and in every campaign that I had ever made in the State it had been fully understood what my position was.

In 1929, in the spring of the year, when the legislature was by me, as governor of the State, called into session for the purpose of considering whether or not, in order to carry on the work of the government, we should not have an occupational license tax of 5 cents a barrel on every barrel of gasoline, lubricating oil, and everything else of that kind manufactured in the State, a mass meeting was called, presided over by the Louisiana Association of Commerce, the music for which was furnished by the Standard Oil Refining Co. band, composed of, I think, 36 pieces. They took off the Standard Oil Co. uniforms that night and put on blue clothes, but they forgot to rub out the sign on the drum. [Laughter.]

They there and then held a mass meeting, and adopted a big set of resolutions, that whereas the governor of the State had undertaken to do the outlandish, unreasonable, unheard of, criminal act of putting a tax on the Standard Oil Co., therefore be it resolved, that he should and must be impeached. On the following day, or the next day, the impeachment proceeding was started. Those favoring impeachment swarmed into the capital of the State of Louisiana. Great advertisements began to appear in every newspaper in the State, advertising the refined products of the Standard Oil Co. They went out to little old weekly papers so small that I could walk outside of their circulation in a quarter of a minute and had inserted 2-page advertisements of oil and gasoline.

The big paper of the State, the Times-Picayune, which claims to be a paper for white supremacy, but one of the leading executives of which is part negro, at that, had come out on a Sunday morning with the statement that the legislature should adjourn and go home and stop that kind of business, but on Tuesday morning it came out with a double page advertisement of the Standard Oil Co. on the inside, and another editorial on the outside, to the effect that the legislature should not go home, that they ought to stay there and impeach HUEY P. LONG, the governor of the State.

We held a meeting, too, and I called on the two United States Senators, and I called on my other friends, men whom I had helped get into the offices which they held at that time, and who have yet ever to ask anybody to vote for me for anything, a statement I want to repeat. I called upon my friends, upon Senator Ransdell and Senator BROUSSARD, two men for whom I had fought all over that State, whom I had helped elect to the United States Senate. I fought for them against the same forces that were trying to impeach me.

I called on my friends to help me resist that impeachment, and I stated that I would call the roll again at the calling of the impeachment and that, however dim my chances looked at the time, I did not intend to bend one jot or tittle to that crowd. I did not hear from some of those upon whom I called and they did not hear from me when their time came.

Mr. President, that was not all of it. I did a little bit more about it. This clique had gotten hold of that State, Mr. President. There is a big lake outside of New Orleans over which one must come to get into the city. My friend the Senator from Mississippi knows of Lake Pontchartrain. In order to come from Mississippi and from some parts of northern Louisiana to New Orleans one has to come over Lake Pontchartrain.

The clique got hold of the State government, and they granted a franchise to a private corporation to build a bridge across the lake, allowing them to charge $3.60 for automobiles going to New Orleans, plus 15 cents for passengers, and $3.60 back the other way, plus 15 cents for passengers.

My distinguished colleague and myself both announced against that fraud. I had opened up the fight in the State of Louisiana and had gone into court after court and tried to stop that fraud. My distinguished colleague had announced that he favored the same position. They went ahead and built the bridge, with a provision in the contract that no other bridge could be built 30 miles east or 30 miles west of that bridge. It was to be the exclusive bridge over Lake Pontchartrain.

The people of the State had only one relief. There was a right that had been reserved to the State itself to build a bridge about 5 miles to the other side of this private bridge.

Substructures and piers for this bridge were started before I became governor. After the former governor had died, suddenly and unexpectedly, and the lieutenant governor had become governor, Governor Simpson, he started to put in substructures, only substructures. No contract was made for the bridge itself, only for the substructures, and it was after my election as governor of the State that I found out that, if they could prevent it, they never expected to allow the bridge itself to be built on top of those substructures and piers which had been put into the lake.

I ordered the drafting of the plans and specifications for the erection of a free bridge paralleling the other bridge where a fee of $3.60 could be charged. They were not charging $3.60; they had reduced the charge to about $2, in an effort to keep us from building the public bridge. But they opened up their bridge. Thereupon I put on free ferries paralleling the toll bridge, where they were trying to charge all the way from $2 to $3 or $4, and thereupon they joined the impeachment proceeding, and night after night senators came to me and told me that if they could keep that bridge from being built it meant $7,700,000, that they lacked only three votes in the senate of having enough to vote my impeachment, and that the sky was the limit for any man who would vote to impeach me in the senate on the next day.

We stood it out; we fought it out; we built the bridge; we put the free bridge beside the other, with a 40-foot concrete road on the north end and a similar road on the south end; and the buzzards are rooting on the fraudulent bridge they put up there by which they attempted to swindle the State out of $7,700,000.

That is not half of it; that is not half about this white-winged gang. I am going to tell the Senate why the people of Louisiana will not vote to put that gang back in power.

When I became governor, the State of Louisiana stood at the bottom of the list as the most illiterate State in the United States It had a greater percentage of people who could neither read nor write nor spell than any other State in the Union. It stood forty-eighth out of 48. When I put a tax on these interests in order to put night schools into the State, in order to open up schools in that State so that the adult illiterates could go to school at night and learn how to read and to write and to spell, that is when they began the attack and to consort to keep from paying taxes they ought to pay on the operations of their businesses, in order to keep that State in its illiteracy and to keep that State from having a revenue to get out of a state of illiteracy.

That is not all. There is another little thing we are doing. Up until the time I became Governor of the State of Louisiana there were 16 miles, I believe it was, maybe more, of No. 1 type roads in the State, and some of the 16 miles had cost an average of $80,000 a mile. The highway commission, the day I took the oath of office, was $5,000,000 in debt and did not have a dime to pay anybody a thing with. The revenues had already been spent for the year, and at the end of the year we would have been $5,000,000 in debt and did not have a dime. That is what they did.

They had gone out and floated $41,000,000 worth of bonds against the port of New Orleans and spent the money, and they did not have a tax behind the bonds to pay a dime with. It all had to come from earnings. Then they tried to paralyze the administrative arm of the State government, to keep me from paying the interest on the bonds

they had issued, to keep me from paying the deficit the highway commission had made, to keep me from building the bridge against the toll bridge they had put up, to keep me from wiping out illiteracy, and how did they attempt to do that?

Did they do it silently? Oh, no. They became bold. They organized the Constitutional League. They organized a league after every election. They never have been able to make a league last through more than one election, and sometimes not quite through that. They organized a league, and if that is disputed, I will file in the records of the Senate newspaper headlines showing it. The newspapers were contributors to the league to the extent of $15,000 apiece. It came out in a headline—I think about the month of July, 1929, or it might have been the month of June—that several hundred thousand dollars had been contributed to the Constitutional League for the purpose of running HUEY P. LONG out of the governor's office, disbarring him as a lawyer, and, if possible, putting him in the State penitentiary.

They did not make any bones about the money. They put it out that hundreds of thousands of dollars had been subscribed. The president of the Standard Oil Co. walked into that meeting as boldly as I ever walked into church—or, perhaps, I ought to say into a hotel. [Laughter.] He participated in those deliberations just as boldly as anyone else. The gentleman who is now president of the United Fruit Co. was there in person or by proxy, but I think in person. The newspaper representatives were there.

The sad thing about it is that we are now told that the city government of New Orleans is a bad government, but it was the political side of the Constitutional League with which these distinguished gentlemen surrounded themselves. They all went into the game together, and they met finally at the end of 9 or 10 months in the Legislature of the State of Louisiana.

Their first move was to remove the Long speaker. Surely they would have no trouble doing that, 61 out of 100 having voted to impeach me, and they only needed 51 to remove the speaker. But they did not get him removed. Something had happened. Fifty-seven voted against removing the speaker and 42 voted to remove him. I will say for my colleague that the representative of my colleague's district steadfastly voted for all impeachments and all removals of the speaker.

When they found out that not only did they lose the house but on the same day they lost the election for a president pro tempore of the senate, thereupon they filibustered the legislature for 60 days to keep a bill from being passed. The lieutenant governor was in the chair, and he refused to permit anything to move at all. By that process they managed to keep everything from going through the legislature. A filibuster is a good thing. [Laughter.] I know what it is, because I sat there for 60 days helpless while they held my legislature.

Then it was that I went before the people of Louisiana, never having wanted to run for the United States Senate, and said to the people of Louisiana, "Do one of two things"—for every one of them came out and wanted to put me out of office—I said, "If I am not elected to the United States Senate, I will retire as governor of this State; and if I am elected to the United States Senate, I expect every one of these gentlemen to be recalled or to be made to carry out this platform and let me lift the State out of this mire."

The results of the election were disappointing. The old New Orleans organization stood loyally by their anti-Long forces. They carried the city of New Orleans against me by 4,600, but the country came in with enough of a majority to beat the city vote, and I came to the Senate with a total of about 40,000 majority. I was never supported by the New Orleans organization for any public office I ever held. They fought me for governor in 1924 when I carried the country and was overcome in the city. They fought me when I was elected governor in 1928. They fought me when I was elected to the United States Senate. They fought me until they had nothing left to fight with, but at all times they participated. The very same gentlemen tell you now that the New Orleans organization, the city-hall organization, with which I have had nothing to do, whose support I had never received—that same city-hall government which gave the present senior Senator from Louisiana the majority that overcame the country vote against him when he first came to this body, is at fault. It was the city hall that gave the votes to try to impeach me as governor of the State.

It was the city hall that fought me in every election I had ever had, and when they had been beaten, and it did not make any difference what they did, then it was, after I had been elected to the Senate, that I called the legislature into session on 48 hours' notice, and the same legislature, the same men who had voted 60 to 39 to impeach me for stealing $900 and for carrying a pistol and stealing a cord of wood, voted to give me nearly $100,000,000 to spend, just one year after the time they tried to impeach me. They marched in there, the committee from the same house that came to impeach me, and withdrew the impeachment charges, and the senate passed a resolution dismissing the charges upon their request.

I thought the matter was closed. I thought this matter was over with, but apparently it was not. We came out with a ticket to complete the work. The distinguished senior Senator from Louisiana [Mr. BROUSSARD], wrote a letter to the people of Louisiana. I had never uttered a word against him in any public or private place that I know of, certainly in no public place, except to lament the very fact that he failed to come when I thought he should have come to help me in those fights.

But, lo and behold, the senior Senator decided to break the ice, so he wrote down to the State of Louisiana in the year 1931 calling upon the people to get together and defeat every candidate for public office who had been supported by HUEY P. LONG in any capacity. Since he was one, himself, I thought he was going to resign, but he did not. There was but one thing for him to do when he wrote the letter that anybody had my help to be elected by LONG ought not to be elected again. I thought he would resign. But he did not. He waited to run.

Somehow even that advice was not accepted by the people of Louisiana. The nine candidates out of nine of the State administration were accidentally elected by majorities varying all the way from 100,000 down to 40,000. Then came along the election for United States Senator in 1932 that I have discussed. That was the election.

Mr. President, what do agreements mean? I want to quote a statement made by the Broussard counsel and adduced before this committee. They stated:

> We agreed to abide the decision of the arbitration committee.

That is what they said:

> We agreed to abide the decision of the arbitration committee.

That was made after the election, that was made before the senate committee, and now they come here and tell you they have to have a great deal of exposure.

Mr. President, I have not undertaken to charge the committee with any responsibility for what has been published in the press. I simply want to get this matter before the Senate in a proper way so that it will be understood. But in order that it may be understood I am sure my colleague would desire that I mention another matter, and in deference to what I think would be his own wishes I shall do so.

There has been a practice down in our State for a number of years of filing what are known as dummy candidates. I want to explain that to the Senate. There will be five or six candidates for an office and one of the organizations will slip in at the eleventh hour and file about five more candidates, never intending that those candidates will really go to the polls. They are filed because every candidate has the right to put a name to be drawn from to choose the election commissioners. They draw the election commissioners in that way from among a list of names which is gotten in that way. Every candidate for a local office files his list

of prospective commissioners. Then they take the name of the candidates for commissioners and put them all in a hat, and the first five that are drawn are named as the five election commissioners.

In other words, if there are 15 candidates who put in names friendly to you and the other man has six, you would have two and one-half times as good a chance for drawing commissioners as he would have. They did that down there long before I knew what politics was. When I first ran for governor I was not wise to it. I was wise the second time, but I was not the first time. I learned how after having been beaten once. If I could not learn from my enemies I do not know from whom I could learn.

But we decided to try to stop the practice. We decided we were going into court and try to stop the faction who had started this business of filing dummy lists of candidates, because it was a terrible expense to us. We had to get money enough to pay to file candidates that we knew were not going to run against the candidates that they were filing that we knew were not going to run. So we went to court to stop it, but we lost the case. My colleague's side beat us in court twice. The case went to the Supreme Court of Louisiana. We lost the case in the lower court and, of course, that court was no good, to hear them tell about it, but we went to the supreme court and the supreme court said:

> Neither such officer nor the committee itself has jurisdiction to question or inquire into the truth of a declared candidacy.

That is what the supreme court said, that neither the court nor the committee could question those dummy lists which had been filed on us at about midnight one night. They did not say it once. They went over it in another case and said it again. The point I want to bring to the attention of Senators is that I am reading particularly from Justice Odom, who was the organ of the court. They beat us in another case, two judges dissenting and five judges concurring. But Justice Odom, the organ of the court—and I might now state to the Senate that Mr. Justice Winston Overton, a brother of the Senator elect, is a member of the supreme court, and he concurred with the five justices in deciding against us that the committee and the court had no jurisdiction in that case. That was Justice Winston Overton deciding against us, a good virtuous judge as long as he decided against the faction with which his brother was affiliated.

In the public service commission campaign, when they had filed dummies all over the State—not for Senator, but when they had filed as many as 20 in one parish, we filed 8, they say, and for the purpose of argument we will admit that for the present. Why not? They went to court again. They had won both of those cases, the court holding that the committee could not disqualify a candidate who filed and swore he was a candidate. The court held the committee could not inquire into it. But lo and behold, they waited until the commission campaign commenced and then they came before the court to contest these candidates. They went into court on a day when it would be too late for us to prepare petitions and go into court even if they won.

Lo and behold, the court got corrupt, to hear them tell it. How did the court get corrupt? It got corrupt, gentlemen of the Senate, because it would not reverse its decision that had been made against us.

The court got corrupt because Judge Winston Overton, who had held that the committee had no jurisdiction when he decided against us, refused to change his opinion when the matter came back again before the court. The court did not get corrupt when it upheld the opposition and held that neither the committee nor the court had any jurisdiction to inquire into the regularity of the filing of a candidate. It did not get corrupt when Judge Odom changed his opinion when it came up against us and held that we should be disqualified. Oh, no; that was not corrupt. Just as long as the judge held to his opinion or changed it to vote against us every time the case went to court, he was a good and holy and righteous judge. But woe be unto the man who had decided twice against us and who held to the same opinion the second time and the third time, who maintained the opinion he had rendered in the original case.

That is the dummy candidate business about which they are raising so much Cain.

But that was not all they did. Let me show how they handled these dummies. They had control of committees in some parishes and we had control of committees in some parishes. In the parish of East Baton Rouge, the domicile of the Standard Oil Co., they have control. In that parish they filed 18 dummies and we filed our 8. What did they do? They rejected our 8 on the ground that it was immoral to use them, but upheld their own 18, and yet we beat the life out of them. I have here a telegram from the secretary of state, which I want to read:

BATON ROUGE, LA., *January 30, 1933.*

Senator HUEY P. LONG,
United States Senate:

Replying inquiry, 18 candidates for parish school board, ward 3, East Baton Rouge Parish, and 1 candidate for public service commissioner—

Making 19 in all—

second district, for Democratic primary, September 13, were withdrawn after drawing of commissioners for said election. J. C. Pearce, chairman Democratic executive committee, ascertained from this office last minute candidates could be withdrawn so as not to appear on ballot. Pearce withdrew 18 candidates in one letter dated August 30. Pearce was active supporter of Broussard-Borron faction.

Borron was the candidate for Congress.

Senate Committee Investigator Holland examined these documents and has this information.

C. E. CONWAY, *Secretary of State.*

I send this telegram to the desk and ask that it may be published in the RECORD entire at the conclusion of my remarks.

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

(See Exhibit C.)

Mr. LONG. So wherever there were dummy candidates who were friendly to us they rejected them and used the dummy list of candidates who were opposed to us; but when it came to the parishes over which they had control they used the names of their dummies in the parish of Iberia and threw out the 8 that we filed, and they used the 19 that were filed by our opposition in the parish of East Baton Rouge and threw out the 8 that we filed, and the district judge enjoined us from filing them again.

Mr. President, since the campaign I have undertaken not to be anything less than generous. I have not undertaken to fight the campaign over again. I have not undertaken to boast of any victory, I hope, and I have never thought it part of a good sport in any political victory to do anything that reflected upon or affected the feelings of any defeated candidate. I know what it means to be beaten for public office. I have been beaten myself; I have taken my beatings. I expect some day that I will have to take others. I have done so in nearly every campaign we had in some quarter or other.

But, now, these reports have been circulated from one end of this country to the other as though there was an exceedingly unfair election. I have filed with the Senate the records and documents which I hope afford prima facie a reasonable and sufficient answer.

EXHIBIT A

NEW ORLEANS, LA., *September 16, 1932.*

To the Overton Campaign Headquarters:
To the Broussard Campaign Headquarters:

The undersigned members of the arbitration committee desire to submit this report of their activities on September 13, 1932:

I

In ward 17, precinct 7, complaint was made that Anthony Christina, who was a Broussard commissioner in this poll, was not permitted by the other commissioners to serve for the reason that he was a candidate for the parish committee in the precinct in which he was a commissioner. The committee was of the opinion that the question of eligibility, under the circumstances, was more or less doubtful; but it was unanimous in the opinion that good morals and the spirit of the primary law justified the committee in holding that he should not serve as a commissioner.

Mr. Irwin Williams, who made this complaint, stated that it was agreeable to him to substitute another Broussard commissioner. The committee recommended that some other qualified supporter of the Broussard faction should be permitted to serve as a commissioner in Christina's place, and that if the vacancy had already been filled the commissioner elected should resign and permit the Broussard faction to substitute a commissioner for Mr. Christina.

It was reported that Christina had been arrested and charged with disturbing peace. The committee felt that the fact that he had a commission doubtless justified him in arguing for his rights and in fairness to him the committee requested Recorder Emile J. Leonard to discharge Mr. Christina when he came before him for trial. This was done.

II

In ward 8, precinct 1, complaint was made by Mr. Garland, of the Overton faction, that a Broussard commissioner was serving in this precinct, notwithstanding the fact that he was a candidate for the parish committee. The committee made the same ruling in this case as in the Christina case, but suggested to Mr. Garland that in view of the lateness of the hour, the complaint having been made in the middle of the afternoon, it would be advisable not to disturb the situation. The committee heard nothing further of the complaint.

III

In ward 6, precinct 8, complaint was made that Mr. Bourgeois, a Broussard commissioner in this precinct, was not permitted to serve on the ground that he did not reside in the ward notwithstanding the fact that he was registered in the precinct. The committee, upon inquiry, was informed that the registrar of voters had scratched Mr. Bourgeois's name from the registration rolls. The committee ruled that it could not go behind the registration rolls, and accordingly Mr. Bourgeois could not serve as commissioner.

IV

In ward 9, precinct 3, complaint was made that Peter Searbars, an official watcher, was ordered to go out of the barriers and upon his refusal was arrested and charged with refusing to move out of barrier. The committee ruled that an official watcher has a right to remain in the barrier provided he does not electioneer, and recommended the immediate release of Mr. Searbars. In view of the orders issued by the mayor that all persons arrested for disturbances on election day would not be paroled until after the close of the polls, the committee requested the mayor to revoke this order in this particular case, and the mayor complied with this request and Searbars was released.

V

In ward 13, precinct 6, a similar complaint as the preceding one was made when Arthur Johnson, an official Broussard watcher, was ordered out of the barriers and arrested for refusing to move therefrom. The committee made the same request of the mayor and Mr. Johnson was released.

VI

Several inquiries were made during the morning concerning the right of the official watchers to remain within the barriers, and two or three complaints were received to the effect that they were not being permitted to remain within the barriers. The committee ruled that official watchers should be permitted within the barriers provided they did no electioneering and instructions were issued accordingly. As far as the committee knows, all such instructions were carried out.

VII

In ward 7, precinct 11, Mr. Alvin Cobb advised the committee that the commissioners and watchers representing his faction were now supporting the other candidate, and asked whether an unofficial watcher could be placed by him in front of the door of the poll in the street immediately outside of the barrier, either in a parked automobile or standing. His position would be about 3½ feet from the polling booths in which the voters marked their ballots. After full consideration the committee came to the conclusion that it was the intent of the primary law to keep all persons other than commissioners, official watchers, and those casting their votes a reasonable distance away from the polling booths by the construction of barriers along the curb for a distance of 50 feet and that no one should be permitted in the street immediately in front of or close to the polling booths. The committee was of the view that the law provides for barriers immediately along the curb and not out into the street, on the theory that no one will be permitted to stand in the public streets, and, therefore, it was not necessary to close the streets by the erection of barriers. The committee was of the view that it was contrary to the theory of the primary law to permit citizens to stand immediately up against the polling booths in the public streets. The committee therefore advised that Mr. Cobb station his unofficial watchers on the sidewalk across the street at such locations where they could have unobstructed view of the ballot boxes and the poll. The committee advised the police officer at that poll that any automobile or other obstruction which would interfere with the view should be removed.

VIII

Mr. Harold Nathan, representing the Honest Election League, reported during the late afternoon that two or three of the polls were so located that watchers did not have an unobstructed view of the ballot boxes. Mr. Nathan was subsequently informed that it was impossible at that time to recommend the rearrangement of any polls but that, if Mr. Nathan would have the police officers assigned to the precincts in question communicate with the arbitration committee, instructions would at once be issued to have the ballot boxes so placed in the polls as to permit an unobstructed view by the official watchers and the public. No further requests in this respect were made of the committee.

IX

In ward 17, precinct 5, complaint was made by Broussard headquarters that the Overton commissioners had started an argument with the Broussard commissioner and that he was being threatened with arrest. The committee, through the police department, communicated with the officer located at the poll, and was informed that the trouble had been straightened out and that the commissioners were performing their duties peaceably.

X

In ward 9, precinct 10, a Broussard commissioner advised the committee at about 10 o'clock a. m. that he lived in the eleventh precinct but had received a commission to serve in the tenth precinct; he reported in the morning at the eleventh precinct and, upon discovering his error, immediately went to the tenth precinct, arriving at 5 minutes of 6 in the morning by his watch. He stated that the other commissioners had elected a commissioner to serve in his place and had already opened the poll and received votes, contending that it was 6.10 a. m. by their watches at the time he reported. He insisted that he had verified his watch with the official time and that his watch was correct. The committee concluded that it had no way of determining the disputed question of fact concerning the time of arrival, particularly in view of the late hour at which the complaint was made, and that there was nothing the committee could do. The complainant was advised that if he had reported the matter immediately upon its occurrence the committee could have then been in a position to determine the merits of the controversy.

XI

Two inquiries were made of the committee concerning the right of persons to vote whose names were upon the registration rolls, but whose right to vote might be questioned on the ground that they had subsequently removed from the precinct. The committee advised that the commissioners could not go behind the rolls, and anyone whose name was on the official poll list had the right to vote, subject, of course, to challenge.

XII

One inquiry was made whether a voter who had mislaid or lost his poll-tax receipts could cast his vote. The committee advised that if the name of the voter appeared in the official poll-tax lists in the possession of the commissioners, he should be permitted to vote without the production of the original receipts.

XIII

One inquiry was made from the seventeenth ward, at 10 minutes to 7 p. m., as to whether a voter who had left his registration receipt at home and did not have time to get it and return before 7 should be permitted to vote. The committee advised that if the voter was personally known to all of the commissioners, if his name appeared on the official rolls, if he had cast his vote in previous elections, and if he had not voted that day, he should be permitted to vote.

XIV

In ward 10, precinct 5, report was made to the committee that McIntyre, an Overton supporter, had beaten up Babin, an official Broussard watcher, and that both of them had been taken to the sixth precinct station where McIntyre had been paroled and Babin taken into custody. Upon investigation, the committee found that both McIntyre and Babin had been arrested, charged with fighting and disturbing the peace, that neither of them had been paroled, and that both had been sent to the court for trial. The committee accordingly ruled that in view of the fact that the case was in the hands of the court it should do nothing in the matter.

XV

Patrick McGill telephoned to ask whether an elderly lady who was sick and unable to come to the poll, and who desired to cast her vote for sentimental reasons, could be permitted to vote if a commissioner of each faction went to her residence. The committee discussed the matter, and Mr. McGill was told to have the commissioners telephone the committe. Nothing further was heard of the case. The committee therefore expressed no opinion in the case. In subsequent discussion among the members of the committee it was agreed that such a vote could not be legally cast. Later a similar question arose and the committee unanimously ruled that the vote could not be cast.

XVI

At about 6 p. m. the Broussard headquarters and the Honest Election League informed the arbitration committee that they had received complaints to the effect that the official watchers were advised that they would not be permitted to witness the count after the closing of the polls in 3 precincts, 1 in the eighth ward, 1 in the sixth ward, and 1 in the fourteenth ward, and that there were rumors to the effect that similar action would be taken in every precinct throughout the city. The committee ruled that all official watchers had the right to enter the polls and witness the count and talley after the closing of the polls. The committee communicated with Superintendent Reyer at police headquarters and requested him to dispatch a motor-cycle

officer to each of the three precincts in question to see that all official watchers were permitted to enter the polls after the close of the voting and watch the official count. In addition, request was made of Superintendent Reyer by the committee that he issue an all-station message instructing all officers at the polls to see that official watchers were permitted to enter the polls and watch the count and talley, and to see that all doors of the polls were kept open and the lights kept burning. The action of the committee was reported to Broussard headquarters and to the Honest Election League.

XVII

Complaint was made in one of the precincts of the seventeenth ward to the effect that the doors of the poll were closed during the count, although the official watchers were permitted inside. The committee communicated with the police officer stationed at that precinct and instructed him to see that the doors were opened and the lights lit and the public permitted to witness the count from outside the poll. The committee was subsequently advised that the doors were opened, the official watchers permitted inside the poll, and a bar placed across the doorway which permitted the public to see the count but not to enter the poll.

XVIII

Mr. Alvin Cobb made several complaints to the effect that in the fifth precinct of the seventh ward the doors of the polling booth had been closed during the count and all watchers refused admission. The Honest Election League also made the same complaint. The committee immediately communicated with Superintendent Reyer at police headquarters and requested him to dispatch a motor-cycle officer to the place in question, with instructions to see that doors were opened and all official watchers permitted entry.

XIX

Broussard headquarters inquired whether the public had a right to enter the polls after the close of the voting and witness the official count. The committee ruled that only commissioners and official watchers had a right under the law to enter the polls for that purpose, but that the doors should remain open, the lights lit, and the public permitted to witness the count from the outside, with due regard to public order and decorum.

XX

Complaint was made in ward 7, precinct 1, to the effect that a ballot box had disappeared and had subsequently reappeared. The committee advised that there was nothing it could do in a matter of this kind and that this was matter of contest before the proper tribunal.

XXI

Complaint was made from one of the precincts, during the morning, that the poll list showed six more people as having voted than had been checked off and counted by one of the official watchers. The committee advised that there was nothing it could do in a matter of this kind and that this was likewise a matter of contest before proper tribunal.

* * * * * * *

The committee began its proceedings at 5.45 a. m. and adjourned at 9 p. m.

All complaints came over the telephone with the exception of the one made by Mr. Garland, who called in person.

All complaints were investigated, fully discussed, and every decision was unanimous. It is the opinion of those members of the committee who have previously served on similar committees that there were far less complaints than in any previous election in recent years, and from the standpoint of the arbitration committee it was the most peaceful and orderly election in many years.

All public officials cooperated fully with the committee with a view to carrying out all of the committee's rulings.

Respectfully submitted.

A. MILES CAL.
WM. J. GUSTE.
BERTRAND COHN.
MICHEL PROVOSTY.
NICHOLAS CALLON.
RENÉ A. VIOSCA (BROUSSARD),
Chairman.

EXHIBIT B

NEW ORLEANS, LA., *October 7, 1932.*

LOUISIANA DEMOCRATIC ASSOCIATION,
New Orleans, La.

MY DEAR FRIENDS: On September 15 Senator LONG announced his resignation as chairman of the organization and in his stead you did me the honor to select me as his successor. I was not present at the meeting when his resignation and my selection occurred.

On the day following, however, I made public the statement that I would call the association together at an early date and submit my resignation as chairman and suggest the selection of Dr. Joseph A. O'Hara as permanent chairman of the organization.

Doctor O'Hara, however, asked that I delay calling the association to any meeting for the purpose of selecting him as chairman until a check up had been made and all debts of the organization had been fully paid. Doctor O'Hara stated he was entirely too much occupied with his private and official duties to assume the burden of heading the organization unless he could take it with the organization free of debt. I agreed with Doctor O'Hara that I would remain as chairman until we could raise sufficient funds to retire your indebtedness, after which he would be formally selected as your chairman.

Our obligations consisted of the following:

Deficit for complete-the-work campaign, January, 1932, including candidates supported for governor, lieutenant governor, secretary of state, State auditor, treasurer, attorney general, superintendent of public education, registrar of the State land office, State senators and representatives	$9,500
Obligations contracted for literature, stamps, stationery, sound truck, and traveling expenses for Wade O. Martin, (candidate for public service commissioner)	4,500
Obligations contracted for circular issued in reference to J. Y. Sanders, jr., being on public pay roll	400
Deficit for special train expense, New Orleans to Baton Rouge, for organization to opposition mass meeting opposing State administration's program	2,500
(NOTE.—Balance of expense amounting to about $1,100 was contributed by ward organizations in cash.)	
Deficit for account of unemployment-relief work in New Orleans and surrounding parishes	8,500
(NOTE.—This was aggravated after January, 1932, when failure to sell State bonds stopped public work and threw several thousand employees off public pay roll.)	
Deficit expense accompanying Federal Flood Control Committee	650
(NOTE.—This expense has not been charged because it should have been borne by Louisiana Flood Control Committee.)	
Total	26,050

These accounts could only be segregated by approximation, but round figures herein given represent as nearly as we can give you the obligations of the organization.

To this there should be added the further deficit figure of approximately $8,000, which I undertook to raise as the association's contribution to the national Democratic fund. On account, however, of the technicalities it has been deemed necessary to keep this account separate, and for that reason a bank account under the name of "Victory fund" was established at the American Bank & Trust Co. to cover this item, so that the national organization could secure daily information relative to full contributions whenever it so desired.

The Franklin Printing Co., Earle J. Christenberry, Mr. Abe Shushan, the Roosevelt Hotel, and myself, along with many other creditors, had carried these deficits and many of us have advanced the funds which were required on the same.

We had a time when the association could catch a breathing spell and secured sufficient contributions to balance these accounts.

The campaign managers for Senator OVERTON elected to keep contributions to his campaign and expenses of the same separate. For this reason the persons who would ordinarily contribute funds direct to me for the association contributed to the Overton campaign instead. In order to raise these funds I have called upon all of our friends for voluntary contributions.

It will be remembered that this association and all of the State employees of its various boards and departments contributed 5 per cent of their monthly salary over a period of approximately 10 months, beginning the 3d of July, 1931, and until April 11, 1932, which contributions were turned over to the New Orleans Welfare Committee, an organization which has been established by the civic authorities of the city, but which was about to cease functioning for lack of funds until this association undertook, with the regular Democratic association, to supply funds for the continuance of this work.

Practically all of our employees acceded to this request for 5 per cent a month for welfare work during the entire 10 months; as a result of which the city of New Orleans and adjoining parishes had no bread line during those months of depression. When the civic boards called on our then Governor LONG for help for this purpose when welfare work was about to cease, at a meeting with bankers and civic agencies of the city Governor LONG requested me to advance $15,000 until contributions could be taken up to repay me. In due course I was repaid this $15,000 by the welfare committee from the 5 per cent contributions. I collected and turned over to the New Orleans Welfare Association, on this account, approximately $300,000. This money was well and judiciously spent in a nonpartisan and nonpolitical way, and was audited and approved by public agencies of the public.

The same committee was deemed to have done such splendid work that in the organization of the United States welfare relief work members of this committee were named to head the agencies of the State for handling Federal unemployment relief.

Upon bonds being voted by citizens of New Orleans to care for this unemployment relief work, the State employees were not asked to further contribute. However, certain ward political workers had become so identified with this work that it became necessary that they continue in the interim with some of the unemployment relief, and expenditures were made which amounted to quite a sum of money. This sum we had hoped to have reimbursed by the city funds or from the Federal unemployment fund. It was deemed unwise, however, to undertake to reimburse from such funds because it would be misunderstood, so the association should assume and should discharge the remaining obligations.

The city of New Orleans voted the $750,000 unemployment relief bond issue by an overwhelming majority. This evidences the public approved the kind of work and methods by which the same were handled.

In order to raise funds to pay off the deficit of the association prior to Doctor O'Hara taking the chairmanship of the association, is was suggested to the employees of the State that if they could contribute as much as 10 per cent of one month's salary the same would close up our account for all welfare work, campaign, and other public work deficits, and with the Federal Government having come into the unemployment relief work that hereafter much of the welfare work could be assumed by the State agencies handling such Federal funds. This can not be entirely true, however, because some of the rules and regulations which were made in order to secure Federal funds are a great deal narrower and stricter than the rules of the New Orleans Welfare Committee.

The reconstruction act under which relief funds were made available makes a very definite distinction between persons unemployed and those poor unfortunates who are unemployable. These figures made it necessary that this association should try to keep up its welfare work to some extent in the future and as much as possible to try to help persons in need who can not secure help from other sources.

At this time we have about raised funds sufficient to pay off the deficits. Many persons in private life have given us substantial contributions. Many of the officers and employees of the State have contributed as much as 10 per cent of their salary for one month. There have been a large number of State employees who did not feel they could contribute as much as 10 per cent of one month's salary but who have contributed something. A large number have not felt able to give anything. However, this should not be taken as an act of disloyalty to our organization or to the work which we have undertaken to do, because they have been called upon so steadily and so regularly to contribute to the unemployment relief funds and have done so solely and by themselves, having paid up to even $300,000 within the last year or so, that it would manifestly be unfair to feel agrieved at any of the large number of employees who did not feel like contributing anything at this time, particularly when the contributions this time, to a large extent, are political, whereas when funds were being contributed at the rate of 5 per cent of each month's salary for the unemployment relief over a period of 10 months, it is fair to say over 90 per cent contributed regularly to this fund.

We have been, to some extent, hampered in our political work and in our welfare work by reason of false newspaper reports, usually circulated through the Times-Picayune. In many instances when funds were being collected to care for the sick and needs of this city, this newspaper has undertaken to spread the impression that large and unwholesome campaign funds were being collected for this or that campaign; in fact, in order to pay up deficits above listed. When we called for contributions this newspaper immediately reported day after day that the same was to pay a deficit for the Overton senatorial campaign. We could not see and explain matters to all of our friends, and no doubt this accounts for the fact many of them did not contribute this time, in the belief that the reports in the Times-Picayune were founded on some basis of fact, and while this newspaper yet tries to get the impression to the public that all of the unemployment relief fund collected has been for political purposes, the public at large has been aware to the contrary, and has most generously supported the efforts of this association for civic improvements. It should be a mark of pride to every member and worker of this association that from year to year, by constantly mounting majorities, the acclaim of the people of this State and of this city, has never wavered in this association.

I therefore submit you this, my resignation as chairman of this association, and place in nomination for my successor, Dr. Joseph A. O'Hara.

Yours truly,

ROBERT S. MAESTRI.

EXHIBIT C

BATON ROGUE, LA., *January 30, 1933.*

Senator HUEY P. LONG,
Senate Office Building:

Replying inquiry 18 candidates for parish school board, ward 3, East Baton Rouge Parish, and one candidate public service commissioner, second district, for Democratic primary September 13 were withdrawn after drawing of commissioners for said election. J. C. Pearce, chairman Democratic executive committee, ascertained from this office last minute candidates could be withdrawn so as not to appear on ballot. Pearce withdrew 18 candidates in one letter dated August 30. Pearce was active supporter of Broussard-Borron faction. Senate Committee Investigator Holland examined these documents and has this information.

C. E. CONWAY, *Secretary of State.*

Mr. BROUSSARD. Mr. President, I was sick all last week, but on Saturday, when notified that the junior Senator from Louisiana [Mr. LONG] would make the speech which he has made to-day, I got out of bed and came here. I was again notified this morning that he would make the speech to-day. So I am here again.

The entire matter discussed by the junior Senator from Louisiana is before a committee of the Senate. There are five members of that committee, not one member of which—one of whom is now presiding over the Senate [Mr. BRATTON in the chair]—can say that I ever approached him or suggested anything in connection with the Louisiana primary election as to which I felt it to be my duty to declare that I had been robbed. I have not said anything to anybody about the proposed investigation to members of the committee. I have not been in Louisiana. My friends have reproached me for not going back there. I made the protest to the committee with great reluctance. I have served here for 12 years. Many Members of the Senate have known me during the entire period of my service, and some of them for lesser periods during that time. I hope I have never done anything in this body that would cause me to lose the respect of any honorable gentleman here.

I do not claim I was nominated; I do not claim any office; but the State of Louisiana has been degraded to such an extent that I felt I owed it to the people who have honored me and members of my family for nearly a century back to do something for Louisiana, when corruption and bribery and intimidation—even intimidation of the bankers of the State—exist to such an extent that no honorable man dare offer himself for public service. If those now in control think he is honest he can not get past.

I shall not now attempt to answer the junior Senator from Louisiana. I want first to read his speech. I do not want at this time to answer it in detail; but when he insinuates that he elected me to the United States Senate he states something that is untrue. I was elected to the United States Senate in 1920, when I did not know him. His brother supported me, but the brother to whom I am referring did not support him when he ran for United States Senate. His brother also supported me in the last election. I did not know the junior Senator from Louisiana in 1920, but I was elected.

In 1924 he ran for governor and came in third. I came up for reelection in 1926, and he came to my support but insisted that I promise to support him for governor, which I refused to do. I told him there were hundreds of men in the State of Louisiana who I thought better fitted than he was for the governorship. So he left my campaign. Mr. Robert Ewing, against whom he turned later, brought him back into my campaign, and he made speeches for me. He claims he elected me. I was elected in 1920 when I did not know him. I was elected in 1926 when the people to whom he refers, the organization in New Orleans that he condemns, opposed me, as they have been opposed to my father, to my brother, and to me in politics in the State of Louisiana for nearly 80 years.

I have not interrupted the junior Senator from Louisiana because since the day he entered this Chamber I have not spoken to him. I will not let him speak to me; but whatever the committee may find—and that is something I am not referring to to-day—that is left to the committee. I have never spoken to anybody about the proposed investigation, as every member of the committee knows and as the investigators know.

I need no defense, not at least before the people of Louisiana, against any charges which may be brought by people who are now dominating the State through an issue of obligations of over $300,000,000. I stand with respectable people even if I am charged with being with the Standard Oil Co. I never was. Nobody here or in Louisiana can charge me with that.

Whatever has been said here has been noted. I shall read the speech to-morrow. I want to answer it properly, and when I answer it I shall not answer for the men who have bought the votes; I shall answer for the respectable element of the State of Louisiana.

Mr. LONG. Mr. President, the Senator is somewhat beside the facts. I will not dispute anything as to private conferences that he says occurred, because the Senate would have nothing but his word against mine. I will not dispute

that in 1920 he was elected without my help; he was. I had nothing to do in opposing him or electing him in 1920. I am sorry he brought up that point. I wish to say, however, that in 1920, being a reformer and interested in the race for governor, I had promised my support to Governor J. Y. Sanders, if he supported John Parker for governor, and later I found myself faced with three Parker men running, following that promise, but I kept my word and voted for Sanders, though otherwise I took no hand. So the Senator is right about that.

I am sorry that he mentioned 1926. He states the truth when he states that I asked him to support me for governor if I went out and supported him. That is true. He states the truth when he says that he refused to support me if I supported him. That is true. What I now state I take it the Senator did not know. It is true I was brought into that campaign with the promise that I would be supported for governor by Dr. Thomas Stark, of Lafourche, sheriff of that parish, and by T. A. Landry, sheriff of the parish of Iberia, and many other Broussard supporters, who said that if I would come into the campaign, they felt that I was entitled to their support. It is true that when I came up for governor that I got some of that support and some I did not get.

The Senator is also stating the truth when he says that he never supported me for any public office. I admit that.

The Senator is in error on another matter, as to which we have only the cold public record. The Senator says that we spent $300,000,000 in bonds to control the State. Mr. President, the facts are the State of Louisiana does not owe $300,000,000 worth of bonds, or anything like that sum. It does not owe half that much; but of the bonds the State of Louisiana does owe, $11,000,000 were voted during the carpetbag régime before my distinguished friend or I were born; $41,000,000 were floated under governors who have always opposed me, making $52,000,000. There have been floated since I have been governor about $60,000,000 of highway bonds, about $5,000,000 of bonds to build a State capitol, and I think somewhere near three or four million dollars for education. So, instead of $300,000,000, the Senator is in error, in that the amount would probably be $70,000,000, and not more than that.

The Senator has a right, however, to blame me for $41,000,000 floated by governors with whom he is on intimate terms and with whom I am not, because when they floated the bonds they never provided revenue with which to pay interest or maturities, and when they began to come due in 1930 these distinguished gentlemen who had floated and signed the bonds joined in solid company with my distinguished friend here and did all they could to keep me from having a tax levied so as to pay the bonds, the money derived from which they had spent and which bonds bore their own signatures.

One thing further. I wish to say that the Senator states a further truth when he says he has not spoken to me since I have come into the Senate. He further says that he is waiting for me to speak to him. Well, I hope the Senator will not hold his breath for that to happen. [Laughter in the galleries.]

The PRESIDING OFFICER. Let there be order in the Senate, and this admonition applies to the galleries.

Mr. LONG. I have received a telegram giving me the exact figures to dispute the statement of my colleague as to the pay rolls of the State when he ran.

Levee roll: September, 1931, $42,409.13; September, 1932, $31,413.30—a decrease of $11,000 in the year that he ran, as against the year that he did not run.

That is the levee roll.

Board of health: September, 1931, $20,143.92; September, 1932, $26,086.78. That is an increase of that pay roll of $6,000.

Dock board: September, 1931, $181,342.35; September, 1932, $156,229.93—a decrease of $34,000 of September, 1932, over September, 1931.

Highways: Here is the great charge. Highways: September, 1931, $523,705.63. That is the highway commission a year before this race—$523,705.63. September, 1932, $201,788.25—a decrease of about 60 or 65 per cent.

I ask that this telegram of figures may be printed at the conclusion of my remarks as an exhibit.

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

(See Exhibit D.)

Mr. LONG. Now just one further remark:

The senior Senator from Louisiana does not regret any personal feeling that he has toward me as much as I do. I know how the Senator feels. He probably feels that I should have supported him in 1932. I wish I could have. When I was tied hand and foot by my enemies; when they were strangling that State, trying to disbar me as a lawyer, trying to put me in the penitentiary, raising hundreds and hundreds and hundreds of thousands of dollars, and publicly advertising that they had raised them—in those days when I had to carry revolvers in order that my life might be safe, I wish that when I called upon my friend I could have received his help. When I had never uttered one word against the Senator's name in my lifetime, I wish he had not seen fit to go back to the State of Louisiana to awaken me on a Sunday morning with an 8-column headline saying that any man who received the support of HUEY P. LONG in a State election had to be beaten because he was corrupt, or else he would not receive that kind of support. And I wish the Senator could do one further thing:

I wish the Senator, instead of indulging in generalities and instead of expressing his feelings, such as we all have when we receive a defeat—I wish the Senator, when he consented to an arbitration committee, with two members on each side, would abide by the report of that arbitration committee. When I went out and let the two members appointed by them handle the election, and when they came back and said they had handled it and it was fair and square, and that every public agency was placed at their disposal to conduct the election as they thought it ought to be conducted, and when the Senator received their report that it was the fairest, the squarest, and most orderly election that had been held in years, instead of filing with this committee a document charging fraud without a single, isolated specification of fraud, I wish that before he made these statements of fact and filed that document he had consulted the public records of the State and had been guided by the report of his own arbitrators.

I have not said anything against the good name of the Senator. I have not accused him of ever stealing anything. I have not accused him of a single act of rascality. I do not accuse him of it now. I gave him credit for all good motives; and nothing have I ever said in any respect to reflect upon him or his career except as I disagreed with him in his public conduct, and as he had a right to disagree with me. But, Mr. President, when the Senator has stood on this floor and made these statements as to these miscalculations and misinformation, so-called facts that are not borne out and are disputed by the record, so-called facts that are disputed by his own arbitrators, charges that his own men in charge of the election, who were agreed upon to run that election, and whose report everyone agreed to abide by, say are positively not true and are false, I say that the Senator owes to this body and he owes to me a greater consideration for facts easily ascertainable than to allow this kind of publicity to have gone the length and breadth of this country.

What greater damage could be done to a State than for a Member of the United States Senate to charge that I had issued $300,000,000 worth of bonds when the record shows than it is less than $70,000,000 worth of bonds? And compare what has been done with it:

When I left that State it had 2,000 miles of paved roads. It had a new State capitol. Its illiteracy has been decreased. The State university had gone from third-rate up to first-class. Free school-books were furnished to the school children. Port work had been done. Money had been put up to pay off the bonds that had been issued by other governors, for which I was not responsible. The work

is there; and the Senator forgot to tell you something, Mr. President; I will never state a fact against the Senator—my colleague here, who was my friend once, and I was his friend—I will never state a fact against him that will ever be left without everything in his favor. How was that money spent, Mr. President? They have not told you this, and I want the Senate to know it.

I knew that some day they would want to charge fraud and graft against my administration. I knew the publicity I was getting from those corporations, that I had to get it. I allowed my enemies in that State to take 19 leading citizens, and I wrote their names into the constitution of the State of Louisiana, and provided that not one dime of that money could be spent unless it was approved by the 19 men. On that board were the attorney general of the State and the lieutenant governor of the State, two of the worst political enemies I had in the world. There never was a dollar of the money spent that all 19 out of 19 did not approve, before it was spent and after it was spent. There never has been a copper cent of money spent by HUEY P. LONG as Governor of the State of Louisiana that was not signed by the 19 men, including the man who was lieutenant governor, who was trying to take my office away from me by impeachment at the time.

Why was it if there were any charge of fraud that we never could hear it with 19 men approving everything; that with enemies of mine on the board and friends of the Senator on the board there was never one charge of fraud filed before that body up until that time?

Now, at this late date, with 19 men picked by them having said that the expenditures were regular; with 19 men picked by them, including my enemies, having approved everything that has been done; with everything having been shown to the Senate, including the fact that instead of pay rolls having been increased they were reduced an average of 50 per cent at the time the Senator was a candidate for office. I think the Senator does owe the Senate another speech. When the Senator makes that other speech, he owes to this Senate and to me an apology.

EXHIBIT D

NEW ORLEANS, LA., *January 30, 1933.*

Senator HUEY P. LONG,
Senate Office:

Levee roll, September, 1931, $42,409.13; September, 1932, $31,413.30. Board of health, September 1931, $20,143.92; September, 1932, $26,086.78. Dock board, September, 1931, $181,342.35; September, 1932, $156,229.93. Highway, September, 1931, $523,705.63; September, 1932, $201,788.25.

THE FRENCH DEBT

Mr. HOWELL. Mr. President, on Saturday, January 28, there appeared in the New York Times an editorial which would seem to question the correctness of certain figures that I had given with reference to debt payments by France. I read this editorial in part:

Part of the French war debt, Senator HOWELL stated last week, consists of $400,000,000 which France agreed to pay the United States for surplus war material valued at $2,000,000,000.

Then the editorial proceeds to quote me.

"All France has paid to us," he said, "is not equivalent to what she has received from the sale of those supplies."

According to the Treasury Department, France has paid us $486,075,891. According to the same authority, the supplies were sold by us for $407,341,145.

This is the portion of the New York Times editorial which I wished to read.

Mr. President, it suggests that I had made an incorrect statement with reference to the payments made by France.

I now quote from the CONGRESSIONAL RECORD of January 20, 1933, the statement in part which I made at that time.

Mr. President, this other fact ought to be reemphasized; part of this debt of $4,231,000,000 was the $400,000,000 France agreed to pay us for $2,000,000,000 worth of supplies and other property which we sold France when our Army came home. France began to sell those supplies. She accounted publicly for what she received on this account until the amount reached something like $236,000,000. Then, as I understand, France no longer published such receipts. Thus all France has paid us since the date of settlement is not equivalent to the money she obtained from supplies and other property sold by us to France, and yet France has insisted that her indebtedness for these supplies and other property was purely of a commercial character.

I stated, Mr. President, that since the date of settlement all that France has paid us was $200,000,000, and that this was less than France had received from her sales of the supplies and property we had sold her. That is absolutely correct. It is true that, all told, beginning with January 8, 1918, France has paid us $486,075,891. Two hundred million dollars of that amount was paid after the date of settlement; $286,075,891 was paid prior to the date of settlement, beginning with January 8, 1918. But, Mr. President, it is a significant fact that during that period, though France paid us $286,075,891, she borrowed from the United States, and received in cash, $1,832,000,000 and more.

Therefore, it is not remarkable that she was able to pay us during that period $286,000,000 plus. She borrowed from us during that period $1,832,000,000. The difference between the two amounts is some $1,546,477,000 which France was ahead.

What I wanted to make clear was this, that the statement I made on the floor of the Senate with reference to the payments by France was correct. She has paid us $200,000,000, and that is all, since the date of settlement. I have learned recently that the amount received by France from the sale of supplies and property we sold her for $407,000,000 is in the neighborhood of $300,000,000. Yet all she has paid us, including interest on that debt from the time it was incurred, is less than what she has received from the sale of the supplies and property which France acquired.

Mr. President, I have endeavored to be accurate in connection with the figures I have afforded in reference to the French and other debts, and I regret very much that I should be misquoted in a manner which might reflect suspicion upon the statements I have made.

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

Mr. HOWELL. I yield.

Mr. KING. I did not hear the entire statement made by the Senator, but as I came into the Chamber I heard his statement that we had sold to France supplies aggregating more than $400,000,000, and my understanding is—and I received the understanding from a representative of our Government, who, in connection with General Dawes, handled those supplies—that they consisted largely of railroads which we had constructed, and which, of course, were worthless, and depots, and facilities constructed for the reception of supplies which were no longer needed; and that much of the property which we let them have was of no value to us; that if we had attempted to transship it, to tear up the railroads and bring back the lumber and other supplies that were there, we would have realized just about enough from them to pay the cost of transportation. So that the contention of the gentleman to whom I have referred was that France had not received anything near the amount which the Senator states in actual value of property that was usable and available.

Mr. HOWELL. Mr. President, I have been informed, upon what I have regarded as excellent authority, that in the neighborhood of $300,000,000 has been received by France from the sale of the property concerned, and, furthermore, France has made no reports recently respecting the additional amounts she may have received.

Mr. FLETCHER. Mr. President, will the Senator state how much we have loaned France since the armistice?

Mr. HOWELL. Mr. President, I can give this information. The amount of the French debt on June 15, 1925, on account of post-armistice loans, was $1,653,325,913.05. That was the amount of the post-armistice debt at the date of settlement.

LIGHTERAGE IN NEW YORK HARBOR

Mr. WAGNER. Mr. President, on Saturday Mr. Earl M. Steer, an examiner for the Interstate Commerce Commission, rendered, after exhaustive hearings, a decision which I think is a serious menace to the port of New York, in which decision he favors the abolition of free lighterage in New York Harbor. At a more appropriate time I expect to

discuss this matter more fully upon this floor. Just now I ask unanimous consent to have printed in the RECORD the decision itself, and, with it, an editorial appearing in this morning's New York Herald Tribune commenting upon the decision and criticizing it. Their editorial is a very just criticism.

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

[From the New York Herald Tribune, January 30, 1933]

A SERIOUS THREAT TO THE PORT

No more important decision, so far as the business welfare of New York City is concerned, has been handed down in recent years than the recommendation of Earl M. Steer, examiner for the Interstate Commerce Commission, in favor of the abolition of free lighterage in New York Harbor.

Lighterage is, in respect to shipping, much like store-door delivery in the case of the merchant. Under the tariffs existing up to now, railroads with terminals on the Jersey shore have been permitted to deliver freight coming from the West at the various shipping points in Manhattan and Brooklyn without extra charge, thus putting New York on an equal competitive basis with New Jersey. Should the recommendation of Mr. Steer be accepted by the Interstate Commerce Commission, this equality would be ended. Railroads serving New York City would be compelled to add lighterage charges, which would raise their rates 60 cents a ton on carload lots of everything except grain and 30 cents a ton on that commodity.

The implications of this decision are extremely serious. It would mean that the concept of a New York port, upon which the New York Port Authority was erected 12 years ago and for whose integrity the executives of this State and city have fought since the establishment of that body, would be overthrown for the aggrandizement of special interests; it means that the millions of dollars invested in terminal properties in Manhattan and Brooklyn on the strength of this same concept would be placed in serious jeopardy, and it means that the consumer in New York City would find himself at a price disadvantage as compared with his neighbor across the river.

It is difficult to understand how New Jersey can find, as it seems to find, cause for widespread jubilation in a decision which threatens such a dangerous disruption of the highly organized facilities of this port. For, even granting the possibility of a temporary advantage that it carries for the Jersey ports, there would seem to be a very real possibility that both New Jersey and New York might ultimately be the losers, since the granting of this differential to New Jersey suggests that it will likewise be granted to Boston and Philadelphia, which have intervened in the case.

The chief comfort to be derived from the decision by New York is that it is not final; the chief lesson that business interests here must throw off their complacency and fight back for their rights. In the first skirmish New Jersey has emerged victorious; but the issue remains to be fought out before the Interstate Commerce Commission and, if necessary, in the courts. It is difficult to believe that if New York City, through its representatives and its business men, seriously challenges this well-organized and strongly financed attempt to break down the economic organization of the port it can fail to reverse the unfortunate decision.

LIGHTERAGE CASES, NO. 22824,[1] STATE OF NEW JERSEY *v.* NEW YORK CENTRAL RAILROAD CO. ET AL.

1. Grouping of New Jersey points with New York City, N. Y., at the same rates on traffic from and to points west of the Hudson River found not unreasonable, unduly prejudicial, or otherwise unlawful, except as noted below.

2. Free lighterage and car floatage or trucking in lieu thereof at New York Harbor, on traffic from and to points west of the Hudson River, found unduly prejudicial to New Jersey points and unduly preferential of New York City and points within the lighterage limits of that harbor. Separate charges required for lighterage and its substitutes on such traffic.

3. Rates to and from points in New England and via the rail-water or rail-water-rail routes to and from points in the South and Southwest found unduly prejudicial to New Jersey points and unduly preferential of New York City. Such preference and prejudice ordered removed.

4. Free lighterage and car floatage or trucking in lieu thereof at the port of New York, on export, import, coastwise, and intercoastal traffic from and to points in New England, found unduly preferential of that port and unduly prejudicial to Boston, Mass. Separate charges required for lighterage and its substitutes on such traffic.

5. Rates on export, imports, coastwise, and intercoastal traffic from and to Boston as compared with Philadelphia, Pa., Baltimore, Md., and Hampton Roads, Va., found not unreasonable, unduly prejudicial to Boston, or preferential of the other ports named.

6. Various other issues disposed of as shown in the report. Previous decisions in other cases modified in so far as necessary to carry into effect findings herein.

[1] This report also embraces No. 23040, New Jersey Traffic Advisory Committee *v.* New York Central Railroad Co. et al., and No. 23327, City of Boston et al. *v.* New York Central Railroad Co. et al.

William A. Stevens, John J. Hickey, William S. Bronson, J. Raymond Tiffany, Milton P. Bauman, Charles J. Fagg, Samuel Silverman, Johnston B. Campbell, George H. Parker, and W. W. McCoubrey, for complainants.

John J. Hickey, William S. Bronson, J. Raymond Tiffany, John M. Zachara, G. E. Mace, Milton P. Bauman, Charles J. Fagg, Robert C. DeKroft, Josiah D. Greene, Joseph E. Warner, Frank S. Davis, and Harold Horvitz, for interveners in support of complaints.

Hamilton Ward, John J. Bennett, jr., Hiram C. Todd, Parker McCollister, Charles Dickerman Williams, Arthur J. W. Hilly, Charles Horowitz, Vincent Victory, Frank E. Carstarphen, Philip J. Sinnott, Parker McCollister, Lord, Day & Lord, Julius Henry Cohen, Wilbur La Roe, jr., Frederick E. Brown, William H. Chandler, J. P. Magill, Charles J. Austin, Harry B. Chambers, Cullen & Dykman, Theodore H. Burgess, Sigourney B. Olney, A. C. Welsh, P. W. Moore, Harper A. Holt, Charles E. Cotterill, John F. Finerty, George T. Bell, J. L. Carling, William S. Benton, Van M. Parshall, Edward L. Hefron, A. H. Ferguson, Edgar J. Rich, Francis J. Dowd, William J. Mathey, George F. Hichborn, A. T. Zwack, Hugh Miller, R. H. Goebel, and William A. Moore for interveners in opposition to complaints.

William A. Schrader, G. Coe Farrier, S. H. Williams, Henry S. Drinker, jr., Edwin A. Lucas, M. R. Beaman, S. H. Williams, Henry W. Wills, J. M. Davison, William A. Lockyn, William Preston Lane, jr., R. E. Lee Marshall, John Philip Hill, A. Walter Kraus, Charles R. Seal, G. Stewart Henderson, H. J. Wagner, William H. Day, E. T. Foxenburgh, Fred M. Renshaw, W. E. Maloney, Frederick W. Burton, Frederick M. Varah, Edwin B. Ericksen, Harry F. Masman, W. M. Carney, William E. Rosenbaum, Dabney T. Waring, Ernie Adamson, W. O. Buckley, L. J. Wadsworth, R. W. Ostrander, E. D. Sheffe, R. D. Rynder, C. C. Furgason, and J. K. Hiltner for interveners.

Clyde Brown, Thomas P. Healy, Henry Wolf Bikle, J. L. Seager, H. A. Taylor, A. H. Elder, E. H. Burgess, Charles R. Webber, C. A. Halpin, W. W. Meyer, Bronson Jewell, John F. Finerty, Harper A. Holt, Charles E. Cotterill, J. R. Bell, G. H. Muckley, William Simmons, J. T. Green, and W. I. Woodcock, jr., for defendants.

REPORT PROPOSED BY EARL M. STEER, EXAMINER

A. Introduction

These three cases are closely related because they are all based to a large extent on the terminal services performed at New York, N. Y. In accordance with the commission's practice, therefore, they were heard together upon a common record and will be disposed of in one report.[2] A table of the contents of this report may be found in Appendix A hereto.

A-1. COMPLAINTS

State of New Jersey: The complaint in No. 22824 was originally filed by the State of New Jersey on October 31, 1929, and an amended complaint was filed on April 7, 1930.[3] As amended, it attacks the freight rates of every description between (a) points in New Jersey as compared with (b) New York City and points within the free-lighterage limits of New York Harbor on the one hand, and (c) points throughout the United States, Dominion of Canada, and Mexico on the other hand. All of these rates are alleged to be unreasonable; unduly prejudicial to New Jersey, localities therein, shippers from and to the same, and their traffic; and unduly preferential of New York and points within said lighterage limits, shippers from and to such points, and their traffic. The complaint covers all-rail rates to and from New York as well as those to and from New Jersey points, but certain allegations are based on the terminal services performed at New York Harbor by car float, lighter, and motor truck. The performance of such services and others incidental thereto at defendants' cost and expense, or the giving of allowances therefor, while refraining and refusing to do so at points in New Jersey, is alleged to violate sections 2 and 3 of the interstate commerce act. The maintenance of the same rates where lighterage, car-float, and trucking services are performed as where such services are not performed is alleged to be unduly prejudicial to New Jersey points and unduly preferential of New York. The inclusion in the rates between New York Harbor and points in New Jersey of certain factors or amounts as compensation for lighterage and car-float service while no such separate factors are included in the rates between New York Harbor and points west of the Delaware River is also alleged to be unduly prejudicial to New Jersey points and unduly preferential of New York and points west of said river. The giving of the allowances referred to for lighterage, car-float, truck-

[2] The New York interveners requested that the Boston case be heard separately from the two New Jersey cases. While the New Jersey complainants did not express themselves, the Boston complainants opposed this request, and it was also opposed by the trunk-line defendants. The separation requested would have necessitated a duplication of much of the record and made it less convenient for the commission to hear and dispose of the cases. The request was therefore denied by the commission, although separate hearings were held to receive the evidence of the New Jersey and Boston complainants, respectively, as well as that of the defense.

[3] The allegations of this complaint are set out with greater detail in Appendix B hereto. The original complaint expressly disclaimed any attack upon rates in connection with car-float service, which are included in the amended complaint. The latter also broadened the issues to include the all-rail rates to and from New York in comparison with those to and from New Jersey points.

ing, and other services is further alleged to result in violation of the long-and-short-haul rule of section 4. Free lighterage at New York Harbor is specifically assailed as an unlawful practice in violation of sections 2 and 3, and the failure to publish separate charges for lighterage and trucking services is alleged to violate section 6 (1). It is also alleged that New Jersey points are being deprived of the natural advantages of their location in comparison with New York and the development of industry and commerce in New Jersey is retarded through the alleged violations of the act, and that the ports of one State are thereby preferred over those of another State in violation of Article I, Section IX, clause 6 of the United States Constitution. The commission is asked to require defendants to cease and desist from the alleged violations of the act, to establish just and reasonable rates to and from New Jersey points and New York City, and to publish separate charges for lighterage, car-float, and trucking services at New York Harbor.

New Jersey traffic advisory committee: The complaint in No. 23040 was filed by the New Jersey traffic advisory committee on January 4, 1930.[4] This complainant is a voluntary organization of municipalities, chambers of commerce, and shippers and receivers of freight in New Jersey. It assails as unreasonable the freight rates between (a) points in New Jersey for rail origin or delivery, on the one hand; and (b) points reached via the rail-ocean and rail-ocean-rail routes to, from, and through Savannah, Ga., New Orleans, La., and Galveston and Houston, Tex.; (c) points in New England, points on the Long Island Railroad, and points in that part of New York State north and east of Utica, N. Y.; and (d) all other points in official territory outside of Canada, on the other hand. It further assails the freight rates as unduly prejudicial to New Jersey points and unduly preferential of the respective compared points as follows: (a) Between points in New Jersey as compared with New York and points within the lighterage limits of New York Harbor, also Philadelphia, Pa., and Baltimore, Md., on the one hand, and other points throughout the United States, Dominion of Canada, and Mexico, on the other hand; (b) between rail points in New Jersey as compared with New York City, on the one hand, and points reached via the above-mentioned rail-ocean and rail-ocean-rail routes, on the other hand; and (c) between rail points in New Jersey as compared with Philadelphia, on the one hand, and points in New England, on the other hand. The commission is asked to require defendants to cease and desist from the alleged violations of the act and to establish just and reasonable rates between the above-mentioned points.

Boston complaint: The complaint in No. 23327 was filed by the city of Boston and the Boston Port Authority on April 5, 1930, and was amended January 12, 1931. As amended and interpreted at the hearings, it attacks all of the freight rates applicable on export, import, coastwise, and intercoastal traffic moving between (a) the port of Boston as compared with (b) New York and other North Atlantic ports, on the one hand, and (c) points throughout the United States and the Dominion of Canada, on the other hand. Such rates to and from Boston and adjacent communities are alleged to be unreasonable, both absolutely and relatively, and the port differentials or relationships are alleged to be unduly prejudicial to Boston and unduly preferential of the other North Atlantic ports. Allegations are made similar to those in No. 22824 that the performance by defendants at their expense or the giving of allowances for lighterage, car-float, trucking, and other accessorial services at New York which are not accorded at Boston is in violation of sections 2 and 3. The failure to publish separate charges for lighterage, car-float, trucking, and other accessorial services is also alleged to violate section 6 (1). It is further alleged that Boston is being deprived of its natural advantages of location with respect to foreign ports and the benefits of its port facilities through the alleged violations of the act, and that the ports of one State are thereby preferred over those of another State in violation of Article I, Section XI, clause 6, of the United States Constitution. The amendment to the complaint attacks the storage-in-transit privileges and demurrage provisions applicable at New York as more favorable to shippers than at Boston and thus unduly prejudicial and preferential. The commission is asked to require defendants to cease and desist from the alleged violations of the act; to establish reasonable rates and differentials to and from Boston and the other North Atlantic ports, using the minimum rate power if necessary; and to publish separate charges for lighterage, car-float, trucking, and other accessorial services at New York and the other North Atlantic ports.

A-2. REQUESTED RESTRICTION OF ISSUES

Previous cases: During the hearings objections were made by the defense to the receipt of evidence regarding the class rates and the rates on iron and steel articles, and such objections are renewed upon brief. The principal ground for the objections is that as these rates were prescribed in Eastern Class Rate Investigation (164 I. C. C. 314) and Iron and Steel Articles (155 I. C. C. 504), they should not be reviewed in these cases. The facts are that the carriers proposed a plan for making rates to and from the so-called New York rate group which was presented in both of the cases cited. In the Iron and Steel case, which was decided first, it was noted at page 577 that the carriers submitted little evidence in support of their plan, but on the other hand practically no evidence was offered in opposition to it. This statement is confirmed by the present record which includes all of the evidence in that case regarding the New York group. Nevertheless, the plan was approved in the Iron and Steel case without prejudice to any different conclusions which might be reached in the Eastern Class Rate case. In the latter case there was apparently more evidence regarding the New York group, but it was noted at page 435 that the evidence regarding terminal costs was "extremely fragmentary and insufficient to serve as a basis for even an approximate conclusion." In approving the carriers' plan in that case the commission referred to the present New Jersey complaints as follows, at page 432:

"Since the hearings in the instant case were concluded, the northern New Jersey interests have filed formal complaints, as yet unheard, bringing in issue their relation to New York City. It hardly need be stated that our conclusions and observations in this report are without prejudice to those which may be called forth by the evidence in these pending complaints."

Commission practice: It has never been the practice of the commission to refuse to consider complaints or to limit their scope because they include rates which have been approved in previous cases. To do so would not only be unfair to complainants such as those here who were not parties to the previous cases, but it would seem contrary to the provisions of the act authorizing the filing of complaints. It has been many times held by the commission and the courts that the doctrines of stare decisis and res adjudicata are not applicable to the commission's decisions. The wisdom of this is especially apparent in these cases where the evidence is so much more comprehensive than in the previous cases with respect to the issues here under consideration. The present record contains 7,843 pages of testimony, 533 exhibits aggregating nearly 5,000 pages, and 2,552 pages of briefs. This is directed in large part to the propriety of grouping New Jersey points with New York City, and it includes a comprehensive study of the cost of performing terminal services in New York Harbor. It is especially directed to the propriety of the free-lighterage practice, a question which was not even discussed apart from the grouping in the cases cited, and apparently no consideration was given in them to the imposition of a separate charge for that service.

Rates not in effect: A further objection was made to the consideration of rates prescribed in the Eastern Class Rate case on the ground that such rates had not yet gone into effect when the hearings were held in these cases. Nevertheless, evidence was introduced by the defense as well as complainants with respect to the new class rates. The issues in these cases, however, are not concerned with particular rates so much as with rate relationships and practices which were in large part unchanged by the Eastern Class Rate case. The hearings were postponed to allow the defense more time to prepare their evidence regarding the new class rates, but to have postponed the hearings until such rates took effect would have meant an additional delay of a year or more, and it would have served no useful purpose. The record contains all the necessary information regarding the new rates which are now in effect.

Southwestern case: Similar objections were made to the receipt of evidence regarding the rates via the rail-water and rail-water-rail routes to and from the Southwest on the ground that such rates were prescribed in the Consolidated Southwestern cases (123 I. C. C. 203), herein referred to as the Southwestern case. That was a complaint by northeast Texas points who were principally interested in their relationships with other Southwestern points, and the report does not indicate that there was any evidence regarding the question of grouping New Jersey points with New York City. As will be seen later, the grouping prescribed in that case is at variance with that under the other two cases cited. However, the Southwestern case has been reopened for further hearing as to these rates and the effective date of the order indefinitely postponed (139 I. C. C. 535) and the case is still pending on further hearing.

All of the foregoing objections are without merit and should be overruled.[5]

A-3. INTERVENERS

Supporting complaints: Petitions of intervention were filed and evidence was offered in support of the New Jersey complaints by the cities of Newark, Jersey City, and Hoboken, N. J., the New Jersey State Chamber of Commerce, the chambers of commerce of northern Hudson County and of the cities of Hoboken, Bayonne, Paterson, Passaic, Harrison, and Trenton, N. J., the New Jersey Industrial Traffic League, and various industries in New Jersey. Similar petitions were filed and evidence was offered in support of the Boston complaint by the Commonwealth of Massachusetts through its department of public works, the maritime association of the Boston Chamber of Commerce, the Foreign Commerce Club of Boston, and others. Each of the complainants also intervened in the other cases.

[4] One of the principal differences between this complaint and that of the State of New Jersey is that this one specifically attacks the rates via the rail-water and rail-water-rail routes, also those to and from New England, and certain others which are or were on a higher basis than that applicable to and from New York. This complaint also brings in issue the relationship of rates to and from New Jersey points as compared with Philadelphia and Baltimore.

[5] The hearings in these cases were marked by an unusual number of objections to evidence on technical grounds, but the briefs do not request the commission to review any of the other rulings of the examiner, with one exception, which was requested by the Boston complainants. Nevertheless, in view of the possibility of the commission's decision being contested in court, some of the examiner's rulings are reviewed in a general way and certain corrections made in Appendix C hereto.

Opposing complaints: Interveners in opposition to the three complaints include the State of New York, the city of New York, the New York State Chamber of Commerce, the New York Produce Exchange, the Merchants' Association of New York, the Maritime Association of the Port of New York, the Brooklyn Chamber of Commerce, and the Queens Borough Chamber of Commerce. Petitions were also filed by the chambers of commerce of several other cities in New York State and by various organizations and industries in New York City. The Port of New York Authority intervened and actively opposed the Boston complaint but did not participate in the New Jersey cases.

Other interveners: The Commonwealth of Pennsylvania, the city of Philadelphia, Pa., and various commercial organizations of that city intervened to protect the interests of the port of Philadelphia. The State of Maryland, the mayor and city council of Baltimore, Md., the Baltimore Association of Commerce, and the Baltimore Chamber of Commerce intervened to protect the interests of that port. The Norfolk Port Traffic Commission also intervened to protect the interests of Norfolk, Va., and numerous other petitions were filed by counsel listed in the appearances.

A-4. PRELIMINARY MATTERS

The New Jersey complainants and interveners presented their evidence jointly through the same witnesses, but separate briefs were filed by complainants in the two New Jersey cases as well as the Boston case. The defense to all three complaints was presented jointly by the defendants serving New York Harbor and the New York interveners, and references to the defense will be understood to cover both the defendants and interveners in opposition to the complaints. It will be most convenient to consider first the contentions and evidence of the New Jersey complainants, then of the Boston complainants, followed by the defense to all three cases, then the evidence of the Philadelphia and Baltimore interveners, and finally the summary and conclusions. Rates will be stated in amounts per 100 pounds unless otherwise indicated.

B. New Jersey's contentions and evidence

B-1. IN GENERAL

The State of New Jersey seeks the establishment of lower rates for the "lesser service" to and from New Jersey points than for the "greater service" to and from New York and points within the lighterage limits, where the rates are now the same from and to points west of the Hudson River. It also assails the performance of lighterage and other accessorial services free or without additional charge as unlawful, but it takes the position that if this practice can be justified it must be extended to other points in New Jersey. The New Jersey Traffic Advisory Committee vigorously supports the State's contention for rates which recognize the difference in services, but it suggests as a less desirable alternative that if New Jersey points are to be grouped with New York that the grouping should be the same in all directions together with the same accessorial services throughout the group. The State emphasizes the alleged effect of the rate adjustment in retarding the development of modern facilities for direct transfer of freight between cars and ships on the New Jersey shore, while the New Jersey Traffic Advisory Committee seems more interested in the effect of the rate adjustment on industries in New Jersey. Their evidence is directed mainly to the terminal facilities and operations at New York as compared with New Jersey points, data as to the cost of performing such terminal services, the rate structure under consideration, and the alleged unlawful effects of the rates assailed.

B-2. THE LESSER AND GREATER SERVICES

The lesser service to and from New Jersey points is described as ordinary or standard terminal service of three kinds, as follows: (1) Carload traffic is switched to and from public team tracks, industrial interchange tracks, or private side tracks for loading or unloading at the shipper's expense; (2) less-than-carload traffic is handled through the carrier's freight houses and loaded or unloaded at the carrier's expense; and (3) traffic interchanged with steamships at piers in New Jersey is switched to or from such piers and transferred across the pier between car and ship. Shippers who receive private side-track service generally have to bear the cost of constructing the track and the expense of maintaining the same.

The greater service includes what is referred to as accessorial services. This term is not defined by complainants, but is understood to mean services which are not ordinarily performed in connection with the transportation of traffic generally. These accessorial services at New York are lighterage, car floatage, and motor trucking, which will be described later. Complainants point out that switching service has to be performed on traffic which is car floated, lightered, or trucked, and they urge therefore that these services are additional to the usual rail services. As will be seen, however, complainants also contend that rail operations by the New York Central on Manhattan Island are attended by such unusual difficulty and expense as to warrant the same rates as where the terminal service is performed by lighter, car float, or motor truck.

B-3. NEW YORK HARBOR AND ADJACENT DISTRICTS

New York Harbor consists of the Lower Bay, whose shores are only partially protected from the open sea and, therefore, have practically no shipping facilities; the Narrows, which connect the Lower Bay with the Upper Bay; the Upper Bay, which lies between Manhattan Island on the north, Brooklyn on the east, Staten Island on the south, and the Bayonne Peninsula on the west; the Hudson River, East River, and Harlem River, which surround Manhattan Island; Newark Bay, which lies back of the Bayonne Peninsula and is connected with the Upper Bay through the Kill von Kull; the Arthur Kill or Staten Island Sound, which separates Staten Island from New Jersey; and the Passaic and Hackensack Rivers, which flow into the upper end of Newark Bay between Newark and Jersey City. The shore lines of the port aggregate 483 miles, of which 277 miles are in New York and 206 miles in New Jersey.

The free-lighterage limits are not coextensive with the harbor but include the eastern shore of Staten Island to a point just south of the Pouch Terminal; the northern shore of that island along the south side of the Kill von Kull and Newark Bay to a point just west of Port Ivory; the north side of the Kill von Kull as far west as Avenue C in Bayonne; both sides of the upper New York Bay to the Battery at the lower end of Manhattan Island; both sides of the Hudson River to One hundred and thirty-fifth Street in New York and the Fort Lee Ferry in Edgewater, N. J.; both sides of the East River to Hell Gate, which is the gateway to Long Island Sound; and both sides of the Harlem River to the Jerome Avenue Bridge, including the west side of Wards and Randall Islands. They also include the Gowanus and Wallabout Bays in Brooklyn and extend about 3 miles up Newtown Creek, which flows into the East River between Brooklyn and the borough of Queens. There are 60.81 miles of shore front within the lighterage limits, of which 70 per cent is on the New York or eastern side of the harbor and 30 per cent on the New Jersey or continental side.

The lighterage limits have been extended from time to time to take in new industries as they were established along the water front, the last change being in 1914.

The Port of New York Authority district as defined by statutes of New York and New Jersey is bounded by lines of latitude and longitude which do not generally coincide with political subdivisions. The northern boundary includes Piedmont on the west side of the Hudson River in Rockland County, N. Y., and White Plains on the east side of that river in Westchester County, N. Y.; the western boundary includes Westwood in Bergen County, N. J., Caldwell in Essex County, N. J., Plainfield in Somerset County, N. J., and New Brunswick in Middlesex County, N. J.; the southern boundary includes Matawan in Middlesex County and Atlantic Highlands in Monmouth County, N. J.; and the eastern boundary includes Jamaica and Port Washington in Nassau County, Long Island, also Port Chester in Westchester County, and extends along the State line between New York and Connecticut. This district takes in many points not located on New York Harbor but is considerably less extensive than the metropolitan district described below.

In the Eastern Class Rate case it was stated at page 434 that the boundaries of the port district probably were not primarily intended to define a rate group.

The New York metropolitan district, as defined by a committee organized by the Merchants Association of New York, includes the five boroughs of New York City, the counties of Rockland, Westchester and Nassau in New York; the townships of Huntington and Babylon in Suffolk County, Long Island; the towns of Greenwich, Stamford, Darien, New Canaan, and Norwalk in Fairfield County, Conn.; and the counties of Hudson, Bergen, Essex, Passaic, Union, Morris, Monmouth, Middlesex, and Somerset in New Jersey. Most of the counties named border on New York Harbor, and the district was so defined for census purposes.

New York City has a population of 5,924,500 within an area of 299 square miles, while the New Jersey section of the metropolitan district has a population of 2,672,000 in an area of 2,277 square miles. The New Jersey section is said to be the equivalent of the third largest city in the country, and it is one of the most important industrial sections of the United States.

Rate groups: None of the foregoing districts coincides with the New York rate groups hereinafter described. This point is urged by complainants, but it does not of itself necessarily prove that the rate groups are unlawful.

B-4. RAILROAD TERMINAL FACILITIES [6]

In general: New York Harbor is served principally by seven trunk lines which extend westward and two which extend into New England. The latter are the New York, New Haven & Hartford Railroad Co., hereinafter called the New Haven, which has its rail terminals at Harlem River and Oak Point in the Borough of the Bronx; and the New York Central Railroad Co., which serves New England as lessee of the Boston & Albany Railroad and also operates lines to the west. The New York Central has lines on the east side of the Hudson River with terminals on Manhattan, and also operates under lease the West Shore Railroad which has its terminal at Weehawken, N. J. The other six trunk lines have their principal freight terminals on the New Jersey side of the harbor, the Erie Railroad Co. and its subsidiaries at Jersey City, Weehawken, and Edgewater; the Delaware, Lackawanna & Western Railroad Co., hereinafter called the Lackawanna, in Jersey City and Hoboken; the Pennsylvania Railroad Co., Lehigh Valley Railroad Co., and Central Railroad Co. of New Jersey in Jersey City; and the Baltimore & Ohio Railroad Co. at St. George on

[6] The railroad terminal facilities and operations at New York Harbor were described in detail by complainants' witnesses. They included engineers and others long familiar with the terminal situation and who had made a special study of it for these cases. Their evidence was supplemented by that of operating officials of the trunk lines who were subpœnaed at complainants' request.

Staten Island.[7] In addition to the trunk lines, there is the Long Island Railroad, which serves Long Island and has its terminals at Brooklyn and Long Island City, N. Y.

Each of the trunk lines has one or more classification yards where inbound trains are broken up and outbound trains made up. Some of these yards are adjacent to the waterfront and others are several miles back from the water front. They also have lighterage piers where freight is transferred between the cars and lighters and car-float bridges for moving cars on and off the car floats. The New Haven maintains three pier stations on the east side of Manhattan, which are served by car float from its rail terminals in the Bronx. Its subsidiary steamship lines operating on Long Island Sound dock at two places on the west side of Manhattan.

New York Central: The New York Central's freight line on Manhattan crosses the Harlem River at Spuyten Duyvil and follows the eastern shore of the Hudson River to St. John's Park in the lower part of Manhattan. There is not much industrial development alone this line north of Seventy-second Street because of Riverside Park. Its principal yards are in the neighborhood of Sixtieth Street and Thirty-third Street. Freight stations are maintained in these yards, also at St. John's Park, at One hundred and thirty-fifth Street in Manhattan, and at several points in the Bronx. There are also team tracks at the same points and a few other places. There are some private sidings south of Sixtieth Street but very few. In addition, the New York Central maintains five pier stations served by car float from its Sixtieth Street and Thiry-third Street yards. Two of these pier stations are on the west side of Manhattan, two on the east side of Manhattan, and one at Wallabout Bay in Brooklyn. The New York Central's rails do not connect directly with any of the steamship piers on Manhattan, and the latter are not so constructed as to make it practical to extend the rails onto them. As a consequence steamship freight is generally lightered by the New York Central the same as the other lines.

New Jersey lines: The seven trunk lines whose rails terminate on the New Jersey side of the harbor also maintain freight facilities in New York, which are served by car float with the exception hereinafter noted. These car-float facilities are of two classes, pier stations where the freight is loaded or unloaded from the cars while standing on car floats beside the pier, and off-track stations and team-track yards where the cars are moved across float bridges between the car floats and tracks on the shore. The loading and unloading of the cars at pier stations is performed by the railroad, because it would be impractical for shippers to do so; but where the cars are switched to and from tracks on the shore carload freight is generally loaded and unloaded by the shippers the same as elsewhere. The West Shore has 6 pier stations, 3 on the west side of Manhattan, 2 on the east side of Manhattan, and 1 at the Harlem River.

In addition the Erie maintains 4 inland stations on Manhattan which are served by motor truck. The Lackawanna has 4 pier stations, 3 on the west side of Manhattan and 1 on the east side of Manhattan. It also has 3 off-track stations with team-track yards, 1 at the Harlem River and 2 in Brooklyn. The Pennsylvania has 7 pier stations, 3 on the west side of Manhattan, 1 on the east side of Manhattan, 1 at the Harlem River, and 2 in Brooklyn. It also has 2 team-track yards, 1 on the west side of Manhattan and 1 in Brooklyn. The Lehigh Valley has 7 pier stations, 3 on the west side of Manhattan, 2 on the east side of Manhattan, 1 on the Harlem River, and 1 at Wallabout Bay in Brooklyn. It also has a team-track yard on the west side of Manhattan and an off-track station and team-track yard at the Harlem River. The Central of New Jersey has 3 pier stations, all on the west side of Manhattan. It also has an off-track station and team-track yard adjacent to the Harlem River in the Bronx. The Baltimore & Ohio has 4 pier stations, 2 on the west side of Manhattan, 1 on the east side of Manhattan, and 1 at Wallabout Bay in Brooklyn. It also has an off-track station and team-track yard on the west side of Manhattan. Generally the pier stations are used for both carload and less-than-carload freight, the team-track yards for carload freight only, and the off-track stations for less-than-carload freight.

Contract terminals: In addition to the foregoing all of the trunk lines have stations for carload and less-than-carload freight at the so-called contract terminals. Some of these are common carriers but all are commonly referred to as contract terminals and will be so designated here for convenience. There are six of these terminals in Brooklyn and two in Long Island City, but one of the latter is not being operated at present. Most of them have public team tracks and private sidings for industries located at the terminals. They are served by car floats operated by the terminal companies between the float bridges of the trunk lines and float bridges at the terminals. The terminal companies also switch the cars to and from points reached by their rails and perform the station service. All of these services are performed for certain allowances under contracts with the trunk lines or for divisions of the joint rates where the terminal company is a common carrier and participates in the joint rates as in the case of the New York Dock Railway. Freight interchanged with steamships docked at the contract terminals is generally lightered by the trunk lines the same as at other steamship piers.

Summary: It will be noted that all of the trunk lines are more or less well supplied with freight stations and team tracks in various parts of New York City. The bulk of the local traffic having origin or destination in New York City is handled through these facilities. Those of the New Jersey lines are served by car float operated from the rail terminals, except the Erie's inland stations, which are served by motor truck from its New Jersey terminals. The car floats are equipped with rails holding 10 to 14 cars, which are moved across float bridges from and to tracks on the shore by switch engines. The car-float service is equivalent to an extension of the carrier's rails to the stations on the other side of the harbor.[8] See United States *v.* Baltimore & O. R. Co. (231 U. S. 274), from which the following is quoted at page 288:

"The mere fact that the physical rails stop at Jersey City does not mean that the railroad transportation there ends. It continues over to Brooklyn by means of car floats, upon which further rails are laid and on which empty and loaded freight cars stand and are transported, so that the rails upon the car floats are brought into contact with the rail ends at Jersey City and the continuation thereof at Brooklyn, and in this way the transportation by railroad is carried on without interruption from the western points directly to Brooklyn."

B–5. LIGHTERAGE SERVICE DESCRIBED[9]

Lighterage is performed by all of the trunk lines serving New York Harbor. The service was first established by the lines whose rails terminate on the New Jersey side of the harbor before the inauguration of car-float service and when they had no other way of reaching New York. The New York Central, however, soon found that lighterage gave the other lines such an advantage in reaching points about the harbor where its rails did not extend that it also adopted the practice to meet their competition. Lighterage is a service performed beyond railroad terminals, that is, to and from points not reached by the carriers' rails and which are not regular stations. In this respect it differs from the car-float service which is maintained to and from regular stations or team tracks, except the relatively small amount of car floatage in lieu of lighterage which is merely a substitute for lighterage. It also differs from the car-float service in that lighterage involves a breaking of bulk in transit, as the freight has to be transferred by the railroad between cars and lighters and again handled by it between the lighters and piers or ship's sling.[10]

Classes of service: The lighterage operations fall into two general classes: (1) Lighterage of through rail-water traffic to and from steamships or steamship piers, and (2) lighterage of local-harbor traffic to and from public or private docks. The operations are generally similar on the two classes of traffic, except differences resulting from the steamship-permit system, hereinafter explained in section B–13. About 72 per cent of the total lighterage tonnage is export and import traffic, about 8 per cent coastwise traffic, and about 20 per cent local-harbor traffic. During the year 1923 the New York Central, including the West Shore, had the largest total tonnage lightered, followed closely by the Pennsylvania, which had the largest tonnage of local harbor traffic, and the other lines followed somewhat in proportion to their total traffic to and from New York.

Important steps: The more important steps attending the lighterage of eastbound freight are as follows: (1) Classification yard service; (2) switching of the cars from the classification yards to the lighterage piers; (3) unloading the freight from the cars and transferring it to lighters; (4) towing the lighters to steamships, steamship piers, or public or private docks; and (5) removing the freight from the lighters to steamship piers, placing it within reach of the steamship's sling, or putting it on the public or private docks. The steamship company exercises the option of

[7] The New York, Ontario & Western Railway also seems to serve the harbor district through the facilities of the West Shore. The Reading Co. has a line to Port Reading, N. J., on the Arthur Kill in the lower part of the harbor district, but apparently it does not directly serve New York or points within the lighterage limits.

[8] There are expressions in some of the commission's reports to the effect that lighterage and trucking are also equivalent to an extension of the carriers' rails. However, it is apparent from the description of lighterage which follows that the rails are not projected across the harbor as in the case of the car-float service. Lighterage is more analogous to store-door delivery as hereinafter shown in section B–12.

[9] The lighterage service was described principally by an engineer who had been for several years on the staff of the Port of New York Authority and its predecessor, the New York-New Jersey Port & Harbor Development Commission, and by a witness who had been superintendent of the Erie's lighterage department for 15 years and chairman of the lighterage committee of the trunk lines serving New York Harbor for eight years.

[10] While complainants seek rates for New Jersey lower than New York on all traffic to and from points west of the Hudson River, some of New Jersey's leading witnesses indicated that their principal interest is in securing a plus charge for lighterage. These witnesses expressed the view that the rail rates should stop with the car, and an additional charge should be made where the carrier performs an additional service in delivering or receiving the freight. It is also pointed out that the economies which could be effected by direct interchange between car and ship apply to freight which is now lightered to and from steamships or their piers and not to the car-float service to and from regular stations or team tracks.

receiving the freight on its pier or taking it from the lighter on the offside of the vessel. The operations are reversed on westbound freight, except it must generally be unloaded from the ship to the pier on account of customs regulations.

Time required: Based on what the witness described as normal handling, the average time consumed in the various operations connected with lighterage is given as 4 hours in the classification yard, 1 hour in transit from the classification yard to the water front, 20 hours for unloading cars at the water front, 72 hours awaiting delivery orders from consignees, 24 hours for loading and towing freight in lighters, and 48 hours for unloading freight from lighters, making a total of 169 hours. The corresponding elapsed time in the case of carload freight handled by car float to and from pier stations or team tracks is given as 4 hours in the classification yard, 1 hour in transit to the water front, 2 hours loading and towing car floats to station, and 48 hours awaiting consignee's acceptance, making a total of 55 hours. The time given for lighterage freight may be too high, but clearly it must be much in excess of that on car-float freight to or from pier stations or team tracks.

Transfer service: Lighters are of various types to suit particular kinds of freight. Most of them are open or covered nonpropelled boats which are towed by tugs, but there are some self-propelled steam or Diesel lighters. The largest portion of the tonnage consists of merchandise or freight in boxes, barrels, crates, or other packages and some piece freight which is generally transported in box cars. Such freight is generally handled in covered lighters and transferred between cars and lighters at covered piers by means of man power supplemented by hand trucks or power trucks. It is also transferred in much the same way between the lighters and steamship piers or the public or private docks, but the railroad is not required to truck the freight more than 100 feet on the pier. Open lighters are used for iron and steel articles and other heavy freight which is generally transported in open cars. Such freight is transferred between cars and lighters at open piers by means of electric or steam cranes. It is transferred between the lighters and public or private docks with the aid of a derrick on the lighter and it is transferred between the lighters and ships by the ship's tackle, the railroad's duty ending when the freight is placed in or on the tackle. The transfer between cars and lighters can generally be accomplished in one handling of the freight, but two handlings may be required if temporary storage on the lighterage pier is necessary because of the consignee's inability to receive the freight or lack of readily available cars for loading. Some of the railroads use their own employees to effect the transfer on the New Jersey side, while others do it through contractors; but all of them employ contracting stevedores to perform the service on the New York side. Shippers or consignees can elect to do the loading or unloading of the lighters away from the railroad terminals, in which event they are accorded an allowance by the truck lines of 15 cents per ton, but this is not sufficient to cover the cost of the service and therefore is not attractive to shippers.

Distances: The rail distances from the classification yards to the lighterage piers on the New Jersey side vary on the different lines from 0.5 mile to 6.5 miles. The water distances from the lighterage piers to points within the lighterage limits range all the way up to approximately 17.5 miles. The aggregate rail and water distances between the classification yards and points within the lighterage limits range from 7.36 to 21.36 miles for the Baltimore & Ohio, 2.8 to 14.01 miles for the Central of New Jersey, 5.02 to 18.62 miles for the Lackawanna, 4.6 to 21.73 miles for the Erie, 7.75 to 20.2 miles for the Lehigh Valley, 1.28 to 16.47 miles for the Pennsylvania, and 1.43 to 18.09 miles for the West Shore. These distances are contrasted by complainants with the distances between the classification yards and freight houses, public delivery tracks, or private sidings of various industries on the New Jersey side. The latter distances range from 0.18 to 7.14 miles, or about the same as those between the classification yards and lighterage piers. The distances covered by the lighterage service, however, fall far short of reflecting the cost of the service compared with average rail transportation as hereinafter shown.

There has been no material change in the methods of conducting the lighterage operations during the past 25 years. Some of the equipment has been displaced by equipment of larger capacity, and modern locomotive cranes have been installed to handle heavy material.

B–6. SUBSTITUTES FOR LIGHTERAGE

Trucking and car floatage are performed in lieu of lighterage under certain conditions hereinafter noted.

Trucking: When carload freight is trucked in lieu of lighterage to or from steamship piers the car is generally switched to or from a yard containing public team tracks where New Jersey shippers load or unload and truck their own carload shipments. Freight trucked in lieu of lighterage is transferred by the railroad between the car and trucks, which haul it to the steamship pier, where it is again unloaded to the pier by the railroad. Trucking in lieu of lighterage differs from trucking to or from the Erie's inland stations in that the former is diffused throughout all of the steamship piers within the lighterage limits. This is a distinction of some importance, because the Erie's inland stations are on the west side of Manhattan, not far from the Holland tunnel, while trucking in lieu of lighterage includes trucking under the Hudson River, through the busy streets across lower Manhattan, over the East River, and as far as South Brooklyn. Trucking in lieu of lighterage is more akin to store-door delivery, which will be discussed later in section B–12.

Car floatage: Such car floatage as is performed in lieu of lighterage is principally of fresh meats and other perishables which it is desired to move to or from ship side in refrigerator cars. This necessitates carrying an empty flat car on the float beside the loaded car, and the freight has to be removed by the railroad from the loaded car to a platform between the two cars and thence to the flat car so that the ship's sling can reach it. The floating of two cars for one load distinguishes this service from car floatage to or from pier stations, team tracks, or the contract terminals. It is also distinguishable in that car floatage in lieu of lighterage is apparently subject to the steamship permit system described in section B–13, and its average cost is greater than for car floatage to and from pier stations or team tracks as developed in section B–15. Apparently the difficulties encountered in this method of transferring freight to or from steamships prevents its general use in place of lighterage.

In 1930 trucking in lieu of lighterage amounted to less than 6 per cent and car floatage in lieu of lighterage to less than 4 per cent of the total lighterage tonnage.

B–7. TERMINAL RULES AND REGULATIONS

Each of the trunk lines serving New York Harbor publishes tariff rules and regulations governing the performance of lighterage and other accessorial services. The term "lighterage free"[11] is defined in the tariffs as follows:

"The term 'lighterage free' should be understood to mean that carload shipments of articles entitled to free lighterage will be lightered or trucked free to or from any steamship pier or public landing within the free lighterage limits of New York Harbor. Lighterage or truckage of freight to or from private piers or landings can only be done when shippers or consignees arrange with the owners or occupants of such piers or landings for the use thereof."

Less than carloads: Generally speaking, free lighterage is performed only on carload traffic, and a separate charge is made when less-than-carload shipments are lightered. This charge is 3.5 cents per 100 pounds, minimum $7.56 for each export or import shipment and $11.50 for each domestic shipment. There are some exceptions, however, where less-than-carload shipments are lightered free. For example, less-than-carload shipments are lightered free when included in the same car with an eastbound carload of lighterage-free freight. There is also a provision for split deliveries of export carload freight to two lighterage points without charge. Additional deliveries of export freight and two or more deliveries of domestic carload freight may be made at a charge of 3.5 cents per 100 pounds, minimum $7.56 per delivery.

Carload traffic: There is a long list of articles not to be contracted for lighterage free even in carloads. This list includes articles of an inflammable or hazardous nature such as petroleum products and heavy or bulk articles such as coal and coke in bulk. Articles weighing in excess of 3 tons are assessed charges of 50 cents to $1.76 per ton in addition to the New York rates. Rates are also provided for lighterage of shipments afforded both rail and lighterage or car-float service when the two services are not covered by the published tariff rates. These rates range from 6 to 15 cents per 100 pounds, but the 6-cent rate is the one of general application.

Substitutes for lighterage: Provision is made for car-float service in lieu of lighterage without charge provided there are not less than six carloads to or from one point. Less than six carloads may be car floated in lieu of lighterage at a charge of $11.50 for each car less than six carloads. As previously indicated, this service is used to and from steamships on a small proportion of the traffic, principally commodities which move in refrigerator cars. Industries which have float-bridge connections with private sidetracks may also use this privilege, but there are only two or three private float bridges in the harbor. Trucking in lieu of lighterage was formerly authorized at the carrier's option, but this is now confined to trucking to and from connecting carriers and steamship piers within the lighterage limits.

The terminal rules and regulations cover many other matters relating to the terminal services at New York Harbor. They recognize a distinction between deliveries at regular stations which are served by car float and deliveries by lighter beyond the confines of carrier premises. New Jersey urges that these comprehensive tariffs, covering in some instances approximately 100 pages, show that lighterage is an accessorial service governed by special rules which can not be applied to ordinary or standard railroad terminal service. That is undoubtedly true but it is only one of many things which must be taken into consideration.

B–8. EXTRA TOWING CHARGES

The tariffs of the trunk lines serving New York Harbor provide separately established charges in addition to the rail rates for the performance of lighterage outside of the free lighterage limits. These charges, called extra-towing charges, are as follows on the New Jersey side of the harbor, the amounts stated being per lighter:

[11] The defense urges that lighterage is not free but is covered by the line-haul rates. Strictly speaking, that is true, but it is commonly referred to as "free lighterage" in accordance with the tariff definition, and for convenience that term will be used in this report.

Kill van Kull, Newark Bay, Passaic, and Hackensack Rivers

To or from—

Points on New Jersey shore between Avenue C, Bayonne, to and including Neck at Bergen Point (except Safety Insulated Wire & Cable Co. dock)	$26.00
Points on east shore of Newark Bay beyond Neck at Bergen Point to and including Central Railroad of New Jersey main line (Newark Bay) bridge	40.00
Points beyond Central Railroad of New Jersey main line (Newark Bay) bridge to Newark and Kearny, N. J., inclusive, and points on the Hackensack River, to and including Newark-Jersey City turnpike bridge	60.00

Staten Island Sound

To or from—

Points beyond Port Ivory to and including Elizabethport, N. J., and Bayway, N. J., including Bayway Terminal, N. J.	27.00
Points beyond Bayway, N. J., to and including Grasselli, N. J., and the northern end of Prails Island	35.00
Points beyond Grasselli, N. J., and northerly end of Prails Island to and including Tremley, N. J., and Chelsea, Staten Island	40.00
Points beyond Tremley, N. J., and Chelsea, Staten Island, to and including Carteret, N. J., and Linoleumville, Staten Island	45.00
Points beyond Carteret, N. J., and Linoleumville, Staten Island, to and including Chrome, N. J., and mouth of Fresh Kills Creek, Staten Island	50.00
Points beyond Chrome, N. J., and mouth of Fresh Kills Creek, Staten Island, to and including Perth Amboy, N. J., on Staten Island Sound, and Tottenville, Staten Island, on Staten Island Sound	60.00

Based on an average lighter load of 60 tons, the above charges per lighter amount to from 43 cents to $1 per ton. They also apply to car floatage when performed in lieu of lighterage to or from points other than regular stations or team tracks.

B-9. LARGE PART OF PORT OUTSIDE LIGHTERAGE LIMITS

A large part of the New Jersey section of the port is outside the free lighterage limits. The navigable waters, where free lighterage is not performed, include a small portion of the Kill van Kull, almost all of Newark Bay, all of the Arthur Kill or Staten Island Sound, and the Raritan, Passaic, and Hackensack Rivers. There is a 30-foot channel through the Kill van Kull, also up Newark Bay to the Passaic and Hackensack Rivers, and throughout the length of the Arthur Kill.

Newark Bay is a well-protected body of water approximately 1 mile wide and 5 miles long. At present it is generally of rather shallow depth except where the Government has dredged for the ship channel, which is 400 feet wide. Its eastern shore includes the entire length of Bayonne and part of Jersey City, which has spent about $500,000 in developing a marine base here. Most of the Bayonne water front is occupied by a park system, but there are a number of industries near its southern end. Port Newark on the west side of Newark Bay is described elsewhere.

The Arthur Kill is a tidal strait similar to the East River and the Harlem River. It is wider than the Harlem River and Newtown Creek where free lighterage is performed. There are some bridges across it but not so many as across the Harlem River, and special equipment has to be used on Newtown Creek because of its low bridges, narrowness, tortuous turns, and shallow depth. The New Jersey side of the Arthur Kill is developed industrially for the greater part of its length from Elizabeth to Perth Amboy. The Bayway Terminal near its northern end in the city of Elizabeth covers 20 to 30 acres and has six warehouses, approximating 1,000,000 square feet of storage space, with direct rail and water connections.

The Raritan River extends inland from Perth Amboy at the south end of the Arthur Kill. It has a 20-foot channel to a point west of Perth Amboy and an 8-foot channel beyond to a point near New Brunswick. An appropriation has been made for further dredging of this river. About 3.7 miles of the water front at Perth Amboy is available for industrial use, but only 2.3 miles of it has been developed industrially. There is a 30-foot channel available for steamships direct from the lower New York Bay through Raritan Bay to the water front at Perth Amboy.

The Passaic and Hackensack Rivers pass through the industrial region between Jersey City and Newark, the Hackensack along the west side of Jersey City, and the Passaic along the east side of Newark. At the time of hearings the Passaic River was navigable for lighters as far as Newark, but the Federal Government had authorized and started deepening the channel so as to make it navigable for lighters as far as Passaic. That is the center of an important industrial district, and the Passaic River also passes through an industrial area between Newark and Passaic. The Hackensack River is apparently navigable for lighters past Jersey City and through the Jersey meadows to a point near Hackensack. However, the extra towing charges hereinbefore quoted only apply as far up the Hackensack and Passaic Rivers as certain points in Jersey City and Newark.

In general: The record contains the names of numerous industries located on all the above-mentioned bodies of water outside the lighterage limits, many of which have dock facilities. They are within the New York rate group but must pay extra for lighterage if that service is used. This naturally tends to discourage use of the lighterage service, but there is a substantial movement at the plus charges. In 1923 the trunk lines lightered to points on Newark Bay and connecting waters outside the lighterage limits 34,176 tons of freight, equivalent to over 1,700 carloads of 20 tons each. Of course, this is small in comparison with the total lighterage tonnage, but the movement would no doubt be much larger if it were on the same basis as within the lighterage limits. Moreover, the movement even at the plus charges to and from some sections appears to exceed that to and from many sections within the lighterage limits.

There is also abundant water-front land available for further industrial development, especially on Newark Bay and along the Passaic and Hackensack Rivers. While much of this appears to be marshland its reclamation is feasible, and more of it would probably be used industrially if lighterage were performed there on the same basis as within the lighterage limits. Much of the above-described water front is served by one or more rail lines, but a considerable portion of it is reached only by lighters, and none of it is served by all the trunk lines except through lighterage. When switching is performed to or from lines which do not reach an industry, additional charges generally apply, in many instances class rates.

The record does not contain a comparison of the distances from the lighterage piers of the trunk lines to points within and without the lighterage limits, but it does contain sufficient data to show that in many instances the distances to points without the lighterage limits are less than to points within those limits. However, it is clear from the record that a difference of a few miles has but little if any effect upon the lighterage costs. An exhibit introduced by the defense shows that the cost of lighterage by the trunk lines to and from points on the Passaic River is no greater than to and from many points within the lighterage limits. Moreover, several private lighterage companies do business at Port Newark, and it would be possible for the railroads reaching there to use it as a base for lighterage operations in that section of the port.

B-10. PORT NEWARK

Development: Port Newark is within the city limits of Newark on the west side of Newark Bay, approximately 4 miles from its junction with the Kill van Kull. It has been developed on part of a tract of appoximately 2,000 acres acquired by the city for a terminal where direct interchange could be made between railroad cars and ocean-going steamships. The city commenced the development of the port in 1914 and since then has spent over $15,000,000 in dredging channels, building docks, constructing railroad tracks and streets, and providing the facilities needed in such a terminal. In 1917 the United States Government purchased 133 acres of reclaimed land at Port Newark and constructed an Army supply base at a cost of $12,000,000. About the same time the United States Shipping Board leased 118 acres adjoining the Army supply base and spent $30,000,000 in constructing a shipyard. Since the war the city has leased approximately 100 acres of land to private interests, who have spent over $5,000,000 in the construction of buildings, shipping facilities, and warehouses. In addition, the Government has spent approximately $5,000,000 in deepening the channels in Newark Bay, and the Central of New Jersey has replaced its low-level bridge across the bay with a high-level bridge costing $12,000,000. All of these improvements connected directly or indirectly with the development of Port Newark have cost a total of about $79,000,000, or $65,000,000 if the Central of New Jersey's bridge is excluded. The city plans further development of the port as soon as the use of its facilities warrant, and such plans contemplate a total expenditure of $50,000,000 more.

Facilities: Port Newark is served by the Pennsylvania, Central of New Jersey, and the Lehigh Valley. The tracks of the first two connect directly with the tracks within the port area, but those of the Lehigh Valley do not, and its traffic is switched a short distance by the Pennsylvania. The city of Newark owns and controls about 5 miles of track at Port Newark, the United States Government owns 14 miles of track in the Army base, and the Atlantic Port Railway controls 26.5 miles of trackage, making a total of about 45 miles of track within the port area. There are about 12,000 feet of marginal dock, of which the city owns 7,685 feet and the United States Government owns about 4,000 feet. The municipally operated docks are especially suitable for lumber operations and for the loading and discharging of bulk cargo not requiring covered storage facilities. Switching to and from the municipal docks is performed by the trunk lines over the city-owned tracks without any compensation to the city. The transfer of freight between the cars and steamships is performed by stevedores under contract by the steamship companies or the city's tenants. It costs an average of 50 cents per ton to discharge the freight from the cars to the dock.

Army supply base: This part of the port is now leased to a private corporation which operates it as the Newark Seaboard Terminal. It has nine 1-story fireproof warehouses with approximately 1,800,000 square feet of covered storage. These warehouses will accommodate the contents of 7,500 average box cars at one time. At present it is used principally for the storage of raw sugar imported from Cuba and later delivered to the refineries in New York Harbor. It has a marginal dock 3,000 feet long and 14 miles of railroad track. Traffic is switched by the Pennsylvania and Central of New Jersey to and from an interchange track adjacent to the terminal, and a locomotive operated by the terminal com-

pany spots the cars at ship side. No allowance is made by the trunk lines for this service, and they bear no part of the expense of transferring the freight between car and ship.

Atlantic Port Railway: This is a subsidiary of the Submarine Boat Corporation. The latter is a tenant of the city and operated a fleet of thirty-two 5,000-ton steamships known as the Submarine Lines. In 1923 when they began operations there were 92 steamship terminations at these docks carrying 300,000 tons of cargo valued at $16,000,000. Since that time there have been over 1,600 steamship terminations, or about 3,200 arrivals and departures. The company was in receivership at the time of the hearing, and none of the 32 ships referred to was in operation. The Atlantic Port Railway controls about 26.5 miles of track, and traffic is switched by it between the interchange tracks of the trunk lines and ship side or the warehouse. It receives from the trunk lines a maximum allowance of 60 cents per ton for this service, and out of the allowance it absorbs the cost of loading or unloading the cars.

Use of port: The 30-foot channel to Port Newark will not accommodate the largest steamships, but it is sufficient for the majority of vessels in the foreign and coastwise movements. From 1919 to 1929, inclusive, 92,312 railroad cars loaded with 2,442,048 tons of freight were handled at Port Newark. Approximately 40,000 of these cars carrying about 1,077,340 tons moved via the Atlantic Port Railway and the balance over either the city-owned tracks or those at the Army base. The tonnage transported by vessel to or from Port Newark was 2,000,000 in 1919, after which it declined to 100,000 in 1922, and has since increased to a maximum of 1,997,032 in 1928. Most of the tonnage consists of lumber, about 300 out of 335 steamers docked in 1929 being lumber carriers. Lumber being a cheaper commodity holds down the rentals which the city can secure below a fair return on the investment. Port Newark is one of the largest lumber terminals on the Atlantic coast, but those interested are not satisfied to have it a mere lumber terminal. So far it has been able to attract very little other tonnage. Its facilities are used only to about 25 per cent of their present capacity.

Principal complaint: Complainants' principal complaint with respect to Port Newark is that the maintenance of the same rates as to and from New York coupled with free lighterage (1) deprives that port of any inducement for shippers to use its facilities for direct transfer, (2) prevents the city of Newark and others who have or may invest in such facilities of sharing in the savings resulting from their use, and (3) thereby impairs the investments made in such facilities. In this connection they compare the average stevedoring cost of 50 cents per ton for transferring freight between car and ship side at Port Newark with the average cost of $2.75 per ton for transferring freight between the rail ends and ship side in New York Harbor as found in Wharfage Charges at Atlantic and Gulf Ports (157 I. C. C. 663), hereinafter referred to as the Wharfage Charges case.

Other complaints: Complainants also point out that the carriers have refused to perform free lighterage at Port Newark, and it was testified without contradiction that the absence of free lighterage together with the rate adjustment prevented the location of many industries there. Trucking in lieu of lighterage will not be performed to or from Port Newark by the lines whose rails do not reach there, although they will truck under or over the Hudson River and the East River to steamship piers in Brooklyn. Efforts to have the coastwise steamship lines make Port Newark a port of call failed because of the absence of the same privileges as are accorded at New York.

Loading charges: In City of Newark *v.* Pennsylvania R. R. Co. (182 I. C. C. 51), it was found that the Pennsylvania's failure to absorb the loading charges on lumber from Port Newark while contemporaneously absorbing the cost of similar services at various other ports resulted in undue prejudice and preference. This was ordered removed effective May 31, 1932. This case supports a finding of undue prejudice and preference by reason of the denial of the same lighterage and trucking privileges at Port Newark as are accorded in other parts of New York Harbor.

B–11. ADVANTAGES OF FREE LIGHTERAGE

Shippers accorded free lighterage receive the services of all the trunk lines at the New York rates. This is a distinct advantage over shippers located on a single line who must often pay higher rates for joint-line hauls. Shippers who use the contract terminals have a similar advantage, but all of the other pier stations, off-track stations, and team tracks in New York are generally local to the individual lines. A further advantage is that the cost of loading or unloading the car, which is ordinarily borne by the shipper, is borne by the railroad when lighterage is performed. Shippers using the contract terminals, as well as all other shippers who receive team track or private siding delivery, generally load and unload their own carload freight. In Loading and Unloading Carload Freight (101 I. C. C. 394) separate charges of 30 to 50 cents per ton were prescribed for loading or unloading carload package freight at various points. The shipper who loads his own freight receives a "shipper's load and count" bill of lading, while a lighterage shipper receives an unconditional bill of lading. The latter is a material advantage in settling claims for shortage. In addition to these advantages, lighterage affords a free pick-up and delivery service analogous to a store-door delivery, as explained in the next section. The advantages of free lighterage to the steamship companies will be discussed in sections B–13 and D–19.

Witnesses for the defense, as well as complainants, testified to the superiority of the lighterage service.

Effect of denial: That part of the port outside of the free-lighterage limits in New Jersey is in keen competition with New York and points within the lighterage limits. This competiton is not only between industries already located but also for the location of new industries. There is similar competition for the berthing of steamships and for shipping facilities. In all of this competition the absence of the same lighterage privileges, as are accorded within the lighterage limits, is a decided handicap. The president of the Bush Terminal Co., who testified for the defense, acknowledged that Port Newark is handicapped in competing with the contract terminals, because it does not have the services of all the trunk lines at the New York rates. A vice president of the Munson Steamship Co., called by the defense, admitted that any section of the port that does not have free lighterage is bound to decline in competition with those sections of the port that do have free lighterage service. As will be seen later in section D–23, the Port of New York Authority, which tried to maintain a neutral attitude as between New Jersey and New York, states on brief that there is "obvious discrimination" against points outside the lighterage limits in New Jersey.

B–12. LIGHTERAGE ANALOGOUS TO STORE-DOOR DELIVERY

Free lighterage is analogous to store-door delivery in that a pick-up and delivery service is accorded at points not reached by the carrier's rails and which are not regular stations. In the case of store-door delivery the service is performed by trucks operating on the public highways, while in the case of lighterage the lighters are towed on public waterways. In both cases the carrier unloads inbound shipments from the car and loads the outbound shipments at its own expense, contrary to the general practice with respect to carload freight. Of course, shippers not located on the waterfront have to truck their freight to or from the waterfront, but there are many industries on the waterfront, especially along the East River and Kill van Kull, and apparently they are the principal users of the service to or from public and private docks. Such industries within the lighterage limits enjoy the practical equivalent of a store-door delivery and pick-up service, without charge in addition to the line-haul rates. They have this advantage not only over industries located on navigable waters outside the lighterage limits but also over industries in New Jersey which are not located directly on a carrier's rails and must therefore truck their freight to or from the railroad.

Store-door delivery: The record shows that New York has long been seeking a store-door delivery service by motor truck.[12] The commission was asked to require such a service in Constructive and Off-Track Freight Stations (156 I. C. C. 205) but held that it could not be required under existing law. The Merchants' Association of New York, which sought the service, did not ask that it be performed without charge in addition to the line-haul rates but suggested a division of the cartage expense between the carrier and shipper. In discussing the question of how the expense of the service should be borne, the commission said at page 215:

"A proper cartage charge or a proper share of cartage expense in any scheme of store-door delivery is properly to be borne by the consignee."

Modified store-door delivery: In the same case the commission also considered certain modified forms of store-door delivery known as the constructive-station and the constructive-lighterage practices. Under the constructive-station practice freight was trucked between the rail terminals and shippers' places of business on Manhattan Island through constructive stations on the Manhattan shore. The carriers paid the trucking company for the haul between their terminals and the constructive station, while the shippers paid for the trucking between that point and their places of business. With respect to this practice the commission said at page 225:

"At present the service is provided only on Manhattan Island. If Manhattan Island could be isolated from a rate and service standpoint the solution would be easy. But it is not so isolated. Its shippers are in active competition with those in the other boroughs of New York and with those in the metropolitan districts of northern New Jersey. The same freight rates apply to all, and when the constructive stations were established no change was made in that basis. It follows, therefore, that any saving or advantage which Manhattan shippers receive in the way of cartage expense operates to the relative disadvantage of their competitors who pay like rates and normal cartage. Already the Boroughs of Brooklyn and Queens and the northern New Jersey cities are on record demanding the service for themselves if it is to be continued on Manhattan."

The constructive lighterage service was inaugurated by the New York Central to meet the constructive station service of the other lines and was later adopted by the Baltimore & Ohio and the Central of New Jersey. It was similar in principle but differed in that every lighterage point within the lighterage limits became in effect a constructive station, and there was no minimum charge to be paid by the shipper for the trucking beyond the constructive stations. Apparently the practice was called constructive lighter-

[12] Since the hearings in these cases the carriers have filed schedules to establish a store-door delivery service by motor truck. These schedules provide additional charges for the store-door service, and the territory covered includes all points within a certain distance on both sides of New York Harbor.

age because it was in the nature of a substitute for lighterage, the carrier paying for the trucking to or from the point at which delivery would be made by lighter. It was also referred to as trucking in lieu of lighterage. The conclusion reached by the commission regarding both of these practices was stated as follows at page 229:

"The constructive stations, as now operated in New York, and the constructive lighterage practice operated in competition therewith must be condemned. They have resulted in according to shippers and receivers of freight on Manhattan a service which is denied to competing shippers and receivers in the same rate groups, which practice could not be defended on complaint under section 3 of the act."

The above-mentioned services were also found to be "not compatible with the provisions of section 15a of the act." Following that decision the carriers discontinued the constructive station practice and also constructive lighterage or trucking in lieu of lighterage except to and from steamship piers. There does not appear to be any material difference between trucking in lieu of lighterage to or from steamship piers and to or from other points.

Other store-door cases: The above-cited decision was in accord with the old Washington (D. C.) store-door delivery cases. Cassasa *v.* P. R. R. (24 I. C. C. 629); Anacostia Citizens Asso. *v.* B. & O. R. R. Co. (25 I. C. C. 411); Washington (D. C.) Store-Door Delivery (27 I. C. C. 347; Merchants & Manufacturers Asso. *v.* B. & O. R. R. Co. (30 I. C. C. 388) It was also in accord with the more recent Southwest Missouri Railroad Co. drayage absorption cases. Drayage Absorptions by S. W. M. R. R. Co. (113 I. C. C. 179); Absorption of Drayage Charges (128 I. C. C. 405, 140 I. C. C. 627). These latter decisions were successfully upheld in the courts. Wallover *v.* United States, 32 Fed. (2d) 524.

B-13. STEAMSHIP PERMIT SYSTEM

The steamship companies control the lightering of freight to their piers or ships through a permit system. This enables them to properly load the steamships without delay and facilitates unloading at the various ports. Heavyweight, or bottom cargo, is loaded first, and freight for different ports is loaded in separate hatches or otherwise separated. The permits are issued by the steamship companies and designate the time when particular shipments will be received. They are issued to the shippers or their agents, who deliver them with the lighterage orders to the railroads. Generally the railroads are allowed not more than 24 hours and in many instances less time after the orders are received to get the freight to ship side. This necessitates prompt switching and unloading of the freight at the lighterage piers. Freight which is not already at the lighterage piers is generally switched at night for orders received up to 5 p. m. of that day. It is frequently necessary to make special switching movements to get the cars to the lighterage piers quickly, and single lighters are often towed specially to get the freight to ship side within the permit time. The railroads do not contract to deliver the freight within the time specified, but they make every effort to do so in order to attract and retain business. If the freight is tendered after permit time or after the loading of the steamer is completed, the steamship company imposes what is called a "shut-out."

Delays and congestion: Shut-outs are also imposed occasionally when freight is tendered within permit time because of overbooking of cargo space on the ship or when a delay in its schedule necessitates a quick "turn around." Lighters are frequently held for two to four days under load at steamship piers awaiting acceptance of the freight due to late arrival of the steamer, delay in discharging the inward cargo, or other reasons. Each lighter is manned by a captain who generally stays on it and guards the freight until delivered. Some of the lighters are loaded with only single carloads, whereas their capacity is usually from four to eight carloads, and each of the railroads may have 2 or more lighters awaiting discharge at the same steamship pier, or a total of perhaps 15 lighters for freight which could easily be held on 5 lighters. Congestion in the ships adjoining the steamship piers sometimes requires trucking of the freight over two lighters to get to the pier. In some instances also tugs sent for certain lighters are unable to get to them and have to return later. These conditions are not all necessarily due to the permit system, but there is more delay to lighters at steamships or their piers than at the public or private docks.

Lighter loads: The capacity of lighters generally ranges from 200 to 750 tons, but their average loading of merchandise freight is only about 60 tons per loaded trip. The size of the loads is affected by the fact that eastbound freight for steamships is usually ordered for delivery within 24 hours, which makes it impossible to hold the lighters for further delivery orders for the same pier or ship without danger of having the original order shut out. Approximately 70 per cent of the total lighterage traffic is eastbound and 30 per cent westbound. This unequal balance causes many lighters to return to the terminal without loads, which tends to cause a low average tonnage per round trip. The low average loading of railroad lighters is also due in part to the fact that many of the larger lighter loads are handled by outside lighterage companies under allowances from the trunk lines. While free lighterage is generally confined to carload traffic, split deliveries have increased so much in the last 10 years that approximately 40 per cent of the carloads of export freight are now delivered to two or more steamships or piers. The railroads endeavor to handle small deliveries by truck in lieu of lighterage in order to reduce the costs.

Benefit to ships: As will be seen later, the defense stresses the necessity of lighterage in reducing the time of steamships in port. Undoubtedly the loading of the ships on both sides is of considerable advantage to the steamship companies. Complainants urge that lighterage is for the benefit of the steamship companies and that they should pay for it. Certainly it is as much for the benefit of the steamship companies as the railroads. Where they interchange freight directly across the dock each generally bears a portion of the handling expense. However, it is not for the commission to say whether a charge for lighterage shall be borne by the steamship company or the shippers. Except for the railroads holding themselves out to perform the service, it would devolve upon the shippers to transfer their freight between the railroad and steamship terminals where a direct rail connection is not feasible.

B-14. LIGHTERAGE AT OTHER PORTS

Atlantic ports: There is no free lighterage service by the railroads at Portland, Me. At Boston the railroads perform no free lighterage, but certain steamship lines lighter traffic between their piers and the railroad terminals. The railroads do perform some car-float service at Boston, but it is charged for in addition to the rail rates. At Philadelphia the tariffs authorize free lighterage but cars can generally be placed at ship side there, and almost all of the traffic is transferred direct between car and ship. At Baltimore there is some lighterage by the railroads to and from other railroad terminals, but the bulk of the water-borne traffic is transferred direct to and from ships docked at the railroad terminals, and there is no offshore loading or discharging of vessels by the use of lighters. At Norfolk the tariffs authorize free lighterage except to and from industries served by the Norfolk & Portsmouth Belt Line Railroad, but the great majority of industries and all of the ocean steamship piers are served directly by rail, and only a small proportion of the traffic is lightered. There is no free lighterage by the railroads at any of the south Atlantic ports of Wilmington, N. C., Charleston, S. C., Savannah and Brunswick, Ga., and Jacksonville, Fla. At Savannah ships are usually moved from one wharf to another unless the cargo is too small to warrant it. Lighterage is performed by private companies for themselves or others at Wilmington, Savannah, and Brunswick.

Gulf and Pacific ports: There is no free lighterage by the railroads at any of the Gulf ports of Pensacola, Fla., Mobile, Ala., New Orleans, La., and Port Arthur, Houston, and Galveston, Tex., At New Orleans a belt line owned by the city brings all of the railroads to ship side. Lighterage is performed by private companies for themselves or others at Pensacola, Mobile, and New Orleans. There is no free lighterage by the railroads at any of the Pacific coast ports of San Diego, Los Angeles, and San Francisco, Calif., Portland and Astoria, Oreg., and Tacoma, Seattle, Everett, Bellingham, and Vancouver, Wash. At San Francisco vessels are usually shifted from one wharf to another, but if lighterage is performed it is contracted for by the shipper or steamship company. Lighterage is performed by private companies for themselves or others at most of the Pacific ports.

Summarizing the foregoing, free lighterage is not performed by the railroads at any of the other Atlantic ports with the exception of a limited amount at Philadelphia, Baltimore, and Norfolk, and no free lighterage is performed at any of the Gulf ports nor at any of the Pacific coast ports. When lighterage is performed at such ports either the shipper or steamship company must bear the expense.

B-15. TERMINAL-COST DATA

Shore-to-shore costs: The trunk-line defendants in cooperation with the Port of New York Authority made an exhaustive study of the shore-to-shore costs of car-float and lighterage service in New York Harbor.[13] This study was based upon operations in the month of October, 1924, but the compilation of the data covered a period of three years by a staff which at times numbered 150 men, and the report was not submitted until June 15, 1926. Its results are regarded as unusually trustworthy, partly because the car-float and lighterage service are confined to freight traffic and there was no necessity of separating freight from passenger traffic as in most cost studies. Another reason for according more than usual weight to this cost study is that it was made by the carriers with a view to possible unification of their marine operations and not for the purpose of these cases.

The study was confined to shore-to-shore costs and, therefore, did not include the costs of transferring lighterage freight or any of the costs on the shore. The results of this study as to each line for the various classes of service are shown in four exhibits aggregating 298 pages. Briefly, the costs so determined for the car-float service to and from pier stations or team tracks and for lightering freight other than grain and coal are as follows per ton of 2,000 pounds:

[13] This cost study was conducted under the supervision of a committee of the principal executive officers of each line and a committee of the chief engineers of each line headed by Francis Lee Stuart, who appeared as a witness for complainants. For convenience, it is sometimes referred to as the Stuart study.

Shore-to-shore costs per ton

Carrier	Car float	Lighterage
Baltimore & Ohio	$0.64	$1.53
Central of New Jersey	.40	1.22
Lackawanna	.59	1.14
Erie	.59	1.56
Lehigh Valley	.50	1.37
New Haven	1.07	2.91
New York Central	.76	1.55
Pennsylvania	.62	1.64
Long Island	1.08	----------
Weighted average	.64	[1] 1.48

[1] If the New Haven's lighterage cost which is unusually high be eliminated, the weighted average of the lighterage costs for the other lines is reduced to only $1.44, because the New Haven's lighterage tonnage is comparatively small.

It will be noted that the average shore-to-shore cost for lighterage is more than double that for the car-float service to and from pier stations or team tracks, without taking into consideration the cost of the two or more handlings of lighterage freight. This is apparently due largely to the fact that the car-float service to and from pier stations or team tracks is more concentrated and affords heavier loading than the lighterage service to and from all the steamship piers and public or private docks in the harbor. Another reason is that there is much more delay awaiting the loading or unloading of lighters especially at steamships or their piers. The above shore-to-shore costs for lighterage include the relatively small amount of car floatage in lieu of lighterage, which is to a considerable extent affected by the same conditions above mentioned.

October is a heavy tonnage month, and the tonnage lightered in October, 1924, was much heavier than the monthly average for 1930. The heavier tonnage during the test month would have a tendency to produce lower costs per ton. The wages of employees in the marine department of the trunk lines in 1928 and 1929 were materially higher than those in 1924. For these reasons, among others, complainants' engineers expressed the opinion that present costs are at least as great as those in October, 1924.

The trunk-line defendants did not question the cost figures. The New York interveners accepted them as correct for the period for which they were determined; but they introduced evidence tending to show that certain items of cost are now lower than in 1924, which will be considered later.

Transfer costs: The costs of transferring lighterage freight between cars and lighters and between lighters and docks, piers, or ship's sling are derived from returns made by the trunk-line defendants to a questionnaire submitted by complainants. The transfer between cars and lighters is made by the Baltimore & Ohio, Lackawanna, Lehigh Valley, and Pennsylvania through contractors at stipulated rates of compensation per ton of freight. But the Central of New Jersey, Erie, and New York Central perform this transfer with their own employees and the cost thereof was not furnished. Accordingly complainants used for those lines the lowest contract rates for any of the other lines. These costs for the transfer at the rail terminals range from 13.5 to 16 cents per ton on open-car freight transferred by crane or hoist and from 35.9 to 51 cents per ton on box-car freight which is generally transferred by man power and trucks. The volume of box-car freight is much in excess of the open-car freight. Where two handlings are required in effecting the transfer between car and lighter the contractor receives the stipulated compensation for each handling. The transfer away from the rail terminals is made by all of the trunk lines through contractors. Their compensation per ton is the same whether the freight is transferred between the lighter and steamship pier, the ship's sling on the offside of vessel, or public or private docks. It ranges from 28.7 to 30.2 cents per ton on eastbound freight and from 37.6 to 43.3 cents per ton on westbound freight. The reason for the higher compensation on westbound than eastbound freight is apparently due to the fact that inbound cargo generally has to be unloaded from the ship to the pier and must be taken by the lighters from the pier rather than the ship's sling.

Combined costs for lighterage: Combining the transfer costs with the shore-to-shore costs for lighterage, the resulting costs for each trunk line and class of freight are shown in Appendix D hereto. The transfer costs are based upon one handling of the freight between car and lighter, although two or more handlings are sometimes necessary. The composite lighterage costs for the seven trunk lines other than the New Haven are based upon their weighted average shore-to-shore costs plus the lowest contract rates for the transfer service, as follows:

	Between car and lighter	Shore to shore	Between lighter and dock or steamship	Total
Eastbound:				
Freight transferred by crane	$0.135	$1.44	$0.287	$1.862
Freight transferred by hand and trucks	.36	1.44	.287	2.087
Westbound:				
Freight transferred by crane	.135	1.44	.425	2.000
Freight transferred by hand and trucks	.36	1.44	.425	2.225

The above costs do not include any of the expenses of maintaining the lighterage piers such as interest on investment, taxes, and repairs, nor the salaries and wages of agents and clerks employed on the lighterage piers or in the lighterage service. In the Wharfage Charges case, supra, where such items were included, the average cost of handling traffic between the rail ends and ship side in New York Harbor based upon data furnished by the carriers was found to be $2.75 per ton.[15] By eliminating the New Haven the weighted average cost for the other seven trunk lines is reduced to $2.72 per ton.

Other car-float costs: The shore-to-shore costs for the car-float service do not include the expense of loading or unloading the cars at pier stations. Complainants did not attempt to show the cost of this service but suggested that 50 cents per ton be allowed because a charge of that amount was found justified for loading or unloading carload freight at several other points in Loading and Unloading Carload Freight, supra. It does not appear, however, that the cost of this service at pier stations should exceed the cost of one of the two or more handlings necessary in the case of lighterage freight.

The only shore costs in connection with the car-float service which complainants undertook to prove were based upon an exhibit submitted by the Pennsylvania in Discontinuance of Inland Stations in New York City (173 I. C. C. 727). This exhibit which complainants introduced in these cases on rebuttal purported to show the total cost of the car-float service to and from the Pennsylvania's Desbrosses Street Station. The total cost shown was $2.30 per ton, of which 62.9 cents was for the car-float service and $1.10 for station and platform operating cost at Desbrosses Street. A substantial amount of the costs were for rental of facilities and improvements made at the pier station. Complainants point out that this car-float route is one of the shortest in the harbor, but there is no showing that the costs of maintaining the Desbrosses Street station are representative of the costs of maintaining the other pier stations in the harbor. Certainly they could not be representative of the costs at off-track stations or team tracks where the carload freight is loaded and unloaded by the shippers. There are always station costs anywhere, and while the pier-station costs appear to be unusually high, there is nothing upon which to base a comparison of the costs of maintaining such stations and other freight stations or the lighterage piers. Apparently the above-mentioned costs included a large proportion of less-than-carload freight which is not subject to free lighterage, and these costs are not fairly comparable with the lighterage costs which are based primarily on carload traffic. In the case cited the commission said regarding the above-mentioned costs for the Desbrosses Street Station, as compared with the costs of handling freight through the Pennsylvania's inland stations, that:

"The costs obviously are based on various assumptions and it is doubtful whether they can be relied upon as accurately reflecting the costs of the two operations."

B-16. ALLOWANCES

For lighterage: The tariffs of the trunk lines provide for the payment of allowances to outside lighterage companies for lightering freight entitled to free lighterage. These allowances on most traffic, including grain, are 60 cents per ton. The record indicates that the outside lighterage companies generally lighter the heavy or full loads, which can be handled at lower cost per ton. It also indicates that some of the trunk lines have contractual arrangements with outside lighterage companies for lightering certain traffic at rates higher than those published in their tariffs. Complainants urge that the actual costs of the lighterage service performed by the trunk lines are entitled to more weight than the allowances which are paid on a much smaller proportion of the traffic. In 1928, 1929, and 1930 the tonnage lightered by the trunk lines averaged more than three times that lightered for them by outside companies.

For trucking: The tariffs of the trunk lines also provide an allowance to shippers of 60 cents per ton for trucking in lieu of lighterage on certain commodities. In Constructive and Off-Track Freight Stations, supra, trucking in lieu of lighterage at New York was condemned as productive of undue prejudice and preference. The record affords no ground for distinguishing this allowance from the practice condemned in the case cited.

The Erie pays the United States Trucking Corporation for trucking to and from and services rendered at its inland stations 11 cents and 12 cents per 100 pounds on carload and less-than-carload freight, respectively. The Pennsylvania and Lehigh Valley formerly made similar allowances, but they discontinued their inland stations because the traffic could be handled more economically through car-float pier stations. Discontinuance of Inland Stations in New York City, supra.

[15] The defense argues that it is improper to designate this figure as the cost of lighterage. The report in the Wharfage Charges case shows clearly that it is the average cost for transferring freight between the rail ends and ship side, excluding switching. Apparently it includes freight which is interchanged directly with ships on the New Jersey shore, but that constitutes a small proportion of the total traffic, and its inclusion tends to reduce the average cost. For convenience, therefore, the above-mentioned figure will be referred to as the lighterage cost.

To contract terminals: The allowances or divisions given by the trunk lines to the contract terminals for the car floatage to and from those terminals and other services rendered thereat on most freight other than coal and coke are as follows, per ton of 2,000 pounds:

	Carloads	Less than carloads
Jay Street Terminal [1]	$1.20–$1.60	$1.20–$1.60
Brooklyn Eastern District Terminal [1]		
Bush Terminal Co.[1]		
New York Dock Ry.[2]	1.14– 1.68	1.60– 2.20
Bush Terminal R. R. Co.[2]	1.06– 1.36	1.56– 1.86

[1] Allowances. [2] Divisions.

The above allowances or divisions include station services as well as necessary switching at the contract terminals. It will be noted that those on carload traffic are considerably less than the combined transfer and shore-to-shore costs for lighterage and average about one-half of the lighterage cost of $2.72 per ton based upon the findings in the Wharfage Charges case.

New Jersey contends that the allowances to the contract terminals are unduly preferential of shippers using those terminals. The allowances do not accrue to the shippers, but they compensate the contract terminals for services similar to those performed by the trunk lines to and from their other off-track stations. Industries located at the contract terminals undoubtedly possess certain advantages, but there does not appear to be sufficient reason for treating those terminals differently from other off-track stations of the trunk lines.

B–17. DEDUCTIONS IN INTERLINE SETTLEMENTS

In interline settlements with connecting lines, the trunk lines serving New York Harbor receive a special allotment of the revenue on account of the lighterage and car-float service. The defense claims that similar arrangements also apply at some interior points in New Jersey where there are no marine services; but complainants' rebuttal evidence indicates to the contrary, and in any event it does not appear to be a general practice at interior points. The amount allowed for the terminal service before prorating is generally 4 cents per 100 pounds, but there are a number of exceptions where it is more or less than that amount. Complainants urge that the publication of separately established charges for the lighterage and car-float service would "merely change the form and thereby more accurately reflect existing substance." It might not make any difference as between the carriers, but of course it would make a difference so far as concerns shippers and communities.

B–18. RELATIVELY HIGH COST OF LIGHTERAGE

Compared with switching: The accounts and records of the carriers are not kept in such a way as to permit accurate compilation of the actual costs of switching service without resorting to much estimating. In the absence of such cost data, therefore, complainants compare the lighterage costs with switching charges and absorptions at numerous points throughout official territory, including New Jersey points in the metropolitan area. The lighterage costs are much in excess of the switching charges and absorptions shown. In this connection it should be remembered that switching is also performed on the lighterage traffic.

Percentages of rates: The average lighterage cost of $2.72 per ton based upon the commission's findings in the Wharfage Charges case is compared with numerous class and commodity rates in official territory. The comparisons with the fifth-class rates are the most important, because fifth class embraces 49 per cent of of the carload ratings and produces by far the greatest amount of class-rate tonnage and revenue. Illustrative of these comparisons based upon the fifth-class rates in effect at the time of the hearings are the following: The above-mentioned lighterage cost is 53.3 per cent of the fifth-class rate from New York Harbor lighterage points to Utica, N. Y., 249 miles; 42.5 per cent of that to Buffalo, N. Y., 437 miles; 35.7 per cent of that to Painesville, Ohio, 590 miles; and 23.9 per cent of that to Chicago, Ill., 959 miles. If the terminal service at the other end costs as much as the lighterage service, the two terminal services would represent 85 per cent of the rate to or from Buffalo and 106.6 per cent of that to or from Utica.

On packing-house products from Chicago to New York for export, a lighterage cost of $1.86 per ton is shown to be 45.6 per cent of the revenue received by the Lackawanna and Lehigh Valley for their respective hauls of 396 and 457 miles beyond Buffalo. On export flour from Minneapolis, Minn., the same lighterage cost is 74.8 to 81.6 per cent of the revenue received by the eastern trunk lines for their hauls of 396 to 508 miles beyond Buffalo. After deducting the lighterage cost the remaining revenue of these lines only amounts to 1.03 to 1.34 mills per ton-mile. These are examples of numerous similar comparisons.

Equivalent in miles: The combined transfer and shore-to-shore costs for lighterage are shown to equal the average cost of rail transportation on the respective lines for distances of 171 to 379 miles. This showing based upon the average freight operating expense per ton-mile of the various lines in 1928, excluding maintenance and operation of floating equipment, is as follows:

Lighterage costs equated into miles

Carrier	Lighterage costs per ton	Freight operating expenses per revenue ton-mile in 1928	Equivalent in miles
		Mills	
Baltimore & Ohio	$1.97–$2.47	6.52	317–379
Central of New Jersey	1.65– 1.96	9.68	171–202
Lackawanna	1.80– 1.95	8.84	203–221
Erie	2.00– 2.35	7.37	271–319
Lehigh Valley	1.81– 2.27	8.05	224–282
New York Central	1.99– 2.34	8.55	232–274
Pennsylvania	2.18– 2.52	7.41	294–340

The different lighterage costs shown for each line are due to the method of handling by hand power or crane and whether the freight moves eastbound or westbound. The equivalent miles for the various lines are affected by the average ton-mile expense for each line as well as the lighterage costs. For example, the Central of New Jersey, which has the highest ton-mile expense, has the lowest number of equivalent miles, and the Baltimore & Ohio, which has the lowest ton-mile expense, has the highest number of equivalent miles.

The only similar showing for the car-float service is that the shore-to-shore costs for car floatage to and from pier stations by the Lackawanna and the Pennsylvania are equivalent to 67 and 84 miles of rail transportation, respectively, or less than one-third of their equivalent miles for the lighterage service.

Average revenue for average haul: The combined transfer and shore-to-shore costs for lighterage are also compared with the average revenue per ton received by the various lines for their average hauls of revenue freight in 1929, as follows:

Lighterage costs compared with average revenue for average hauls

	Lighterage costs per ton	Average revenue per ton, year 1928	Average haul revenue freight miles
Baltimore & Ohio	$1.97–$2.47	$1.90	195.2
Central of New Jersey	1.65– 1.96	1.11	69
Lackawanna	1.80– 1.95	2.17	164.5
Erie	2.00– 2.35	2.11	214.2
Lehigh Valley	1.81– 2.27	2.02	174
New York Central	1.99– 2.34	2.11	199.2
Pennsylvania	2.18– 2.52	2.15	209.7

It will be noted that the lighterage costs generally about equaled or exceeded the average revenue per ton of the various lines for their average revenue hauls of 69 to 214 miles. The average revenue included low-grade commodities such as bulk coal, which is not subject to lighterage, but it also included less than carload as well as all the carload traffic. While the average revenue on all freight is not necessarily the average revenue on the lighterage freight, this showing nevertheless indicates the relative cost of lighterage as compared with the average revenue for all freight transportation.

B–19. NEW YORK CENTRAL TERMINAL COSTS

Difficulties of operation: The operation of the 12.39 miles of terminal line of the New York Central from Spuyten Duyvil south along Riverside Drive, Eleventh Avenue, Tenth Avenue, and West Street to St. Johns Park, is exceptionally slow, hazardous, difficult, and costly. That operation involves 81 grade crossings; flagmen stationed at 19 different points; use of flagmen on horseback preceding special boxed-in locomotives south of Thirtieth Street; and limitation on the number of cars in a train. The operation of this line has been a problem for many years because of its use of the streets and the hazard due to the ever-increasing vehicular and pedestrian traffic.

Values of land and improvements: The assessed value of the 93 acres in the Sixtieth Street yard averages $127,691 per acre, of the 48 acres in the Thirtieth Street yard $242,446 per acre, and of the 4 acres at St. Johns Park $489,716 per acre, or an average of $117,516 for the whole 145 acres. These values are compared with the assessed values of similar property of the lines on the New Jersey side which average $16,617 per acre. The New York Central has agreed with the city of New York and has been authorized by the commission to electrify this line and remove the tracks from the streets south of the Sixtieth Street yard by elevating a portion and depressing the remainder under the surface. The addititonal cost of these improvements will average $17,406,239 per mile for the 3.99 miles of line from the Sixtieth Street yard to St. Johns Park, and $6,654,632 per mile for the 12.39 miles of line south of Spuyten Duyvil. These costs per mile are compared with the average investment in road and equipment of the New Jersey lines which range from $166,171 to $330,840 per mile of road, also the corresponding figures for the eastern district which average $186,337 per mile, and with the average for the entire country which is $108,086 per mile.

New York Central traffic: The New York Central by not participating in joint rates virtually denies the use of its line on

Manhattan to freight routed over other lines. It also routes most of its export traffic and so far as possible other traffic which requires lighterage or car floatage via the West Shore. As previously stated, the New York Central has no direct connection with any of the steamship piers on Manhattan, and the proposed plan of elevating and depressing its tracks does not contemplate extending them onto the piers, which are not built to carry tracks.

Conclusions as to showing: While the New York Central's terminal operations on Manhattan are shown to be unusually difficult and expensive, and they no doubt cost more than similar operations on the New Jersey side, complainants have failed to prove that they are equal to the marine costs. They may be equal to the costs of car floatage to and from pier stations or team tracks, but they could hardly be equal to the lighterage costs. Even if it be assumed that the New York Central's rail switching is equivalent to the marine operations of the New Jersey lines, it would seem that when the New York Central performs marine service in addition to switching its charges should exceed those of the other lines. Such an adjustment would clearly be impractical.

B-20. THE GENERAL RATE ADJUSTMENT

The class-rate adjustment to and from New Jersey points as compared with New York at the time of the hearings was generally as follows:

Trunk-line territory: This territory was divided into short-haul and long-haul territories by a line which crossed the various trunk lines at stations from 71 to 200 miles from their terminals at New York Harbor. Within the short-haul territory the rates to and from New York were generally higher than those to and from the New Jersey rail terminals, except where the minimum class rates resulting from General Order No. 28 applied. To and from points beyond the 71-200 mile line the New York rates applied to and from the New Jersey rail terminals and were blanketed back on most of the lines to stations from 3 to 32 miles from the terminals. There was an exception, however, on traffic to and from points in northeastern New York. On traffic to and from that territory, the New York rates applied to and from points on the West Shore Railroad, but higher rates applied to and from points on the other lines in New Jersey.

Central and western territories: On traffic to and from central territory the New York rates generally applied to and from all points in New Jersey with the exception of Camden and Burlington, which were on the Philadelphia basis, and points in South Jersey taking arbitraries over either the New York or Philadelphia rates. The rates to and from Western trunk-line territory being made by combination on the Mississippi River crossings or Chicago, Ill., reflected the same adjustment as that to and from central territory. New Jersey points were and are also grouped with New York on traffic to and from transcontinental territory.

Southeast and Southwest: The all-rail rates prescribed between New York and the Southwest in the Consolidated Southwestern cases, supra, and those prescribed between New York and points in southern territory in the Southern Class Rate Investigation, 109 I. C. C. 300, also apply to and from most points in New Jersey. The rates via the rail-water-rail routes between New Jersey points and points in the South and Southwest, however, are generally higher than those via the water-rail routes between New York and the same points. As the coastwise steamship lines dock on Manhattan Island, traffic via those lines to and from New Jersey points must cross New York Harbor.

New England: To and from New England, New Jersey points took higher rates than New York, generally the Philadelphia basis. Of course, the traffic between New Jersey and New England generally crosses New York Harbor, but a large proportion of the traffic between New York and New England also moves by car float or lighter to and from the rail terminals at New York. Complainants emphasize the fact that where New Jersey's traffic crosses New York Harbor the rates are higher than the New York rates, but the rates are the same where New Jersey has the advantage of location.

The commodity rate adjustment to and from New Jersey points as compared with New York at the time of the hearings was generally somewhat similar to the class-rate adjustment as above described.

B-21. THE NEW CLASS-RATE ADJUSTMENT

Trunk-line territory: Under the Eastern Class Rate case the rates within trunk-line territory are based on a distance scale, known as the Appendix E or basic scale. There is a special rule, however, for the application of this scale to and from New York and points in New Jersey grouped therewith. This group on traffic to and from points beyond a line approximately 100 miles from the rail terminals at New York Harbor is as follows: All stations on the New York Central from Yonkers, Nepperhan, and Mount Vernon, N. Y., south; all car-float stations and points within the lighterage limits of New York Harbor; and all points in New Jersey on or east of a line from Perth Amboy through Rahway, Cranford Junction, Aldene, Newark Heights, Milburn, Essex Fells, Pompton Junction, and Englewood to Fort Lee, N. J. Rates are made to and from this group on the basis of the Appendix E scale for the actual distances to and from the rail terminals plus 10 constructive miles. This method of making rates to and from the New Jersey part of the group is one of New Jersey's principal complaints in these cases.

Short-haul territory: On the short-haul traffic within the 100-mile zone there is a different grouping. Points in New Jersey east of Newark Bay and the Hackensack River take rates for rail deliveries based on the distances to the rail terminals plus 10 miles. Rates for car-float or lighterage deliveries within the lighterage limits of New York Harbor are based on the distances to the rail terminals plus 30 miles, subject to the observation of the long-haul rates as maxima. It will be noted that the boundaries of the short-haul territory are changed from the former 71-200 mile line to a line approximately 100 miles from the terminals.

Central territory: On traffic to and from central territory rates were prescribed between certain key points, which included New York, Trenton, and Atlantic City, N. J. In establishing these rates the carriers grouped other points with the key points, most of northern New Jersey being grouped with New York. The Trenton rates are generally lower than the New York rates, but the Atlantic City rates are the same as the New York rates in most instances. To and from points in the northern part of central territory, however, the Atlantic City rates are higher than the New York rates, and the opposite is true at a few points in the southern part of the territory. The key rates to and from central territory are generally somewhat lower than the Appendix E or basic scale.

Western trunk-line territory: A similar adjustment of rates between key points, including those above mentioned, was prescribed for application to and from western trunk-line territory in Western Trunk-Line Class Rates, 164 I. C. C. 1.

New England: The rates to and from New England were also revised in the Eastern Class Rate case. The Appendix E scale was prescribed for application between trunk-line territory and New England, but a higher scale was prescribed for application between points in New England, and it was provided that the latter scale should be observed as minimum at border points between trunk-line territory and New England. Points in New Jersey east of Newark Bay and the Hackensack River are grouped with New York City and points within the lighterage limits. The rates to and from this group are based on the distances to the Harlem River terminal of the New Haven plus 40 miles or those to Spuyten Duyvil on the New York Central plus 10 miles. This readjustment satisfied the New Jersey Traffic Advisory Committee's complaint with respect to the rates to and from New England to some extent but not entirely. Points west of Newark Bay and the Hackensack River, such as Newark, continue to pay rates to and from New England higher than the New York rates without any corresponding advantage in the rates to and from points more than 100 miles to the west.

The revised rates under both of the above-cited cases were made effective December 3, 1931.

B-22. INFLATIONS IN CLASS RATES

Under the formula for making class rates to and from the New York rate group, the rates between New Jersey points in that group and points in trunk-line territory are inflated above the basic scale. The inflations are least at the terminals and are larger the farther away the points are from the terminals. For example, from Philadelphia the first-class rate to the New York group is 56 cents under the formula prescribed compared with 54 cents to Jersey City, 52 cents to Newark, and 49 cents to Rahway, N. J., under the basic scale for the actual distances. This is illustrative of the showing made with respect to the rates between points in the New York group and various points throughout trunk-line territory.

Complainants contend that the rates assailed to and from trunk-line territory are unreasonable to the extent that they exceed the basic scale prescribed for general application in that territory. In considering this contention, however, it must be remembered that the inflations complained of are due to the grouping plan. The question to be determined, therefore, is the propriety of that grouping.

B-23. RATES ON IRON AND STEEL ARTICLES

Much of the evidence offered by the New Jersey complainants related to the rates on iron and steel articles. The basis prescribed in the Iron and Steel case for making rates on these articles to and from the New York group is similar to that prescribed in the Eastern Class Rate case, except the boundaries of the group differ somewhat. Assuming that the addition of 10 miles to the actual distances to and from the rail terminals is intended to cover the marine service beyond, complainants point out that New Jersey inland points which can not receive marine service not only have to pay rates based on the greater distances to the terminals but also including the 10 miles allowed for marine service. The resulting mileage inflations range up to a maximum of 35 miles at Metuchen, N. J. Illustrative of the rate inflations, the rates from Pittsburgh, Pa., and Chicago and East St. Louis, Ill., are 20 cents per ton higher than the scale prescribed for the actual distances to several New Jersey points in the New York group. The inflations are more pronounced on traffic to and from New England, where an arbitrary of 2 cents per 100 pounds is apparently added for crossing New York Harbor.

Complainants contend that New Jersey points are entitled to rates based on their actual distances the same as most other points in official territory. Their evidence of competition included points west of the Delaware River as well as New York. The request findings of undue prejudice and preference, however, do not cover such points west of the Delaware River.

B-24. RATES TO AND FROM NEW ENGLAND

The rates to and from New England are assailed by the New Jersey traffic advisory committee. It supports the State's request for rates that reflect the natural advantages of location in all directions; but in the event that New Jersey points are continued in the New York group on traffic to and from the West, it asks that all of such prints be accorded the New York rates to and from New England.

Class rates: Under the present class-rate adjustment on traffic to and from New England, Harlem River, and other points in the Bronx have rates based on the New England scale for the actual distance; points within the lighterage limits and New Jersey points east of Newark Bay and the Hackensack River have rates based on the same scale for the distance to Harlem River plus 40 miles; and other points in the New York group on long-haul traffic to and from the West have rates based on the same scale for the distance to Harlem River plus 50 miles.

The basic scale was prescribed for general application between trunk-line territory and New England, allowing 30 miles for crossing New York Harbor where the distance is figured over the New Haven and 20 miles where it is figured over the New York Central, but it was provided that the higher New England scale should be observed as minimum at border points. The rates between New Jersey points in the metropolitan area and New England are, therefore, generally higher than they would be on the basis prescribed for general application to and from New England, but this is due principally to their location near the border between trunk-line territory and New England.

Newark and other important points west of Newark Bay and the Hackensack River which do not receive free lighterage have to pay the same rates as New York and points within the lighterage limits to and from points more than approximately 100 miles to the west or south, but they pay higher rates than New York and points within the lighterage limits to and from most points in New England. For example, the first-class rate from Newark to Worcester, Mass., 222 miles, is 82 cents compared with 80 cents from New York; while in the opposite direction the corresponding rate to Washington, D. C., also 222 miles, is 78 cents from both Newark and New York. Such an adjustment seems very unjust to New Jersey shippers who point out that there is no balancing of the advantages and disadvantages as in most group adjustments.

Commodity rates: The commodity rates between New Jersey points and New England are generally on the Philadelphia basis, as were the class rates previous to the recent revision. Thus New Jersey points in the metropolitan area generally take the same commodity rates as New York on long-haul traffic to and from the West but must pay the higher Philadelphia basis to and from New England. Philadelphia is from 70 to 90 miles farther distant than New Jersey points in the New York metropolitan area on traffic to and from New England.

Competition: There is competition between points in the various parts of the metropolitan area on traffic to and from New England, as well as on traffic to and from the West. A survey made by the New Jersey Traffic Advisory Committee of the industrial traffic moving into and out of New Jersey, exclusive of that between New Jersey and New York City, showed that approximately 87 per cent of it moved to and from points west of the Hudson River and the remaining 13 per cent to and from New England. It is because of the preponderance of the movement being to and from the West that New Jersey seeks rates reflecting the advantages of location in preference to uniform grouping in all directions.

Eastern Class Rate case: As previously indicated, the record in these cases is very much more comprehensive than that in the Eastern Class Rate case with respect to the issues here under consideration. In that case it was said at page 438:

"There are several reasons why it is not feasible to prescribe exactly the same method of making rates between the port district and New England as between that district and points west of the Hudson. First, the water movement of the New Haven, both on pier-station and on lighterage traffic is longer than that of the trunk lines. Second, the New Haven's water service is more expensive, apparently due in part to a much smaller volume of traffic. Third, on traffic between the New Jersey portion of the district and New England a rail haul averaging 14 miles in New Jersey is required, whereas on traffic between the New York portion and the West a rail haul in New York is involved only to a slight extent on Long Island. Fourth, the average line haul of traffic to and from New England is much shorter than that of traffic between New York and the West, so that the terminal costs are relatively much more important."

It is true that the New Haven's water movement to and from its rail terminals is longer than the average of the other lines, and it is also true that its lighterage and pier-station car-float costs are higher than those of the other lines, but the present record shows that the car-float interchange costs of the New Haven are the lowest of any of the trunk lines. Its shore-to-shore costs for car-float interchange with other lines averaged only 11 cents per ton compared with 35 cents for the New York Central and 17 cents for all the lines. This is probably due largely to the volume of traffic handled, the car-float interchange tonnage of the New Haven exceeding that of all the other lines combined. On the other hand, the New Haven's car floating to and from pier stations and lighterage tonnage is very small in comparison with the other lines. This record indicates that the length of the water haul has but little effect upon the costs, but they vary considerably according to the tonnage handled per trip.

Marine costs: The car-float interchange service performed on traffic between New Jersey points and New England is much less expensive than the car floatage to and from pier stations and the lighterage service at New York and points within the lighterage limits. This is due in part to the use of 3-track car floats in the interchange service as compared with 2-track car floats in the pier-station service, where it is necessary to have a platform between the tracks to facilitate loading and unloading. The interchange service is also more highly concentrated than the pier-station service, and the latter is much more concentrated than the lighterage service.

The shore-to-shore costs on traffic handled by the New Haven averaged 11 cents per ton for car-float interchange service compared with $1.07 for pier-station car-float service and $2.91 for lighterage service. The corresponding costs of the New York Central were 35 cents per ton for car-float interchange, 76 cents for car floatage to and from pier stations, and $1.55 for lighterage. The average costs of all the lines were 17 cents per ton for car-float interchange, 64 cents for car floatage to and from pier stations, and $1.48 for lighterage. These pier-station car-float costs do not include any of the expense of maintaining the pier stations, and the lighterage costs do not include the expense of transferring the freight between car and lighter or between lighter and pier.

The difference between the above-mentioned car-float interchange and pier-station car-float costs of the New Haven is 96 cents per ton or about 5 cents per 100 pounds, and the difference between its car-float interchange and lighterage costs is $2.80 per ton, or 14 cents per 100 pounds. It seems impossible that the cost of the average rail haul of 14 miles in New Jersey referred to in the foregoing quotation can be more than enough to offset the 5-cent difference between the car-float interchange and the pier-station car-float costs, to say nothing of the 14-cent difference between the car-float interchange and lighterage costs. Under the New England scale the first-class rate for 120 miles is only 4 cents higher than that for 100 miles, and the rate for 220 miles is only 3 cents higher than that for 200 miles. Of course, the differences are relatively less on the lower classes.

Length of haul: It is true that the average haul on traffic to and from New England is considerably less than that on traffic to and from the West, but New Jersey shippers are unable to see why traffic moving to and from New England should be treated differently than that moving to and from trunk-line territory. The distances to and from New England are generally comparable with those to and from trunk-line territory; in fact, longer hauls are possible to New England than to trunk-line territory. The New York interveners offered no objection to the establishment of the same grouping to and from New England as that to and from trunk-line territory. The Port of New York Authority favors the same grouping in all directions.

B-25. RATES VIA COASTWISE LINES

In general: The New Jersey traffic advisory committee attacks the rail-water and rail-water-rail rates via the coastwise steamship lines and their connections to and from points in the South and Southwest. These rail and water lines are operated "under a common control, management, or arrangement for a continuous carriage or shipment"; and their rates are on file with and subject to the jurisdiction of the commission. On all-rail traffic to and from the South and Southwest New Jersey points take the same rates as New York, which include marine service across the harbor; but on traffic moving via the coastwise lines and their connections New Jersey points generally take rates substantially higher than New York. Thus where the all-rail traffic crosses the harbor no addition is made to the rates for marine service, but where the traffic crosses the harbor in the other direction for movement via the coastwise lines the New Jersey rates are substantially higher than New York. New Jersey shippers are willing to pay higher rates than New York on the traffic moving via the coastwise lines where they are at a disadvantage, provided they are accorded the benefit of their location on all-rail traffic which does not receive marine service; but if New Jersey points are continued in the New York group on long-haul rail traffic, they ask for a similar grouping with respect to traffic moving via the coastwise lines and their connections.

Rate adjustment: All of the coastwise lines have their docks on Manhattan, but some of them maintain receiving stations in Brooklyn and Jersey City. The rates to and from Manhattan apply to and from the docks, and those to and from the receiving stations are sometimes the same as and sometimes higher than the dock rates. For example, the class rates shown from receiving stations in Brooklyn and Jersey City to Texas points are 7 cents higher than from Manhattan on carload traffic and 10 cents higher on less-than-carload traffic. Rates are also published by the coastwise lines in connection with the Newark Terminal & Transportation Co., which handles the traffic by lighter between Newark and the steamship docks. These rates are generally higher than the New York rates, but the difference is not uniform. In some instances they are higher than for similar service from Long Island City. The rail-and-water rates from New Jersey points are generally considerably higher than the all-water rates from New York. For example, the first-class rate from New Jersey rail points is 20.5 cents higher than from New York to Savannah and

30.5 cents higher to New Orleans and Galveston. In many instances the New Jersey rates are practically the same as the rail rates to New York plus the water rates beyond. In some instances the New Jersey points are included in a group extending as far as Buffalo, N. Y.

Coastwise traffic: The routes via the coastwise lines and their connections are of considerable importance because the rates are generally much lower than the all-rail rates and they serve important markets in the South and Southwest. They are used in considerable volume by New Jersey shippers who have competitors in Manhattan, Brooklyn, and Long Island City. Some New Jersey shippers truck or lighter their traffic to the steamship docks at New York in preference to paying the rates that would otherwise have to be paid. New York shippers also have to deliver or receive their shipments at the steamship docks, but they do not have to cross the Hudson River. Where lighterage is performed by the steamship line other than to or from its receiving stations, a charge of 5 cents per 100 pounds is sometimes made in addition to the dock rates.

Southwestern case: As previously indicated, rail-water and rail-water-rail rates were prescribed to and from the Southwest in the Southwestern case, but that case has been reopened as to those rates without their having gone into effect, and it is still pending on further hearing. The report does not indicate that there was any evidence in that case with regard to grouping New Jersey points in the metropolitan area with New York. The rates prescribed were for application to and from groups, Group A consisting of New York and Philadelphia and Group B of points within 75 miles of either of those ports. Under that plan such points as Jersey City and Newark, which are in the port area and take the New York rates on long-haul rail traffic, would apparently be grouped with interior points, such as Allentown and Reading, Pa. Thus there would be no consistent relationship with the all-rail rates, which the trunk-line defendants urge is necessary.

The coastwise traffic is long-haul traffic, the distances from New York ranging from 700 miles to Savannah to 1,887 miles to Galveston, and, of course, the distances are greater to interior points in the South and Southwest.

B-26. RATES TO AND FROM SOUTH JERSEY

South Jersey embraces points south of the Pennsylvania's line from Camden to South Amboy. At the time of the hearings the rates to and from this territory were generally based on arbitraries of either 5 cents over New York or 7 cents over Philadelphia. There were some exceptions, such as certain commodities on which the arbitrary was 2 cents. Under the new class-rate adjustment these arbitraries are eliminated, which removes the cause of complaint as to the class rates. Complainants request a corresponding revision of commodity rates not related to the class rates.

The evidence was directed principally to the rates to and from Keyport, Matawan, and Red Bank, which are in the area south of Raritan Bay. These points are generally nearer than New York to points west of the Delaware River, and they receive only standard rail service. Shippers at these points, therefore, can not understand why they should be charged higher rates than New York with its expensive marine service.

There was but little evidence regarding the reasonableness of the commodity rates to and from south Jersey aside from the comparison with New York rates and the service thereunder. About the only evidence of competition was with respect to one industry at Matawan having competitors in New York. The witness for this industry suggested that if the evidence should be found insufficient to warrant relief from the arbitraries the finding be made without prejudice to a specific complaint against them.

B-27. SWITCHING AT STATE INSTITUTIONS

At certain State institutions in New Jersey separate charges are assessed by the trunk lines in addition to the line-haul rates for placing cars on a private siding of the institution. These institutions are located at Morris Plains, on the Lackawanna, 33 miles west of Hoboken; Skillman, on the Reading, 45 miles west of Jersey City; and Vineland, on the Central of New Jersey, south of Philadelphia. Although the distances between these points and points west of the Delaware River are generally substantially less than those to and from New York, the rates at the time of the hearings were generally the same as or higher than the New York rates. The new class-rate adjustment changed this as to trunk-line territory, but apparently the rates between these points and central territory are still generally the same as the New York rates. Therefore the addition to such rates of the switching charges of $2.70 and $3.60 per car at Morris Plains, 19 cents per ton at Skillman, and 10 cents per ton at Vineland generally makes the total charges just that much higher than the New York rates.

Complainants contrast the exaction of these extra charges for private-siding deliveries with the expensive lighterage service which is accorded without charge in addition to the line-haul rates at New York. There is no competition between the State institutions and similar institutions in New York, but the comparison is offered as bearing upon the reasonableness of the free-lighterage practice. In this connection complainants refer to the decisions regarding a carrier's duty to make delivery on private sidetracks at the line-haul rates. Generally speaking, when the switching to or from such tracks is no more than the equivalent of switching to or from public team tracks the carrier may not make an additional charge; but where the service is materially greater than that for public team-track deliveries, the carrier not only may but should make an additional charge. (See Los Angeles Switching case, 234 U. S. 294; General Electric Co. *v.* N. Y. C. & H. R. R. R., 14 I. C. C. 237; The Lake Terminal case, 50 I. C. C. 489; United States *v.* Cast Iron P. & F. Co., 57 I. C. C. 677, 683; Pressed Steel Car Co. *v.* Director General, 93 I. C. C. 224, 109 I. C. C. 75; and Carnegie Steel Co. *v.* Director General, 96 I. C. C. 527, 132 I. C. C. 689.)

In Dept. of Institutions *v.* Central R. Co. of N. J. (181 I. C. C. 319), decided since the hearings in the present cases, division 3 considered the propriety of the above-mentioned switching charge at Skillman. It was found that the switching service of approximately 1.4 miles from the main line was not merely a substitute for team-track delivery but necessitated additional service beyond what such a delivery would ordinarily involve. Defendant introduced a cost study which purported to show that the out-of-pocket cost for handling traffic over the siding under consideration was 15 cents per ton, and it pointed out that it was entitled to some compensation over and above such cost. The charge of 19 cents per ton was found not unreasonable.

B-28. PROPRIETY OF GROUPING

Complainants point out that the present group adjustment in the New York metropolitan area is variable and inconsistent. The New York group is different on traffic to and from the various rate territories. New Jersey points are sometimes in the New York group and sometimes not in that group. Generally they are included where they have the advantage of location, but where New York has the advantage of location they are often excluded from the group. There is merit in complainants' contention that there is no balancing of advantages and disadvantages in the group adjustment. The commission has held that group adjustments are not unlawful, "provided they are well balanced and their advantages and disadvantages fairly distributed." (Inland Empire Shippers League *v.* Director General (59 I. C. C. 321, 341); Missouri Portland Cement Co. *v.* A. T. & S. F. Ry. Co. (101 I. C. C. 454, 463)).

Number of groups: Under the Eastern Class-Rate case and the Iron & Steel case, there are four different groups or rate bases in the New York metropolitan district on long-haul traffic to and from trunk-line territory and five such groups or rate bases on traffic to and from New England. Those on traffic to and from trunk-line territory are as follows: (1) Points within the New York group; (2) New Jersey points in the metropolitan district, but outside the New York group; (3) points on the New York side which are in the metropolitan district, but not the New York group; and (4) points outside the lighterage limits where the extra towing charges apply for lighterage. With respect to (2) and (3), it should be noted that complainants do not ask that these points be included in the New York group or that its boundaries should be the same as those of the metropolitan district. On traffic to and from New England there is an additional group due to excluding points west of Newark Bay and the Hackensack River, such as Newark, from the New York group. The propriety of this grouping on traffic to and from New England is discussed in section B-24.

Size of groups: It is also contended by complainants that the size of the New York groups is excessive when consideration is given to the cost of the lighterage service, which is equivalent to 171 to 379 miles of average rail transportation in addition to a substantial rail mileage in New Jersey. It is pointed out that these distances are much in excess of the maximum size of rate groups generally allowed by the commission in recent cases prescribing distance scales. There is some merit in this contention, especially in view of the fact that the grouping applies to hauls of only about 100 miles and upward. However, it must be remembered that the equivalent miles for the car-float service to and from regular stations or team tracks are much less than those for the lighterage service. Moreover, the actual distance separating New York from New Jersey must be considered as well as the costs equated into miles.

Lighterage group: The New Jersey Traffic Advisory Committee urges that the lighterage limits properly extended constitute a natural and logical rate group. It is pointed out that the grouping of New Jersey inland points with points within the lighterage limits is a grouping of the unlike, especially with respect to the terminal services, and that the New York group divides competitive points where like services are performed in northern New Jersey. These contentions appear to have considerable merit, but they must be considered along with the contentions and evidence of the defense.

New Jersey group: Complainants' principal rate witness suggested that on traffic to and from central territory practically all points in New Jersey should be included in one group on the basis of the key rates prescribed to and from Trenton. This suggestion is open to serious objections and can not be accepted for reasons advanced by the defense as hereinafter noted.

B-29. ALLEGED UNLAWFUL EFFECTS

Many of the alleged unlawful effects of the rate adjustment and free lighterage are considered elsewhere in this report and need not be repeated here. The evidence shows that there is competition between many industries in New York City and in the New Jersey section of the metropolitan district. These competing industries to a large extent receive their raw materials from the same sources and sell their manufactured products in the same markets. Such evidence given by complainants was uncontradicted and in fact is supported by the defense's evidence.

Paying for services not received: Numerous witnesses for New Jersey communities and industries complained that since they are compelled to pay the same rates as New York on traffic to and from the West, they are in effect paying for the expensive lighterage and other terminal services which they do not receive. They express a willingness to pay for such services when performed on the New Jersey side, but they vigorously object to paying for services not performed on their traffic. There would be more merit in their complaint if the rates were made with specific reference to the cost of the terminal services. But the record shows that so far as the class rates and the rates on iron and steel articles are concerned the only allowance made for the service beyond the rail terminals is the addition of 10 constructive miles. The report in the Eastern Class Rate case shows that this constructive mileage was intended to represent the average distance beyond the rail terminals and was never intended to represent the cost of the terminal services. As previously indicated, the cost data submitted in that case was regarded as insufficient to serve as a basis for even an approximate conclusion as to the costs. The present record, however, shows that the addition of 10 miles represents but a small fraction of the cost of the terminal services, especially the lighterage service.

Natural advantage of location: Much complaint was also registered by the New Jersey witnesses to the effect that they are deprived of their natural advantage of location by the rate adjustment. Clearly there is merit in this complaint in so far as New Jersey points are included in the New York group on traffic to and from the West, while they are required to pay higher rates than New York in many instances to and from New England and on traffic moving via the coastwise lines. Of course, in any group adjustment, some points may be more favorably located than others and therefore lose their advantage by the grouping, but there is always a limit beyond which advantages and disadvantages should not be disregarded. From a cost-of-service standpoint, New Jersey rail points have an advantage of from 171 to 379 miles, as compared with lighterage points, although their advantage is not so great with respect to the car-float service to and from regular stations or team tracks. This advantage with respect to lighterage represents more than 100 per cent of the rail hauls to and from many points in trunk-line territory and probably averages from 25 to 50 per cent to and from central territory. In Galveston Com. Asso. *v.* Galveston, H. & S. A. Co. (100 I. C. C. 110, 128 I. C. C. 349, 160 I. C. C. 345) differentials were prescribed between Galveston, Tex., and New Orleans, La., where the differences in distance were more than approximately 25 per cent.

B-30. SHIPPING ON NEW JERSEY SIDE RETARDED

Complainants contend that the New Jersey side of the port has not been receiving its share of the steamship business of the port, and this is attributed to the rate adjustment, and especially free lighterage. There is competition between New Jersey points and New York in seeking shipping facilities and the berthing of steamships. The larger part of the traffic handled by the steamships from and to the port of New York is through traffic interchanged with the railroads whose rails terminate on the New Jersey side, but only a comparatively small amount of this traffic is interchanged directly with ships docking on that side of the port. It is complainants' view that more of this through traffic should be interchanged directly across the dock at modern rail-water terminals on the New Jersey shore, which should be erected either by public authority or private capital, so that all the railroads may use them; but that the erection of such terminals is discouraged by the rate adjustment because the savings resulting from their use in place of lighterage would accrue solely to the railroads; and that there is no incentive for more ships to dock on the New Jersey side so long as the railroads continue free lighterage to and from Manhattan and Brooklyn.[16]

Piers: There are 688 piers within the lighterage limits, of which 144 are used by steamships, 160 by the railroads, and 384 for industrial, recreational, and other purposes. Of the total number of piers, 189, or approximately 27 per cent, are in New Jersey; and of the 160 piers used by railroads, 86, or approximately 54 per cent, are in New Jersey; but of the 144 piers used by steamships, only 14, or approximately 10 per cent, are in New Jersey. Of the 130 steamship piers in New York, 48 are on the Brooklyn shore of the upper bay, 42 on the Manhattan side of the Hudson River, 21 on Staten Island, and 19 along the East River. All of the piers used by the coastwise and intercoastal steamship lines are on the New York side.

Vessels: In the month of October, 1928, there were a total of 684 cargo vessels and 267 passenger vessels arriving and departing from the port of New York. Of the 684 cargo vessels, 297 docked on the Brooklyn shore of the Upper Bay, 122 on the Manhattan side of the Hudson River, 78 on the Manhattan side of the East River, 55 on the New Jersey side of the Hudson River, and 22 elsewhere in New Jersey. The number of cargo vessels docked in New York was approximately 86 per cent and in New Jersey 11 per cent of the total, the remaining 3 per cent being unassigned. Of the 267 passenger vessels, 177 docked on the Manhattan side of the Hudson River, 35 on the Brooklyn shore of the Upper Bay, 31 on the East River, and 24 in New Jersey. The number of passenger vessels docked in New York was approximately 91 per cent and in New Jersey 9 per cent of the total.

Hoboken: Most of the steamship piers on the New Jersey side are in the city of Hoboken. This is a city of about 56,000 population within an area of approximately 1 square mile. Before the United States entered the World War in 1917, Hoboken had a large part of the high-grade passenger and freight steamship business of the port. This included the North German Lloyd and Hamburg-American Lines which were taken over by the Government and their ships diverted to piers in Manhattan and Brooklyn. While several steamship lines still dock at Hoboken, its foreign commerce has declined from former years. Manufacturing and warehousing have also been curtailed, and there are a large number of vacant apartments and stores. The population declined about 5,000 in the five years previous to 1930 and 11,543 since the census of 1920.

Incidental effects: New Jersey's failure to receive a larger share of the steamship business of the port is alleged to result in subnormal business activity, employment, population, and value of property. There is no evidence that New Jersey has not shared in the general prosperity previous to the hearings except with respect to Hoboken and two or three other points. It is shown that New York City with 7.9 per cent of the total area of the metropolitan district has 62.5 per cent of the population, while New Jersey with 60.4 per cent of the area has only 28.2 per cent of the population. The record affords no indication of the extent to which the population is affected by the steamship business, but undoubtedly that is one factor of some importance. The most valuable use to which water-front property can be devoted is for the berthing of steamships. The assessed value of water-front property on the New York side is shown as averaging $152,418 per acre, compared with $28,341 per acre in New Jersey. A survey of the 14 miles of water front within the lighterage limits in New Jersey discloses that much more of it could be devoted to steamship purpcses.

B-31. WASTEFUL OPERATING PRACTICE

New Jersey urges that free lighterage rewards, subsidizes, and encourages wasteful operating practice. It regards the general plan of interchanging freight between the railroads and steamships on the eastern side of New York Harbor as fundamentally unsound. The railroads not only have to lighter the carload traffic to and from the steamship or steamship piers, involving two or more handlings of the freight, but they also have to handle the less-than-carload freight by car float to and from their pier stations, and the shippers then have to truck such traffic between the pier stations and steamship piers through the congested streets of New York. Comparison is drawn between this roundabout and expensive method of interchange with direct interchange across the piers at modern rail-water terminals. Such direct transfer of freight between car and ship is comparable to the transfer between car and lighter, and it would eliminate the second handling as well as the lighterage.

Changed conditions: Free lighterage originated in the days of sailing vessels before steam displaced sails. In those early days the freight handled by ships to and from the port of New York was local commerce—that is, it was bought, sold, stored, and handled in New York. Subsequent increase of population and development of industry in the interior of the country have changed the commerce of the port so that now the major part of it is through commerce between the interior and foreign countries or points reached via the coastwise and intercoastal lines. It was estimated by a defense witness that 90 per cent of the steamship cargo handled at the port of New York at present is through traffic.

Port series: In support of their contention that through traffic should be interchanged between the railroads and steamships on the New Jersey shore, complainants rely not only on the opinions of their own engineers and experts but also quote from the Port Series No. 20, a report regarding the port of New York, issued jointly by the War Department and the Shipping Board, which states:

"A satisfactory solution of the port's problems involves, first, the general question of lighterage and the 'water belt'; second, the special question of maximum economic coordination of all activities. Speaking in general terms of any port of transshipment between rail and water, lighterage and car floatage are expensive methods of distributing freight. This is not to say that a certain amount of lighterage and car floatage is not actually economical. As a matter of fact, in so far as the ship itself is concerned, the rate of loading is in most cases expedited greatly by having a proportion of the cargo loaded on or from a lighter over the offside; that is, the side away from the wharf. But, generally speaking, freight handled over a lighterage pier or pier station is rehandled, and rehandling costs money in increasing amounts as wages advance. Even though, as at New York, the lighterage costs are absorbed in rates from most interior points, the principle is the same. Any uneconomical practice, in the long run, will affect, in the shape of increased costs, the ultimate consumer.

"Therefore if we were designing the port of New York anew, and designing it as a port of transshipment pure and simple, we would adopt the principle of bringing rails to ship side, either

[16] Witnesses who supported this view included the Governor of New Jersey, the president of the New Jersey State Chamber of Commerce, a member of the New Jersey Board of Commerce and Navigation, a former member of the New York-New Jersey Port and Harbor Development Commission and of the Port of New York Authority, a consulting engineer formerly on the staff of the last two mentioned commissions, another engineer employed by Jersey City who was formerly in charge of construction for the New York Department of Docks, the mayor of Newark, and others.

for direct handling between car and ship (for such classes of material as steel rails, lumber, etc.), or for loading via warehouses and transit sheds. This would imply the location of terminal and storage facilities for such movements on the Jersey side, at least in so far as the railroads from territory west of the Hudson are concerned."

Section 15a: Complainants refer to section 15a in support of their contention that a charge should be made for lighterage in order to correct the present wasteful practices. While the complaint does not specifically allege a violation of that section, it is believed that it should always be taken into consideration. As previously noted, the construction station practice and constructive lighterage or trucking in lieu of lighterage were found to be not compatible with the provisions of section 15a in Constructive and Off-Track Freight Stations, supra.

New Jersey admits that all lighterage service could not be dispensed with in the near future, because the present facilities for direct transfer on the New Jersey shore are insufficient to handle all of the railroad-steamship tonnage, but it urges that rates should be adjusted so as to encourage the more economical direct interchange. It does not appear, however, that the commission could change the rate adjustment merely to encourage more economical operating practices unless the evidence otherwise establishes a violation of the act.

B-32. SEPARATELY ESTABLISHED CHARGES

New Jersey contends that section 6 requires the publication of separate charges for accessorial services. That section provides in part as follows:

"The schedules printed as aforesaid by any such common carrier * * * shall also state separately all terminal charges, storage charges, icing charges, and all other charges which the commission may require * * *."

Accessorial services: This term is apparently used to designate those services which are performed on some but not all or even most traffic. Among such services are refrigeration, reconsignment, transit, storage, elevation, and the loading or unloading of carload freight. Separate charges are commonly published for these services, but there are many instances where no such charge is made, and in some instances this has been approved by the commission. Considering these facts, together with the wording of the statute, it seems to require the publication of separate charges only where such charges exist or may be required by the commission.

The question then arises whether a separate charge should be required by the commission. It is urged that the cost of accessorial services which are performed on some but not most traffic should be borne by the traffic which receives the service wherever practicable, especially if the cost is very great. Lighterage is undoubtedly an accessorial service, as it is confined to certain traffic even at New York, is not generally performed by the railroads elsewhere, and is a service beyond railroad terminals which is of special value to shippers but unusually expensive for the railroads. It is not so clear, however, that the delivery or receipt of freight at regular stations on team tracks can be regarded as an accessorial service because it is performed by car float or motor truck. Delivery or receipt of freight at regular stations or team tracks is always covered by the line-haul rates. The view that services to and from regular stations may not be regarded as accessorial is supported by United States *v.* Baltimore & O. R. Co. (231 U. S. 274).

Precedents: A separate charge for lighterage would be well supported by precedent. Separate charges have been required to be published for services rendered by the railroads in transferring ore and coal between cars and vessels. (Iron Ore Rate cases, 41 I. C. C. 181, 44 I. C. C. 368; Lake Cargo Coal Rates, 46 I. C. C. 159.) Such charges for similar services were also approved in New England Coal & Coke Co. *v.* N. & W. Ry Co. (22 I. C. C. 398); and Southern Trans. Co. *v.* Norfolk & W. Ry. Co. (101 I. C. C. 211, 147 I. C. C. 29). Separate charges averaging 70 cents per ton were approved for handling freight over the piers at New Orleans in handling charges at Louisiana Ports (61 I. C. C. 379). In Coastwise Lumber & Supply Co. *v.* B. & O. R. Co. (85 I. C. C. 441) defendants' charge of 3 cents per 100 pounds for lightering lumber at New York Harbor in addition to the line-haul rates from certain points in West Virginia and South Carolina was found not unreasonable or otherwise unlawful. In Import Fertilizer to Southern Points (147 I. C. C. 274, 281) failure of the carriers to publish separate charges for their terminal services at South Atlantic and Gulf ports in connection with proposed rates on imported fertilizer was found not justified and their schedules ordered canceled. In Ceramic Traffic Asso. *v.* P. R. R. Co. (123 I. C. C. 591, 595), Vanderbilt Co. *v.* Atlantic Coast Line R. R. Co. (167 I. C. C. 319, 347), and International Paper Co. *v.* Baltimore & O. R. Co. (177 I. C. C. 191, 199) rates were prescribed on imported clay from North Atlantic ports "plus a charge of 50 cents per net ton for handling said traffic from ship side to cars at the aforesaid ports." In Maritime Asso., Boston Chamber of Commerce *v.* A. A. R. Co. (126 I. C. C. 199), a unanimous expression on behalf of the commission contained the following regarding this question at page 213:

"It is quite impossible upon this record to compare with any accuracy the terminal services performed at the ports upon this ex-lake grain after the cars are spotted at the water-front elevator, or the respective costs and special charges for such services. In our opinion, however, the evidence upon this subject indicates the desirability of confining the line-haul rates strictly to the service ending with the spotting of the cars, and requiring all further terminal service to be covered by a special charge or charges. Such a plan would preserve to each port such advantages as inhere in facilities for the convenient and economical loading of vessels, and would also facilitate such comparison of special terminal services and charges therefor as may be deemed advisable in the future. The situation is not unlike that presented in Iron Ore Rate Cases (41 I. C. C. 181), where a similar separation of charges was required for somewhat analogous reasons."

Separately established charges are now provided for lighterage to and from points beyond the lighterage limits and for the lighterage of certain classes of traffic not entitled to free lighterage.

B-33. PROPOSED RATE DIFFERENCES

The State of New Jersey proposes that the rates between New Jersey points in the port district and long-haul points to the north, west, or south be made lower than the corresponding New York rates by not less than 6 cents per 100 pounds on all traffic except bulk grain, as to which a difference of 3 cents is suggested. The proposed 6-cent differential is the same as the proportional rate hereinbefore mentioned applicable for lighterage under certain circumstances. The suggested 3-cent differential on bulk grain is the same as the allowance given by the Erie to a subsidiary for lightering that commodity. New Jersey does not care whether the proposed rate differences are established through the medium of separate charges for the terminal services or by having two sets of rates. It asks for modification of the Eastern Class Rate case and the Iron and Steel case to the extent necessary to obtain the relief sought.

While the above represents what New Jersey asks in these cases, the commission is not bound to accord that relief or nothing, but may extend such relief within the issues as seems justified by the evidence.

C. Boston's contentions and evidence

C-1. IN GENERAL

The Boston complainants attack the relationship of the rates to and from Boston as compared with New York and the other North Atlantic ports. This complaint is confined to export, import, coastwise, and intercoastal traffic, and the domestic rates are involved only in so far as they apply on such water-borne traffic. The evidence is directed largely to lighterage and other accessorial services which are accorded without charge in addition to the line-haul rates at New York and the other North Atlantic ports, except Boston. Complainants contend that the costs of such services, especially at New York, much more than offset the somewhat greater distances to and from Boston. It is further contended that the failure to charge for such services or to reflect the costs thereof in the rates nullifies Boston's natural advantages and facilities for direct interchange between car and ship.

Railroads: Boston is served by the New York Central as lessee of the Boston & Albany Railroad, the New Haven, and the Boston & Maine Railroad. The New York Central and New Haven also serve New York, but the Boston & Maine serves only New England ports, although it participates in joint rates to and from New York. The Boston & Maine has sought to build up the port of Boston, and it offered no defense to the complaint. None of the carriers serving Boston directly serve either Philadelphia, Baltimore, or Norfolk, but most of the carriers participate in joint rates to and from all of the ports. The complaint invokes exercise of the minimum rate power if necessary.

C-2. BOSTON'S NATURAL ADVANTAGES

Harbor conditions: Boston has one of the best natural harbors on the Atlantic coast. Its steamship piers average about 6 miles from the open ocean, as compared with 17 miles at New York, 63 miles at Philadelphia, and 165 miles at Baltimore. The channel depths, tidal currents, and fog and ice conditions also compare favorably with the other ports. These conditions all tend to facilitate the docking of vessels and make the harbor attractive to shipping.

Distances to foreign ports: Boston has a marked advantage over the other North Atlantic ports with respect to the distances to most of the foreign ports. To the principal European ports, Boston has an average advantage over New York of 206 miles by the winter route and 185 miles by the summer route; its corresponding advantage over Philadelphia is 371 and 350 miles, respectively; and its advantage over Baltimore is 533 and 493 miles, respectively. Even to the principal ports on the east coast of South America the distances from Boston are less than from New York, Philadelphia, or Baltimore. Boston's advantage over New York to European ports is equivalent to about 12 hours' sailing time.

Rail-and-ocean distances: The through rail-and-ocean distances from points in the Middle West to foreign destinations are also generally less by way of Boston than the other North Atlantic ports. For example, the through distances from Chicago to the principal European ports by way of Boston average less than those through New York by 136.9 miles over the winter route and 116 miles over the summer route; they also average less than those via Philadelphia by 223.5 and 202.7 miles, respectively; and less than via Baltimore by 351.8 and 311.6 miles, respectively. A somewhat similar showing is made with respect to the distances from St. Louis and Kansas City, Mo., Omaha, Nebr., St. Paul, Minn., and Denver, Colo.

In view of the foregoing, Boston regards its port as a natural gateway for export and import traffic from and to points in the Middle West as well as New England.

C-3. DIRECT INTERCHANGE FACILITIES

All of the railroad terminals and almost all of the steamship terminals at Boston have rails on the piers so that freight can be interchanged directly between cars and ship. Box-car freight

is loaded or unloaded by the railroad on the pier, where the interchange is effected, and the steamship handles it between the pier and ship. Open-car freight can generally be transferred even more directly by the ship's tackle from or to the cars on rails along the stringpiece or side of the pier.

Railroad terminals: The Boston & Maine terminals at Hoosac Wharf and Mystic Docks in Charlestown, which are served from a modern "hump" yard, are regarded as unusually up to date and efficient. The Boston & Albany docks are at East Boston, across the harbor from Boston proper and the other terminals. The New Haven terminals are at South Boston, where it also serves the Commonwealth Pier and the Army supply base. These last two terminals are described below because they show not only the type of direct interchange facilities available at Boston, but also illustrate the modern rail-water terminals desired by New Jersey. Each of the railroad terminals is used by a number of steamship lines, mostly in the foreign trade. All of them are connected by rail.

Commonwealth Pier: This pier was built by the Commonwealth of Massachusetts at a cost of approximately $4,000,000. It is 1,200 feet long and 400 feet wide with a 40-foot channel on both sides. This makes it capable of berthing the largest ships, and it is used by nine steamship lines in the foreign trade. There is a 2-story steel shed 1,167 feet long and 360 feet wide, which is divided into three sections. Between these sections there are two pairs of railroad tracks depressed so that the car doors are even with the pier floor. Provision is made for trucks to cross the tracks by means of ramps which slope down from the pier floor to the tracks at intervals. There is also a single track along the stringpiece on both sides of the pier, making six tracks which extend almost its entire length. Open-car freight can thus be handled directly between the cars and ship, while other freight has to be trucked only a short distance. The pier is equipped with cargo masts, portable electric winches, platform trucks, freight elevators, and chutes. Freight can be handled between ships, and the second story of the pier shed by the cargo masts and winches. A viaduct from the street makes the second story as well as the first story accessible to motor trucks. This pier is recognized as one of the best and most efficient on the Atlantic coast.

Army supply base: This terminal was constructed by the Government in 1918 primarily for war purposes but is now leased to private interests for commercial purposes. It has a total berthing space for ships of 5,450 feet, and it is used by 15 steamship lines in the foreign trade. There are 4 concrete and steel buildings, 2 of which are 1,638 feet long and 2 924 feet long, from 100 to 128 feet wide, and from 2 to 8 stories high. Their total floor area is 2,524,430 square feet or approximately 58 acres. There are seven railroad tracks for the greater part of its length and five tracks for the rest of its length. Freight is handled between the cars and the storehouse or ship side in trailer trucks pulled by tractors. These trucks can be taken to any floor of the buildings in automatic elevators, of which the main storehouse has 24 controlled by one operator. Four electric traveling cranes are provided for handling freight between the ships and open cars on tracks along the stringpiece. Freight can also be handled between the ships and the second or third floors of three of the buildings which have projecting balconies. The buildings are accessible to motor trucks through a street 86 feet wide down the center of the terminal. Six bridges across this street connect the buildings on either side at the second or third floors. There is no waterfront terminal in the country where freight can be handled between ship and rail or truck with greater facility or economy than at this terminal.

Adjoining the Army supply base there is the largest dry dock in this country, capable of accommodating the largest ships afloat. Generally speaking, the rail-water terminals at Boston are capable of handling several times the volume of traffic which has passed through them during recent years.

C-4. SERVICES AT PORTS COMPARED

Switching: At Boston the distance from the Boston & Maine's classification yard to its Hoosac Wharf is 1.5 miles and to its Mystic Docks 2 miles. On the Boston & Albany the distance from its East Boston classification yard to the docks is 1.1 miles, the movement from the Beacon Park yard to East Boston being road haul. And on the New Haven the distance from its South Boston classification yard to the piers is only 0.6 mile. These switching movements are compared with those from the classification yards to the lighterage piers at New York Harbor, which range from 0.5 to 5.61 miles on the various lines. The average at Boston is 1.3 miles compared with 3.45 miles at New York.

Handling: The only service performed by the railroads in transferring carload freight between cars and ship at Boston is the loading or unloading of the cars on the piers. In many instances the railroads do not have to perform even this service where open-car freight is handled directly to or from the cars by the ship's tackle. About 21 per cent of the total water-borne freight was so handled in 1929.

Lighterage: No lighterage whatsoever is performed by the railroads at Boston. Some lighterage is performed between the Boston & Maine's terminals and the piers of certain coastwise steamship lines, but this is performed by and at the expense of the steamship companies. It would seem from this that lighterage is regarded as a service primarily for the benefit of the steamship companies at Boston.

Heavy lifts: Freight which is too heavy for the ship's derrick sometimes has to be handled by outside lighterage companies. At New York the railroads make an allowance of 60 cents per ton for this service, but no such allowance is made at Boston, and the service has to be paid for by the shipper or the steamship company. This has resulted in the diversion of heavy-lift freight from Boston to New York.

Split deliveries: Under the provision for two free deliveries of export carload freight at New York, a New England manufacturer who has orders for two large less-than-carload lots to be exported via different steamship lines can combine them so as to take the carload rate, and they will be delivered by lighter to the two steamship lines without additional charge. If these shipments were made to Boston for export via steamship lines docking at different piers, it would be necessary for them to be made as separate less-than-carload shipments, and in addition the shipper would have to bear the expense of trucking from the freight station to at least one of the piers. Of course, shipments to be exported by steamship lines docking at the same pier could be consolidated, but in many cases the steamship lines dock at different piers. Obviously Boston is at a decided disadvantage with respect to such shipments.

Shifting steamers: At New York the New York Central and other trunk lines, except the New Haven, make an allowance for shifting steamers to their terminals from other piers where they have docked, provided there is 150 tons or more of cargo. This allowance, which is the cost of the towing but not to exceed $75, relieves the carrier paying it from the expense of lighterage. No such allowance is made at Boston, although ships are often shifted from one terminal to another there, including the Boston & Albany docks. The expense of shifting steamers at Boston thus falls on the steamship companies or the shippers. This naturally tends to make that port less attractive to them than New York.

Storage in transit: Various commodities imported from abroad are held in storage at the port until orders are received for their distribution. Among such commodities are cocoa beans, burlap, beet pulp, and peat moss, which are imported through both New York and Boston. At New York the New York Central and other trunk lines, except the New Haven, publish a storage-in-transit provision. Under this provision the carriers will lighter carload freight or truck it in lieu of lighterage from the steamship piers to their own or other warehouses; and if it is shipped out within one year, the New York rates are applied without additional charge for the lighterage or trucking. There is no such general storage-in-transit provision at Boston, where the charge for switching or the expense of trucking from the pier to the warehouse must be borne by the shipper in addition to the rates from Boston to destination. For example, on 1,000 bags of cocoa beans received at the Boston & Albany docks the charges for switching a short distance from the pier to that carrier's East Boston warehouse at $15 per car would amount to $60; and if the shipment were trucked, the cost at 8 cents per 100 pounds would amount to $260. The storage charges are also much in excess of the New York Central's charges at New York, but complainants do not assail the difference in such charges. They do complain of according the transit provision at New York and not at Boston. This has resulted in the diversion of considerable business from Boston to New York.

Switching charges: When the line-haul movement to or from Boston is over a different railroad from that which serves the pier where the ship docks, the latter carrier assesses a switching charge of $10 per car and a charge of 60 cents per ton for loading or unloading the car. These charges are absorbed by the line-haul carrier on traffic from or to points west of the Hudson River, except in the case of grain. Aside from ex-lake grain, however, Boston does not now have much water-borne commerce from or to that territory. On traffic from or to points in New England, the line-haul carrier absorbs the loading or unloading charge and one-half of the switching charge. Thus New England shippers have to pay $5 per car in addition to the Boston rates for switching to or from a terminal other than that of the line-haul carrier. This additional charge applies on a considerable proportion of the water-borne commerce, especially that interchanged with ships at the terminals served by the New Haven. These terminals are used by many of the steamship lines in the foreign trade, while central and northern New England are served largely by the Boston & Albany and the Boston & Maine. In 1929 approximately 30 per cent of the water-borne traffic handled by the New Haven to or from its terminals at Boston was switched from or to other lines for the road haul. The corresponding percentage for the Boston & Albany was 18.5 and for the Boston & Maine 7.7 per cent. The bulk of this traffic was from or to points in New England.

Under the lighterage practice at New York carload traffic is delivered or received at any steamship pier within the lighterage limits without charge in addition to the New York rates. For example, export traffic from points on the Boston & Albany when received at the New York Central terminals will be lightered to any of the contract terminals in Brooklyn or any of the steamship piers in Hoboken at the flat New York rates. The record indicates that this practice has had considerable influence in attracting New England traffic to New York in preference to Boston.

C-5. SPECIAL TERMINAL COSTS

Complainants contrast the costs incurred by the railroads in transferring freight between their cars and steamships at Boston and New York, respectively. These costs are for services which are in addition to the terminal services generally performed on carload traffic throughout the country.

At Boston: The costs at Boston were furnished by the defendant lines serving that port in response to a questionnaire submitted by complainants. As previously indicated, the only

service performed by the railroads in transferring carload freight at Boston is the loading or unloading of the cars on the piers. This cost during the year 1929 an average of 40 cents per ton for the Boston & Albany and the Boston & Maine and 45 cents per ton for the New Haven. When open cars are loaded or unloaded by the ship's sling, the railroads sometimes pay the steamship company or its stevedores 30 to 38 cents per ton, but in other instances transfers so made are entirely without expense to the railroad.

At New York: Appendix D shows the combined shore-to-shore and transfer costs for lighterage at New York by all of the trunk lines except the New Haven. The shore-to-shore cost for that line derived from the Stuart study made by the trunk-line defendants in cooperation with the Port of New York Authority is $2.91 per ton. For the transfer by the New Haven between car and lighter complainants use an estimated cost of 40 cents per ton, which may be compared with its average cost of 45 cents per ton for loading or unloading at Boston. The New Haven's contract rates for the transfer between lighter and ship or pier are 29.2 and 42.1 cents per ton on westbound and eastbound freight, respectively. Combining these costs for the New Haven makes a cost of $3.60 per ton on westbound freight and $3.73 on eastbound freight. These costs are somewhat less than the average cost of $3.93 per ton found for the New Haven in the Wharfage Charges case, supra.[17]

Equivalent in miles: Based on the New Haven's average freight operating expense per ton-mile in 1928, its lighterage costs of $3.60 and $3.73 per ton on westbound and eastbound freight are equivalent to 263 and 272 miles of average rail transportation, respectively. Deducting from the freight operating expenses the approximate cost of handling less-than-carload freight, the equivalent miles are shown as 303 and 315 miles. These distances are considerably in excess of the longest possible haul of the New Haven from or to New York.

As previously indicated, the New York Central's lighterage costs were shown as equivalent to from 232 to 274 miles of average rail transportation. These equivalent miles are four or five times as great as the difference in distance of about 58 miles from Albany to Boston and New York, respectively.

Percentage of rates: The above-mentioned lighterage costs of the New Haven range from 41 to 64 per cent of its fourth-class rates, from 58 to 93 per cent of its fifth-class rates, and from 75 to 117 per cent of its sixth-class rates under the Eastern Class Rate case for distances of 50, 100, 150, 200, and 250 miles. These lighterage costs of $3.60 and $3.73 per ton, which are equivalent to 18 and 18.65 cents per 100 pounds, also exceed some of the commodity rates maintained by the New Haven from or to New York for distances of 131 to 165 miles and which include lighterage. In such cases, after deducting the average cost of lighterage, the carrier has less than nothing for the line haul.

C-6. GENERAL RATE ADJUSTMENT

Port differentials: The history of the port differentials is set out in Appendix B to Maritime Asso., Boston Chamber of Commerce *v.* A. A. R. R. Co., 95 I. C. C. 539, 583, hereinafter referred to as the Boston Maritime case. The differential adjustment on export and import traffic applies from and to most of central territory, but it also affects the rates on traffic moving through that territory which are largely on a combination basis. Under that adjustment Boston takes the same rates as New York, while Philadelphia and Baltimore have differentials under New York, and Norfolk generally takes the same rates as Baltimore. The differentials in the class rates are 2 cents to or from Philadelphia and 3 cents to or from Baltimore, except on import traffic the first two classes are 6 cents from Philadelphia and 8 cents from Baltimore. These differentials were formerly offset by differentials in the ocean rates to and from European ports so that the through rates on export traffic were substantially equalized via the various North Atlantic ports. During the World War the ocean differentials were discontinued, and the Shipping Board has since declined to restore them. The through rates via Boston are thus higher than those over the longer routes via Philadelphia and Baltimore. However, this commission's jurisdiction is confined to the rail rates, and the distances from representative points in differential territory to Boston average over 160 miles greater than to Philadelphia and over 225 miles greater than to Baltimore. Moreover, as hereinafter shown in section E-2, Boston has no advantage over Philadelphia and Baltimore similar to its advantage over New York with respect to terminal costs.

In the Boston Maritime case, where Boston sought elimination of the differentials in favor of Philadelphia and Baltimore, it was found that they were not unduly prejudicial to Boston. In that case New York interveners joined with Boston in seeking elimination of the differentials, and there was no issue regarding the relationship between Boston and New York. The differentials are generally much less than the rate differences in favor of Philadelphia and Baltimore on domestic traffic under the Eastern Class Rate case. They also appear to be considerably less than would result from the application of complainants' cost formula hereinafter explained.

[17] Complainants do not rely upon the costs as found in the Wharfage Charges case so much as the other costs shown in this record. They show that the costs found in that case for the port of Boston were based upon erroneous information furnished by the carriers, but no such showing was made regarding the costs found for New York.

Boston versus New York: While the complainant and some of the evidence assails the differentials in favor of Philadelphia and Baltimore, the attack was directed mainly to Boston's relationship with New York and especially to the free lighterage practice. The parity of rates as between Boston and New York on export and import traffic from and to differential territory and beyond also appears to apply from and to most points west of Albany, N. Y., but New York generally has lower rates than Boston from and to other points in trunk-line territory.

New York is Boston's principal competitor for export and import traffic, and the Boston witnesses testified that it must have lower rates than New York in order to compete. It is urged that the commission's decisions regarding the port relationships have proceeded on the theory they should be so adjusted as to permit all of the ports to compete for the traffic. While this is an important consideration, it does not appear that the commission ever has or could make rates with a view to equalizing the traffic moving through the various ports. Especially is this true where to do so would necessitate a disregard of transportation conditions and costs. As hereinafter shown, however, the complaint is based primarily upon the cost of service to and from Boston compared with New York, including lighterage at the latter port. To show that there is nothing radical about Boston seeking lower rates than New York, it is pointed out that Boston had lower rates than New York on import traffic from 1874 to 1912. The differentials in favor of Boston ranged from 5 to 10 cents on first class and from 1 to 3 cents on commodities during different periods. The rates were equalized in 1912 as a result of Chamber of Commerce of N. Y. *v.* N. Y. C. & H. R. R. Co., 24 I. C. C. 55, 27 I. C. C. 238. In that case it was said that the cost of the additional haul to and from Boston would "perhaps" equal or exceed the greater terminal cost at New York, but there was no attempt to show the costs as in these cases. This is the first case since then in which Boston has sought lower rates than New York, and the only case in which a showing has been made regarding the cost of service to and from the respective ports.

Cost of service:[18] Complainants urge that distance as a factor in rate making is merely a rough measure of the cost of service. They undertake to show that when consideration is given to the cost of lighterage at New York, the cost of transportation to and from that port is greater than that to and from Boston. This showing is based upon the average freight operating expense per ton-mile in the eastern district for the year 1928. The approximate extra cost of handling less-than-carload traffic was first deducted so as to get the average cost on carload traffic. The resulting factor of 7.7 mills per ton-mile was then applied to the distances over various routes from 14 representative points to Boston and New York, respectively. For example, the routes used from Buffalo to Boston were those of the New York Central in connection with the Boston & Albany and the Boston & Maine, respectively; and to New York those of the New York Central, the Lackawanna, the Erie, and the Lehigh Valley, which constitute the principal direct routes. The special terminal costs hereinbefore referred to for each individual line serving the respective ports were next added to give the total cost of service. The cost of lighterage on eastbound and westbound traffic are averaged, but the costs are shown separately according to the method of transfer by man power or crane. These total costs together with the ratios of New York to Boston are shown below:

Comparison of total cost of service

	Boston, cost per ton	New York, cost per ton		Ratio, New York to Boston	
		Crane	Man power	Crane	Man power
				Per cent	*Per cent*
Buffalo, N. Y.	$4.16	$5.24	$5.45	125	131
Watertown, N. Y.	3.26	4.72	4.87	145	150
Utica, N. Y.	2.61	4.05	4.21	155	161
Erie, Pa.	4.87	6.26	6.49	128	133
Detroit, Mich.	6.00	7.47	7.74	125	129
Columbus, Ohio	7.16	7.63	7.89	107	110
Chicago, Ill.	8.18	9.66	9.91	118	121
Indianapolis, Ind.	8.17	8.67	8.93	106	109
Pittsburgh, Pa.	6.10	5.88	6.16	96	101
St. Louis, Mo.	9.31	10.48	10.76	112	115
Syracuse, N. Y.	2.99	4.20	4.38	140	146
Cleveland, Ohio	5.56	6.84	7.04	123	127
Binghamton, N. Y.	3.01	3.66	3.81	121	126
Burlington, Vt.	2.18	4.44	4.66	204	214
Average transportation cost per ton	5.25	6.37	6.59		
Ratio, New York to Boston average transportation cost per ton				121.3	125.5

In order to meet the defense's criticism that the lighterage costs are included in the total freight operating expenses on which the

[18] The evidence regarding the cost of service to and from Boston as compared with New York was given by a witness who was former comptroller of the United States Railroad Administration and who has had considerable experience with cost accounting as a railroad official.

ton-mile cost is based, complainants revised the above figures so as to eliminate the estimated cost of the special terminal services from the line-haul factor. This reduced the line-haul factor to 7.23 mills per ton-mile, making the total average cost from the 14 points to Boston $4.96 per ton, and the corresponding averages to New York $6.12 for crane handling and $6.34 for handling by man power. These average costs to New York are respectively 123.4 and 127.8 per cent of the average cost to Boston. The differences between the average costs in favor of Boston are $1.26 and $1.38 per ton, or 6.3 and 6.9 cents per 100 pounds, respectively.

C-7. EX-LAKE GRAIN RATES

Importance of traffic: Boston is especially interested in the rates on ex-lake grain. This is a very important part of its commerce, because grain is about the only export commodity available to it for use as bottom cargo, and such cargo which will balance the lighter loading top cargo is very attractive for ships. During the 10 years from 1920 to 1929, inclusive, grain constituted 43.6 per cent of Boston's export tonnage. As will be shown in more detail later, the grain traffic through the port of Boston has suffered a marked decline in recent years. This is a matter of much concern to complainants, as grain is needed to attract more ships, and the service afforded by more ships would attract other traffic.[19]

Grain movement: Ex-lake grain originates principally in Canada. Buffalo is the lower lake port through which most of it moves when exported via North Atlantic ports in this country. It is expected, however, that the completion of the Welland Ship Canal, together with the lower rates applicable from Oswego, N. Y., will eventually result in much of the traffic being diverted to that port. Of the American North Atlantic ports, New York receives by far the largest portion of the ex-lake grain, followed by Baltimore, Philadelphia, and Boston in the order named. For example, in 1929 the total number of bushels of grain exported were approximately 60,000,000 via New York, 17,600,000 via Baltimore, 9,420,000 via Philadelphia, and 4,104,000 via Boston.

Methods of handling: At Boston the grain is transferred through water-front elevators directly to the ship's hold. This is also possible at New York when the ships come to the water-front elevators, but the bulk of the traffic there is passed through the water-front elevators to lighters or grain boats which take it to ship's side, and the grain is transferred to the ship by floating elevator. At Philadelphia most of the grain is transferred through water-front elevators direct to ships, but some of it is lightered or barged as at New York. At Baltimore the grain is transferred through water-front elevators direct to the ships, the same as at Boston. Grain moves to Boston over the Boston & Albany or the Boston & Maine. When it is exported by steamships docking at other terminals in the harbor, the ship is shifted at the expense of the steamship company or the shipper.

Boston versus New York: The rates on ex-lake grain from Buffalo to Boston and New York are the same, 15.17 cents. This includes a charge of 1 cent per bushel for handling through the lake elevators and a similar charge for handling through the water-front elevators at the ports. At New York the Erie makes an allowance to a subsidiary for lighterage of 3 cents per 100 pounds, or 60 cents per ton. Complainants regard this as a fair lighterage cost for grain, considering the much greater costs shown by New Jersey on other traffic. The floating elevator also receives 1 cent per bushel for transferring the grain from the lighters to the ship, but this charge is borne by the shipper and does not come out of the carrier's line-haul revenue. Deducting 1 cent per bushel for elevation at the lake elevators on traffic to both ports, and 3 cents for lighterage at New York, the net rates are 10.5 cents to New York and 13.5 cents to Boston.[20] These rates yield the New York Central 4.8 mills per ton-mile for its distance of 438 miles to New York, compared with 5.5 mills per ton-mile for 494 miles to Boston. The ton-mile yield to Boston is 115 per cent of that to New York, although it should normally be less for the longer haul. The car-mile earnings, based on 80,000 pounds per car, are 19.2 cents to New York and 22 cents to Boston. A somewhat similar showing is made with respect to traffic moving over other lines and respecting the rates from Oswego, which are 1.5 cents under Buffalo to both ports.

Port differentials: The rates on ex-lake grain from Buffalo to Philadelphia and Baltimore are 0.5 cent lower than to New York and Boston. The short-line distances are 479 miles to Boston, 411 miles to New York, 431 miles to Philadelphia, and 408 miles to Baltimore. In the Boston Maritime case, the original report found that there could be no undue prejudice to Boston with respect to these rates, because those to Boston are controlled by different lines from those to Baltimore and Philadelphia. It was stated that this situation might be corrected by exercise of the minimum rate power, but complainants had not invoked the exercise of that power. The view was expressed, however, "that no adequate reason exists for port differentials in favor of Philadelphia and Baltimore in the case of the ex-lake rates on grain in bulk from Buffalo for export." Upon further hearing, 126 I. C. C. 199, complainants did invoke exercise of the minimum rate power, but the evidence was found insufficient to warrant its exercise. The following conclusions were reached by the commission at page 215:

"The situation may be summed up, then, as follows:

"If we were to prescribe maximum or minimum reasonable export rates on ex-lake grain from Buffalo, we would in either case prescribe identical rates to New York, Philadelphia, and Baltimore, confining such rates to the service ending with the spotting of the car at the water-front elevator and requiring any further terminal service to be covered by a special charge or charges. We would further find that the same rate might lawfully be established and maintained to Boston. The record, in our opinion, amply justifies such conclusions. But it has not been shown that the present rates are higher than maximum reasonable rates or lower than minimum reasonable rates, nor does the record enable us to determine what the maximum and minimum limits of reasonableness would be. Nor does the record warrant a finding of undue preference and prejudice under section 3. The conclusion is inevitable that the present rates are not unlawful."

The present record does not warrant any different conclusions from those above quoted.

C-8. RATES FROM AND TO NEW ENGLAND

New England traffic: Aside from ex-lake grain and its products, Boston's water-borne commerce originates at or is destined to points mainly in New England. This is one of the leading manufacturing areas of the country and produces a large volume of exports. Even the export traffic from New England points moves much more via New York than Boston. A survey of New England's foreign trade by the United States Department of Commerce discloses that approximately 65 per cent of New England's exports of manufactured products in 1928 moved via New York and less than 14 per cent via Boston, the balance moving principally by rail to Canada. The great preponderance of the movement via New York is attributed largely to the more frequent sailings from that port, but lighterage is also an important factor in conjunction with the switching charges and expense of shifting vessels at Boston. New England shippers represented by complainants' witnesses who now ship most of their traffic via New York would prefer to ship more of it via Boston if they could do so on as favorable a basis.

Comparisons of net rates: Complainants compare the rates on carload traffic between New England points and Boston versus New York after deducting the special terminal costs hereinbefore mentioned; that is, the average cost of lighterage at New York and the cost of loading or unloading the cars at Boston. These comparisons are based on the rates in effect at the time of the bearings but would not be materially affected by substituting the new class rates. For example, on lard compound and substitutes from Pittsfield, Mass., a commodity rate of 15 cents applies over the Boston & Albany in connection with the New York Central to New York lighterage points, 163 miles, while the fifth-class rate of 23.5 cents is applicable over the Boston & Albany to Boston, 151 miles. After deducting the New York Central's cost of lighterage, the net rate to New York is only 3.3 cents compared with a net rate of 23.1 cents to Boston for a shorter distance. On cotton-piece goods from Chicopee, Mass., a commodity rate of 36.5 cents applies over the Boston & Maine in connection with the New Haven to New York lighterage points, 134 miles, while the third-class rate of 39 cents applies over the Boston & Maine to Boston, 118 miles. After deducting the New Haven's lighterage cost the net rate of 18.5 cents to New York is less than one-half of the net rate of 38.6 cents to Boston for a shorter distance. On dried beet pulp to Springfield, Mass., the New Haven maintains a commodity rate of 14.5 cents from New York lighterage points, 131 miles, compared with a rate of 16 cents applicable over the Boston & Albany from Boston, 98 miles. The routes are different here, but the rate from New York is only 80 per cent of the New Haven's lighterage cost. On hemp to Ludlow, Mass., there is a commodity rate of 17.5 cents from New York lighterage points over the West Shore and Boston & Albany, 248 miles, compared with the fifth-class rate of 16 cents applicable from Boston over the Boston & Albany, 93 miles. After deducting the lighterage cost the net rate of 6.5 cents from New York for 248 miles is less than one-half of the net rate of 15.6 cents from Boston for 93 miles. The foregoing are illustrative of numerous similar comparisons. They show that after deducting the average cost of lighterage the net rates to or from New York are out of all proportion to those to or from Boston.

Percentages of first class: Complainants also show that the commodity rates maintained by the New Haven to and from New York on export and import traffic are in numerous instances a lower percentage of the first-class rates than are the class rates applicable on the same commodities to and from Boston. These comparisons are based on the new class rates under the Eastern Class Rate case, and the distances used to or from New York are those to or from Harlem River plus 40 miles. For example, on cordage, rope, and twine from North Plymouth, Mass., there is a commodity rate of 21.5 cents to New York, 270 miles, which is 24.4 per cent of first class; while the fifth-class rate of 14 cents

[19] Complainants quote from the Port Series No. 2, issued jointly by the War Department and the Shipping Board, as follows:

"More vessels may be attracted to Boston through the restoration of the through export traffic, and particularly the rapidly dying grain trade. Grain and flour are important to Boston's success as a port, because they are the only heavy commodities normally available for shipment in large quantities to the European countries from which Boston's imports are largely received. The restoration of the grain trade, however, is apparently dependent upon a rate situation which will place this port upon a more favorable basis."

[20] An additional 1 cent per bushel should be deducted for passing the grain through the water-front elevators at both ports, but this was not done in complainant's computation. It would simply make the net rates that much lower to both ports.

applicable to Boston, 35 miles, is 51 per cent of first class. If the rate to Boston were the same percentage of first class as that to New York it would be 10 cents, or 4 cents less than the present rate. On the same articles from New Bedford, Mass., there is also a commodity rate of 21.5 cents to New York, 262 miles, which is 24.4 per cent of first class; while the fifth-class rate of 16 cents to Boston, 52 miles, is 34 per cent of first class. If the rate to Boston were the same percentage of first class as that to New York, it would be 11.5 cents, or 4.5 cents less than the present rate. On jute yarn to Thompsonville, Conn., there is a commodity rate of 25 cents from New York, 162 miles, which is 34.7 per cent of first class; while the fourth-class rate of 34 cents applicable from Boston, 134 miles, is 50.7 per cent of first class. If the rate from Boston were the same percentage of first class as that from New York it would be 23 cents, or 11 cents less than the present rate. The foregoing are illustrative of other comparisons of a similar nature. In each instance the rates to or from New York include lighterage. The average cost of that service ranging from 74 to 84 per cent of the above rates to or from New York has not been deducted in these comparisons.

Relief sought: In view of the competitive situation as between the ports, complainants urge that the rate relationships as between Boston and New York on traffic from and to New England should not be any more favorable to New York than under the first-class rates, plus a reasonable charge for lighterage where that service is performed. The rates on water-borne traffic to or from Boston include loading or unloading of the car on the pier, while the rates to or from pier stations served by car float at New York also include loading or unloading of the car. Complainants urge that lighterage is an entirely distinct service, which is of special value to shippers and steamship companies but unusually expensive for the railroads. The record affords strong support for these contentions.

Eastern Class Rate case: As previously indicated, the record in these cases with respect to the costs of lighterage and car-float service at New York is very much more comprehensive than that in the Eastern Class Rate case, which was decided without prejudice to the conclusions which might be reached in these cases. In that case the New England scale was prescribed for application to and from New York based on the distances to and from Harlem River plus 40 miles or the distances to and from Spuyten Duyvil plus 10 miles. This makes the New Haven's rates to and from its pier stations and for lighterage deliveries higher than those to and from its Harlem River terminal; but the New York Central's rates to and from its rail terminals on Manhattan also apply to and from its pier stations and for lighterage deliveries. The 40 miles allowed over Harlem River adds from 2 to 6 cents to the fourth-class rates, from 2 to 4 cents to the fifth-class rates, and from 1 to 3 cents to the sixth-class rates. These additions are not far out of line with the New Haven's shore-to-shore costs for the car-float service to and from its pier stations, which average $1.07 per ton, or about 5 cents per 100 pounds; but they are entirely inadequate to cover its corresponding cost for lighterage of $2.91 per ton, or about 14.5 cents per 100 pounds. When the expense of transferring the freight between car and lighter and between lighter and pier or ship is added to the shore-to-shore costs the New Haven's total lighterage costs are $3.60 per ton on westbound traffic and $3.73 on eastbound traffic, or 18 and 18.65 cents per 100 pounds, respectively. The difference between these costs for lighterage and car floatage to or from pier stations is too striking to be ignored. It may be compared with the difference of 7 cents between the fifth-class rates of 20 cents for 100 miles and 27 cents for 200 miles and with the difference of 12 cents between the fifth-class rates of 20 cents for 100 miles and 32 cents for 300 miles under the Eastern Class Rate case.

The present record shows that the cost of lighterage has become a matter of very great concern to the New Haven. It has instructed its agents to solicit the routing of lighterage freight by its Sound steamship lines. These lines dock on the west side of Manhattan and do not lighter local traffic. This also makes a more economical lighterage operation for export and import freight.

Unlike the class rates, commodity rates between New York and New England generally recognize a difference between deliveries at regular stations in Manhattan or Brooklyn and lighterage deliveries, the latter being from 1.5 to 5.5 cents higher than the former in most instances. A separate charge for lighterage in connection with both class and commodity rates would not only promote uniformity but it would tend to discourage use of the expensive lighterage service where delivery could be taken through the more economical car-float facilities.

C-9. SPECIAL RATE SITUATIONS

Bananas: The United Fruit Co.'s pier at Boston does not have any direct rail connection. Bananas are handled from this pier by car float to the Boston & Maine and New Haven terminals. Shipments for the Boston & Albany are handled in the same way through the New Haven. A separate charge of $6.50 per car is made by the railroads for the car-float service. This charge is absorbed on shipments to points west of the Hudson River or north of the Canadian border, but only about 6 per cent of the movement is to that territory. On the remaining 94 per cent of the movement to points in New England the car-float charge of $6.50 per car is assessed in addition to the rates from Boston. Complainants compare the carload rates on bananas from Boston and New York to New England points as follows:

Rates on bananas

To—	From Boston		From New York	
	Miles	Cents	Miles	Cents
Bangor, Me	243	59.5	442	59.5
Rockland, Me	191	56	390	59.5
Waterville, Me	188	55	387	59.5
Rutland, Vt	167	50	266	50
St. Albans, Vt	260	59.5	370	59.5
Newport, Vt	231	58.5	357	59.5

It will be noted that although the distances are considerably less from Boston, the rates are either the same or only a little higher from New York. The rates from New York include lighterage or car floatage in lieu of lighterage, while an additional charge of $6.50 per car applies for car floatage on shipments from Boston. This situation clearly operates to the disadvantage of the port of Boston.

Vegetable oils: At Boston vegetable oils are pumped from the ship direct to tank cars. At New York such oils are pumped from the ship to tank barges which proceed to the rail terminal and the oils are then pumped from the barges to tank cars. The railroads make an allowance to the shippers for this service of 6.5 cents per 100 pounds, but 2 cents of this amount is charged back for services performed by the railroads in transferring the oil between barge and cars, so the net amount paid by the railroads to the shippers is 4.5 cents. Formerly there was quite a movement of vegetable oils through the port of Boston to Toronto and Hamilton, Ontario, Canada. The rate from Boston was 30 cents as compared with 34.5 cents from New York, or a difference of 4.5 cents. It will be noted that this rate difference just offset the net allowance at New York. In April, 1931, the rate from New York was reduced to 30 cents, and the movement through Boston stopped.

Lumber: At Boston lumber arriving by water is loaded into the cars by the shippers without expense to the railroads. At Philadelphia and Baltimore the cost of loading lumber is absorbed by the railroads where they receive a revenue of not less than 9 cents per 100 pounds. The railroads serving the ports of Philadelphia and Baltimore are different from those serving Boston. Moreover, it is doubtful whether there is any competition between these ports with respect to the lumber traffic. It does not appear, therefore, that an order requiring the railroads to make a charge for loading lumber at Philadelphia and Baltimore would benefit the port of Boston.

C-10. DECLINE OF THE PORT OF BOSTON

Total tonnage: Notwithstanding Boston's natural advantages as a port and its facilities for direct and economical interchange between rail and ship, its commerce has not kept pace with the other North Atlantic ports and especially New York. While Boston's total water-borne commerce has shown some increase, it has not been as great as that of New York or the country as a whole. For example, from 1923 to 1929 the total water-borne commerce of the United States increased 28.3 per cent, while that of New York increased 35.8 per cent, and Boston increased only 16.1 per cent. Boston's rate of increase was also less than that of Philadelphia and Baltimore. The increase at Boston was due largely to petroleum and coal which are not general cargo and therefore do not attract general-cargo ships.

Division of tonnage: Boston has decreased while New York steadily increased its proportion of the total foreign commerce. For example, in 1922 the combined foreign commerce of the two ports amounted to 27,000,000 tons, of which New York had 22,762,000 tons, or 84 per cent, and Boston had 4,257,000 tons, or 16 per cent. Seven years later, in 1929, their combined foreign commerce was 29,903,000 tons, of which New York had 27,177,000 tons, or 91 per cent, and Boston had 2,725,000 tons, or 9 per cent. It will be noted that New York's proportion of the total tonnage increased 7 per cent while Boston had a corresponding decrease. From 1922 to 1929 New York also increased its proportion of the total foreign commerce of the five North Atlantic ports from 56 to 60 per cent. In 1922 New York handled 95 per cent and in 1929 its proportion was 97 per cent of the total exports through the ports of New York and Boston.

Entrances and clearances: The vessel entrances and clearances through the Massachusetts and New York customs districts also disclose that Boston has not kept pace with New York either in respect to the number of vessels or the tonnage carried. For example, in 1900 the number of vessels entered through the Massachusetts district was 52 per cent of those through the New York district, but in 1910 this ratio had declined to 43 per cent, and in 1928 to 32 per cent. Likewise, in 1900 the tonnage entered through the Massachusetts district was 27 per cent of that through the New York district, but in 1910 this ratio had declined to 21 per cent, and in 1928 to 19 per cent. With respect to vessel clearances, the ratio of Massachusetts to New York declined from 50 per cent in 1900 to 21 per cent in 1928, and the tonnage ratio also declined from 25 to 12 per cent during the same period.

Export tonnage: The decline of the port of Boston is especially noticeable with respect to its export commerce. From an average of 991,164 tons annually during the 10 years from 1905 to 1914,

inclusive, Boston's exports declined to an average of 412,917 tons annually during the 10 years from 1920 to 1929, inclusive. During these same periods New York's export commerce increased from an average of 7,596,237 to 11,641,792 tons per year. Using the average tonnage per annum during the 10 years from 1905 to 1914 as 100 per cent, Boston's export tonnage declined to 55.9 per cent in 1920 and 30.6 per cent in 1929, while New York's tonnage increased to 132.3 per cent in 1920 and 146.6 per cent in 1929. The corresponding figures for Philadelphia and Baltimore show that their tonnage increased in some years, but in 1929 was 72.7 per cent for Philadelphia and 75.1 per cent for Baltimore of the 10-year average.

Value of exports: The decline in Boston's exports and increase in those of New York is also shown by a comparison of the values of the domestic merchandise exported through the customs districts of Massachusetts and New York, as follows:

Values of exports of domestic merchandise through customs districts of New York and Massachusetts, years ended on dates shown

Year	Massachusetts	New York
June 30, 1891	$70,719,517	$337,806,277
June 30, 1900	110,952,069	507,930,476
June 30, 1910	68,246,499	634,288,230
Dec. 31, 1920	182,806,127	3,204,788,339
Dec. 31, 1924	46,269,119	1,618,008,798
Dec. 31, 1925	45,001,143	1,740,841,173
Dec. 31, 1926	36,185,328	1,631,154,936
Dec. 31, 1927	38,026,576	1,689,143,316
Dec. 31, 1928	43,038,296	1,731,488,298

It will be noted that the values of the exports through the Massachusetts customs district in the years since 1920 are considerably less than in the earlier years, while those through the New York customs district have been much greater in recent years than in the years prior to 1920. In the year ended June 30, 1900, the ratio of Massachusetts to New York was approximately 1 to 5, while in 1928 it was about 1 to 40.

Grain traffic: The decline of Boston's export commerce is most serious with respect to the grain traffic. This has declined from between 30,000,000 and 35,000,000 bushels annually from 1898 to 1901, inclusive, to approximately 3,000,000 bushels annually from 1925 to 1928, inclusive. During the 10 years from 1905 to 1914, inclusive, Boston's exports of grain averaged 16,345,165 bushels per year, and during the 10 years from 1920 to 1929, inclusive, this average dropped to 6,390,029 bushels. For the same 10-year periods, New York's exports of grain increased from an average of 44,339,375 bushels to 99,308,186 bushels. Philadelphia also increased from an average of 17,496,181 to 30,539,999 bushels, and Baltimore increased from 27,885,359 to 39,003,925 bushels. New York's increase amounted to 124 per cent, while those of Philadelphia and Baltimore amounted to 75 and 40 per cent, respectively, and Boston's decrease amounted to 61 per cent. There has been a falling off in the exports of grain through all the ports in the last few years, but the above-mentioned 10-year averages seem to afford a fair picture of the relative trend of the various ports over a period of years.

Boston a port of call: In recent years Boston has gradually become a mere port of call. Steamships arriving there can not obtain sufficient cargo for the return voyage and proceed to other ports for additional cargo. This adds between 10 and 12 days to the 12 to 14 days required for direct service. The tonnage now available at Boston justifies direct service to and from but few foreign ports. On the other hand, 90 per cent of New York's sailings are direct without calling at other ports. The fact that Boston is generally the first port of call may in part account for its import commerce not having suffered so much as its export commerce. In the representative month, November, 1929, vessels in the foreign trade loaded outbound from Boston only 8.5 per cent of their inbound tonnage for that port. If greater outbound tonnage were available at Boston, however, it would naturally be accorded direct service to more foreign ports.

Diversion of ships: Steamships scheduled to call at Boston are frequently ordered by radio to omit calling at that port and proceed direct to New York. In such cases the cargo consigned to Boston is unloaded at New York and forwarded to Boston either by rail or coastwise line. The consignee is allowed only 48 hours' free time where the freight arrives by rail, whereas he would be allowed six days' free time on the docks if the ship called at Boston. Each ship diverted from Boston would leave in the port at least $1,500 for stevedoring, checking, pilotage, towage, and various fees. Approximately 50 steamships of several lines were so diverted from Boston in 1929, and 114 steamships in the year ending June 30, 1930. If there had been a charge for lighterage at New York, many of these ships would probably have found it more economical to call at Boston.

Lighterage a factor: The decline of the port of Boston as compared with New York has been due to various factors, but undoubtedly free lighterage has been one of the most important factors in helping New York. If a charge were made for lighterage at New York, Boston's natural advantages and facilities for direct interchange would naturally attract more tonnage, and the ships always go where the tonnage is available.

C-11. SEPARATELY ESTABLISHED CHARGES

The Boston complaint is in harmony with the New Jersey complaints in seeking the establishment of separate charges for the terminal services at New York. The evidence, however, indicates that Boston is primarily interested in securing a separate charge for lighterage to and from steamships on their piers. It is also interested in securing separate charges for car floatage and trucking when those services are performed in lieu of lighterage to and from steamships on their piers. But its complaint does not apply to the local traffic having origin or destination in New York, which constitutes the bulk of the traffic handled through the pier stations and off-track stations. About the only traffic handled through those stations which is covered by the Boston complaint is less-than-carload traffic. Such traffic is now generally subject to separate charges if lightered, and when car floated to or from pier stations must be trucked by the shipper between the pier station and steamship pier unless covered by through billing. Boston, therefore, does not appear to have much, if any, interest in the establishment of separate charges for car floatage or trucking to and from regular stations or team tracks.

The Boston complainants do not advocate the discontinuance of lighterage at New York, but they urge that it is a distinctly different service, which should be charged for separately so that the charges will be borne by those who use the service. They point out that the failure to do so must burden other traffic, because the lighterage costs constitute such a large proportion of the rates, especially to and from New England. While complainants ask for a charge reflecting the cost of the service, they apparently recognize that it may not be practical to reflect the entire cost in all cases. It is pointed out that separately established charges now apply for switching to or from piers not reached by the line-haul carrier at Boston. A separate charge for lighterage and car floatage or trucking in lieu thereof would remove the alleged undue prejudice by reason of such switching charges, also that resulting from the split-delivery system, the storage-in-transit provision, the car floatage of bananas, and other situations hereinbefore mentioned.

While the Boston complaint asks the establishment of separate charges for lighterage at other North Atlantic ports, complainants' evidence regarding lighterage was confined almost entirely to New York, and they introduced no evidence regarding the cost of lighterage at any other port.

C-12. THE CONSTITUTIONAL QUESTION

Complainants contend that the "concessions" granted by the carriers at New York violate clause 6, section 9, Article I of the United States Constitution, which provides that:

"No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another."

A similar contention was made by Boston in the Boston Maritime case, with respect to the port defferentials. Regarding that contention the commission said at page 542 of the original report:

"The complaints are brought under the interstate commerce act and invoke exercises of powers thereby delegated to us by Congress under the commerce clause of the Constitution. Clause 3, section 8, Article I. As an agency of Congress we must assume that in laying statutory duties upon us it has not transcended its powers."

Complainants deny that they regard the interstate commerce act as unconstitutional, but they urge that it should be so administered as not to violate the Constitution. The view is also expressed that by reason of the above-quoted constitutional provision any preference whatsoever of the ports of one State over those of another must be held to be an undue preference under section 3 of the act. This apparently contemplates a different rule for applying section 3 where the ports of different States are involved than would otherwise apply. Such an application of section 3 would clearly be unsound.

In Sand, Gravel, Crushed Stone, and Shells (155 I. C. C. 247), a distance scale was prescribed for application on the commodities indicated by the title between points in the Southwest. A charge of 8 cents per ton in addition to the scale was allowed for crossing the Mississippi River at New Orleans and Baton Rouge, La. In Commission *v.* Texas & N. O. R. Co. (284 U. S. 125), it was contended that this charge for crossing the river gave a preference to ports in Texas over New Orleans and Baton Rouge in violation of clause 6, section 9, Article I of the Constitution. In rejecting this contention the Supreme Court said at page 131:

"Congress, acting under the commerce clause, causes many things to be done that greatly benefit particular ports and which incidentally result to the disadvantage of other ports in the same or neighboring States. The establishing of ports of entry, erection and operation of lighthouses, improvement of rivers and harbors, and the providing of structures for the convenient and economical handling of traffic are examples. Pennsylvania *v.* Wheeling & Belmont Bridge Co. (18 How. 421, 433–435). And see Armour Packing Co. *v.* United States (209 U. S. 56, 80). The construction for which appellants contend would strip Congress of much of the power that it long has been accustomed to exert and which always has been held to have been granted to it by the commerce clause. It is clear that the Constitution does not forbid the allowance for ferrying the Mississippi at Louisiana ports."

These cases must be decided under the provisions of the interstate commerce act, which the Supreme Court's decision shows is not affected by the constitutional provision invoked by complainants.

D. Defense's contentions and evidence

D-1. IN GENERAL

While the defense was presented jointly by the defendants serving New York Harbor and the New York interveners, most of the witnesses were called by the interveners. The evidence is directed principally to the New Jersey complaints, but much of it also applies to the Boston complaint, and some of it is directed primarily to that complaint. Among the matters urged in defense of the complaints are the so-called unity of the port of New York, railroad competition, the New York State canals, alleged reasonableness of the New York group, comparisons with other terminal and rate groups, the New York Harbor case (47 I. C. C. 643), investments claimed to have been made in reliance on that decision, disruption of the rate structure that would result from New Jersey's proposals, the port differentials, and various matters urged in defense of the free-lighterage practice. For convenience, rebuttal evidence relating to the subjects covered by the defense will be considered in connection therewith. Separate briefs were filed by the trunk-line defendants, the State of New York jointly with various other New York interveners, the Port of New York Authority in the Boston case only, the city of New York, certain of the contract terminals, and others.

D-2. PORT UNITY

One of the grounds most strongly urged by the defense is the so-called unity of the port of New York or the metropolitan district. This unity is not defined but various matters are referred to as showing its existence. On the other hand, New Jersey denies that there is any unity as to freight rates.

Commercial and social unity: Among the matters referred to are that the entire area is commonly referred to as the metropolitan district, that a large number of people who work in New York have their residences in New Jersey, that northern New Jersey is included in the same customs and immigration districts as New York, and that the banks of northern New Jersey do business with the Federal Reserve Bank of New York. The regional survey sponsored by the Russel Sage Foundation defined the metropolitan area as extending into New Jersey on a radius of 40 miles from the city hall in New York. In making this definition it considered the area within which the New York newspapers circulate, the sphere of service covered by New York's retail and wholesale establishments, the use afforded New York's hotels and theaters by outlying communities, and the rapid-transit facilities available for commuters and others. More important probably than any of the foregoing is testimony that throughout the metropolitan district there are industries engaged in the manufacture of the same articles, drawing their raw materials from the same sources, and disposing of their products in common markets. This evidence coincides with New Jersey's evidence regarding competition and is not disputed.

The interstate compact: In 1917 a joint commission known as the New York-New Jersey Port and Harbor Development Commission was established by the legislatures of the two States. This commission after an exhaustive investigation reported a comprehensive plan for improving and developing the port's terminal facilities. Its principal recommendations were that an automatic electric system be constructed to serve Manhattan, that standard belt lines be developed to serve all other parts of the port, that railroad and marine operations not eliminated should be consolidated, and that a port authority be created to carry out the plan.

In 1921 the legislatures of the two States with the consent of Congress authorized the commissioners to sign an agreement or compact. This pledged "faithful cooperation in the future planning and development of the port of New York," but it was expressly provided that nothing therein should impair the powers of any municipality to develop or improve port and terminal facilities. It further provided for the creation of the Port of New York Authority, with the powers therein enumerated. Any action of that body was required to be concurred in by at least two members from each State, and it was also provided that the governor of each State could exercise a veto power over the action of any commissioner therefrom. Either State had the right to withdraw from this agreement in the event that a comprehensive plan for the development of the port should not be adopted by both States on or before July 1, 1923. Such a comprehensive plan was adopted in 1922, and provided certain "principles to govern the development." Among these were unification of terminal operations, so far as possible; the construction of bridges, tunnels, and highways; an underground automatic electric system for Manhattan; and 16 belt lines for other parts of the port district. The port authority was authorized and directed to proceed with the development of the port in accordance with this plan.

Certain witnesses for the defense, including the acting Governor of New York State and the mayor of New York City, expressed the view that the State of New Jersey had violated the compact in filing and prosecuting its complaint. It is not claimed that there was any express agreement regarding the filing of complaints or the maintenance of the rate structure, but apparently the view expressed is based mainly on the pledge to cooperate in development of the port. This can not fairly be construed as binding either State to refrain from attacking the rate adjustment. Such a construction would seem to contemplate a perpetuation of the existing rates, including situations which the port authority itself regards as discriminatory against New Jersey. Even if it had been expressly so agreed, that could not restrict or limit in any way the jurisdiction of this commission.[n]

Bridges and tunnels: The work of the port authority has been most apparent in its construction and operation of bridges and tunnels. It has built two bridges over the Arthur Kill between New Jersey and Staten Island, and it has about completed another bridge across the Kill von Kull between Bayonne and Staten Island. The aggregate cost of these three bridges to the date of the hearing was $16,859,724.60. The Hudson River vehicular bridge from One Hundred Seventy-eighth Street in New York to Fort Lee, N. J., has recently been opened at a cost of $42,123,462.65 to the end of 1930. The Holland Tunnel under the Hudson River was also built by commissions created by the legislatures of New York and New Jersey. It cost $42,007,988, which was evenly divided between the two States. In connection with the plea for the continuance of free lighterage and car floatage on the ground of port unity, New Jersey points out that the port authority charges tolls for the use of the bridges and tunnels under its jurisdiction.

Police and fire protection: In 1834 a treaty was entered into between the States of New York and New Jersey for the settlement of a boundary dispute. Under this treaty New York was given jurisdiction over the waters of New York Bay, the Hudson River, and Kill von Kull. Pursuant thereto New York City has always afforded police and fire protection over all these waters, including those adjacent to the New Jersey shore. This protection is afforded through the marine divisions of its police and fire departments, whose total cost is over $1,500,000 per year. New York is simply complying with the terms of the treaty, which also conferred certain benefits upon it.

Steamship rates: The defense refers to the steamship rates being the same to and from both sides of the harbor, except some of the rates via the coastwise lines which are assailed by the New Jersey Traffic Advisory Committee. However, it should be noted that the steamship companies do not generally perform a pick-up and delivery service throughout the harbor, and where some of the coastwise and intercoastal lines perform lighterage, there is no charge in some cases, but in others there is an additional charge for that service.

Unity as to rates: The defense's contentions and arguments regarding port unity seem to assume that there is now a unity as to rates. This is far from correct as pointed out by the New Jersey complainants. For example, Newark takes the same rates as New York to and from points more than 100 miles distant in trunk-line territory, but it must pay higher rates than New York for similar distances to and from many points in New England. New Jersey points in the metropolitan district are generally not in the New York group but the Philadelphia group with respect to commodity rates to and from New England. New York and Jersey City are in the same group on all-rail traffic to and from the South and Southwest, but where the traffic to and from the same points crosses the harbor in the other direction for movement via the coastwise lines the Jersey City rates are often higher than New York. In some instances New Jersey points in the metropolitan district take the same rates as Buffalo and other points near the Canadian border on traffic moving via the coastwise lines. There is also considerable variation in the rates for deliveries by lighter in different parts of the port. For example, such deliveries will be made up on the Harlem River without charge in addition to the New York rates, but an additional charge of $60 per lighter is made to or from Port Newark. Free lighterage is performed to and from Port Ivory, Staten Island, but immediately across the Arthur Kill at Elizabethport, N. J., there is an additional charge of $27 per lighter. On like traffic from the same points of origin there are eight different rates for lighterage deliveries on the New Jersey side of the port, and there are even more on the New York side.

Unity as to rates would be promoted rather than destroyed by requiring the same grouping in all directions with a uniform charge for lighterage throughout the port.

D-3. RAILROAD COMPETITION

Another of the grounds strongly urged by the defense is competition between the various railroads serving the port of New York. It is contended that such competition necessitates a continuance of the group adjustment.

New York Central: The defense regards the New York Central with its rail line down the west side of Manhattan as the dominant factor in the situation. They refer to the proposed improvements on that line as further strengthening its position. The alleged dominance of the New York Central is denied by New Jersey, which points out that it is not the short or rate-making route except to and from points east of Utica, N. Y. Moreover, it does not participate in joint rates between New York City and a large part of official territory not served by its lines. Nevertheless, shippers located adjacent to the rails of the New York Central would probably use it in preference to trucking to or from the pier stations or team tracks of the other lines wherever possible. Whatever may be the importance of the New York Central with respect to local traffic to and from Manhattan, clearly it has no advantage over the other lines with respect to export, import, and coastwise traffic. Such traffic must be lightered or trucked to and from

[n] Incidentally, it should be remembered that none of the New York rate groups coincide with the boundaries of the port-authority district as described in the compact.

the steamships or their piers, and the New York Central handles as much of it as possible over the West Shore.

Manhattan team tracks: The New York Central has team tracks in its Thirty-third Street yard on the west side of Manhattan. Most of the New Jersey lines also maintain team tracks contiguous thereto. The New York Central can serve its team tracks by rail switching, while the New Jersey lines must use car floats. There is no other difference in the service. Apparently New Jersey recognizes that it would not be practical to require higher rates for the car-float service to and from these team tracks than those of the New York Central, as it asks for the same rate differences in favor of New Jersey with respect to both classes of service.

Bronx situation: The New York Central maintains four main freight stations, including team tracks, in the Bronx. This is that part of New York City north of the Harlem River. All of the New Jersey lines, except the West Shore, also maintain team track or pier stations on the Harlem River. The latter facilities, which are served by car float, compete with the New York Central. The car floats in moving to and from these stations through the East River pass several pier stations on the east side of Manhattan, the rail terminals at Wallabout Bay, and some of the contract terminals in Brooklyn. The defense urges, therefore, that higher rates could not be maintained to and from these East River stations than to and from the Harlem River stations, citing Lautz Marble Corporation *v.* E. R. R. Co. (115 I. C. C. 543, 136 I. C. C. 183). New Jersey suggests that the Bronx rates be made the same as Manhattan and Brooklyn, but there is no evidence that the New York Central's rail service to and from its Bronx stations is any more difficult or costly than similar service on the New Jersey side. The defense regards this situation as practically controlling of the issues, but it should be noted that it applies only to car floatage to and from regular stations.

Hoboken Shore Line: This is the short name for the Hoboken Manufacturers' Railroad, which operates 1.5 miles of line along the Hoboken water front. The Erie and the West Shore interchange with this short line by direct rail switching, but the other trunk lines interchange with it by car float. They could interchange with it by rail switching, but that requires intermediate switching over other lines, and apparently they prefer to do so by car float. There is some discussion as to whether an additional charge for car floatage should be applied on traffic to and from the Hoboken Shore Line, but New Jersey repeatedly expressed a willingness that any additional charge for marine service to and from New York be applied to similar service along the New Jersey shore. An additional charge for car floatage to and from the Hoboken Shore Line might necessitate discontinuance of that service, but the rail switching would still be available and could probably be improved. Apparently this car-float interchange service would not be affected by a charge for lighterage and its substitutes.

Lighterage: All of the trunk lines are on an equal footing with respect to lighterage to and from ships or piers on the eastern side of the harbor, and they would so continue if a separate charge were imposed. The defense, however, contends that such a charge would prevent competition for traffic to and from points on the New Jersey or Staten Island shore which are reached by the rails of only one carrier. As an example, they refer to a ship docked at the Erie's Pier 9 in Jersey City and urge that other lines could not compete for traffic to be interchanged with such a ship. The situation would be similar to that now prevailing at Port Newark, except it is served by three lines, additional charges applying for lighterage to or from the other five trunk lines. It would also be similar to the situation at Boston, where New England traffic must pay additional charges to reach a ship docked elsewhere than at the line-haul carrier's terminals. However, there are generally joint rates applicable via interior junctions to and from New York Harbor, and apparently shipments can generally be routed over any line for delivery at the Erie's Pier 9 at the joint rates. But sometimes it may be desired to divert a shipment to that pier after its arrival over another line, which could not be done without paying additional charges, because there is no reciprocal switching or absorption of switching charges in the New York Harbor district. Such an arrangement which is common in other large terminal districts would permit the utmost competition without the necessity of lighterage on the New Jersey side.[22]

Railroad competition undoubtedly has had an influence in bringing about the group adjustment, and it affords some justification for grouping the rail and car-float terminals on both sides of the harbor, but the absence of a charge for lighterage is not essential to the maintenance of such competition.

D-4. NEW YORK STATE CANALS

Erie Canal: The defense attributes great importance to the old Erie Canal between Buffalo and Albany in building up the port of New York. This canal was completed in 1825 before the construction of any of the railroads to New York Harbor. The fact is emphasized that its entire cost of $6,000,000 was borne by the State of New York, although New Jersey also benefited from the canal. On the other hand, New Jersey thinks that the Erie Canal was of no greater importance than the old Morris & Essex Canal and the Delaware & Raritan Canal across New Jersey, which brought coal from the mines of Pennsylvania to New York Harbor. The latter canals were apparently built without the help of New York, and their peak tonnage in 1866 was not much less than the Erie Canal. It is unnecessary to weigh the relative importance of the Erie Canal and the New Jersey canals, but there can be no doubt that in the early days the Erie Canal was an important influence contributing to the supremacy of the port of New York. The canal traffic reached its peak about 1872, however, after which it declined due to competition of the railroads and the antiquated canal boats which were towed by mules. The canal seemed to be gradually going out of business early in the present century, when agitation arose for deepening it to 12 feet and for self-propelled boats.

Barge canal: The improvement of the old canal to make the barge canal and the construction of several branches was begun in 1904 and completed in 1918. The total cost to the State of New York was about $175,000,000, but the State constitution forbids the collection of tolls. The substitution of self-propelled boats for towage by mules reduced the time in transit between New York and Buffalo from between 20 and 30 days to about 10 days. Since then the canal tonnage has gradually increased, but it has not yet equaled the tonnage of the old Erie Canal in its most prosperous days. Its total traffic of around 3,000,000 tons per year is small in comparison with that of any one of the trunk-line railroads, which in 1928 ranged from 27,575,131 to 214,887,139 tons. It is also small in comparison with water traffic moving on the Kill von Kull, Arthur Kill, Newark Bay, and Passaic and Hackensack Rivers, which in 1930 amounted to 57,544,266 tons. Grain constitutes the largest portion of the canal tonnage, and petroleum is the next most important commodity. There has been a marked increase in the canal tonnage of these commodities in recent years, and they now constitute over one-half of the total tonnage of the canal. In 1928 the canal barges brought approximately 40,000,000 bushels of grain to New York Harbor, or almost 40 per cent of the total receipts of grain at that port. The canal is closed to navigation during the winter months, or about one-third of the year. The record indicates that the barge canal is a factor of some importance, but it does not appear to be a very serious competitor of the railroads except with respect to the grain traffic and possibly a few other bulk commodities.

Effect on rates: The defense contends that the rates to and from the New York group are lower than they would have been but for the influence of the canal. There is general evidence with respect to the influence of the canal on the rail rates in the past, but there is not much evidence regarding specific rates having been depressed. The barge rates on grain are much lower than the rail rates, but it does not appear that there is any particular relationship between them. No doubt many of the rates were affected by canal competition in the past, but there is nothing to show that the present rates are generally so affected. The class rates and many of the important commodity rates are now based on uniform distance scales prescribed by the commission.

It is further contended that the canal has had an influence in bringing about the New York group. The barge terminals are on the New York side of the harbor, but the barges also handle traffic to and from points in New Jersey. This is especially true of petroleum, sugar, and copper, which are refined along the New Jersey shore. The barge rates are the same on both sides of the harbor, and while this probably does not necessitate a similar adjustment of all the rail rates, it may properly be considered in determining the propriety of the group adjustment.

Separate charges: It does not appear that the canal competition precludes a separate charge for lighterage. Such charges now apply to and from a large part of the harbor, including the copper and oil refining district along the Arthur Kill. Grain is by far the most important commodity handled by the canal barges. A separate charge for lighterage would create an inducement for ships to come to the water front elevators on either side of the harbor. The record shows that ships will always go wherever cargo is available. The railroads could then afford to make lower rates to meet the canal competition where they do not have to perform the expensive lighterage service.

D-5. REASONABLENESS OF GROUPING

In general: The defense asserts that grouping is the predominant characteristic of the country's rate structure. Numerous rate groups and decisions approving such groups are referred to in support of this assertion. On the other hand, New Jersey points out that the trend of the decisions in recent years has been toward placing rates on a distance basis, and in so doing, many groups have been broken up or reduced in size. Nevertheless, reasonable groupings are still permitted, especially of terminal districts and closely related areas. There is merit in the defense's contention that long-established groups should not be lightly disturbed, but long existence can not justify the inconsistencies, discriminations, and lack of balance in the present adjustment to and from the New York Harbor district.

Size of groups: The size of the New York groups on intraterritorial and interterritorial traffic, respectively, is compared with those of various other groups under the Eastern Class Rate case. On traffic to and from points more than 100 miles distant in trunk-line territory, the average distance between all outer-edge points in the New York group is 38.7 miles. This is compared

[22] All of the railroad terminals on the New Jersey side are connected by rail, principally through the so-called Belt Line No. 13. This was one of the belt lines proposed in the comprehensive plan, and the first one to materialize. Various parts of it are owned by different lines, but its operations have been co-ordinated under a unified control.

with the corresponding average of 41.84 miles between all outer-edge points in the Chicago intraterritorial group and 88.8 miles between all such points in the Pittsburgh intraterritorial group. On traffic to and from central territory the maximum distance across the New York group is 96 miles, compared with corresponding distances of 76 to 136 miles across various other interterritorial groups in trunk-line territory. The distances across the New York group are also shown to compare favorably with those across various northern groups on traffic to and from southern territory under the Southern Class Rate Investigation, 100 I. C. C. 513, 128 I. C. C. 567. It should be noted, however, that under both of those class-rate adjustments arbitraries above the group rates are sometimes allowed for exceptional services within the group, such as those of a short line with light traffic density or a narrow-gage line requiring transfer of the freight.

The size of the New York groups can not be regarded as excessive if consideration is not given to the costs of the marine services equated into miles of average rail transportation. Even when the equivalent miles for car floatage to and from regular stations are considered, the group would still be no larger than some other terminal districts or groups. But when the equivalent miles for lighterage are added to the rail distances, it makes in excess of 200 to 400 miles. That is larger than any other similar group which has been approved when attacked in recent years.

Proposed New Jersey group: The proposal of New Jersey's principal traffic witness that practically all points in New Jersey be grouped together on traffic to and from central territory would make a group considerably larger than the present New York group. It would include many points which, aside from being in the same State, are less closely related than those in the New York group. The mayor of Trenton testified that his city would object to being grouped with Jersey City. Of course, lighterage is entirely different from any service afforded at interior points in New Jersey. But if a separate charge were made for that service, the present New York group for deliveries from the car would appear to be more reasonable than the proposed New Jersey group on traffic to and from central territory.

Most of the evidence relating to the reasonableness of the grouping is considered under other headings, such as port unity, railroad competition, and other terminal and rate groups.

D-6. OTHER TERMINAL AND RATE GROUPS

An important part of the defense are comparisons with other terminal and rate groups throughout the country. It is contended that these comparisons show that the grouping at New York Harbor is not unreasonable. If the New York grouping should be condemned, it is urged that these other groups would also have to be condemned.

Class rate groups: As previously indicated, the New York class-rate groups are comparable in size with other such groups in official territory, but it is not shown that any car-floatage, lighterage, or trucking services are performed by the carriers in such other groups with the exceptions hereinafter considered.

Commodity rate groups: Among the comparisons are the groups applicable in connection with the rates on yellow-pine lumber, petroleum, newsprint paper, lime, brick, cement, and iron or steel articles. These are all groups of producing points or areas, most of which originated with the carriers, and the action of the commission has been mainly in the direction of reducing their size. They show that rate groups much larger than the New York groups have been approved, but the conditions affecting such groups are obviously different, and these comparisons are not so pertinent as those with other terminal districts or groups surrounding large cities.

Transcontinental rate groups: The extensive groups applicable in connection with the transcontinental rates are too well known to require description. Their establishment by the carriers has been the result of water competition and other conditions peculiar to this traffic. Notwithstanding the great size of the transcontinental groups, it is interesting to note that the exceptional terminal services at New York Harbor are given special consideration by the carriers in their divisions even with respect to these rates.

Other terminal districts: The defense offered detailed comparisons with the terminal districts or groups at Hampton Roads, Va., San Francisco, Calif., Chicago, St. Louis, and Kansas City, Mo., Cleveland and Cincinnati, Ohio, Louisville, Ky., Detroit, Mich., and Rochester, N. Y. The only ones, however, in which any car floatage, lighterage, or trucking services were shown are the first four above mentioned, which will therefore be given very careful and thorough consideration.

D-7. HAMPTON ROADS

Physical situation: The defense's comparison which most closely resembles the New York Harbor situation is with Norfolk, Portsmouth, and Newport News, Va., which together constitute the fort of Hampton Roads. Newport News is on the north side of Hampton Roads; while Norfolk and Portsmouth are on the south side, separated from each other by the Elizabeth River. The Chesapeake & Ohio Railway Co. alone serves Newport News, and it operates a car-float and barge service to and from Norfolk. The water distance to and from the Chesapeake & Ohio's terminal in Norfolk is 14 miles, but it is only 7 miles to and from its float-bridge connection with the belt line hereinafter mentioned. The Southern Railway Co., Atlantic Coast Line Railroad Co., and Seaboard Air Line Railway have their terminals in Portsmouth, and they operate car floats or barges across the Elizabeth River to and from water-front stations in Norfolk. The Pennsylvania reaches Norfolk by car float from Cape Charles, Va., 24 miles by water and 8 miles by rail to its terminal. The Norfolk & Western Railway Co., Virginian Railway Co., and Norfolk Southern Railroad also have their terminals in Norfolk. All of the lines on the Norfolk-Portsmouth side of the harbor, including the Chesapeake & Ohio's float bridge, are connected by the Norfolk & Portsmouth Belt Line Railroad Co., which is owned jointly by all of the above-mentioned trunk lines and is regarded as an extension of their rails.

Industry lighterage: A small amount of lighterage is performed by part of the lines within the lighterage limits at Norfolk and Portsmouth but not at Newport News. This service includes less-than-carload shipments of 10,000 pounds or more as well as carload traffic, except coal and certain other commodities. Unlike at New York, shippers are required to load or unload their carload shipments to or from the lighters, but the carriers will load outbound less-than-carload shipments of 20,000 pounds or more.[23] Lighterage is not performed to or from industries served by the belt line. Before the construction of that line there were a large number of industries on the water front of Norfolk and Portsmouth which were served by lighter, but since then most of them have moved back to locations on the belt line. At the present time there are nearly 500 industries at Norfolk and Portsmouth, of which only about 20 are located on the water front. There are only six small industries on the water front in Norfolk and none in Portsmouth which do not have rail service. It is estimated that 99 per cent of the carload traffic to and from local industries in Norfolk is handled by rail switching, the charges of connecting lines being absorbed by the line-haul carrier. The lighter service is demanded principally by a few shippers of less-than-carload traffic, who would otherwise have to dray their shipments to and from the freight stations.

Steamship lighterage: The piers where the steamships dock on both sides of Hampton Roads have rails for practically their entire length. Lighterage is not necessary, therefore, in transferring freight between cars and ships, but there is a small amount of lighterage to and from the offside of ships on the Norfolk-Portsmouth side. The Chesapeake & Ohio has an arrangement with the steamship companies for the ships to call at Newport News whenever there is 150 tons or more of cargo, and where there is not that amount the Chesapeake & Ohio will lighter it to or from ship side at Norfolk or Portsmouth. The record indicates that practically all of the ships call at Newport News, however, and the lighterage service appears to be negligible. Traffic moving over a line on the Norfolk-Portsmouth side to or from a ship docked at another carrier's terminal on that side can be switched to or from ship side, the line-haul carrier absorbing the switching charges, but sometimes it is lightered to or from the offside of vessel instead. This movement also appears to be negligible, however, as the ships will generally shift from one terminal to another where there is 125 tons or more of cargo. Moreover, most of the export, import, and intercoastal freight other than coal is handled through the Norfolk Tidewater Terminals, which are served by the belt line and are outside the lighterage limits.

Rate equalization: The rates to and from Norfolk and Portsmouth appear to be the same. The Pennsylvania's rates to and from Norfolk generally apply to and from Cape Charles and probably other intermediate points. The rates to and from Newport News are also generally the same as Norfolk for hauls of 150 miles or more to the North, West, or South. Following a dispute over divisions, the equalization of Newport News with Norfolk was discontinued on traffic to and from a large part of southern territory. This was found to result in unjust discrimination and undue prejudice against Newport News, which was found entitled to the same rates as Norfolk for hauls of 150 miles or more to the South. (Chamber of Commerce of Newport News *v.* S. Ry. Co., 23 I. C. C. 345.) The parity as between Norfolk and Newport News was again disturbed by the carriers in applying the distance scale prescribed in the Southern Class Rate Investigation, supra, which did not specifically deal with the Norfolk-Newport News situation. This resulted in another finding under section 3 again requiring restoration of the rate parity for hauls of 150 miles or more to the South. (City of Newport News *v.* Aberdeen & R. R. Co., 159 I. C. C. 159.) At the same time the Chesapeake & Ohio's rates on export, import, and coastwise traffic between Norfolk and certain points on its line 150 miles or more distant were found unduly prejudicial and preferential to the extent that they exceeded the Newport News rates. (Norfolk Port Commission *v.* Chesapeake & O. Ry. Co., 159 I. C. C. 169.) This completed the equalization of Norfolk and Newport News on most traffic moving 150 miles or more in all directions.[24] In the last-cited case, however, the commission declined to require the Chesapeake & Ohio to absorb the charges of the Norfolk Tidewater Terminals for handling the traffic to and from ship side at its terminal. Lighterage to and from ship side or local industries was not in issue in either of the above-cited cases.

Switching charges: In another case decided contemporaneously with the two last above-cited cases, it was found that where the Newport News rates are the same as Norfolk-Portsmouth on traffic to and from the South it was unduly prejudicial and preferential for the carriers to collect switching charges for deliveries on con-

[23] The carriers sought to discontinue this loading service on outbound less-than-carload shipments, but their schedules were found not justified in loading of less-than-carload freight. (91 I. C. C. 394.)

[24] An exception is anthracite coal from Pennsylvania, as to which Newport News was denied the same rates as Norfolk in City of Newport News *v.* B. & O. R. R. Co., 96 I. C. C. 425.

necting lines at Norfolk-Portsmouth while collecting no such charges at Newport News. (Norfolk-Portsmouth F. T. Comm. *v.* Aberdeen & R. R. Co., 159 I. C. C. 177.) It should be noted that Newport News is not in the same switching district as Norfolk and Portsmouth, which caused the difference in the practice regarding the collecting of switching charges. This case appears to support New Jersey's contention that the practice of collecting additional charges for lighterage deliveries in a large part of the New Jersey section of the port of New York while no such charges are made in other parts of the port where the line-haul rates are the same results in undue prejudice and preference.

Conclusions as to comparison: There is considerable similarity between the Hampton Roads and New York Harbor situations so far as concerns equalization of the rates to and from the rail terminals on both sides of the port. The principal difference between the two is that there is a better balancing of the advantages and disadvantages of equalization as between Norfolk and Newport News, and for this reason there was no objection by either to such equalization in the cases cited. The reports in those cases do not indicate that there was any evidence regarding the marine costs at Hampton Roads, but the Chesapeake & Ohio claimed that its car-float service was equal to its rail haul between Newport News and Richmond, Va., 75 miles. That would be comparable with the equivalent miles shown here for car floatage to and from regular stations at New York, but not with the equivalent miles shown for lighterage which average from 247 to 286 miles for all the trunk lines serving that port. The lighterage service at Norfolk-Portsmouth appears to have been established to meet conditions which existed before the construction of the belt line, and its present use there is inconsequential in comparison with New York Harbor where there are hundreds of industries along the water front and the bulk of the freight is interchanged between the railroads and steamships by lighter.

Everything considered, the above-cited cases afford considerable support for equalization of the rates to and from the rail and car-float terminals on both sides of New York Harbor for hauls above a reasonable minimum in all directions; but they have no bearing on the question of a separate charge for lighterage, except the last-cited case indicates that all parts of the port should be treated alike in this respect.

D-8. SAN FRANCISCO BAY

Points of similarity: The New York Harbor situation is similar in many respects to that of the communities bordering on San Francisco Bay, in California. San Francisco occupies the end of a hilly peninsula, separated by the bay from Oakland, Alameda, Berkeley, and Richmond, which are all in the same metropolitan area. The Southern Pacific Co. has the only rail line into San Francisco, and it also has lines on the east side of the bay. The line into San Francisco was unusually expensive to construct, the Dumbarton Bridge across the lower end of the bay costing about $1,500,000, and the bay-shore cut-off which has several tunnels cost between $8,000,000 and $9,000,000, or about $1,000,000 per mile. The Southern Pacific, Western Pacific Railroad Co., and Atchison, Topeka & Santa Fe Railway Co. operate car floats between their rail terminals on the east side of the bay and their terminals in San Francisco, the water distances being 5.6, 6.6, and 10 miles, respectively. This service is similar to the car-float service to and from off-line team tracks at New York but differs from that to and from the pier stations in that shippers load and unload their own carload freight at San Francisco. The cities on the east side of the bay have an advantage of location on traffic to and from most points, but they are on an equal basis with San Francisco to and from considerable territory on the north and south. Both sides of the bay must use car-float service on traffic to and from points served by the Northwestern Pacific Railroad Co. Car floatage is not necessary and the distances are approximately the same by the Southern Pacific which is the rate-making line from both sides of the bay to the important territory on the south, including Los Angeles, Calif.

Lighterage: The one outstanding difference between San Francisco and New York is that no lighterage is performed by the railroads on either side of San Francisco Bay. It seems significant that at this important port situated so similarly to New York the railroads have never found it necessary to perform any lighterage either to and from local industries or the steamship lines. That is because the piers where the ships dock in San Francisco are served by a belt line owned and operated by the State of California. This line has about 58 miles of track along the water front, serving team tracks and industries as well as the piers, which latter are also owned by the State. Traffic interchanged with this line is switched by it directly to and from ship side on the piers at a charge of $4.50 per car, which is absorbed by the trunk lines. The car floatage performed by each of the trunk lines between one point on each side of San Francisco Bay, without any breaking of bulk in transit, can not be compared with lighterage to and from the more than 600 piers throughout the lighterage limits of New York, with its double handling of the freight at the railroad's expense. When necessary the steamships will shift from one pier to another at San Francisco, provided the tonnage is sufficient to warrant the expense, but if lighterage is performed by private companies it is paid for by the shipper or steamship company.

Oakland case: The interstate class rates to and from San Francisco and Oakland are generally the same, even for short hauls, which are subject to the minimum class rates. In Oakland Chamber of Commerce *v.* P. Co. (100 I. C. C. 55), Oakland assailed these rates to and from various points to the east or northeast in California and Nevada. It sought lower rates from San Francisco in recognition of its advantage of location with respect to these points. This advantage was measured by the car-float cost, which was shown as averaging 69.2 cents per ton for the Southern Pacific, and by the difference in distance ranging from 57 to 88 miles on traffic moving over the Dumbarton Bridge from or to San Francisco. It should be noted that this car-float cost is comparable with the costs for car floatage to and from pier stations at New York, but not with the lighterage costs there which are shown as averaging around $2 per ton. Likewise, the above differences in distance are comparable with the equivalent miles for car floatage to and from pier stations at New York but not with those for the lighterage service. The rates assailed were shown to be affected by water competition on the Sacramento, San Joaquin, and other rivers. Upon consideration of the foregoing and other facts the rates assailed were found not unreasonable or unduly prejudicial to Oakland. This case also affords considerable support for grouping the rates to and from the rail and car-float terminals on both sides of New York Harbor; but as lighterage was not involved, it has no bearing upon the propriety of imposing a uniform charge for that service throughout the port.

South San Francisco case: South San Francisco is an industrial community on the Southern Pacific's bay-shore cut-off about 5 miles south of the San Francisco city limits and the former switching limits, but a part of the metropolitan district. In South San Francisco Chamber of Commerce *v.* S. P. Co. (53 I. C. C. 285), complainant attacked the Southern Pacific's proportional rate of 2.5 cents which was then added to the San Francisco rates on certain interstate traffic to and from South San Francisco. It was found that this rate was not unreasonable but was unduly prejudicial to the extent it exceeded the charges on traffic switched to and from points within the San Francisco and Oakland switching districts. This case is cited by the defense, but it also appears to support New Jersey's contention that it is unduly prejudicial and preferential to charge more for lighterage deliveries in a large part of the port of New York than is charged for similar service within the lighterage limits.

D-9. CHICAGO DISTRICT

Compared with New York: Next to the New York metropolitan district, the Chicago district is the most important terminal district in the country. This terminal district which is bounded by the Elgin, Joliet & Eastern Railway Company's line and Lake Michigan is approximately 45 miles long by 40 miles wide and covers about 1,750 square miles of territory. The Chicago switching district, which is within the terminal district, is approximately 40 miles long by 12.5 miles wide and covers an area of about 500 square miles. It is the largest switching district in the country and is served by 22 trunk lines and 15 terminal lines with a total of over 5,000 miles of track within the district. About 1,000 miles of this trackage is elevated, and there are about 40 miles of depressed track. The carriers serving Chicago have coordinated their terminal facilities to a large extent through the use of belt lines and other joint arrangements, which is in marked contrast to the situation at New York, especially with respect to lighterage. The maximum movement within the Chicago switching district is 67.6 miles, and the average is from 25 to 40 miles each way. The longest distances are comparable with the equivalent miles shown for car floatage to and from pier stations at New York but not with those for the lighterage service there.

Rates and switching charges: All points within the Chicago terminal district generally take the same rates in every direction, with certain exceptions. The rates to and from the switching district generally include switching to and from points on other lines without additional charge over the Chicago rates. In this respect the Chicago situation differs from that in the New York metropolitan district, where there is a separate switching district for each city, and additional charges generally apply for switching to and from points on other lines. There is also a difference with respect to local movements within the district, the single-line switching charges at Chicago being generally 2 cents per 100 pounds, or about $12 per car, while much higher class rates generally apply between different cities in the New York district. The above switching charge is less than the stevedoring cost of transferring freight to and from lighters at New York, the composite figures for two handlings by man power and trucks being 84.7 cents per ton on eastbound freight and 78.5 cents per ton on westbound freight.

Tunnel service: The Chicago Warehouse & Terminal Co. operates approximately 62 miles of freight railroad in tunnels under the downtown district of Chicago. The tunnel lines are electrified, and the tracks are 2 feet wide. The cars, which hold about as much as a truck, are raised and lowered in elevators at the stations and places of business served. The tunnel company is a common carrier subject to the act and interchanges freight with the trunk lines. Of course, the freight has to be transferred between the trunk-line cars and tunnel cars, and apparently it is principally less-than-carload package freight. During a test period the tunnel lines handled 11.8 per cent of the total less-than-carload freight compared with 25.2 per cent handled in trap cars and 61.5 per cent drayed by the consignors or consignees. The tunnel company receives from the trunk lines 9 cents per 100 pounds or $1.80 per ton on all freight handled for them. In addition, it receives from the shippers 5 cents per 100 pounds or $1 per ton on inbound freight delivered at its universal stations and 2.5 cents per 100 pounds or 50 cents per ton on all other freight, which amounts are paid over and above the Chicago rates. The fact that additional charges are made for this service, which in-

volves a transfer of the freight, indicates the propriety of similar charges for lighterage at New York.

Erie's car floatage: The Chicago & Erie Railroad Co. alone operates a car-float service on the Chicago River to and from two stations, where it has freight houses and team tracks. The car-float movement of 2.5 to 5 miles is in addition to a switching movement of 21 miles beyond the Chicago & Erie's yard at Hammond, Ind. There is used in this service 1 tugboat and 4 car floats of 8-car capacity each, which handled a total of 95,000 tons of freight in 1928. This equipment may be compared with the Erie's floating equipment at New York Harbor, where it has 12 tugboats, 35 car floats, and 248 other boats. The cost of repairs, maintenance, and operation of the floating equipment at Chicago in 1929 amounted to $42,133 compared with corresponding costs for the Erie's marine freight service at New York of $3,630,170. Aside from its volume the Erie car-float service at Chicago is comparable with the car floatage to and from pier stations at New York.

Lighterage: The Merchants Lighterage Co. operates a lighterage service on the Chicago River in connection with some but not all of the trunk lines. The Chicago & Erie is the only party to this arrangement whose system lines serve New York Harbor. Lighterage is performed on the main river and part of its north and south branches, but not along the lake front except at the municipal pier, and not on the Calumet River which penetrates an important industrial district in South Chicago. The Chicago rates are applied to and from a station maintained by the lighterage company and also industries along the river on carload traffic and less-than-carload shipments of not less than 10,000 pounds. The lighterage company acts as agent for the trunk lines, who pay it 6 cents and 9.5 cents per 100 pounds on carload and less-than-carload freight, respectively. It will be noted that the cost to the trunk lines of $1.20 per ton on carload traffic is considerably less than the average lighterage costs at New York. There are two lighters used in this service at Chicago, and they handled 55,000 tons of freight in 1928. That is equivalent to less than 10 carloads of 20 tons each per working day as compared with an average of 12,704 loaded cars handled into and out of the Chicago terminal district each day during a test period without counting through traffic. The above lighterage equipment and tonnage may also be compared with the 1,228 lighters operated by the trunk lines at New York Harbor, which in 1929 lightered 9,092,342 tons in their own equipment and 2,233,348 tons more in outside equipment. The relatively insignificant lighterage service performed at Chicago should not have much weight in considering the extensive and expensive service at New York Harbor, especially as there is no issue of undue prejudice and preference as between New Jersey and Chicago.

Tunnel and lighterage case: In 1915 some of the trunk lines proposed to cancel the application of the Chicago rates on traffic handled in connection with the tunnel company and the lighterage company. They failed, however, to present any evidence regarding the reasonableness of the increased charges that would result, and their schedules were found not justified. (Rates in Chicago Switching District, 34 I. C. C. 234.) There was no issue of discrimination on account of charging more for lighterage in some parts of the port than others as at New York Harbor. Since that case was decided the carriers have been permitted to establish additional charges for the tunnel service over and above the Chicago rates. Under all the circumstances the case cited can not be regarded as of much importance with respect to the issues presented in these cases.

Optional trucking case: The carriers serving Chicago have recently proposed to provide for the transfer of less-than-carload freight between the freight houses of the trunk lines and the so-called universal stations of the tunnel company and certain other lines by truck or dray in lieu of rail service at their option. This practice was found justified, although the carriers were required to amend their proposed schedules. (Trucking L. C. L. Freight in Lieu of Rail Service, 185 I. C. C. 7.) This case affords some support for the practice with respect to trucking to and from inland stations at New York, but it did not involve any question of store-door delivery.

D-10. ST. LOUIS—EAST ST. LOUIS

Separated by river: St. Louis, Mo., and East St. Louis, Ill., are separated from each other by the Mississippi River. There are, however, four railroad bridges across the river between these points. The cost or value of three of them are shown as $1,120,000, $3,345,000, and $8,000,000. These amounts are equivalent to a large number of miles of average railroad, but there is no evidence in regard to the cost of handling traffic over these bridges. That service is performed principally by the Terminal Railroad Association of St. Louis, which is owned by 15 of the trunk lines. The Missouri Pacific Railroad Co. also operates a car ferry across the river a short distance south of St. Louis. The rates for hauls of 100 miles or more are generally the same to and from St. Louis and East St. Louis, which are in the same switching district, and apparently the switching charges of connecting lines are generally absorbed.

Off-track stations: It has long been the practice of the railroads to truck less-than-carload freight between their rail stations and off-track stations in St. Louis and East St. Louis. This service is performed by a trucking company, which receives from the railroads various allowances for the trucking and other services at the off-track stations. These allowances are shown as ranging from $2.25 to $2.75 per ton, but those amounts have been reduced somewhat as a result of Transfer in St. Louis and East St. Louis by Dray and Truck, 155 I. C. C. 129, 177 I. C. C. 316. The present allowances of $1.64 to $2.70 per ton are comparable with the allowances of 11 and 12 cents per 100 pounds paid by the Erie for trucking and station services on traffic handled through its inland stations in New York.

Direct-delivery service: Trucking is also performed between the rail stations in East St. Louis and shippers' places of business in St. Louis, but unlike the off-track station service the railroads pay only a portion of the trucking expense and the balance is paid by the shippers. The division of the trucking expense between the railroads and shippers is supposed to represent the cost of trucking to and from a constructive station which is assumed to exist at the west end of the Eads Bridge. Apparently the allowances paid by the railroads for this service of 1 cent and 2 cents per 100 pounds on carload and less-than-carload shipments, respectively, represent the smaller portion of the total expense of trucking to and from the shippers' places of business.[25] This service is referred to as direct delivery or a modified form of store-door delivery in the above-cited case.

Trucking to storage: In the original report in that case at pages 136, 137, the commission also considered a practice of trucking certain carload freight to and from warehouses in the upper floors over some of the off-track stations at the expense of the railroads. This practice was referred to as virtually amounting to store-door delivery of carload traffic placed in storage and was condemned in the following language:

"As a matter of law, the carrier is obligated to deliver carload freight at a public team track or at a private industry track. The only other alternative at St. Louis is the delivery through the constructive station. Any practice of according service in addition to this, such as that entailed in the movement of carload freight from recognized team tracks in East St. Louis or St. Louis to warehouses located above off-track stations is gratuitous, has no warrant in fact or in law, is open to serious abuse by way of discriminations, is an unwarranted concession to those receivers who thus avoid an expense of drayage rightfully to be borne by them, and should be discontinued immediately.

Conclusions as to comparison: The grouping of St. Louis and East St. Louis together with the Missouri Pacific's car-ferry service in competition with the lines using the bridges affords some support for permitting a grouping of the rail and car-float terminals on both sides of New York Harbor for hauls over 100 miles. The trucking practices at St. Louis and East St. Louis which were approved in the above-cited case also afford considerable support for permitting such group to include the inland stations at New York, but they strongly indicate the propriety of requiring shippers to pay at least a portion of the expense of any form of store-door delivery in addition to the rail rates.

D-11. ANALYSIS OF MARINE COST DATA

Changes in costs: The defense showed that the coal and fuel oil used by the tugs and lighters cost most of the trunk lines less per ton in 1930 and 1931 than in October, 1924. The Baltimore & Ohio's reduction was from $5.08 to $4.63 per ton; that of the Central of New Jersey from $3.65 to $1.91 per ton; the Lackawanna showed no change; the Erie's costs were not on a comparable basis; the Lehigh Valley's reduction was from $1.95 to $1.75 per ton; that of the New York Central from $1.42 to $1.05 per barrel of oil; and that of the Pennsylvania from $2.10 to $1.72 per ton. The amounts of coal or fuel oil consumed were not available, however, and no attempt was made to show the effect of these price changes on the lighterage or car-floatage costs.

Evidence was also introduced to show that the expenses of maintaining floating equipment in 1928–1930 were considerably less than in 1921–1923, which period was used in the Stuart study. The reduction claimed is from a monthly average of $445,107 to $349,502, or 21.5 per cent, but corrections made by New Jersey bring it down to 15.3 per cent. This reduction appears to be due partly to much more traffic being trucked in 1928–1930 than in 1921–1923, and the 1928–1930 period included more than a year of the business depression, which resulted in a marked reduction in the tonnage handled as well as the expenses. For example, trucking in lieu of lighterage increased from 107,199 tons in 1923 to 1,414,056 tons in 1929, while the tonnage lightered by the trunk lines other than the New Haven declined from 11,021,118 in 1929 to 7,642,825 in 1930. It is doubtful, therefore, whether the reduction in maintenance expenses reflects any substantial reduction in the costs per ton of freight lightered or car floated.

Whatever effect the above-mentioned items have on the lighterage and car-floatage costs is probably offset by the higher wages of employees previously referred to, which is the largest item of cost in connection with lighterage. At any rate, it is unnecessary to determine the costs exactly, in view of the conclusions hereinafter reached. See Commission *v.* Texas & N. O. R. Co. (284 U. S. 125), where the Supreme Court recently said, at page 132:

"Neither the failure of the commission separately to ascertain and state nor the absence of evidence to show the cost to carriers of the ferry service requires annulment of the rates prescribed for transportation between the places on the east bank of the Mississippi and points west of the river."

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[25] Drayage in St. Louis District (188 I. C. C. 153), decided September 27, 1932, the Southern Railway Co. and the Mobile & Ohio Railway Co. were permitted to increase their allowance for the direct-delivery service on less-than-carload traffic from 2 cents to 5 cents per 100 pounds upon a showing that the expense attributable to that part of the trucking between the rail stations and the constructive station amounted to over 6 cents per 100 pounds.

Possible economies: The New York Port Authority's annual report for 1916 reviewed a study which indicated that the tugboat costs could be reduced $174,000 per month through a system of central dispatching and pooling of tugboats. It is also pointed out that the idle-time cost of towing equipment amounted to $343,626.78 in one month. After referring to these figures, the New York interveners urge that "it would be inequitable to require a change in rates predicated upon costs which reflect wasteful operations which the carriers could eliminate." On the other hand, New Jersey urges that this is additional proof of the present wasteful practices, which it seeks to have corrected by the imposition of charges which would encourage direct interchange between rail and ship. The possibility of unifying the marine operations of the eight trunk lines serving New York Harbor has been discussed for years, but these cases must be decided upon the basis of the existing situation and not some contingency which may never happen.

Variation in costs: An analysis of the data underlying the Stuart study by New York's expert disclosed considerable variation in the costs for lighterage and car floatage in different parts of the harbor, in different classes of equipment, as to different commodities, and as between the different railroads. For example, the shore-to-shore costs per ton for lighterage in all classes of equipment are shown to average $1.56 for Brooklyn, $1.25 for lower Manhattan, and $1.37 for New Jersey. There is greater variation in the costs as between some of the smaller zones, where the range is all the way from 47 cents to $14.43 per ton. In both of these extreme cases, however, the tonnage was very light, and the expert who analyzed the figures did not regard such zones as representative. The average lighterage costs per ton for different classes of equipment are shown as $1.279 for covered barges and refrigerators, $1.627 for open lighters and hand hoists, $1,633 for power hoists, and $2,305 for steam lighters. The variation in shore-to-shore costs according to commodities ranges from an average of $1.028 per ton for products of agriculture to $1.662 per ton for manufactured products, which latter constitute the largest portion of the tonnage.

Apparently the purpose of this showing is to indicate the impracticability of making rates to suit the varying costs, but there is no proposal to vary the rates for similar services in different parts of the port, as to classes of lighterage equipment, or as to different commodities except grain. The distinction between lighterage and car floatage to and from pier stations rests not alone on the fact that the average shore-to-shore costs for the former are more than double those for the latter, but there is also a difference in the nature and value of the services as hereinbefore shown, and lighterage involves a breaking of bulk and double handling of the freight at carrier expense.

Controlling factors: The conclusion of the above-mentioned expert regarding the variations in marine costs is that the controlling factors are the tons handled per trip and the delays at terminals other than those of the railroads, while the towing distances are relatively of no importance. This accounts for the much greater average shore-to-shore costs for lighterage and car floatage in lieu thereof than for car floatage to and from pier stations, because the latter is more concentrated and permits heavier loading of the car floats, and the former involves more delays especially at steamships or their piers. The unimportance of towing distances also indicates the lack of justification for higher charges for lighterage to and from some parts of the port than others.

D-12. COMPARISON OF SERVICES AND COSTS

The defense stresses certain rail deliveries in northern New Jersey which it urges exceed the switching service to or from the car-float bridges and lighterage piers on the New Jersey shore and in some instances equal to the marine service to or from New York.

Erie's branch lines: The Erie has numerous branch or side lines in northern New Jersey. Through trains from the West are brought into its Croxton yard just west of Jersey City, and cars for these branches are distributed from there. Trains from Croxton to the branches average about 20 loaded cars, while inbound trains from the branches average only about 11 loaded cars. This service involves more or less back haul on over 40 per cent of the traffic to and from these branch lines. The distances from the Croxton yard range all the way up to 49.1 miles to Sterling Forest at the end of the Greenwood Lake branch. This maximum haul approaches the equivalent miles shown for car floatage to and from pier stations but not those for lighterage which range up to 319 miles for the Erie.

Other New Jersey deliveries: The Lackawanna's through trains from the west are brought into its Secaucus yard west of Jersey City, and cars for points on its line through Newark are hauled back west for distances ranging up to about 15 miles. The Central of New Jersey back hauls traffic for Bayonne from Jersey City, about 6 miles. The West Shore through trackage rights over the Lehigh Valley serves the Bayonne district, which is 14 miles beyond its Weehawken yard. Pennsylvania deliveries in Jersey City involve several classifications and somewhat complicated switching. The foregoing shows that many rail deliveries in northern New Jersey involve more service than that to and from the car-float bridges or lighterage piers on the New Jersey shore, especially when consideration is given to the concentrated movement to and from the latter points. The conclusions hereinafter reached make ample allowance for this situation.

Hoboken Shore Line: The most stress is laid by the defense on the service to and from piers or team tracks served by the Hoboken Shore Line. This 1.5-mile long road serves most of the steamship piers on the New Jersey shore, but its operations are cramped and difficult because of the physical location. Comparison is drawn between the cost to the trunk lines of handling a 20-ton carload to or from ship side at these piers by switching, car floatage, and lighterage. Only one or two of the trunk lines have direct rail connections with the Hoboken Shore Line, and the others reach it through intermediate switching or trackage rights. This showing indicates that the switching service costs five of the lines from $27 to $39.95 per car, while car floatage costs three lines from $33.36 to $37.01 per car, and lighterage costs from $31.30 to $44.12 per car. The amounts paid for switching, however, include all operating expenses, taxes, rentals, and return on investment, while the car-floatage and lighterage costs do not include any float-bridge or lighterage-pier expenses, any taxes on such shore property, or any return on investment in floating equipment or shore facilities. The report in the Wharfage Charges case discloses that interest on investment and taxes alone amounted to 47 cents per ton, or $9.40 for a 20-ton carload. The above costs for switching and lighterage or car floatage are not, therefore, on a comparable basis.

Both the above switching and car-float costs include $27 per car for switching and handling to or from the ship side by the Hoboken Shore Line. The tracks of that line extend out on only 1 or 2 of the 12 piers, and freight generally has to be trucked several hundred feet between cars on the shore and ship side on the piers. This no doubt accounts for the rates or allowances received by that line, which are generally 60 cents per ton where the shippers do the loading or unloading and $1.35 per ton where it performs the handling to or from ship side. The latter may be compared with the average cost of 50 cents per ton for unloading freight on the docks at Port Newark and with the Atlantic Port Railway's allowance of 60 cents per ton, which includes switching and loading or unloading at that port. It may also be compared with the costs of 40 to 45 cents per ton for loading or unloading cars on the piers at Boston. When interest on investment, taxes, and maintenance expenses on the pier facilities are taken into consideration, however, the record indicates that the total cost for direct transfer where the rail extend onto the piers amounts to about $1 per ton. See section E-2 of this report. The Hoboken Shore Line's charges can not, therefore, be regarded as typical of the costs for direct interchange at modern rail-water terminals, but even they are considerably less than the average lighterage costs.

The defense also compares the cost of switching a 20-ton carload to or from team tracks on the Hoboken Shore Line with the cost of car floating a similar car and switching it to or from team tracks on Manhattan. The first-mentioned costs range from $12 to $24.95 per car, including $12 to the Hoboken Shore Line for switching about 2,000 feet. The total costs shown for the movement to or from Manhattan team tracks range from $9.18 to $10.83 per car. It is admitted, however, that the latter do not include numerous items of cost assignable to the team-track switching, which it is estimated amount to between 10 and 15 per cent. Moreover, they do not include all of the taxes or any return on investment as do the switching charges on traffic to or from team tracks of the Hoboken Shore Line. Nevertheless, this showing seems sufficient to indicate that the costs of car floatage to or from Manhattan team tracks are probably no greater than the maximum cost of switching to or from team tracks on the Hoboken Shore Line.

Conclusions: Rail deliveries in northern New Jersey frequently involve more service than switching to and from the car-float bridges or lighterage piers, and in some instances such deliveries appear equal to car floatage to and from team tracks or pier stations, but they can in no case be regarded as equivalent to the lighterage service with its double handling of the freight at railroad expense.

D-13. CONTRACT TERMINALS

Interest in cases: The so-called contract terminals have a vital interest in these cases. Their interest concerns not only the possible effect on the amount of freight handled by them but also their ability to attract and hold industrial tenants and steamship companies which use their facilities. In 1929 the Bush Terminal Co. and Bush Terminal Railroad Co. handled a total of 1,025,290 tons of carload and less-than-carload freight; the Brooklyn Eastern District Terminal handled 1,062,788 tons, excluding coal and coke; the New York Dock Railway handled 527,458 tons, including coal and coke; and the Jay Street Terminal handled 509,548 tons, excluding coal and coke. This traffic is handled both for industries located within the terminals and for outside industries, the latter exceeding the former in some instances.

Compared with Hoboken Shore Line: The defense compared the cost to the trunk lines of handling traffic by car float to or from the contract terminals with the cost to them of switching to or from the Hoboken Shore Line. On carload traffic which the Hoboken Shore Line loads or unloads it generally receives $1.35 per ton. This exceeds the average allowances or divisions of certain contract terminals, which range from $1.14 to $1.32 per ton on carload traffic, but the latter do not include loading or unloading. A fairer comparison is of the costs for delivery at both the contract terminals and the Hoboken Shore Line for handling by the shippers. This shows that the costs to the various trunk lines on a 20-ton carload switched to the Hoboken Shore Line range from $12 to $24.95 per car, depending on the intermediate switching necessary. The last-mentioned amount exceeds the corresponding costs under the above average allowances or divisions for car floatage to or from the contract terminals. It is doubtful, therefore, whether the comparative costs warrant higher

rates for car floatage to or from the contract terminals than those applicable for switching to or from the Hoboken Shore Line.

Costs on less-than-carload traffic: The average allowances or divisions on less-than-carload traffic are $1.30 per ton for the Bush Terminal Co., $1.28 for the Brooklyn Eastern District Terminal, and $1.32 for the Jay Street Terminal. These amounts are substantially less than the $1.45 per ton which the trunk lines pay the Hoboken Shore Line on less-than-carload traffic. They are also considerably less than the average cost of 10 cents per 100 pounds for delivering or receiving less-than-carload shipments in large terminals as found in the Southern Class Rate Investigation (100 I. C. C. 513), at page 638. These figures indicate that there is no justification for higher rates on less-than-carload shipments car floated to or from the contract terminals than those on similar traffic switched to or from the Hoboken Shore Line and possibly other New Jersey points in the metropolitan area.

Effect of additional charges: It is predicated that an additional charge for car floatage to and from the contract terminals would result in the diversion of traffic both to the trucks and to other ports. Undoubtedly such a charge would have a serious effect on the business of the contract terminals, but it is not believed that a charge for lighterage would be quite so serious a matter to them. They perform no lighterage for the trunk lines, and there is an additional charge now for lighterage of less-than-carload traffic. Of course, its extension to carload traffic would have a tendency to draw steamships which now dock at the contract terminals to the New Jersey or Staten Island shore. But the Bush Terminal and the New York dock terminals which are principally interested in the steamship business could apparently handle at least part of the steamship traffic by car float and switch it to or from ship side. All of the Bush Terminal piers and some of those in the New York dock terminals are now equipped with railroad tracks. The Brooklyn Eastern District Terminal, which does not appear to be so much interested in the steamship business, might even benefit from a lighterage charge. It would tend to divert traffic from the expensive lighterage service with its double handling of the freight to the car-float service to and from the terminals. That would apparently benefit not only the terminal companies but also the trunk lines because of the much lower cost to them.

D-14. NEW YORK HARBOR CASE

The defense leans heavily upon the New York Harbor case (47 I. C. C. 643), decided December 17, 1917. That was a complaint by what was designated the "Committee on Ways and Means to prosecute the case of alleged rate and service discrimination at the port of New York" and others. It represented an attempt to secure for New Jersey lower rates than New York on traffic to and from the West because of the lighterage and car-float services. The complaint was dismissed, and the defense contends that such action should be followed here in the absence of evidence of changed conditions. The grounds for the dismissal were summarized in the following quotation from page 739:

"If we could overlook the fact that historically, geographically, and commercially New York and the industrial district in the northern part of the State of New Jersey constitute a single community; if we could disregard the fact that the freight rates in this country are not and never have been constructed solely with regard to the specific cost of operation; if it were not clear that the establishment of rate groups is in some instances beneficial alike to the carriers and to the public; if we could forget for the moment that both sides of the port of New York always have been and doubtless always will be accorded the same rates by the boat lines; were it not for the fact that to grant the relief asked would inevitably disrupt the whole structure of rates to and from the Atlantic seaboard, and this without any substantial showing by the complainants that the present adjustment operates to their actual injury; if we could disregard the fact, abundantly established by the evidence of record, that the communities of northern New Jersey have prospered under the present rate adjustment; and if we were not persuaded that cooperation and initiative must eventually bring about the improvements and benefits which the complainants hope to attain through a change in the rate adjustment—then we might conclude that the present rates result in undue prejudice to the people and the communities on whose behalf this complaint was filed. On the evidence now before us that conclusion can not be reached.

Differences in issues: While the New York Harbor case was similar to the present New Jersey cases in that complainants sought lower rates for New Jersey than New York on traffic to and from the West, the issues differed in many respects. One of the most important differences is that the complaint in that case contained no allegation of undue prejudice and preference because of charging higher rates for lighterage and car floatage in lieu of lighterage to and from some parts of the port than others. The report did not even show that such a situation existed, and apparently it was not brought to the commission's attention. Another important difference is that there was no issue of undue prejudice and preference as between Boston and New York in any of the respects dealt with in Boston's complaint and evidence. The rates via the coastwise routes to and from the South and Southwest were not in issue, and the report does not indicate that the commission was advised as to the situation with respect to those rates. With regard to the rates to and from New England it was stated at page 717:

"It is true that on shipments to New England the rate structure is not favorable to complainants, and that it gives New York an advantage, but the rates to and from New England are not in issue in this proceeding."

In the case cited complainants excluded the export and import rates leaving only the domestic rates in issue. Here the Boston complaint is confined to export, import, and coastwise traffic, and the New Jersey complainants appear to be at least as much interested in the export and import traffic as in the domestic traffic. There are several other issues which took up a substantial part of the report in that case which are not involved in the present case. On the other hand, there are several issues here in addition to those above mentioned which were not present in that case. Perhaps the most important difference is that complainants there did not ask for the establishment of separate charges for the terminal services, and the report therefore did not consider that question. Nevertheless, there were references on pages 734 and 735 to the possibility of imposing specific terminal charges, which indicated that this might eventually be the solution of the problem.

The above-cited case does afford strong support for permitting the grouping of both sides of New York Harbor, but obviously it can not be regarded as controlling with respect to issues which were not raised or decided in that case.

Philadelphia basis sought: Complainants in the New York Harbor case sought rates for New Jersey 2 cents under New York. That would have placed New Jersey on the Philadelphia basis, and it would have resulted in extending the Philadelphia group to the Hudson River, including Staten Island which is a part of New York City. This situation appears to have been very influential in the decision to dismiss the complaint.

A similar situation would result here so far as concerns the export rates and most of the import rates if those to and from New Jersey points should be reduced 2 cents.

New York Central: Another situation stressed in the New York Harbor case was that regarding the New York Central. Complainants there sought lower rates for New Jersey than New York solely because of the marine services. Thus the relief sought apparently did not apply to the New York Central's all-rail rates to and from Manhattan. It had long been the practice of that line to maintain the same rates to and from both sides of the harbor. If the New Jersey rates were reduced, it was not seen how the New York Central could be prevented from applying the same rates to and from New York, which would have made its New York rates lower than those of the other lines. The commission did not then possess the minimum-rate power.

As hereinbefore indicated, the New York Central situation would complicate the imposition of additional charges for car floatage to and from regular stations and team tracks, but it would not prevent a separate charge for lighterage by all the lines throughout the port.

Terminal costs: The evidence regarding terminal costs in the New York Harbor case differed greatly from such evidence in these cases. Referring to complainants' principal witness on that subject it was said at page 672:

"Before proceeding to an analysis of the cost figures introduced by him, it is proper to observe that his estimates are most general in character, that his figures were not scientifically compiled, and that they represent merely his best judgment as to the cost of the various operations. * * * Under these circumstances the estimates of this witness are not particularly helpful, but they are supported in a general way by other evidence of record and they will be briefly summarized."

The estimated cost shown there for lightering westbound carload freight of $1.07 per ton, including the handling costs, may be compared with the composite costs shown here of $2 per ton where the freight is transferred by crane and $2.225 per ton where it is transferred by hand power and truck. The shore-to-shore cost study introduced in these cases is probably as thorough and reliable as any ever presented to the commission, while the transfer costs are the actual contract rates paid for that service in most instances. If any further proof were needed, it is afforded by the finding in the Wharfage Charges case that the average cost is $2.75 per ton, which includes certain items not included in the above-mentioned composite costs.

Lighterage versus car floatage: It is somewhat surprising to find that the report in the New York Harbor case indicated that lighterage cost less than car floatage to and from pier stations. The estimated cost there shown for lighterage of westbound carload freight was $1.07 per ton as compared with $1.25 per ton for car floatage of eastbound carload freight to pier stations. The latter figure included 10 cents per ton for switching to the float-bridge classification yard, while no switching was included in the lighterage cost; but even if that 10 cents per ton be excluded from the car-float costs, they would still exceed those shown for lighterage. The present record shows that the shore-to-shore costs for lighterage average substantially more than double those for car floatage to and from pier stations, without considering the fact that lighterage involves at least two handlings of the freight as compared with only one on car-float freight to or from pier stations and no handling by the railroad of such freight to or from off-line team tracks.

The report in the New York Harbor case indicated that lighters as well as car floats are used to serve the pier stations and contract terminals. On the other hand, the present record shows that such facilities are almost entirely, if not altogether, served by car float, while lighters are employed to pick up and deliver freight elsewhere than at regular stations or team tracks. The report in

that case also failed to bring out various other reasons for distinguishing between lighterage and car floatage to and from regular stations or team tracks, which are developed here as shown by this report. These differences in the statement of facts together with the evidence which indicated that lighterage cost no more than car floatage to and from pier stations probably account for the failure to distinguish between those services in that case. Nevertheless, it was apparently recognized that they did stand on a somewhat different footing, for at page 738 it was said that but for the long existence of the practice "it would be difficult now to require the extension of the rail rates so as to include lighterage." The long existence of the practice as a defense of free lighterage will be considered in another place.

Other differences in evidence: The report in the New York Harbor case indicates that the record there differed in many other respects from the present record. For example, there was no equating of the lighterage costs into equivalent miles of average rail transportation. There was no reference to the steamship permit system nor the burdens it imposes on the railroads. The development of Port Newark had not been completed at that time, and the report contained only five lines with reference to the plans for its development. The evidence appears to be much different with respect to the injury suffered by New Jersey. It is unnecessary to extend this report by pointing out other differences in the evidence. That the present record is much more comprehensive than that in the case cited is shown by the fact that it contains 7,843 pages of testimony, 533 exhibits, and 2,552 pages of briefs as compared with 4,017 pages of testimony, 168 exhibits, and 907 pages of briefs in that case.

Changes in law: The transportation act, 1920, and the Hoch-Smith resolution have been passed since the decision in the New York Harbor case. The Hoch-Smith resolution does not appear to have any important bearing on the issues here despite the contention of the Boston complainants. The minimum-rate power and section 15a added by the transportation act seem more important. Section 15a particularly seems to warrant a most careful consideration of the question of imposing a separate charge for lighterage in view of the evidence regarding its relatively high cost, the unusual burdens it places on the railroads, and their need of additional revenue.

D-15. INVESTMENTS IN RELIANCE ON RATE ADJUSTMENT

It is contended that large investments have been made on the faith of the continued unity of the port, much of which has been made since the New York Harbor case.

New York City: Since 1870 the city of New York has been acquiring water-front property within the city. It now owns 73 per cent of the Manhattan water front, 33 per cent of the Bronx water front, 20 per cent of the Brooklyn water front, 12 per cent of the Queens water front, and 7 per cent of the Staten Island water front. It owns and controls 60.5 per cent of the piers within the city limits. The total assessed valuation of water-front land owned by the city is over $216,000,000, and the assessed value of the land and improvements is over $280,000,000. The record does not show how much of this investment has been made since the New York Harbor case, but the average annual expenditures from 1920 to 1929 are said to have been $6,400,000.

The city has embarked on a plan of reconstructing many of its piers, which seems to be required because the slips between the piers are too narrow to accommodate the larger ships now in use together with the lighters and tugs. It has also commenced the establishment of a rail-water terminal at Jamaica Bay, Long Island, which is outside the lighterage limits but is reached by the Long Island Railroad.

Contract terminals: The assessed value of the real estate and improvements of the Bush terminal is $58,943,500, of the New York Dock terminals, approximately $31,000,000, and of the Brooklyn Eastern District terminal, over $10,000,000. The last-mentioned company has spent $950,000 for real estate and $1,400,000 for fixed property and equipment since January 1, 1917. It was testified that this investment was made on the faith of continued unity of the port, and that it was doubtful whether it would have been made had there not been that unity and free floatage.

Effect on investments: The above-mentioned investments may properly be taken into consideration, but it is not to be inferred that they would be destroyed by the establishment of a separate charge for lighterage. Undoubtedly a very large portion of the steamship business of the port would continue to be transacted on the New York side. That is especially true of the steamships carrying a considerable number of passengers as well as freight, because passengers generally desire to land on Manhattan. The probable effect of a lighterage charge on the contract terminals has already been discussed in section D-13 of this report. The city of New York would certainly bear the largest loss, whatever it might be; but it is worth noting that the city owns piers on Staten Island, which do not appear to be used very much at present, and they would be among the first to benefit from ships seeking piers with direct rail connections. Of course, the capacity of the Staten Island piers is limited, and all of the present facilities for direct interchange on the New Jersey side would be insufficient to draw a very large proportion of the steamship business of the port. The change would therefore be gradual as additional facilities were developed for direct interchange.

New York Harbor case: The contention that investments were made in reliance on the decision in the New York Harbor case overlooks certain expressions in that case, which gave notice that the adjustment there approved was not necessarily to be regarded as permanent. The following quotations are from pages 734, 735, and 738, respectively:

"The unusual cost of the terminal service at the port of New York and the plans of the carriers serving the port to invest many millions of dollars in new terminals add peculiar interest to the question whether the railroads can continue indefinitely their policy of rendering valuable terminal services without imposing specific terminal charges therefor.

* * * * * * *

"Although it is probable that the time will soon come when the carriers will find it necessary to accord adequate recognition in the rate structure to the heavy and ever-increasing expense of terminal operation, it can not be said at the present time that their failure to do so leads necessarily to the conclusion that their rates are unduly prejudicial or otherwise unlawful.

* * * * * * *

"It may be observed, however, that the position taken by the complainants is in a measure justified from an economic viewpoint, and that while at the present time all parts of the metropolitan district may with propriety be grouped for rate-making purposes, there may come a time when the burden of handling the enormous tonnage in and out of the port will be so onerous that Manhattan itself may need such relief as lower rates to and from the New Jersey shore would in part afford."

Regardless of the foregoing expressions, however, it is well settled that investments made in reliance on the continuance of a rate adjustment can not prevent the removal of undue prejudice and preference. Otherwise shippers could insure the continuance of a preferential adjustment by making such investments. See Atlas Portland Cement Co. *v.* C., B. & Q. R. R. Co. (81 I. C. C. 1), where, in reversing three previous decisions regarding the application of the Chicago district rates on cement from Buffington, Ind., it was said, at page 15:

"The argument that the location of the cement mill at Buffington was based on the belief in the unbroken maintenance of the district rate is not persuasive. Rights to interstate rates are determined by and under the interstate commerce act."

D-16. DISRUPTION OF RATE STRUCTURE

The defense contends that New Jersey's proposal that a spread of 6 cents be established between New Jersey points and New York City on all long-haul traffic except bulk grain to and from points on the North, West, or South could not be put into effect without extensive disruption of the rate structure.

Eastern class rates: It would almost certainly require changes in the class rates prescribed to and from other groups which are not here in issue. For example, if the rates to and from Weehawken were placed on the Trenton basis to and from central territory, as proposed by New Jersey's principal rate witness, they would generally be lower than the rates to and from less distant and intermediate points in other groups such as Albany and Kingston, N. Y.

Northern New York: The application of rates between points in northern New York and Bayonne, for example, 6 cents or any amount less than New York City would in many instances result in higher rates for the shorter hauls to and from Manhattan and the Bronx. Such deliveries in the Bronx do not require any marine service or other unusually expensive operations.

Southern class rates: A reduction of 3 cents in the class rates between New Jersey points and southern territory would require reductions in many of the rates to and from the Philadelphia group, also those to and from the Harrisburg, Pa., and Hagerstown, Md., groups, and in some instances of those to and from the Baltimore group. The resulting blanket would extend down the eastern shore to and including Cape Charles, Va.

Lime rates: In Northwestern Ohio Lime Mfrs. *v.* Pennsylvania R. Co., 159 I. C. C. 9, rates were prescribed on lime from producing points in Ohio to destinations in trunk-line territory. If the rates prescribed to New York were reduced 2 cents for application to northern New Jersey, they would be the same as those prescribed to the Philadelphia group, which extends almost to Harrisburg and Elmira, N. Y. On the other hand, if the rates prescribed to New York were increased 2 cents, they would be the same as those prescribed to Boston and Rockland, Me. Obviously, no greater reduction or increase could be made without changing the rates prescribed to other groups.

Petroleum rates: In Petroleum and Its Products, 171 I. C. C. 286, rates were prescribed on petroleum products from the mid-continent field to destinations in official territory. If the rates prescribed to New York were reduced 2 cents for application to northern New Jersey, they would be the same as those prescribed to Philadelphia, Reading, and Scranton, Pa., and Binghamton, N. Y. On the other hand, if the New York rates were increased 3 cents, they would be the same as those prescribed to Boston and Portland. No reduction could be made in the New Jersey rates without making them lower than those prescribed to Albany, which are the same as New York.

Transcontinental rates: Any change in the transcontinental rates to create a spread between New Jersey and New York would necessitate revision of the rates to and from an extensive territory. For example, any reduction in the class rates to and from New Jersey would have to be blanketed back almost to Pittsburgh and Buffalo, about 400 miles. Any increase in the class rates to and from New York would probably have to be applied to and from all of New England. Many of the commodity rates to and from New Jersey could not be reduced without blanketing the rates back as far as Colorado, approximately 1,800 miles.

The foregoing is sufficient to show that a splitting of the New York group would so disrupt the rate structure as to require extensive revision not only of rates voluntarily established by the carriers but in many instances of those prescribed by this commission. However, a separate charge for lighterage and car floatage or trucking in lieu thereof throughout the port would have no such effect as hereinafter shown.

D-17. FOURTH-SECTION COMPLICATIONS

Many of the possible fourth-section complications have been considered in D-3 railroad competition and D-16 disruption of rate structure. There only remains to be considered the fourth-section allegation in the State of New Jersey's complaint, possible fourth-section departures in connection with the rates over differential water-rail routes, and the question of whether a charge for lighterage and car floatage or trucking in lieu thereof would result in fourth-section departures.

Fourth-section allegation: The State of New Jersey alleges that the allowances given by the trunk lines for lighterage, car floatage, and trucking result in violations of the long-and-short-haul rule of the fourth section. A similar contention was found to be without merit in Atlas Portland Cement Co. *v.* C. R. R. Co. of N. J. (85 I. C. C. 611). See also Interstate Commerce Commission *v.* Detroit, G. H. & M. Ry. Co. (167 U. S. 633), where the Supreme Court held that a fourth-section violation did not result from the performance of free cartage at a farther distant point which was not performed at an intermediate point taking the same rates.

Differential water-rail routes: Rates are maintained over the water-rail route via Hampton Roads to and from points in the Middle West which are made differentials under the all-rail rates. A similar differential basis applies over the water-rail route via New London, Conn., the Central Vermont Railway, and the Canadian National Railways system to and from western points. In both cases the ships dock on Manhattan, but the same rates are maintained to and from points in northern New Jersey. If the all-rail rates to and from the New Jersey points were made lower than those to and from New York, the water-rail routes would either have to depart from the differential basis or their rates would violate the fourth section.

Lighterage charge: In Lautz Marble Corp. *v.* E. R. R. Co. (115 I. C. C. 183, 136 I. C. C. 183) and several cases which have followed it all points within the lighterage limits of New York Harbor were held to be intermediate with respect to through traffic moving across the harbor. This finding was based upon the fact that the same rates applied to and from all points within the lighterage limits, and it was accordingly held that they should be treated as a unit. It does not follow, however, that a similar decision would be required if a separate charge should be made for lighterage and car floatage or trucking in lieu thereof. Under such circumstances lighterage deliveries could not be regarded as a unit with the rail terminals and car-float stations. As hereinbefore pointed out in section B-12, lighterage is a service beyond the railroad and car-float terminals which is analogous to store-door delivery.

Through carload traffic is moved across the harbor on car floats at comparatively low cost, while lighterage involves a transfer of the freight from cars to lighters and a second handling when it is removed from the lighters. Trucking in lieu of lighterage also involves two handlings by the railroad which are not necessary in the case of through carload freight. Such car floatage in lieu of lighterage as is performed is generally to and from steamships, and that involves one handling of the freight by the railroad which is not performed in moving through carload traffic across the harbor. There is also a difference in that the former involves the floating of two cars for one load, as explained in section B-6. The shore-to-shore costs alone are much higher for lighterage and car floatage in lieu thereof than for the car-load interchange movement, the respective averages for all the trunk lines being $1.48 and 17 cents per ton. If a separate charge for lighterage would violate the fourth section, there must be departures now by reason of the charges for lightering less-than-carload shipments and certain other freight hereinbefore mentioned. It seems more reasonable to conclude, however, that charges for such special services which differ from those performed on through traffic do not enter into the question of violating the fourth section.

Moreover, it does not appear that lighterage and car floatage or trucking in lieu thereof are performed between the same points as the car-float interchange movement. The New Haven's rail terminals at Harlem River are expressly excluded from the lighterage limits. In State Docks Commission *v.* Louisville & N. R. Co. (176 I. C. C. 473) it was held that a charge for switching at the Alabama State Docks in Mobile, Ala., did not result in a fourth-section violation, because that movement was not included in the movement to the farther distant point. Everything considered, it does not appear that a separate charge for lighterage and car floatage or trucking in lieu thereof would violate the fourth section.

D-18. EFFECT ON CARRIERS' REVENUES

The trunk-line defendants urge that complainants' proposals would result in great reductions in their revenues. They also refer to their need for additional revenue as shown by the application for increased rates and the temporary increases granted in the Fifteen Per Cent case, 1931 (178 I. C. C. 539). It is argued that this phase of the case alone should preclude the granting of the relief sought.

On the other hand, New Jersey shows that the lighterage, car floatage, and trucking performed by the trunk lines without additional charge costs in excess of $30,000,000 per year. That is based on almost 20,000,000 tons so handled at New York Harbor in 1923, exclusive of grain lightered and interchange traffic. It points out that if a separate charge of only 3 cents per 100 pounds or 60 cents per ton were applied to that tonnage it would increase the revenues of the trunk lines approximately $12,000,000 per year. If such a charge were confined to the more than 9,000,000 tons lightered and car floated or trucked in lieu of lighterage the increase in revenue would still be well over $5,000,000 per year. Of course, some revenue losses would result from other findings hereinafter proposed, but it is believed that the net result would be quite a substantial increase in the carriers' revenues.

D-19. DEFENSE OF FREE LIGHTERAGE AND FLOATAGE

The defense contends that free lighterage and car floatage are in the best interests of the port of New York as a whole, including New Jersey. It urges that an additional charge would tend to discourage lighterage and induce shippers to forward their shipments with instructions which would preclude handling them in lighterage service. That is not denied by any of the complainants and is undoubtedly correct in so far as the direct-interchange facilities and steamship docking thereat would permit. In fact, New Jersey's position is that this would be a desirable result, because it would tend to eliminate the expensive and unnecessary lighterage service, wherever direct interchange could be effected.

Flexibility and economy: The flexibility of lighterage is emphasized by the defense, and it is urged that lighterage requires no investment in roadbed or tracks. In both of these respects it is comparable with trucking as well as in other respects hereinbefore noted. The defense regards lighterage as superior to direct interchange, when consideration is given to the investment required in facilities and the congestion and delay claimed to be incident to direct interchange. This is denied by complainants, who point out that direct interchange is successfully and economically carried on at Boston, Philadelphia, Baltimore, New Orleans, San Francisco, and other ports. They also refer to the views of the United States Shipping Board and the War Department as expressed in the Port Series No. 20, an extract from which is quoted in section B-31 hereof. Complainants do not deny that lighterage has many advantages and is a valuable service, but their position is that lighterage is worthy of its hire and should pay its way. There is merit in this contention, especially as it is shown that the class rates and rates on iron and steel articles were not made with any reference to the unusual cost of that service.

Attractiveness to steamships: Lighterage enables a ship to dock anywhere in the harbor and interchange freight with all of the railroads. It is urged that it would be a great disadvantage to the steamship lines if a ship could only interchange with one railroad at whose pier it docked. Lighterage also enables a ship to load or unload on both sides at the same time. For instance, a ship can be unloading to the pier and loading from lighters on the other side, and thus reduce by about one-half its time in port. This is a matter of much importance, as the profitable operation of a steamship depends to a large extent on making a quick turn around. Offside loading from lighters also saves space on the steamship pier, and pier rentals are high in New York. There can be no doubt that lighterage is of considerable value to the steamship companies, and free lighterage makes the port more attractive to them. This is not denied by complainants, who suggest that the steamship companies should pay for the lighterage service. As previously indicated, it is unnecessary to decide that question, but there would be nothing to prevent the steamship companies from absorbing a charge for lighterage and thus bearing a portion of the expense of that service. Of course there would be an inducement for them to seek piers with direct rail connections, but other considerations would probably prevent most of them from doing so, at least for a long time to come.

Diversion of commerce: As there are only 21 piers on the continental side of the harbor with tracks on them, the defense urges that all of the steamship freight could not possibly be interchanged at these piers. They contend, therefore, that the effect of a lighterage charge would be to divert commerce to other ports, such as Philadelphia and Baltimore. Of course, Boston expects that a charge for lighterage would enable it to secure a larger share of the foreign commerce, especially that from and to New England. New Jersey, however, believes that the present supremacy of the port of New York would not be endangered, because of its many advantages, such as greatest population, largest harbor, most railroads, superior banking facilities, closeness to important manufacturing areas, shorter distances than Philadelphia or Baltimore to most foreign ports, and frequent steamship sailings to all ports of the world. As hereinafter shown in section E-3, the port differentials are generally more favorable to New York as compared with Philadelphia and Baltimore than the relative distances to the respective ports would warrant. Considering all of these advantages, together with the evidence regarding the proportion of export and import tonnage moving through the various ports referred to in section C-10, there is no reason to suppose that New York would lose its position as the leading port of the country because of a reasonable charge for lighterage. The position of the port as a whole might even be strengthened when more of the rail-water traffic is interchanged directly between car and ship.

Quoting prices abroad: Foreign buyers like to have prices quoted by American exporters on the basis of a delivered price including all transportation charges. If there were an additional

charge for lighterage, the total charges would depend upon where the ship might dock. Witnesses for New York fear that this might interfere with quoting prices to foreign customers. They also say that it would increase the clerical work of the freight forwarders. New Jersey has no apprehensions on that score and points out that New Jersey exporters have always paid different rates to ship side, depending on which side of the harbor the vessel docks. There is a somewhat similar situation at Boston where additional charges apply for switching New England traffic to piers not served by the line-haul carrier, and no complaint is made of difficulty in quoting prices on traffic moving through that port.

Cost of market produce: The primary food market for the entire metropolitan district is located on the lower west side of Manhattan. Large quantities of food sold there are car floated to pier stations in this district, and any additional charge for that service would be reflected in the market prices. It does not appear, however, that much of this traffic is lightered, and it would not be materially affected by a charge for that service. In any event, the effect would be no more than any similar change in the rates such as occurs from time to time.

Character of traffic: The city of New York argues that the present method of interchanging freight between the railroads and steamships at New York is justified because of differences in the character and value of the foreign commerce handled through that and other north Atlantic ports. It is shown that the average value of the imports and exports through the New York customs district is $141 per ton as compared with $63.10 for the Philadelphia customs district, $35.37 for the Maryland customs district, and $74.81 for the Virginia customs district. The corresponding average of $128.30 per ton for Boston, however, is not much below that for New York. It would seem that the relatively high value of the traffic moving through New York should make it all the more able to stand a charge for lighterage.

The difference in the character of the freight lightered from the total traffic of the various railroads is also referred to as impairing the weight to be given the equivalent miles for the lighterage service. As the lighterage costs were equated into equivalent miles upon the basis of the average cost of all rail transportation, they may not be the same as if the rail costs were confined to the lighterage traffic. Nevertheless, the comparison of the lighterage costs with the average cost of all rail transportation shows the relatively high cost of the lighterage service. This showing is also confirmed by evidence introduced by the defense regarding the cost of lightering particular commodities. For instance, it was shown that the shore-to-shore cost of lightering coffee was 90.1 cents per ton, and adding the Lackawanna's transfer costs of 78.4 cents per ton, makes a total cost of $1.685 per ton. After deducting this amount from the Lackawanna's revenue of $4.90 per ton under the joint rate on coffee from New York to La Crosse, Wis., it has left $3.215 for its rail haul of 396 miles. On the basis of the Lackawanna's net ton-mile revenue for its rail haul, the above lighterage cost is equivalent to 215 miles of rail transportation. Similar illustrations regarding various other commodities show equivalent miles for lighterage ranging from 258 to 379 miles.

Long existence of practice: The fact that free lighterage has been practiced for so many years is emphasized by some of the New York interveners. In the Five Per Cent case (31 I. C. C. 351), the commission suggested various means of increasing the carriers' revenues aside from a general increase in rates. Among the matters referred to were the free-ligherage practice and the free transportation of the private cars of other lines. Following that investigation the carriers proposed certain changes in their lighterage and storage regulations at New York. These changes included a new charge of 3 cents per 100 pounds for lightering westbound less-than-carload shipments received with a carload of lighterage-free freight, but they did not provide any charge for lightering carload shipments. The above-mentioned charge on less-than-carload shipments was found justified in Lighterage and Storage Regulations at New York (35 I. C. C. 47). The carriers never saw fit to make any further attempt to comply with the above-mentioned suggestions, but the free transportation of the private cars of other lines has recently been ordered discontinued in Use of Private Passenger Train Cars (155 I. C. C. 775). That order was sustained by the Supreme Court in Louisville & N. R. Co. *v.* United States (282 U. S. 740), and Kansas City Southern Ry. Co. *v.* United States (282 U. S. 760), which cases are authority for the proposition that the long existence of such a practice does not make it lawful. Of course, there is a difference between the two practices above referred to, but long existence is not a valid defense to a clearly established violation of the act.

D–20. LIGHTERAGE AND FLOATAGE LIKENED TO SWITCHING

The New York interveners, on brief, attempt to liken lighterage and car floatage to switching, and the waters of New York Harbor are referred to as the water belt. The Port of New York Authority especially urges that lighterage is the equivalent of reciprocal switching, which is practiced in many other large terminal districts throughout the country. Under a reciprocal switching arrangement, each line switches for all the others, and its charges are generally absorbed by the line-haul carriers. There is no such arrangement with respect to either switching or lighterage in the New York Harbor district. Where a ship brings in cargo destined to points on seven of the trunk lines, each of them sends its own lighters to the steamship pier. If one railroad should lighter for the others, additional charges would be assessed for that service.

The absorption of switching charges of connecting lines is generally limited to certain maximum amounts. For example, the maximum amounts per car that will be absorbed are $3.75 at Cleveland, $6.70 at San Francisco, $8 at Detroit, $9 at Louisville, and $11.10 at Kansas City. These amounts may be compared with the costs shown here for lightering average carload shipments of various commodities, ranging from $36.66 for a 21.23-ton carload of paints and varnish to $107.75 for a 51.63-ton carload of iron and steel articles. The lighterage costs are also several times as much as most of the switching charges shown of record, including some prescribed by this commission, and based on cost of the service. For example, see Boston Wool Trade Association *v.* Director General (69 I. C. C. 282), hereinafter referred to as the Boston switching case; Switching at Kansas City (96 I. C. C. 538); Switching at St. Louis and East St. Louis (120 I. C. C. 216); and Switching Rates in Chicago District (177 I. C. C. 669).

Switching generally involves no breaking of bulk at the carrier's expense, while both lighterage and trucking in lieu thereof involve at least two handlings of the freight at railroad expense. Car floatage in lieu of lighterage bears more resemblance to switching, but it also generally involves one handling of the freight at railroad expense. As previously explained, such car floatage as is performed in lieu of lighterage is principally of refrigerator-car traffic to or from steamships, and this involves the floating of two cars for one load. That distinguishes this service from the switching as well as from car floatage to and from pier stations, team tracks, or the contract terminals. Of course ordinary switching involves no marine service.

As previously indicated, the shore-to-shore costs for both lighterage and car floatage in lieu thereof average considerably in excess of those for car floatage to and from pier stations or team tracks. Apparently both lighterage and car floatage in lieu thereof to steamships are governed by the permit system, which has no counterpart in switching service so far as disclosed by this record. Another difference from switching practice is that each lighter is manned by a captain who generally stays on it to guard the freight until delivered, although railroad employees also guard freight on steam tracks. Of course, switching is performed only to and from points reached by the rails, whereas lighterage is a service beyond the rail ends and additional to switching.

Everything considered, there is no escape from the conclusion that lighterage and its substitutes are more than the equivalent of ordinary team-track or private-siding delivery such as is generally covered by the line-haul rates. See cases cited in section B–27 of this report.

D–21. WHARFAGE CHARGES CASE

In opposing separate charges for lighterage, car floatage, and trucking services the defense relies to a large extent on the Wharfage Charges Case (93 I. C. C. 609, 157 I. C. C. 663, and 174 I. C. C. 263). In the second report cited it was found at page 692:

"That the record does not warrant the prescription of a tariff rule requiring the accessorial or terminal charges to be stated separately from the line-haul rates on export, import, coastwise, and intercoastal traffic to and from Atlantic and Gulf ports."

The issues in that proceeding related largely to the adequacy of the separate charges generally maintained for wharfage, handling, storage, and dockage at South Atlantic and Gulf ports, and the imposition of such charges where not already in effect. While the second report also involved the question of imposing separate charges for lighterage and car floatage in lieu thereof at North Atlantic ports, only a few pages of the report were devoted to that service, and it was not considered in the other two reports at all. That was a general investigation instituted at the request of the Secretary of War, and there was no complaint by New Jersey or Boston, such as we have here. The report did not show that different rates apply for lighterage deliveries in various parts of New York Harbor, and apparently the record with respect to lighterage was meager as compared with that in these cases. There was not even any mention of trucking in lieu of lighterage, which is more important than car floatage in lieu of lighterage.

While the port costs at North Atlantic ports were said to have been based on a uniform formula, those at South Atlantic and Gulf ports were not on a comparable basis because of the inclusion of different items at the various ports. Thus there was no reliable basis upon which to prescribe separate charges for the terminal services at all the ports, especially the South Atlantic and Gulf ports which were the primary subject of the investigation. Another reason given for declining to require separate charges for the port services was that this might have an important effect on the line-haul rates, which were not there in issue. Probably the most important reason is contained in the following quotation from page 686:

"Interested parties were repeatedly invited upon the record to present evidence to show injury wrought by the long-existing practice of publishing single-factor rates to cover the entire transportation service from point of origin of the freight to ship side. No substantial evidence tending to establish such injury was produced. This record does not warrant the issue of an order requiring the separate publication of the constituent elements of rates to ship side."

In the present cases, however, the evidence is convincing that free lighterage has retarded the development of shipping facilities and business on the New Jersey shore, that higher rates for lighterage deliveries in some parts of New York harbor than others

operate to the disadvantage of the former, and that a uniform charge for such service is the most practical way of correcting the situation. See sections B-8 to B-12, inclusive, and B-30 of this report. Moreover, it is shown that free lighterage at New York affords that port an advantage over Boston, which has contributed to the latter's decline as a port in comparison with New York, and this advantage could best be removed by the imposition of a charge for that service. See sections C-8 to C-11, inclusive.

The differences in the issues and evidence above referred to warrant a different conclusion in these cases from that reached in the above-cited case so far as concerns lighterage and its substitutes at New York harbor.

D-22. INJURY TO NEW JERSEY

The defense contends that complainants must show injury to New Jersey from the rate adjustment and that they have failed to make such proof. The defense also introduced evidence intended to negative the existence of such injury to New Jersey.

Population: The New Jersey section of the metropolitan district showed a greater percentage gain in population from 1880 to 1930 than did New York City or the entire metropolitan district. This appears to have been due in large part to the residential population of Manhattan Island's having reached a saturation point, its population in 1930 having been less than in 1910 or 1920 and about the same as in 1900. Other boroughs of New York City, such as the Bronx and the Queens, have increased in population much more rapidly than the New Jersey section. Some New Jersey cities, particularly Hoboken which is more dependent upon the steamship business, have suffered a material decline in population.

Prosperity: The defense refers to evidence introduced by complainants regarding the industrial importance of New Jersey, which is centered in the six northeastern counties of the State, and it ranks very high in this respect. Upon cross-examination of complainants' witnesses, it was brought out that their industries have generally grown and expanded over a period of years. The increase in manufacturing activity, assessed valuations, and bank deposits in northern New Jersey are also compared with New York City. These comparisons indicate that the growth of northern New Jersey has more or less kept pace with New York City. For example, from 1880 to 1927 the value of products manufactured in Greater New York increased about 8.6 times, while those of Newark increased about 7 times, Jersey City about 3.4 times, and Paterson about 8 times. Jersey City's trend was upward until 1919, when it reached a peak which was not equaled in any subsequent year; whereas New York showed an increase every year after 1919, except the depression year of 1921. Similar comparisons for other years might show different results, but it is unnecessary to go into the matter further, as complainants admit that New Jersey has shared in the general prosperity previous to the hearings with some exceptions such as Hoboken. It is not essential to prove lack of prosperity in order to obtain relief from an improper rate adjustment.

Steamship business: The trunk-line defendants refer to various rail-water terminals already built or planned on the New Jersey shore. The principal one recently constructed is that of the Pennsylvania Dock & Warehouse Co. in Jersey City. This terminal which is served by the Pennsylvania R. R. has 3 piers with 2 tracks down the center of each and 3 large warehouses on the shore. It is said to be the most modern terminal in the harbor but does not have rails along the stringpiece so that open-car freight can be transferred direct by the ship's sling. The principal rail-water terminal planned for the future is the so-called Bayonne project, which has been discussed since previous to the New York Harbor case. It does not appear, however, that the facilities already constructed have brought a materially larger share of the steamship business to the New Jersey side of the port. As indicated in sections B-3, B-30, and B-31, New Jersey with over 40 per cent of the water-front of the port has only about 10 per cent of its steamship business, although most of the steamship traffic moves from or to that side of the port.

The defense suggests that New Jersey's failure to receive a larger share of the steamship business of the port is due to lack of a central administrative control, which would afford larger bonding power for the purpose of building steamship facilities. The record, however, indicates that the facilities now available for berthing steamships on the continental side of the harbor have not yet been used to their capacity. For example, Port Newark is only used to about 25 per cent of its capacity, and most of New York City's piers on Staten Island appear to be unused. Whether a central administrative control would help New Jersey acquire more shipping business is entirely speculative, but it is certain that a charge for lighterage would encourage greater use of that side of the port. This indicates that the absence of a charge for lighterage is a primary cause for the retarding of New Jersey's shipping business.

Benefits to New Jersey: Over 18 per cent of the export, import, and coastwise traffic handled in lighterage service is lightered between points on the New Jersey shore. The defense, therefore, urges that New Jersey benefits from the free-lighterage practice and would be injured by the imposition of a charge therefor. However, representatives of the State of New Jersey, the New Jersey traffic advisory committee, the New Jersey State Chamber of Commerce, the cities of Newark and Jersey City, the chambers of commerce of Hoboken and Bayonne, and numerous New Jersey industries who supported the complaints appeared to be unanimous in favor of a charge for lighterage. Many of them also expressed a willingness that the same charge be imposed when lighterage is performed between points on the New Jersey side of the port.

New Jersey opposition: There was some opposition to the complaints from industries with plants in New Jersey. The principal ones were the National Sugar Refining Co. and the General Foods Corporation. These concerns have plants on both sides of the harbor but professed to be interested mainly because of their New Jersey plants. These plants are served by both rail and lighter, but they regard the lighterage as superior to the rail service. The National Sugar Refining Co.'s preference for lighterage is apparently due to the fact that it affords service by all the trunk lines instead of only the one or two whose rails reach its plant, and this is said to avoid delays when shipments are made to points on other lines. The General Foods Corporation's private siding has such a limited capacity that all shipments can not be made by rail, and when shipments are made by lighter they are delivered to the stringpiece by conveyors and the railroad performs the loading, which affords considerable saving to the shipper. The greater value of the lighterage service to shippers is all the more justification for imposing an additional charge for the service.

Conclusions: It is doubtful whether New Jersey has been injured because of the grouping of the rail and car-float terminals on both sides of the harbor; but it is safe to conclude that free lighterage has operated to retard the development of shipping facilities and business on the New Jersey shore; and there can be no doubt that the charging of higher rates for lighterage deliveries in a large part of the New Jersey section of the port than for similar service in other parts of the port is a material handicap and injury to the former, as admitted by defense witnesses. See sections B-8 to B-12 of this report.

D-23. VIEWS OF NEW YORK PORT AUTHORITY

The Port of New York Authority intervened in opposition to the Boston complaint; but it did not intervene in the New Jersey cases, seemingly desiring to maintain a neutral attitude as between the States which created it.

Previous cases: Other New York interveners introduced in evidence extracts from the annual reports and minutes of the Port Authority, which showed the attitude taken by it in previous cases in opposition to any splitting of the port or the imposition of additional charges for lighterage, car floatage, or trucking. In the Eastern Class Rate case the original report at page 432 stated that the views of the Port Authority "are entitled to important weight, since it has been specifically authorized by the laws of the States of New York and New Jersey to participate in commerce cases involving the commerce of the port district." Whatever may have been the power of the Port Authority to speak for New Jersey in previous cases, clearly it has no authority to do so in the present New Jersey cases. One of them is a complaint filed by the State of New Jersey through its attorney general upon authority of its governor and legislature. Under the compact the governor is authorized to exercise a veto over the actions of the measure of the Port Authority from his State, and that body can not act without the concurrence of at least two members from each State.

Present cases: Nevertheless, the views expressed by the Port Authority in its brief in the Boston case regarding discrimination against New Jersey seems significant as coming from a neutral source. It not only favors the same grouping on traffic to and from New England as on that to and from the West, but it regards the present practice of charging higher rates for lighterage deliveries in some parts of the port than others as discriminatory against New Jersey. The following is quoted from its brief:

"The lighterage limits of New York Harbor are not logical. Very important parts of the New York port group have been excluded. This is particularly true of Port Newark. Under the principles of port grouping clearly established by the commission there is no possible justification for an arbitrary delimitation of the lighterage limits which excludes important parts of the harbor area from lighterage or equivalent switching service.

The reference to "equivalent switching service" apparently means a reciprocal switching arrangement under which New Jersey shippers would enjoy the services of all the trunk lines at the New York rates the same as lighterage shippers. That would correct the discrimination only in part, as there are many industries in New Jersey not located directly on any railroad, and lighterage includes loading of carload freight and other advantages not enjoyed by shippers from team tracks or private sidings. See sections B-11 and B-12 of this report. Moreover, reciprocal switching is not specifically brought in issue by the complaints.

The Port Authority, however, thinks that the lighterage limits can not be extended here, because the New Jersey complaints do not so request. The State's complaint specifically assails the practice of performing lighterage, car floatage, and trucking without additional charge while refusing to do so at points in New Jersey as unduly prejudicial and preferential. It asks the removal of such undue prejudice and preference, which is sufficient basis for an order to that effect.

D-24. DEFENSE OF BOSTON COMPLAINT

What follows relates primarily to defense of the Boston complaint, but it should be understood that this is not all of the defense to that complaint, as many of the matters previously considered are applicable to it as well as the New Jersey complaints.

Different carriers: The New York interveners urge that a valid order under section 3 of the act could not be issued to remove undue prejudice to Boston and preference of New York, because the carriers serving those ports are not the same except the New

York Central and the New Haven. It is doubtful whether other lines could be required to maintain a separate charge for lighterage in the Boston case, unless the minimum-rate power is exercised; but if such a charge is required in the New Jersey cases on traffic from and to points west of the Hudson River, the Boston complaint could practically be confined to New England traffic.

Competitive conditions: The Port of New York Authority contends that the Boston complaint must be dismissed because the export and import rates to and from New York are controlled by competitive conditions which do not exist at Boston. This is said to be "from a legal standpoint the heart of the case." The competitive conditions referred to are principally the larger number of railroads serving New York and which afford it a much greater drawing power for traffic as compared with Boston. The New York State Barge Canal is also referred to as distinguishing the competitive situation at New York and Boston. It will be noted that both of these conditions relate to traffic from or to points west of the Hudson River and do not affect traffic from or to New England. Complainants do not deny that there is greater competition at New York than at Boston on traffic from and to points outside of New England, but they urge that they are entitled to relief from discrimination brought about by that competition. The cases cited by the defense in support of its contention are mostly old decisions prior to Swift Lbr. Co. *v.* Fernwood & G. R. Co. (61 I. C. C. 485) and Pioneer Lbr. Co. *v.* Director General (64 I. C. C. 485) which were upheld in United States *v.* Illinois Central R. Co. (263 U. S. 515). In overruling a somewhat similar contention there, the Supreme Court said at page 525:

"The innocent character of the discrimination practiced by the Illinois Central was not established, as a matter of law, by showing that the preferential rate was given to others for the purpose of developing traffic on the carrier's own lines or of securing competitive traffic. These were factors to be considered by the commission; but they did not preclude a finding that the discrimination practiced is unjust. Such was the law even before transportation act, 1920. Texas & Pacific Ry. Co. *v.* Interstate Commerce Commission (162 U. S. 197, 218, 220) Interstate Commerce Commission *v.* Alabama Midland Ry. (168 U. S. 144, 167, 175). In view of the policy and provisions of that statute, the commission may properly have concluded that the carrier's desire to originate traffic on its own lines, or to take traffic from a competitor, should not be given as much weight in determining the justness of a discrimination against a locality as theretofore. For now, the interests of the individual carrier must yield in many respects to the public need, Railroad Commission of Wisconsin *v.* Chicago, Burlington & Quincy R. R. Co. (257 U. S. 563); New England Divisions case (261 U. S. 184); and the newly conferred power to grant relief against rates unreasonably low may afford protection against injurious rate-policies of a competitor, which were theretofore uncontrollable."

As shown in section D–3 of this report, railroad competition may interfere with the charging of higher rates to and from the rail and car float terminals on the eastern side of New York Harbor than those on the western side, but it does not prevent the imposition of a separate charge for lighterage throughout the port. Also as shown in section D–4, the barge canal may afford some justification for grouping the rail and car float terminals on both sides of the harbor, but it does not preclude a separate charge for lighterage, and in fact such a charge would help the railroads to meet the canal competition on the important grain traffic.

Difference in distances: The defense stresses the greater distances to New York than to Boston. Of course, this applies only to traffic from and to points west of the Hudson River, as Boston is closer than New York to most points in New England. The distance of 207 miles from the Harlem River to Boston is especially emphasized by the defense, but Boston shows that there is no movement of export, import, or coastwise traffic to or from that port via the New York gateway. An exhibit introduced by the defense shows that the rate-making distances to Boston from the 105 key points in central territory are via Rotterdam Junction, N. Y., in every instance except five points on or south of the Ohio River. The average rate-making distances from the 105 key points are 807 miles to New York and 923 miles to Boston, or a difference of 116 miles. Boston is undoubtedly at a disadvantage with respect to the distances from and to points outside of New England, but it must be remembered that distance is used simply as a convenient means of measuring service, and Boston shows that the cost of service from representative points to ship side at Boston is substantially less than to ship side at New York.

Fourth section: It is urged that lower rates between western points and Boston than New York would violate the fourth section of the act. There has been no substantial movement of water-borne traffic to or from Boston via New York for years, but routes are open that way, and it is an important gateway for other traffic. The fourth section would, therefore, probably prevent higher rates to and from New York than Boston, but that would not be true of a separate charge for lighterage as shown in section D–17 hereof.

Port differentials: The Port of New York Authority on brief reviews numerous cases involving the port differentials. In none of these cases does there appear to have been any showing of the cost of service to and from the respective ports such as we have here. The more important and most recent of the cases involving the rates to and from Boston have already been considered in sections C–6 and C–7 hereof. Baltimore Chamber of Commerce *v.* Ann Arbor R. Co. (159 I. C. C. 691), will be considered in connection with Philadelphia and Baltimore's evidence in section E–3 hereof. It should be noted that the differential adjustment does not apply on traffic from and to New England.

Switching at ports: The defense stresses the fact that at Boston switching is performed through a densely populated area, where there are numerous grade crossings, and in some instances the rails run along the streets. On the other hand complainants show that the density of population is even greater at New York, and similar operating difficulties exist there, notably on the New York Central's line down the west side of Manhattan. The record indicates that in some instances the conditions affecting switching at Boston may be more difficult than at New York, and in other instances the opposite is true, but on the whole there does not appear to be any material difference in that respect, except the distances which average slightly greater at New York than at Boston.

The suggestion of the New York interveners that the switching service at Boston is "very probably" equal to the switching plus lighterage at New York is therefore without merit. This is also shown by a comparison of the lighterage costs with the costs shown for switching at Boston in the Boston Switching case, supra. Such costs were based upon data furnished by the carriers in that case and introduced in evidence here without objection. As found by the commission at pages 297 and 298, the costs for all switching performed by the New Haven at Boston averaged $5.95 per loaded car and for the Boston & Maine $5.96 per car, including in each case 6 per cent return on investment. The operating expenses alone amounted to only $3.03 and $3.96 per car for the respective lines. Some allowance should be made for increased wages since the above costs were determined as of 1920, but even so they would not be comparable with the lighterage costs shown here, which range from $36.66 to $107.75 per average carload of various commodities.

D–25. COSTS TO BOSTON VIA NEW YORK

The defense attacks Boston's comparison of the cost of transporting traffic to and from ship side at Boston and New York, respectively, as entitled to no weight. As shown in section C–6 hereof, this cost data relates to traffic from and to 14 representative points, all but one of which are west of the Hudson River. The principal objections raised are as follows: (1) The line-haul factor is based on the average ton-mile cost of transporting all carload traffic and not the specific traffic under consideration; (2) the cost of switching at the ports was not segregated from the line-haul factor and shown separately; (3) routes to Boston via New York Harbor were not included from four or five points which might use such routes; and (4) consideration was not given to the higher costs of transportation in New England.

Line-haul factor: It is true that the average ton-mile expense of transporting all carload traffic may not be the same as the cost of transporting the water-borne traffic, but it is recognized that there is no other practical method of determining the line-haul costs. While costs so determined might not afford a satisfactory basis for prescribing maximum reasonable rates, it is believed that they afford a fair basis for judging the relative costs and rate relationships as between the ports.

Switching costs: As indicated in section D–24 hereof, the switching performed at Boston does not on the whole differ materially from that performed at New York. The inclusion of the switching costs in the line-haul factor was not therefore unfair to either port.

Routes via New York: As previously indicated, there is no movement of water-borne traffic to or from Boston via New York Harbor. However, the New Haven's average shore-to-shore cost for the car-float interchange service across New York Harbor is only 11 cents per ton, and the corresponding average of all the lines is only 17 cents. The inclusion of these costs in some of the routes from 4 or 5 of the 14 points would not have any material effect on the average costs.

Higher costs in New England: The line-haul factor used by Boston assumes that the ton-mile costs are the same throughout official territory. The defense introduced evidence to show that operating costs are higher in New England than in the remainder of official territory, but such evidence does not indicate the percentage difference between the average costs. Reference is also made to various cases in which it was recognized that operating costs are higher in New England, including New England Divisions (66 I. C. C. 196). On the other hand, Boston shows that the New England lines have gained more in operating efficiency than those in other territories during recent years. It also contends that most of the factors tending to show higher costs in New England relate to local traffic within that territory and not to interterritorial traffic. In the Eastern Class Rate case a scale was prescribed for central and southern New England about 10 per cent higher than the basic scale for the remainder of official territory, but the basic scale was applied on interterritorial traffic to and from New England. The record here does not afford any better basis for judging relative costs and rate levels in the respective territories. However, we have recomputed complainants' original cost figures upon the basis of allowing 30 per cent higher costs for that part of the haul in New England. This increases the average cost from the 14 representative points to ship side at Boston from $5.25 to $5.74 per ton. The latter amount is still 63 cents per ton less than the corresponding costs shown to ship side at New York when the transfer to and from lighters is performed by crane and 85 cents less when the transfer is performed by man power and trucks.

Cost analysis: An analysis of Boston's cost figures discloses that the line-haul factor does not take into consideration the fact

that the average ton-mile costs are for an average haul of only 148.2 miles, whereas the hauls from the 14 representative points average 561 miles to New York and 630 miles to Boston. Thus under complainant's method of computation the line-haul factor includes terminal expenses at New York which are three and seventy-eight one-hundredths times the average for all revenue traffic and at Boston four and twenty-five one-hundredths times such average. When suitable adjustments are made for the difference in length of hauls and allowing for 30 per cent higher costs in New England, the average costs originally shown from the 14 representative points to ship side at Boston are reduced to $4.11 per ton, and the corresponding costs to New York are reduced to $5.10 and $5.32 per ton, depending on whether the transfer is by crane or man power and trucks. These New York costs are, respectively, 124.09 and 129.44 per cent of the Boston cost. The differences in favor of Boston are 99 cents and $1.21 per ton, or approximately 5 and 6 cents per 100 pounds, respectively.

Special terminal costs: The special terminal costs shown in section C–5 hereof for transferring the freight between cars and vessel at Boston do not include any interest, taxes, or maintenance expenses on the pier facilities, but neither do the lighterage costs at New York include such expenses on the lighterage piers. While these expenses at the Army supply base and Commonwealth Pier in Boston probably exceed those at the lighterage piers in New York, it does not appear that the railroad bears all of such expenses at the first-mentioned piers. As they are owned by the United States and State Governments, there would apparently be no taxes. Much freight is trucked to and from these piers, and bears a portion of the interest and maintenance expenses through a wharfage charge of 25 cents or more per ton. The steamship companies also bear a portion through a dockage charge of 10 cents per ton at the Commonwealth Pier. A large part of the Army base is leased to business concerns for storage or other purposes, which should cover a large portion of the interest and maintenance expenses. When consideration is given to all of these factors, the record indicates that there is not much difference between the average amounts per ton attributable to interest on investment, taxes, and maintenance expenses on the pier facilities at Boston and New York, respectively.

Everything considered, therefore, it is believed that the average costs hereinbefore mentioned to Boston as compared with New York are on a fairly comparable basis.

D–26. RATES ON NEW ENGLAND TRAFFIC

In defense of Boston's showing in sections C–8 and C–9 hereof with respect to the rates between New England points and Boston versus New York, the defense points out that commodity rates to or from New York were compared with class rates to or from Boston, but they are generally rates on which traffic moves. The defense also refers to other instances where Boston has commodity rates lower than the class basis which applies to New York, and there are many more instances where class rates apply to both ports. Even with respect to the rates referred to by the defense, however, it is apparent that after deducting the average cost of lighterage, which is 18 to 18.65 cents per 100 pounds for the New Haven, most of the New York rates are relatively much lower than the Boston rates. It is claimed that rates which include lighterage and are not much if any in excess of the average cost of that service do not burden other traffic, but it is difficult to see how they could fail to have that effect.

Competition: The only justification offered for the maintenance of relatively lower rates on New England traffic to and from New York than Boston is competition. The form of competition emphasized most is motor trucking, but apparently this is just as great to and from Boston as New York. Holyoke, Mass., and other points referred to in this connection are as close or closer to Boston than to New York. Water transportation is also available between New York and some points on or near Long Island Sound, but some of the principal boat lines are subsidiaries of the New Haven, and apparently they maintain the same rates as the rail lines. Market competition is greater at New York than at Boston with respect to some commodities, but this competition relates primarily to domestic traffic not here in issue. The competition of the New Haven with the New York Central for traffic from or to the west side of Manhattan is mentioned, but this also relates only to local traffic, as export, import, and coastwise traffic has to be lightered by the New York Central the same as the New Haven. However, the record shows that the New Haven has instructed its agents to solicit the routing of lighterage freight by its boat lines which dock on the west side of Manhattan and do not lighter local traffic. Even if competition be somewhat greater at New York than at Boston, that does not necessarily require a dismissal of the complaint. See cases cited in section D–25 hereof.

New England opposition: There was some opposition to the Boston complaint from representatives of New England industries, principally the Associated Industries of Massachusetts. This organization is not interested in helping the port of New York as compared with Boston, and its witness indicated that its members would be glad to see an adjustment which would help build up the port of Boston, provided their industries are not hurt. It appears that the opposition is based mainly on the possible effect on domestic traffic to and from New York and points beyond involving a movement across New York Harbor. That traffic is not in issue under the Boston complaint, but it is feared that a charge for lighterage and car floatage on export and import traffic would lead to the application of similar charges on domestic traffic. The record indicates, however, that comparatively little domestic traffic from or to New England is lightered, and the separate charges hereinafter proposed could not affect the bulk of such traffic which is car floated to or from pier stations and the contract terminals nor any of the through traffic car floated across the harbor.

Port services: In defense of Boston's showing in sections C–4 and C–9 hereof with respect to such matters as split deliveries, allowance for shifting steamers, storage in transit, and the car floatage of bananas, the New York Central shows that its practices at New York are the same as those of the other trunk lines serving that port. This might constitute a defense if the other lines are permitted to continue such practices, but clearly it would be no defense if they are required to establish a charge for lighterage and its substitutes in the New Jersey cases.

D–27. INJURY TO PORT OF BOSTON

The defense contends that complainants have failed to prove that the rate adjustment has injured the port of Boston. They emphasize the fact that Boston's total foreign commerce has increased despite the decline in its exports. As shown in section C–10, however, Boston's increase has not kept pace with that of New York, and the latter has been steadily increasing its proportion of the combined commerce of the two ports. The marked decline in Boston's export traffic is claimed to have been due to causes other than the rate adjustment, as indicated below:

Ocean differentials: The first cause suggested is the elimination of the former ocean differentials, but it is not shown that there was ever any ocean differential in favor of Boston as compared with New York. The record shows that New York is Boston's principal competitor, and apparently Boston's losses have been mainly to New York. That is especially true of traffic from and to New England, which could hardly be expected to move via Philadelphia or Baltimore. Notwithstanding Boston's natural advantages as a port, its facilities for direct interchange between car and ship, and its advantage of location with respect to most points in New England, less than 14 per cent of New England's exports move via Boston, compared with 65 per cent via New York.

Grain traffic: Another cause suggested with respect to the grain traffic is the increased movement through Canadian and Gulf ports. The figures quoted in section C–10, however, show that the average annual tonnage of grain moving through New York increased 124 per cent from 1905–1914 to 1920–1929, while Boston suffered a decrease of 61 per cent. The movement via the barge canal showed a much greater percentage increase than the lake-and-rail movement to New York, but the latter increased over 100 per cent and averaged about three times the canal tonnage in 1920–1929. It is urged that if the rail rates to New York are increased, more grain would move via the canal; but as previously indicated, a separate charge for lighterage would place the railroads in a better position to meet the canal competition by operating to stop their service at the water-front elevators and thus save the lighterage expense.

Industrial importance: Reference is made by the defense to the fact that the Boston metropolitan district is the fourth largest in the country; that it has made gains in various ways, and holds a leading place in many industries. This indicates that there is no reason within Boston itself for the decline in its export commerce.

Terminal service: The Port of New York Authority suggests that "the rigidity of the terminal service at Boston and the lack of coordination between the several terminals is a serious handicap to the port and explains in part the failure of the port to attract a larger volume of commerce." This apparently has reference to the fact that no lighterage is performed by the railroads at Boston, and additional charges apply for switching New England traffic to or from piers not served by the line-haul carriers. That is one way in which complainants contend that New York is preferred over Boston, and they ask that this be corrected by the imposition of a charge for lighterage.

Conclusions: There can be no doubt that free lighterage gives New York a material advantage over Boston, and it has been one of the principal reasons for New York drawing commerce from Boston. This is proved by New York's own evidence that a charge for lighterage would tend to divert commerce to other ports. While this evidence refers to Philadelphia and Baltimore particularly, it is apparent that Boston would receive the benefit as to New England traffic. Of course, New York has many natural and other advantages which also help it, but that is no reason for adding the further advantage of free lighterage.

E. Philadelphia and Baltimore's evidence

E–1. PHILADELPHIA

Statement of position: Counsel for the Philadelphia interveners stated their position as follows:

"First. We are against any action by the commission to change or unbalance the rate relationships now in effect to the existing potential rail ends, based upon the long-standing port differentials, at the instance of any of the complainants.

"Second. We join in the application of the State of New Jersey and its allied complainants, and the city of Boston, that your honorable commission make an order directing the filing of schedules separating the line haul from the terminal charges, rendered after the existing potential rail end.

"Our position is that the port of Philadelphia is subjected to undue prejudice within the meaning of the transportation act by the absorption of accessorial costs, such as lighterage, truck haulage in lieu of lighterage, free warehousing, and car floatage after the actual or potential rail end, which are not required to be furnished in the port of Philadelphia.

"We do not, however, join with the complainants in any application to separate from the line-haul charges, services involved in bringing the consignment to the actual or potential rail ends."

The term "potential rail end" is explained as meaning "that point in the line-haul transportation of freight where the ability to furnish actual physical rail transportation ceases and some other form of transportation is substituted." It is further pointed out that in the case of car floatage the rails may be regarded as continuing across the harbor on the floats, which carry the cars and bring them into contact with the rails on the other side. It is understood from the foregoing and other expressions in the brief of the Philadelphia interveners that they do not advocate additional charges where cars are merely floated across the harbor to or from other railroads or regular terminal facilities; but they do favor such charges for lighterage and its substitutes, which involve a greater and more expensive service. See sections B-4 to B-6, inclusive, and B-15.

Terminal facilities: Philadelphia has 68 projecting piers capable of accommodating ocean vessels, and 60 of them are equipped with railroad tracks. Cars are generally switched to or from ship side, and the traffic is almost exclusively handled direct between car and ship. The Philadelphia Army base, which is now operated as the Tidewater Terminal, has two main piers, one 1,300 feet and the other 1,500 feet long, with two tracks down the center of each pier and two apron tracks, and is capable of berthing about 15 ships. The city of Philadelphia has spent over $16,000,000 in constructing 11 modern piers, equipped with depressed tracks extending down the center and an apron track on each side, and it has spent about $40,000,000 more for real estate and harbor improvements. The largest portion of the Philadelphia water front is privately owned, and the private investment therein exceeds $160,000,000. The present facilities can accommodate at one time about 250 ships, but additional facilities could be developed to take care of about 90 more ships.

Prejudice and preference: While the New Jersey Traffic Advisory Committee's complaint alleges undue preference of Philadelphia and Baltimore, its principal rate witness stated that New Jersey has no objection to its present relationships with those ports on traffic from and to the west. The Philadelphia interveners oppose the Boston complainants' allegation of undue preference of Philadelphia and Baltimore, but as that allegation has clearly not been sustained for reasons previously indicated in sections C-6 and C-7 and which will also be dealt with in sections E-2 and E-3, it is unnecessary to discuss that issue here. On the other hand, Philadelphia contends that it is unduly prejudiced and New York unduly preferred "by the absorption of the excessive costs for marine service in New York Harbor." In support of this contention, it is urged that application of the Boston complainants' cost formula would produce substantially greater rate differences in favor of Philadelphia as compared with New York. As this contention goes beyond the issues under the complaints, however, no finding will be made with respect to it here, but it may be noted that the findings hereinafter proposed will incidentally remove the undue prejudice claimed by Philadelphia.

Apparently Philadelphia would be willing to have a separate charge established for lighterage at that port if such a charge is required at New York.

E-2. BALTIMORE

Position on issues: The Baltimore interveners oppose the complaints in Nos. 23040 and 23327 in so far as they allege undue preference of that port. Inasmuch as the complaints do not raise direct issues as between Baltimore and New York, these interveners took no position one way or the other with respect to the imposition of additional charges for lighterage and other terminal services at New York Harbor. They do not, however, recede from the position taken in previous proceedings "that the present Atlantic port differentials are inadequate and deprive Baltimore of the benefits of its advantage of location as compared with other Atlantic ports."

Advantage of location: Baltimore is located farther inland than any other Atlantic port and hence nearer to the important cargo districts in the Middle West. It urges that it is entitled to the benefit of this natural advantage, and cases are cited to show that such an advantage may not be neutralized or destroyed by a rate adjustment. The Baltimore interveners show that New Jersey's proposal that Jersey City take the Trenton basis of rates from and to central territory would deprive Baltimore of much of its advantage of location as compared with Jersey City. They also show that application of the Boston complainants' cost formula would generally result in much large rate differences in favor of Baltimore as compared with Boston than the present port differentials. The record indicates that those differentials were established in partial recognition of the shorter average distances from differential territory to Philadelphia and Baltimore as compared with New York and not with any regard to differences in the terminal costs. In the Boston Maritime case, supra, the commission at page 597 of the original report referred to the port differentials as follows:

"They do not accurately reflect transportation conditions, first, because they are uniform, and second, because the lesser distances from differential territory to Philadelphia and Baltimore as compared with New York and Boston are reflected only in part."

Terminal operations: The bulk of Baltimore's water-borne commerce is handled through the marine terminals of the railroads. These terminals are equipped with rails on the piers so that cars can be switched to or from ship side, and the freight is generally interchanged direct between car and ship. All of the terminals are connected by rail so that marine service is not necessary, but where traffic arrives over one line for a ship docked at another line's terminal, much of such traffic is interchanged between the railroad terminals by car float or lighter. The water movement is short and only takes from 15 to 35 minutes. There is no offshore loading or discharging of vessels by the use of lighters at this port.

Municipal development: The city of Baltimore through its port development commission has entered upon a comprehensive program contemplating the eventual expenditure of $50,000,000 for the construction and improvement of piers, wharves, and other water facilities. So far the only major project completed by this commission is the McComas Street ocean terminal used by the Western Maryland Railway. This terminal which cost approximately $8,400,000 is one of the most modern and efficient rail-water terminals on the Atlantic seaboard.

Port costs: The Baltimore interveners without objection introduced in evidence the port costs at the various north Atlantic ports as found in the Wharfage Charges case. The average costs there found for transferring freight between car and ship were $1.05 per ton at Hampton Roads, $1.06 at Baltimore, $1.03 at Philadelphia, $2.75 at New York, and $1.85 at Boston. These average costs include certain items such as interest on investment, taxes, and maintenance expenses on the pier facilities, which are not included in the special terminal costs at Boston and New York referred to in sections C-5 and D-25. On rebuttal Boston showed that the carriers made certain errors in reporting the costs for that port in reply to the questionnaire in the case cited. After correcting these errors the Boston costs average 99 cents per ton, or approximately the same as the other ports except New York.

The foregoing does not indicate that the failure to publish separate charges for the port services places Boston at any disadvantage compared with Philadelphia, Baltimore, or Hampton Roads. On the other hand, it shows that separate charges at New York would not be unfair to that port even though none are required at the other ports, provided the charges at New York do not exceed the difference between the average costs there and at the other ports.

E-3. BALTIMORE PORT CASE

In Baltimore Chamber of Commerce *v.* Ann Arbor R. Co. (159 I. C. C. 691), herein referred to as the Baltimore Port case, Baltimore sought increases in its differentials under New York on export and import traffic from and to differential territory. Philadelphia also intervened and sought corresponding increases in its differentials under New York. Their contention that the existing differentials were inadequate was based mainly on the costs of transferring freight to and from ship side at the various ports. While there was an alternative request that separate charges be imposed for the water transfer, the case was tried primarily with a view to increasing the differentials so that the terminal costs would be reflected in the line-haul rates. That would have required the New Jersey side of New York Harbor to pay rates based on the cost of lighterage even when that service is not performed. It might also have had the indirect effect of making Boston pay rates based on the cost of lighterage which is not performed at that port.

The complaint was dismissed and among the reasons advanced therefor were the following: (1) That the total costs of the service to and from the respective ports were not shown; (2) that the rates had not been tested by the application of a strict distance scale; and (3) that complainant was principally interested in the rates on ex-lake grain, as to which Philadelphia and Baltimore have a 0.5-cent differential under New York, although the short-line distances are approximately the same.

Line-haul costs: The present cases differ from the Baltimore Port case in that the line-haul service between points west of the Hudson River and northern New Jersey is generally the same as that to and from New York, except for the somewhat greater distances to and from the latter. The Boston complainants have supplied the deficiency of the evidence in the Baltimore Port case by showing the total average cost of service to and from ship side at Boston as compared with New York.

Distance scale: Since the Baltimore Port case was decided, the commission has prescribed a distance scale of class rates in the Eastern Class Rate case. That scale and the key rates made with relation thereto apply on domestic traffic from and to the ports and superseded the port differentials as to such traffic. Under the rates prescribed in that case the differences to and from Philadelphia or Baltimore under New York are generally greater than the port differentials. For example, from 18 representative points in all parts of differential territory the average difference on all of the classes in favor of Baltimore under New York is 7.8 cents as compared with the differential of 3 cents in all of the export and most of the import class rates. It should be noted that the above-mentioned average rate difference is based on the distances to the ports, without taking into consideration differences in the terminal costs.[20]

Ex-lake grain: While complainant in the Baltimore Port case was principally interested in the rates on ex-lake grain, the New Jersey complainants' evidence here does not indicate that they have any more interest in that traffic than the rest. As shown in section C-7, the distances from Buffalo to the ports do not warrant the 0.5-cent differential to Philadelphia and Baltimore under New York on ex-lake grain. However, this differential equivalent to $1 per ton is considerably less than the differences in the average port costs hereinbefore referred to, which are $1.69 per ton at

[20] The rates prescribed in the Eastern Class Rate case to and from Philadelphia and Baltimore are based on actual distances plus 10 constructive miles as at New York.

Baltimore and $1.72 at Philadelphia less than at New York. The charge hereinafter proposed for lightering bulk grain at New York is also substantially less than such differences in the average port costs after deducting therefrom the differential on ex-lake grain. In other words, New York's relationship to Philadelphia and Baltimore will still be more favorable to New York than would be warranted by the differences in average costs for the transfer between car and ship at the respective ports.

Separate charges: Only one short paragraph of the report in the Baltimore Port case was devoted to the question of establishing separate charges for transferring freight between car and ship. It referred to the long existence of the practice of publishing 1-factor rates to ship side at North Atlantic ports, but that is offset here by the numerous cases cited in section B-32 hereof which support a separate charge for the transfer between car and ship. It also pointed out that there was no proof of injury by reason of the publication of 1-factor rates to ship side. In that respect the proof there apparently differed from the evidence here both of New Jersey as shown in sections B-9 and B-12 and B-30 and of Boston as shown in sections C-4 to C-10, inclusive.

The report in the Baltimore Port case indicates that the issues and evidence there differed widely from those here under both the New Jersey and Boston complaints. In that case the controversy was not so much over the establishment of separate charges as with respect to increasing the port differentials. Moreover, it is not certain whether the same conclusions would have been reached after the decision in the Eastern Class Rate case. Everything considered, therefore, the Baltimore Port case should not be regarded as controlling with respect to the issues here upon a much more comprehensive record.

F. Summary and conclusions

F-1. GROUPING

Indefensible grouping: The present grouping of points surrounding New York Harbor must be condemned for the reasons indicated in sections B-20 to B-25, inclusive. As shown in section B-28, the groups are variable and inconsistent, New Jersey points being included where they have the advantage of location but often excluded where New York has the advantage. This is especially true with respect to the rates to and from New England which are dealt with in section B-24 and the rates via the coastwise lines which are dealt with in section B-25. There is thus no balancing of advantages and disadvantages in the group adjustment. See cases cited in section B-28.

The defense made but little attempt to justify the difference in grouping where New Jersey has the advantage of location and where New York has the advantage. The New York interveners offered no defense in that respect, and as shown in section D-23, the Port of New York Authority acknowledged that the grouping should be the same in all directions. The question therefore arises whether the discrimination which is practically admitted should be removed by separating the New Jersey points from the New York group as sought by New Jersey or by making the grouping the same in all directions as advocated by the port authority.

Group justification: More or less justification for the grouping of New Jersey points with New York is found in the defense's evidence regarding port unity considered in section D-1, railroad competition considered in section D-2, the New York State canals considered in section D-3, the situations at Hampton Roads, San Francisco, Chicago, and St. Louis dealt with in sections D-3 to D-10, inclusive, disruption of the rate structure considered in section D-16, and fourth-section complications considered in section D-17. The last two seem especially important. All of these and other matters urged by the defense together afford much justification for including New Jersey points in the New York group.

Previous cases: As shown in section D-14, the New York Harbor case affords strong support for grouping both sides of New York Harbor, although it is not controlling on the question of imposing a separate charge for lighterage because of differences in the issues, the evidence, and the law. The Hampton Roads cases referred to in section D-7, the San Francisco cases referred to in section D-8, and the St. Louis cases referred to in section D-10 also afford considerable support for grouping the rail and carfloat or motor-truck terminals on both sides of the harbor, but none of these cases involved lighterage. The grouping of New Jersey points with New York was approved in the Eastern Class Rate case and the Iron and Steel case, although as shown in section A-2, such action was taken on meager records with respect to that question and without prejudice to our conclusions here.

Conclusions: The weight of the evidence and previous cases support a grouping of the rail and car-float or motor-truck terminals on both sides of New York Harbor, including all regular stations and team tracks on the New York side, provided the grouping is made no less favorable to New Jersey points where their traffic crosses the harbor for movement to or from New England and via the coastwise lines. In the case of the coastwise movement, it should be noted that the service from and to New Jersey points in all instances involves lighterage or its equivalent.

The Long Island Railroad is only about 100 miles long, and New Jersey offered very little evidence regarding the rates to and from points on that line. The class rates to and from points in northeastern New York were revised in the Eastern Class Rate case to the same basis as prescribed to and from the remainder of trunk-line territory. The record does not warrant any revision of the rates to and from points in northeastern New York and on the Long Island Railroad, except such as may result from the findings hereinafter proposed regarding lighterage and its substitutes.

F-2. LIGHTERAGE

Service distinguished: Lighterage is distinguishable from rail switching and car floatage to and from regular stations or team tracks, because lighterage is a service beyond railroad terminals analogous to store-door delivery, as shown in section B-12; it involves at least two handlings of carload freight by the railroad, as shown in section B-5; it is a much more expensive service, as shown in sections B-15, B-18, and D-20; it has superior advantages for shippers, as shown in sections B-11 and B-12; and it is subject to the steamship permit system and is largely for the benefit of the steamship companies, as shown in sections B-13 and B-19.

The relatively small amounts of trucking and car floatage in lieu of lighterage are also distinguishable from rail switching and the service to and from regular stations or team tracks for the same or other reasons indicated in sections B-6, B-11 to B-13, B-15, B-18, and D-20.

Discriminatory situation: As shown in sections B-8 to B-11, inclusive, the charging of higher rates for lighterage deliveries in a large part of the New Jersey section of the port than for similar deliveries within the lighterage limits is a clear discrimination. Practically no evidence was offered in defense of this situation and it is without justification in the record. As shown in section B-11, important witnesses for the defense admitted that it constitutes a handicap to that section of the port, including Port Newark. The Port of New York Authority also freely acknowledged the discrimination, as shown in section D-23.

Prejudice cases: That the above-mentioned situation requires a finding of undue prejudice and preference is clearly shown by the decision in Constructive and Off-Track Freight Stations, which is quoted in section B-12, and by other cases cited in the same section. It is also shown by the Port Newark Lumber Loading case referred to in section B-10, the Hampton Roads switching case referred to in section D-7, and the South San Francisco switching case referred to in section D-8. Many other cases could be cited in support of such a finding, but it is unnecessary to do so.

Method of removal: The next question to be determined is how the above-mentioned discrimination shall be removed. In that connection consideration should be given to the unusual character of the lighterage service with its double handling of carload freight by the railroads, as described in section B-5; its relatively high cost and the probability that it burdens other traffic, as shown in sections B-15, B-18, C-5, and C-8; its special value to shippers and steamship companies, as shown in sections B-11 to B-13, inclusive, and D-19; that it is a service not generally performed by the railroads and which the shippers or steamship companies must themselves provide at most other ports, as shown in section B-14; that the class rates and rates on iron and steel articles were not made with any reference to the unusual cost of the lighterage service, as shown in section B-29; that lighterage and its substitutes are more than the equivalent of ordinary team-track delivery such as is generally covered by the line-haul rates, as shown in section D-20; and that an additional charge for the service would afford the railroads a much-needed increase in their revenues, as shown in section D-18.

The foregoing considerations all point to the propriety of requiring that the discrimination be removed by the imposition of uniform charges for lighterage and its substitutes in addition to the line-haul rates. Such a charge would be well supported by the numerous cases cited in section B-32.

Other discrimination: The discrimination against New Jersey by reason of free lighterage is not confined to points on navigable waters outside the lighterage limits. While the expensive lighterage service is performed without additional charge to and from points beyond the carrier's rails, additional charges generally apply for switching to or from points not reached by the line-haul carrier in New Jersey. As shown in section B-29, all New Jersey rail points are deprived of their natural advantage of location by reason of the grouping with lighterage points. Even New Jersey rail points within the lighterage limits appear to have suffered in that respect. As shown in sections B-30 and B-31, shipping on the New Jersey side has been retarded and the direct interchange of freight betwen car and ship discouraged by free lighterage. A finding of undue prejudice and preference would be in accord with the Galveston-New Orleans case cited in section B-29.

The only practical method of removing all of the discrimination above referred to is by requiring that an additional charge be made for lighterage.

Boston complaint: As separate charges for lighterage are required in the New Jersey cases on traffic from and to points west of the Hudson River, the Boston complaint in that respect can be confined to New England traffic. There is even more reason for a lighterage charge on traffic from and to that territory, because the lighterage costs are generally a larger proportion of the rates, the absence of such a charge almost certainly burdens other traffic, and it is a clear discrimination against Boston, as shown in sections C-4, C-5, and C-8 to C-10, inclusive.

Upon the facts stated in the sections above referred to, there can be no doubt that on traffic from and to New England free lighterage at New York is unduly preferential of that port and unduly prejudicial to Boston.

Amount of charges: The separate charges herein proposed for lighterage and its substitutes take into consideration the difference between the average shore-to-shore costs for the lighterage service and for car floatage to and from pier stations or team tracks, as shown in section B–15; the difference between the average costs shown for the line haul and delivery to ship side at Boston and New York, respectively, as shown in sections C–6 and D–25; the difference between the average costs for transferring freight between car and ship at New York, on the one hand, and at Philadelphia, Baltimore, and Hampton Roads, on the other, as shown in section E–2; the fact that a substantial part of the lighterage tonnage is handled by outside lighterage companies at a cost to the trunk lines of 60 cents per ton, as shown in section B–16; and the advisability of keeping the charges to a minimum so as to avoid undue disturbance of the existing economic situation. Consideration has also been given to all the other facts referred to in this report.

In the case of bulk grain there are several reasons why the lighterage charge should be less than on other traffic. The rates on ex-lake grain, which constitutes the bulk of the grain tonnage, are relatively low; the transfer to and from lighters is less expensive to the railroads; and the lighters are probably loaded more heavily than the average on all traffic, which would make for lower costs. It is also noted that New Jersey suggests a charge for lightering bulk grain which is one-half of the charge suggested on other traffic.

It is impossible to fix the charges upon an exact mathematical basis; but, everything considered, it is believed that 3 cents per 100 pounds or 60 cents per ton on all carload traffic except bulk grain and 1.5 cents per 100 pounds or 30 cents per ton on bulk grain would be fair and reasonable minimum charges.

F–3. FINDINGS

No. 22824: In this case the commission should find as follows:

(1) That the grouping of New Jersey points with New York City, including all regular stations and team tracks, at the same rates on traffic from and to points west of the Hudson River is not unreasonable, unduly prejudicial, or otherwise unlawful, except as hereinafter found;

(2) That the performance at defendants' expense of lighterage, and car floatage or trucking in lieu thereof, to and from points other than regular stations or team tracks within the lighterage limits of New York Harbor, without charge in addition to the line-haul rates on traffic from and to points west of the Hudson River, while contemporaneously failing to perform or exacting additional charges for similar services on like traffic to and from New Jersey points on navigable waters outside such lighterage limits where the extra-towing charges apply, is and for the future will be unduly preferential of such points within the lighterage limits and unduly prejudicial to such New Jersey points;

(3) That the undue prejudice and preference found in the last preceding paragraph should be removed and prevented by the establishment and maintenance of separate charges for lighterage, and car floatage or trucking in lieu thereof, on the traffic described to and from points other than regular stations or team tracks within said lighterage limits and on such navigable waters in New Jersey where the extra-towing charges apply, which charges shall be uniformly 3 cents per 100 pounds or 60 cents per ton on all carload traffic except bulk grain and 1.5 cents per 100 pounds or 30 cents per ton on bulk grain in addition to the line-haul rates;

(4) That the rates assailed between points in the New York Harbor district and points west of the Hudson River are, and for the future will be, unduly prejudicial to New Jersey points in that district and unduly preferential of New York City to the extent that the rates for lighterage, and car floatage or trucking in lieu thereof, to and from points other than regular stations or team tracks, fail to exceed those for rail origin or delivery at such New Jersey points by the amounts specified in the last preceding paragraph; and

(5) That the commission has no jurisdiction to pass upon the alleged violation of the Constitution; and the other alleged violations of the interstate commerce act have not been sustained.

No. 23040: In this case the commission should find as follows:

(1) That the rates assailed between New Jersey points which take the New York rates to and from points more than 100 miles distant in trunk-line territory, on the one hand, and points in New England more than 100 miles from Harlem River on the New Haven or Spuyten Duyvil on the New York Central, on the other hand, are and for the future will be unduly prejudicial to such New Jersey points and unduly preferential of New York City to the extent that they exceed or may exceed the corresponding rates from and to regular stations in Manhattan and Brooklyn, plus the charges proposed in No. 22824 for lighterage and its substitutes wherever that service is performed to or from points other than regular stations or team tracks;

(2) That the rates assailed via the rail-water and rail-water-rail routes to and from points in the South and Southwest are, and for the future will be, unduly prejudicial to New Jersey rail points which take the New York rates on all-rail traffic to and from the same points, and unduly preferential of New York City to the extent that such New Jersey rates exceed or may exceed the corresponding New York dock rates, which are filed with and subject to the jurisdiction of this commission, by more than 3 cents per 100 pounds or 60 cents per ton; and

(3) That the other allegations of this complaint have not been sustained, except such as may be covered by the findings in No. 22824.

No. 23327: In this case the commission should find as follows:

(1) That the alleged undue prejudice to Boston and undue preference of New York with respect to traffic from and to points west of the Hudson River will be removed under the findings in No. 22824, making it unnecessary to pass upon that issue here;

(2) That on export, import, coastwise, and intercoastal traffic from and to points in New England, the performance at defendants' expense of lighterage, and car floatage or trucking in lieu thereof, to and from steamships or steamship piers at the port of New York, without charge in addition to the line-haul rates to and from regular stations in Manhattan and Brooklyn, while contemporaneously performing no lighterage and making additional charges for car floatage and for switching to and from steamships or steamship piers not reached by the line-haul carrier's rails at the port of Boston is, and for the future will be, unduly preferential of New York and unduly prejudicial to Boston;

(3) That the undue prejudice and preference found in the last preceding paragraph should be removed and prevented by the establishment and maintenance of separate charges on the traffic described for lighterage, and car floatage or trucking in lieu thereof, to and from steamships or steamship piers at the port of New York, as provided in section 6 of the act, which charges shall be the same as those hereinbefore proposed in No. 22824 and in addition to the line-haul rates to and from regular stations in Manhattan and Brooklyn;

(4) That the rates assailed on export, import, coastwise, and intercoastal traffic from and to points in New England are, and for the future will be, unduly prejudicial to Boston and unduly preferential of New York to the extent that the relationship of the rates as between those ports is more favorable to New York than under the basis prescribed in the Eastern Class Rate case on domestic traffic to and from Boston as compared with regular stations in Manhattan and Brooklyn, plus the charges hereinbefore proposed for lighterage and its substitutes wherever that service is performed to and from steamships or steamship piers at the port of New York;

(5) That the rates assailed from and to Boston as compared with Philadelphia, Baltimore, and Hampton Roads are not unreasonable or unduly prejudicial to Boston; and the failure to publish separate charges for lighterage at the other ports named is not unreasonable or unduly prejudicial to Boston; and

(6) That the commission has no jurisdiction to pass upon the alleged violation of the Constitution; and the other alleged violations of the interstate commerce act will either be removed under the previous findings or have not been sustained.

Nothing herein is to be construed as requiring increased rates over any route embracing a water line, which is not railroad controlled and subject to the provisions of section 5 (11) of the act. Previous decisions in other cases should be modified to the extent necessary to carry into effect the foregoing findings.

Appropriate orders should be entered.

APPENDIX A

Table of contents of proposed report omitted.

APPENDIX B

Allegations of complaint in No. 22824, as amended.

I

Authority for filing complaint.

II

(a) Status of defendants as common carriers.

(b) Defendants engaged in transportation of carload and less-than-carload freight in domestic and foreign commerce, including that handled through the port of New York, from and to the following points:

(1) From various points in New York City and within the free-lighterage limits of New York Harbor to various other points in the United States, Dominion of Canada, and Mexico.

(2) From various points in said three countries to various points in New York City and said free-lighterage limits.

(3) From various points in New Jersey to various points in said three countries, including New York City.

(4) From various points in said three countries, including New York City, to various points in New Jersey.

(c) That the averments herein apply to the New York Central Railroad Co. as lessee and operator of the West Shore Railroad; as operator of the lines east of the Hudson River between Albany and the Borough of Manhattan; and as operator of all other lines which it operated on the date of filing this complaint.

III

(a) That defendants have established and exact certain class and commodity rates for the transportation described in subparagraph (b) of Part II above.

IV

(a) Competition between various localities in New Jersey and New York City.

(b) That in the transportation described in Part II above, various localities in New Jersey have a natural advantage of location in comparison with New York City, which should be recognized in substantially lower rates to and from those localities than to and from New York.

V

This part of the complaint is set out in full below:

"(a) That, in connection with the transportation of property as described in Part II above, and the application and exaction of their established rates, each of the defendants (1) assumes and bears the cost and expense of lightering certain shipments of property and hauling certain shipments by means of car floats and motor trucks at the port of New York and at said city of New York and gives certain allowances out of said rates as compensation for said lighterage, car-float, and trucking services and various services incidental thereto; (2) refrains from assuming and bearing the cost and expense of car floating, lightering, and trucking other shipments transported at said rates to and/or from various points in the State of New Jersey and refuses to perform lighterage, car floatage, or trucking services and to assume or bear such cost and expense in connection with the transportation of the shipments last mentioned; and (3) thereby gives undue and unreasonable preference and advantage to said city of New York, to various shippers who obtain transportation of property by the defendants to and from said city of New York and to that freight traffic and subjects the State of New Jersey, various localities in New Jersey, various shippers who obtain transportation of property to and from points in New Jersey and their freight traffic to undue and unreasonable prejudice and disadvantage, in violation of section 3 of said act.

"(b) That by assuming and bearing the cost and expense of car floatage, lightering, loading, unloading, and transferring certain shipments of property and by giving allowances as compensation for car floatage, lightering, and transferring shipments at said New York Harbor, and by giving allowances, out of said rates, as compensation for trucking certain shipments of property by means of motor trucks on the public streets and highways to and/or from so-called inland stations, universal stations, off-track stations, constructive stations, and private premises of shippers and so-called trucking in lieu of lighterage and by giving various other allowances, at said city of New York, said defendants charge, demand, and receive a less compensation from various persons for certain interstate transportation of property to and/or from said city of New York rendered by said defendants than they charge, demand, and receive from other persons for doing for them a like and contemporaneous service in the interstate transportation of a like kind of freight traffic to and/or from points in New Jersey under substantially similar circumstances and conditions, in violation of section 2 of said act.

"(c) That through giving allowances, as described in subparagraph (b) next preceding, each of said defendants reduces its compensation for longer-haul transportation of property to and/or from said city of New York, below the amount of compensation which it exacts for shorter-haul transportation of similar property to and/or from various points in New Jersey, and thereby violates section 4 of said act.

"(d) That certain of said rates described in Part III above are applicable to transportation of freight westward from New York Harbor to various points in New Jersey located east of the Delaware River and to various points in the United States located west of said river, and to transportation of property eastward from those points to New York Harbor; that said rates applicable for that transportation to or from points east of said river include a factor of 4 cents per hundred pounds, and other amounts per hundred pounds, as compensation for said car floatage and lighterage service; that said rates applicable for said transportation of property to or from the points west of said river do not include similar separate factors of compensation for said car-floatage and lighterage service, and therefore through exaction of said rates the defendants give undue and unreasonable preference to said city of New York and various localities located west of said river and to various shippers in said city and said localities and to their freight traffic and subject the State of New Jersey, various localities in New Jersey, various shippers in New Jersey and their freight traffic to undue and unreasonable prejudice, in violation of section 3 of said act.

"(e) That said rates, described in Part III above, include, (1) rates that apply to all-rail transportation of property to and/or from said New York City; (2) rates that apply to all-rail transportation of property to and/or from said points in New Jersey; and (3) rates that apply to transportation of property to and/or from said New York City and points within the free-lighterage limits of New York Harbor, by railroad in conjunction with car float, lighterage, and/or trucking service; that said rates are unjust and unreasonable, in violation of section 1 of said act, and by establishment and exaction of said rates said defendants subject the complainants, various shippers, and rate payers located at points in New Jersey and their freight traffic to undue and unreasonable prejudice and disadvantage and unduly prefer and advantage said New York City, various shippers and rate payers located at said New York City, and at points within said free-lighterage limits and their freight traffic, in violation of section 3 of said act.

"(f) That said defendants have not stated 'separately' in their published and filed tariffs and schedules their charges for said lighterage service and trucking service and said defendants have thereby disregarded and violated the provisions of section 6 (1) of said act.

"(g) That the said defendants, by means of the unreasonable rates, preferences, and prejudices, and the unjust discrimination described in Part V hereof, unjustly deprive localities in New Jersey of their natural advantages in geographical location and unjustly retard the growth and development of industry and commerce therein, and unjustly retard the development of water-front and other property therein available for development and deprive said localities of the benefit of taxes attendant upon such development, and unjustly stimulate and develop industry, commerce, and property values in competing territory in the city and State of New York, and thereby unjustly prevent the natural development of population, business opportunities, and property values in said localities, and unjustly and unlawfully create a preference of the ports of the State of New York over the ports of the State of New Jersey in violation of Article I, section 9, clause 9 of the Constitution of the United States.

"(h) That certain of said rates, described in Part III above, apply to railroad, car-float, lighterage, and/or motor-truck transportation service between various points and New York City and certain of those rates apply to railroad transportation service but not to car-float, lighterage, or motor-truck service between those points and various points in New Jersey, and each of those two classes of rates are of the same level or measure, and, further, the defendants have not established lower rates for application to the service last mentioned, and by their refusal to establish and apply such lower rates and by exaction of the higher rates for the transportation service last mentioned the defendants give undue and unreasonable advantage to said city of New York and the traffic mentioned first and subject the State of New Jersey and the last-mentioned traffic to undue and unreasonable prejudice and disadvantage in violation of section 3 of said act.

"(i) That said defendants, through affording 'free lighterage service' at New York Harbor, which is an unlawful practice, violate sections 2 and 3 of said act."

VI

Prayer for an order requiring defendants to cease and desist from the alleged violations of the act, to establish in lieu thereof just and reasonable rates to and from said points in New Jersey and New York City, and to publish separate charges for lighterage, car-float, and motor-truck services at New York Harbor.

MOTIONS TO DISMISS

The New York Central lines in answering the original complaint in No. 22824, also that in No. 23040 and in No. 23327, moved to dismiss each complaint as to them on the ground that it failed to state the issues with the particularity required by the commission's Rules of Practice. They also moved to dismiss the issues raised by paragraph (g) of Part V in No. 22824 and a similar paragraph in No. 23327 on the ground that such issues are beyond the commission's jurisdiction. These motions were general in character, not joined in by any of the other defendants, and did not appear to warrant dismissal as to these lines. Accordingly they were denied by the commission without prejudice to consideration of the jurisdictional question in the final decision. The motions did not apply to the amended complaint in No. 22824.

DISCUSSION OF ISSUES

At the opening of the hearings counsel for New Jersey was interrogated by defense counsel in regard to the complaints. It was then stated that where reference is made in No. 22824 to "various" points or localities in New Jersey all points in the State are included, except the allegations regarding denial of free lighterage and car floatage, which include all points on navigable waters outside the lighterage limits. In reply to an inquiry regarding paragraph (a) of Part V, it was stated that complainant's position would be that if free lighterage, car floatage, and trucking are to be continued on the east side of New York Harbor such services must be afforded on the west side of the harbor. The word "allowances" used in paragraphs (a), (b), and (c) of Part V was said to include allowances both to shippers and others, such as outside lighterage companies, truck operators, and the contract terminals. It was stated that the allegation of unreasonableness in paragraph (e) of Part V includes the rates to and from New York and that this was intended as an appeal to the minimum-rate power if the facts should warrant its exercise. It was agreed that the transcontinental rates might be excluded from the complaint in No. 23040, but they are included under the complaint in No. 22824. All questions propounded to counsel for complainants regarding the allegations of the complaints were fully answered at this time.

During the hearings statements were made to the effect that defense counsel did not understand the issues. When the examiner asked what was not understood, counsel for the trunk-line defendants did not refer to any particular part of the complaints, but to complainants' Exhibit No. 1. This is a volume of 240 pages, divided into 76 parts, and containing thousands of rates assailed and shown for comparison. It was claimed that defense counsel could not tell which rates are assailed and which shown merely for comparison. Counsel for New Jersey pointed out which of the 76 parts contain only rates assailed, which contain only rates not assailed, and which contain both rates assailed and not assailed. Examination of the exhibit discloses no reason why anyone familiar with the complaints could not readily distinguish the rates assailed from those not assailed. This exhibit was not offered for the purpose of pointing out any infirmities in particular rates, but merely to present a comprehensive showing of the rate structure under consideration.

Upon brief counsel for New Jersey states that the complaint in No. 22824 does not include the rates to and from New England nor those via the coastwise steamship lines. These rates are not

expressly excepted from the complaint, but the New England carriers and the coastwise lines are not named as defendants, so such rates may be deemed excluded from this complaint.

Upon brief counsel for the trunk-line defendants states that "the complaints in this case are rather vague as to whether the all-rail rates of the New York Central to Manhattan are attacked," but they are treated as in issue because evidence was received directed against such rates. Paragraph (c) of Part II in No. 22824 alleges that the averments of the complaint apply to the New York Central as operator of its lines east of the Hudson River between Albany and Manhattan as well as its other lines; and paragraph (e) of Part V, hereinbefore quoted, specifically assails the all-rail rates to and from New York City as unreasonable and unduly prejudicial and preferential in comparison with those to and from New Jersey points. The complaints in the other two cases do not specifically refer to the all-rail rates to and from New York, but they do bring in issue the freight rates to and from that point generally without excepting the all-rail rates. The evidence of the defense in the three cases applied to the all-rail rates as well as other rates to and from New York, and the record does not indicate that there was any misunderstanding in this respect. Defendants' briefs do not express any other doubt or criticism concerning either of the complaints in these cases.

Defendants were not required to present their evidence until more than six months after the close of the evidence for the New Jersey complainants and about 90 days after that of the Boston complainants. All parties were permitted to file reply briefs 30 days after the opening briefs in these cases. The defense, therefore, was accorded a better opportunity of meeting the complainants' evidence and arguments than is usual in most cases.

Appendix C

EXAMINER'S RULINGS ON EVIDENCE

Commission practice: The procedure in cases before the commission follows that of the Federal courts, but the technical rules of evidence are not enforced as strictly as in court. The propriety of this greater liberality in the application of the rules of evidence has been repeatedly recognized by the Supreme Court. In Interstate Commerce Commission *v.* Baird (194 U. S. 25), the court said at page 44:

"The inquiry of a board of the character of the Interstate Commerce Commission should not be too narrowly constrained by technical rules as to the admissibility of proof. Its function is largely one of investigation and it should not be hampered in making inquiry pertaining to interstate commerce by those narrow rules which prevail in trials at common law where a strict correspondence is required between allegation and proof."

In Interstate Commerce Commission *v.* Louisville & N. R. Co. (227 U. S. 88), the court said at page 93:

"The commission is an administrative body and, even where it acts in a quasi-judicial capacity, is not limited by the strict rules, as to the admissibility of evidence, which prevail in suits between private parties. (Int. Comm. Com. *v.* Baird 194 U. S. 25.)"

In United States *v.* Abilene & S. Ry. Co. (265 U. S. 274), the court said at page 288:

"The mere admission by an administrative tribunal of matter which under the rules of evidence applicable to judicial proceedings would be deemed incompetent does not invalidate its order. Interstate Commerce Commission *v.* Berro, 194 U. S. 25, 44; Spiller *v.* Atchison, Topeka & Santa Fe Ry. Co., 253 U. S. 117, 131. (Compare Bilokumsky *v.* Tod, 263 U. S. 149, 157.)"

And in Western Paper Makers' Chemical Co. *v.* United States, 271 U. S. 268, the court said at page 271:

"* * * In making its determinations the commission is not hampered by mechanical rules governing the weight or effect of evidence. The mere admission of matter which under the rules of evidence applicable to judicial proceedings would be deemed incompetent does not invalidate its order. (United States *v.* Abilene & Southern Ry., 265 U. S. 274, 288.)"

It is well settled, however, that only matters which have been introduced in evidence may be considered, and that rule has been followed in these cases.

Witnesses' qualifications: Numerous objections were made to the qualifications of witnesses, especially those who gave opinion evidence. For example, it was urged that witnesses should not be permitted to testify regarding the economic effect of a rate adjustment on the community. Generally, such witnesses had some special means of knowledge with regard to the subject matter because of their occupation or investigations. Such evidence offered by both sides was received with the understanding that it would be given only such weight as it seemed entitled to in the light of the objections and all other facts of record. It is believed that this was proper, although such evidence has not been given as much weight as other facts of record. In some instances it has been entirely disregarded, as where a nonexpert witness quoted from a civil engineer as expressing his own views at pages 1933–1936 of the record. In Wigmore on Evidence (2d ed.) it is stated in section 560:

"Secondly, and emphatically, the trial court must be left to determine, absolutely and without review, the fact of possession of the required qualification by a particular witness. In most jurisdictions it is repeatedly declared that the decision upon the experimental qualifications of witnesses should be left to the determination of the trial court."

Hearsay: Evidence not within the personal knowledge of the witness was excluded when objected to as hearsay. A review of the record discloses exceptions at pages 718 and 859, which evidence may be deemed excluded. Letters contained in New Jersey's Exhibits Nos. 39 and 40 and Boston's Exhibit No. 473 have also been disregarded and may be deemed excluded.

Admissions: Certain evidence offered as admissions or declarations against interest was received under the exception to the hearsay rule permitting such evidence. In some instances, however, a review of the record discloses that the declaration was not against the declarant's interest when made, and such evidence has been disregarded. Thus the extracts from the Boston & Maine's off-line agency reports offered at pages 3502–3503 and the extracts from briefs in docket No. 13010 offered at pages 3762–3766 may be deemed excluded. Declarations against interest by a single defendant have been considered as binding on only that defendant, as in the case of information furnished by the New Haven which is referred to at pages 3620–3621 of the record.

Counsel for the Brooklyn Eastern District Terminal strenuously objected to receipt of the Stuart marine cost study. It was argued that while this evidence might be binding on the trunk-line defendants which participated in the study, it was not binding on the contract terminals which took no part in it. This question need not be decided, since the evidence was clearly admissible against the trunk lines, and the findings and order herein will be directed against those defendants. Moreover, Mr. Stuart who supervised the investigation, appeared as a witness and was cross-examined, which took it out of the hearsay rule. The report of the investigation also appears to have been a public document of the Port of New York Authority.

Public documents: A well-established exception to the hearsay rule permits the receipt in evidence of matter contained in public documents, without the necessity of calling the authors of such documents. Under this exception, there was received in evidence extracts from the Port Series, issued jointly by the War Department and Shipping Board. Although the defense strenuously objected to such extracts, they also offered evidence derived from the same and similar sources. Extracts from the Port Series were not only received in evidence but quoted in the report in the Boston Maritime case (95 I. C. C. 539, at p. 547).

Lorenz formula: The Boston complainants offered in evidence computations based on the so-called Lorenz formula for the purpose of proving that operating costs are no higher in New England than in the remainder of official territory. This evidence was excluded upon objection that Doctor Lorenz was not present so that he could be cross-examined upon the formula. The commission is asked upon brief to review this ruling. It was in accord with the commission's action upon an appeal from the examiner's ruling in another case. Even if error was committed in excluding this evidence, however, it was without prejudice in view of all the facts stated and conclusions recommended in this report.

Relevancy: While numerous objections were made to evidence as irrelevant, not much evidence was offered by either side which could be regarded as wholly irrelevant. Where any irrelevant evidence crept in it has simply been disregarded in the preparation of the report. Every effort was made to keep down the size of the record, without curtailing the rights of the parties.

Divisions: Both sides offered evidence regarding the divisions received by different carriers. While the carriers' divisions are sometimes said to be a matter of no interest to shippers, they seem to be relevant in these cases, because the absence of a charge for lighterage is claimed to burden other traffic, and the divisions throw light on that question. The objections were based only on relevancy.

Appendix D

Combined costs for lighterage

	Shore to shore	Labor between car and lighter	Labor at steamships	Total
Baltimore & Ohio R. R. Co.:				
Eastbound freight—				
Hoisted by crane	$1.53	$0.15	$0.287	$1.967
Handled by man power and trucks	1.53	.51	.287	2.327
Westbound freight—				
Hoisted by crane	1.53	.15	.433	2.113
Handled by man power and trucks	1.53	.51	.433	2.473
Central R. R. Co. of New Jersey:				
Eastbound freight—				
Hoisted by crane	1.22	.135	.298	1.653
Handled by man power and trucks	1.22	.36	.298	1.878
Westbound freight—				
Hoisted by crane	1.22	.135	.376	1.731
Handled by man power and trucks	1.22	.36	.376	1.956
Delaware, Lackawanna & Western R. R. Co.:				
Eastbound freight—				
Handled at covered piers	1.14	.359	.2975	1.7965
Handled at open piers	1.14	.386	.2975	1.8235
Westbound freight—				
Handled at covered piers	1.14	.359	.425	1.924
Handled at open piers	1.14	.386	.425	1.951

Combined costs for lighterage—Continued

	Shore to shore	Labor between car and lighter	Labor at steamships	Total
Erie R. R. Co.:				
Eastbound freight—				
Hoisted by crane	$1.56	$0.135	$0.302	$1.997
Handled by man power and trucks	1.56	.36	.302	2.222
Westbound freight—				
Hoisted by crane	1.56	.135	.433	2.128
Handled by man power and trucks	1.56	.36	.433	2.353
Lehigh Valley R. R. Co.:				
Handled at Communipaw—				
Eastbound, all freight	1.37	.36	.302	2.032
Westbound, all freight	1.37	.36	.433	2.163
Handled at National Docks:				
Eastbound, box-car freight	1.37	.465	.302	2.137
Westbound, box-car freight	1.37	.465	.433	2.268
Eastbound, open-car freight	1.37	.16	.302	1.832
Westbound, open-car freight	1.37	.16	.433	1.963
Handled at Claremont Terminal—				
Eastbound, box-car freight	1.37	.365	.302	2.037
Westbound, box-car freight	1.37	.365	.433	2.168
Eastbound, open-car freight by hoisters	1.37	.16	.302	1.832
Eastbound, open-car freight by gantry cranes	1.37	.135	.302	1.807
Westbound, open-car freight by hoisters	1.37	.16	.433	1.963
Westbound, open-car freight by gantry cranes	1.37	.135	.433	1.938
New York Central R. R. Co.:				
Eastbound freight—				
Hoisted by cranes	1.55	.135	.302	1.987
Handled by man power and trucks	1.55	.36	.302	2.212
Westbound freight—				
Hoisted by cranes	1.55	.135	.433	2.118
Handled by man power and trucks	1.55	.36	.433	2.343
Pennsylvania R. R. Co.:				
Handled at Manhattan closed piers—				
Eastbound miscellaneous freight	1.64	.4445	.302	2.3865
Westbound miscellaneous freight	1.64	.4445	.433	2.5175
Handled at Greenville closed piers—				
Eastbound miscellaneous freight	1.64	.4445	.302	2.3865
Westbound miscellaneous freight	1.64	.4445	.433	2.5175
Handled at Greenville open docks—				
Eastbound freight	1.64	.2380	.302	2.180
Westbound freight	1.64	.2380	.433	2.311
Composite:				
Eastbound freight—				
Hoisted by crane	1.44	.135	.287	1.862
Handled by man power and trucks	1.44	.36	.287	2.087
Westbound freight—				
Hoisted by crane	1.44	.135	.425	2.000
Handled by man power and trucks	1.44	.36	.425	2.225

CURRENCY REFLATION

Mr. BORAH. Mr. President, I desire to place in the RECORD certain printed material bearing upon the question of reflation. I do not wish to retard the consideration of this bill, therefore I shall not at this time stop to comment. I hope to do so later.

In the Washington Post of this morning I find the following statement:

By Lawrence Sullivan

Describing depreciated currencies and arbitrary control of foreign exchanges as the principal obstacles to the recovery of American farm prices, the United States Department of Agriculture forecasts another year of depressed commodity values and burdensome surpluses during the crop year 1933–34. The official annual "outlook report," compiled by the department in cooperation with extension economists representing 32 States, emphasizes the prevailing "disorganized currency systems" throughout the world as a factor bearing more heavily, perhaps, upon the American farmer than upon any other economic group.

"There is little prospect at present," it concludes, "for an early improvement in the foreign demand for our agricultural products" until the restoration of normal exchange machinery paves the way for an appreciable revival of international trade.

CALLED RECOVERY AID

"Effective international action this year directed toward facilitating international payments, the stabilization of currencies, and the moderation of trade barriers would give a strong impetus toward economic recovery throughout the world," the report adds. But until effective action in this direction is realized, prevailing extraordinary surpluses of wheat and cotton will continue to bear down American farm prices to distress levels.

I also offer certain statements by Mr. Farrell, until recently president of the United States Steel Corporation, appearing in this morning's Herald. I agree with his statement of facts. I do not agree with his remedy.

"It is the most important thing before Congress.

"Not only our business in the United States, but our business throughout the world, is seriously affected by the chaotic state in which many world currencies flounder to-day, and so long as they do flounder it is the course of wisdom for our country to take such cautionary measures as this type of legislation proposes.

"These countries are having the time of their lives in flooding this country with goods on a depreciated-currency basis.

"The whole business structure is inoculated in such a way as to be completely demoralized.

"I believe we are going to evaporate in some lines (of business) unless we act against depreciated currencies.

"Nothing," said he, "is quite so destructive to sound efforts as the presence in our American market of foreign competitive merchandise priced at levels so low that American competition is not possible unless we bring down our whole economic structure to the low strata of some of our chief competitors."

On January 27, at the annual meeting of the Midland Bank of London, Reginald McKenna, former Chancellor of the Exchequer, had this to say, as it appears in the New York Times:

"We have had now," he continued, "the experience of sterling divorced from gold for 16 months, and nothing catastrophic has happened. The clear evidence of improvement in a number of countries off the gold standard has no counterpart in those still on gold, whose position, generally speaking, has become worse."

DEMANDS PRICE RISE FIRST

He said that raising the price level in Great Britain, regardless of what happens elsewhere, was of first importance.

"But is it possible to raise our internal price level?" he went on. "Particularly, can we do so by monetary management? If we can and do, will it not be evidence of that abhorrent thing, inflation? In actual circumstances we have so much ground to recover that I confess the thought of inflation, so long as it is controlled, does not alarm me. In these days the word no longer is a term of reproach, though some tender consciences find ease in using the innocent substitute, reflation.

"It is, I believe, possible to achieve a rise in the internal price level by monetary management, and I have not been shaken in this opinion by the frequent charge that reflation has already been tried and found wanting, both in Great Britain and the United States. If we examine the course of affairs in these two countries, we shall find that deliberate monetary management, specifically designed to raise the price level, has not been tested in either.

"In our own country, it is true, expansion of credit has been effected, but only under conditions which could give it but partial success in raising the price level. And partially successful it has been, for our price level has not been accompanied by a downward movement in gold prices. In the United States, notwithstanding the current talk of vast new credit having been pumped effectively into the banking system, the experiment has not been tried at all. Reflation means the expansion of bank deposits, and therefore of potential purchasing power, to such an extent as will restore the price level to the point at which it stood before the present great slump began."

The MacMillan committee was composed of a group of men recognized for their ability the world over in economic and financial affairs. I quote a single paragraph from their report:

We are emphatically of the opinion that, even if a further fall of wholesale prices be avoided, their stabilization at approximately the present level would be a serious disaster for all countries of the world alike, and that the avoidance of such an event should be a prime object of international statesmanship. * * * Consequently, even the continuance of the present price level * * * must prolong business losses and * * * unemployment. * * * Governments and central banks will be blamed * * * social unrest will tend to make moderate and rational remedies more difficult the longer they are delayed. * * * Our objective should be, in so far as it lies within the power of this country to influence the international price level, first of all to raise prices a long way above the present level, and then to maintain them at the level thus reached with as much stability as can be managed. We recommend that this objective be accepted as the guiding aim of the monetary policy of this country.

Prof. Robert W. Thompson, of the Columbia School of Political Science, in a pamphlet which has come to my desk, makes the following statement, among others:

We are face to face with a grave situation at the moment and currency reform has become imperative. The crushing weight of the depression has fallen upon debtors and producers without working capital and they should not be left to the tender mercy of the relentless creditor and the sheriff. If, during an era of expansion and excessive credit, debts were contracted which can not be liquidated, distress sales of commodities and foreclosure of real estate bring despair to the man who can not quickly mobilize his assets to meet the demands of his banker.

Manipulations of greedy bankers and money lenders and the reluctance of capitalists and conservative statesmen to depart from past practice, and the letter of the law which has brought on in large measure such deplorable conditions may well urge us on to the verge of desperation. No matter that live credits are being translated into bad debts, defaulted mortgages and uncol-

lected judgments, the banker who cashed in on an inflated market, will not hear to a devaluation of the dollar, he wants to increase its potency and purchasing power.

ANNA POKORNY

The PRESIDING OFFICER (Mr. BRATTON in the chair) laid before the Senate the amendments of the House of Representatives to the bill (S. 3147) for the relief of Anna Pokorny, which were, on page 1, line 6, after "of," to strike out all down to and including "months," in line 7, and insert "$5,000," and on page 1, line 11, after "Jersey," to insert ": *Provided*, That no part of the amount appropriated in this act in excess of 10 per cent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 per cent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

Mr. WAGNER. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS AND JOINT RESOLUTION

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

On January 24, 1933:

S. 5059. An act to extend the time for completing the construction of a bridge across Lake Champlain, at or near Rouses Point, N. Y., and a point at or near Alburgh, Vt.;

S. 5260. An act granting the consent of Congress to the Board of Supervisors of Marion County, Miss., to construct, maintain, and operate a free highway bridge across Pearl River at or near Columbia, Miss.; and

S. 5261. An act granting the consent of Congress to the Board of Supervisors of Monroe County, Miss., to construct, maintain, and operate a free highway bridge across Tombigbee River at or near Old Cotton Gin Port, Miss.

On January 26, 1933:

S. 3675. An act relating to the deferment and adjustment of construction charges for the years 1931 and 1932 on Indian irrigation projects; and

S. 4597. An act to restore to their former retired status in the Regular Army of the United States persons who resigned such status to accept the benefits of the act of May 24, 1928 (45 Stat. 735), and for other purposes.

On January 27, 1933:

S. 5131. An act to extend the times for commencing and completing the construction of a bridge across the Ohio River at or near Cannelton, Ind.; and

S. 5232. An act to extend the time for completing the construction of a bridge across the Missouri River at or near St. Charles, Mo.

On January 30, 1933:

S. J. Res. 240. Joint resolution to provide for the quartering, in certain public buildings in the District of Columbia, of troops participating in the inaugural ceremonies.

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. 5484) to extend the time during which certain provisions of the act of February 27, 1932, relating to improving the facilities of the Federal reserve system to meet the needs of member banks in exceptional circumstances, shall be effective.

DISTRIBUTION OF GOVERNMENT-OWNED COTTON

Mr. WALSH of Massachusetts. Mr. President, if I may have the attention of the senior Senator from Connecticut [Mr. BINGHAM] while the clerk reads the telegram which I send to the desk, I will then ask the Senator a question in regard to the matter presented for consideration in this telegram.

The PRESIDING OFFICER. The clerk will read.

The legislative clerk read as follows:

BOSTON, MASS., *January 30, 1933.*

Hon. DAVID I. WALSH,
United States Senate:

Can not something be done to effect immediate passage of bill appropriating stabilization corporation's cotton holdings to use of Red Cross. Apparently everyone agrees this legislation should be passed and the only question is when this will occur. This matter has now dragged on about eight weeks. In the meantime employment at mills that might fill resulting orders from Red Cross is adversely affected and the needy to whom the articles might be distributed are suffering. Can not measure be taken to end this seemingly absolutely unnecessary situation.

WHITTENTON MANUFACTURING CO.

Mr. WALSH of Massachusetts. Mr. President, several similar telegrams and letters have reached me within the past week. I inquire of the Senator from Connecticut, who has been interested in getting action upon the bill referred to in the telegram, when we can expect to get action on this measure? Must we wait until the winter is over and this particular kind of relief is unnecessary?

Mr. BINGHAM. Mr. President, the Senator knows that I have repeatedly tried to call the matter up. The junior Senator from Utah [Mr. KING] has agreed from day to day that his motion to reconsider the vote whereby we adopted the conference report on the bill to give cotton to the Red Cross should be taken up. I see that the Senator from Utah is on the floor and that the Senator from Tennessee [Mr. McKELLAR] is also on the floor. The Senator from Tennessee was interested in an amendment which was not retained in the bill by the conferees.

I hope very much that the Senator from Massachusetts will urge upon his colleagues on the other side of the aisle that we may get action on the conference report. As it is a privileged matter, and would not displace the appropriation bill, I wish that the Senator from Utah would move now to take up his motion for reconsideration, which, being privileged, would not displace anything, and let us get it out of the way.

I agree entirely with the Senator from Massachusetts that this is a matter of necessity; that the granting of this cotton would bring relief during the remaining days of the winter to a very great number of families, and would also give employment to those who are engaged in the making of bedding and in the making of the clothing contemplated. I hope very much that that might be done.

Mr. McKELLAR obtained the floor.

Mr. WALSH of Massachusetts. Mr. President——

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

Mr. McKELLAR. I yield.

Mr. WALSH of Massachusetts. Mr. President, I ask unanimous consent——

Mr. McKELLAR. Mr. President, before that is done, I will ask the Senator to let me make a statement.

Mr. WALSH of Massachusetts. I ask unanimous consent that at 4 o'clock we lay aside the pending measure——

The PRESIDING OFFICER. The Senator from Tennessee has the floor. Does he yield?

Mr. McKELLAR. Mr. President, I prefer that the Senator postpone his request just a moment, in view of what I am going to say to the Senator from Connecticut.

The Senate passed the Red Cross cotton bill, and put into it a provision that the Farm Board should not profit by the gift of cotton for charitable purposes. I thought that was a wise provision, the Senate thought so, and we put it in the bill.

Mr. BINGHAM. I offered no objection to it.

Mr. McKELLAR. The conferees struck it out; and, under the conference report, in addition to appropriating money for the redemption of the cotton and turning the cotton over to the Red Cross, as should be done, and should be

done speedily, it would also be provided that a certain portion of the money would go to the Farm Board.

There is probably a majority of the Members of the Senate who are opposed to appropriating any more money for the Farm Board. I am one of those Senators myself. I do not think it ought to be done; and before the Senator asks unanimous consent to take up this matter for reconsideration, I am going to prefer a unanimous-consent request myself. My request is this, that the bill be sent back to conference and the Senate conferees be instructed by the Senate to insist upon the Senate amendment cutting out any sum to the Farm Board.

Every one of us on this side realizes, I think, that this bill should be passed speedily. I myself would like to see it passed instantly. But I do not like to be bludgeoned into making an appropriation for the Farm Board in the name of charity, which, in my judgment, would do no good to the country. That is the whole question. I ask unanimous consent that the bill be sent back to conference with instructions, and I believe much time will be saved.

Mr. BINGHAM. Mr. President, I hope the Senator will permit us to vote on this question. If the Senate chooses to vote in the way the Senator has suggested, I have no objection. I do not want to take any time on it.

Mr. McKELLAR. I thought the Senator was very much in favor of getting this bill passed.

Mr. BINGHAM. I am.

Mr. McKELLAR. If the Senator is, he will accept my proposal. If he is not, he will fight for the appropriation which would go to the Farm Board. I, for one, am opposed to any further appropriations to the Farm Board, and I believe a great majority of the Senate is opposed to it. That is the only question in this case.

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

Mr. McKELLAR. In just a moment. This is an indirect method of bludgeoning the Senate into voting an additional appropriation to the Farm Board, which does not need and should not have any additional appropriation.

I yield to the Senator from Oregon.

Mr. McNARY. Mr. President, I do not know what attitude the senior Senator from Connecticut [Mr. BINGHAM] may take, but for myself I object to the proposed unanimous-consent agreement. I do that, not because of any particular views I may have, but, in the absence of the senior Senator from South Carolina [Mr. SMITH], who had this matter in charge, and who is home to-day detained by illness, I would not feel that I should consent to a unanimous-consent agreement in his absence.

Mr. McKELLAR. Mr. President, I can understand the Senator's position exactly, and I do not disapprove of it in the slightest. I just wanted to show the good faith of those of us who have felt that this indirect appropriation ought not to be made for the Farm Board in any such way as that proposed. If we want to appropriate money for the Farm Board, let us appropriate it directly, and not indirectly, under the name of charity.

Mr. KING obtained the floor.

Mr. BINGHAM. Mr. President——

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

Mr. KING. I yield.

Mr. BINGHAM. The Senator from Tennessee has stated that a majority of the Senate agree with him. Why will he not let us vote on the matter, and get it out of the way without any further debate? The Senator accuses me of holding this matter up. I have done nothing but try to get action. I have taken no time on the matter at all. It has been postponed from day to day and from week to week, and all I am asking is that the Senate vote on it and let us see whether the Senate wants to accept the conference report or defeat it. If it is defeated, the matter will go back to conference.

Mr. McKELLAR. Mr. President, if the Senator had not been insistent upon the position——

The PRESIDING OFFICER. The Senator from Utah has the floor. Does he yield?

Mr. KING. I yield.

Mr. McKELLAR. If the Senator and those associated with him had not been insisting that, in violation of the expressed will and vote of the Senate, we must indirectly under the name of charity appropriate for the Farm Board, this matter would have been settled two weeks ago; and it ought to have been settled two weeks ago, and an agreement by the conferees of the kind that was made, in my judgment, was not justified.

Mr. KING. Mr. President, I would like to say to my friend from Massachusetts that the controversy which has delayed the passage of the measure grows out of this fact: The bill as it came from the House called for an appropriation direct out of the Treasury of the United States to pay liens and charges against the cotton amounting to about $10,000,000 or $12,000,000. There was no appropriation to the Farm Board to help liquidate the indebtedness which it had incurred. We have already appropriated $500,000,000 for the Farm Board. The bill, as it came from the House, provided an additional appropriation of approximately $10,000,000 or $12,000,000. The Farm Board let the stabilization corporation have money for the purpose of purchasing the cotton, taking, of course, the obligations of the stabilization corporation.

The stabilization corporation, after the purchase of the cotton, borrowed money upon the cotton which comprehends probably 80 to 90 per cent of the present market value of the cotton. So the Farm Board has an equity, after all these liens are discharged, of from 10 to 20 per cent. The Farm Board and the friends of the Farm Board are very anxious to get another appropriation out of the Treasury to relieve it of paying the charges and liens against the cotton. I was unwilling and the Senate was unwilling to make another appropriation to the Farm Board. We were perfectly willing—I speak for myself and the Senator from Tennessee——

Mr. WALSH of Massachusetts. And I am with the Senator on that matter.

Mr. KING. We were willing that the cotton should be used for the purpose indicated, but we insisted that the Farm Board should itself pay the charges and not tax the taxpayers of the United States an additional $10,000,000 or $12,000,000. When that matter was brought to the attention of the Senate, the Senate accepted an amendment offered by the Senator from Tennessee, with a slight modification which I had the honor of submitting, and it was unanimously adopted. The able Senator from Connecticut [Mr. BINGHAM] accepted the amendment. It went to conference and the conferees—and I make no criticism at all—reported back promptly disagreeing to the Senate amendment. I do not believe the Senate conferees quite comprehended the significance of the action of the Senate or the amendment which had been incorporated in the bill by the vote of the Senate.

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

Mr. KING. Certainly.

Mr. WALSH of Massachusetts. The Senator has made a very fair statement of his position. Will not the Senator agree that at 4 o'clock we shall lay aside the appropriation bill temporarily and take up this matter and have a roll call upon his motion and dispose of it one way or the other?

Mr. KING. I have no objection.

Mr. WALSH of Massachusetts. Let us do that and show the country that we can function occasionally; that a few Senators can not hold up indefinitely a relief measure.

Mr. KING. I do not quite like the Senator's suggestion, if he will pardon me, that a few men can hold up indefinitely relief measures. In the first place, I showed from the record that out of the 500,000 bales of cotton which we had heretofore appropriated, the cost of which was $40,000,000, only about 64,000 bales have been requisitioned, and the residue of the 500,000 bales of cotton are still under the

control of the Red Cross. They have not requisitioned them. It is true they have made commitments for the larger part, but the demands have not been so great as to compel the requisitioning of the entire 500,000 bales of cotton.

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

Mr. KING. In just a moment. After having given $40,000,000 to the Farm Board, after they had obtained $500,000,000 and squandered more than $300,000,000, the proposition is to give them $10,000,000 or $12,000,000 more in order to pay debts which they should pay themselves. I am perfectly willing to pass the bill with the amendment. The Senate adopted a provision allowing the Farm Board to deliver the cotton to the Red Cross, but let the Farm Board pay the charges and liens which it has incurred on the cotton.

I yield now to the Senator from Connecticut.

Mr. BINGHAM. One of the things which the bill does, which the previous bill did not do and which is greatly needed at the present time, is to permit the cotton to be used for bedding, for making blankets and comfortables which are needed this winter. The previous bill, in the opinion of the Red Cross and their attorneys, did not permit the cotton to be used for that purpose. That is one reason why there is haste in the matter.

While the Senator has been so courteous as to yield to me, may I say that I have no interest in the Farm Board or its machinations or dealings one way or the other. My only interest from the beginning has been to try to get the cotton where it could be had by people who are suffering. I hope very much the Senator will yield for the agreement suggested by the Senator from Massachusetts.

Mr. KING. Let me ask the Senator a question. The amendment to which the Senator just referred and which provided that the cotton might be utilized for making bedding was eliminated in conference, was it not?

Mr. BINGHAM. The language "bedding" is in the House bill. It was not believed that the language which the Senate put in, consisting of the words "comfortables and blankets," was necessary since those articles are included in the term "bedding."

Mr. WALSH of Massachusetts. Mr. President, I think the Senator from Utah has made a very fair statement and I think that an opportunity ought to be given him to move that the bill be recommitted. He has made a forceful argument in favor of that position, but I would like now to ask unanimous consent that the pending measure be temporarily laid aside at 4.30 o'clock this afternoon and that the measure to distribute Government cotton to the Red Cross be taken up and disposed of before we conclude business to-day. I ask unanimous consent to that end.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Massachusetts?

Mr. GORE. Mr. President, I have no desire to delay the consideration of the bill appropriating additional cotton for the Red Cross. I think one of the dangers implied in it is clearly revealed by the statement just made by the Senator from Connecticut. In addition to clothing heretofore authorized, the bill includes bedding. No one can foretell what additional articles will be included in future legislation. When we start this movement there is no stopping place. I shall have some further observations to make on this point when the bill comes up for passage. I object to its consideration at this time, and I object to the unanimous-consent request of the Senator from Massachusetts.

Mr. WALSH of Massachusetts. That closes the matter. I call for the regular order.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Massachusetts?

Mr. GORE. I have already objected. I do not think the Senate ought to be coerced into extending charity to the Farm Board as a condition precedent to extending charity on behalf of the suffering women and children of the country.

The PRESIDING OFFICER. Objection is made.

DEBTS, PUBLIC AND PRIVATE

Mr. GEORGE. Mr. President, I ask unanimous consent to have inserted in the RECORD an article appearing in the New York Times of January 29, 1933, by Mr. Charles Merz on Debts, Public and Private.

In connection with that article I wish to read for the RECORD a brief extract from a statement submitted by Mr. Charles G. Moses, one of the officers of the West End Association of New York City, a well-known New York realty man, dealing in a very practical way with the mortgage indebtedness, in this instance upon city property. Mr. Moses enumerates several methods which he considers worthy of adoption, among which was this one:

> A scaling down in the amount of the principal sum of the mortgage to a point where the owner can finally save at least some of his equity.
>
> "The last named," he explains, "may seem a bit drastic, but it is in line with a general tendency to reduce overcapitalized funded debt, and will, in my opinion, help to make secure the interests of stock and bond holders, policyholders, and depositors far better than attempting to force liquidation of hundreds of millions of dollars of property in a market that does not exist."

The entire article is illuminating, but I shall not ask to have it inserted in the RECORD beyond the brief excerpt which I have read.

Mr. McKELLAR. Mr. President, may I ask the Senator whether or not he has asked to have printed in the RECORD the charts and formulas in connection with Mr. Merz's article?

Mr. GEORGE. No; I did not ask that that be done.

Mr. McKELLAR. I think that would be very illuminating if it could be done. The charts are the principal part of the article, as I inferred when I read it yesterday in the New York Times.

Mr. GEORGE. The charts are the basis of the article but the facts are stated in the article. I would ask, if it is consistent with the rules of the Senate, that so much of the charts be included in the RECORD as may be necessary.

The PRESIDING OFFICER. The view of the present occupant of the Chair is that under the rule that would have to be submitted to the Joint Committee on Printing.

Mr. GEORGE. I do not care to do that. I shall not ask that that be done.

The PRESIDING OFFICER. The article will be printed in the RECORD as requested.

The article is as follows:

DEBTS, PUBLIC AND PRIVATE: A VAST PROBLEM—A NEW ESTIMATE OF THE AMOUNT OF INDEBTEDNESS IN THE UNITED STATES, AND A SURVEY OF THE PROPOSALS ADVANCED FOR LIGHTENING THE GREAT BURDEN BROUGHT ABOUT BY THREE YEARS OF DEFLATION

By Charles Merz

One of the dominant questions before Congress is the problem of public and private debts contracted on a vanished scale of prices.

Undermined by three years of depression and deflation, values of every kind of property—farm land, city real estate, common stocks, plant equipment, wheat crops, stores of unused cotton—have fallen far below their levels of 1929. Meantime, interest must be paid by many borrowers on debts incurred at pre-depression prices.

These circumstances explain why both branches of Congress now have before them measures planned to ease the burden of the debtor. It is for this purpose that bills have been drafted to refinance farm mortgages, to liberalize existing bankruptcy laws, to facilitate reorganization of railways threatened with receiverships. Dissatisfied with such steps as these, and convinced that only a sudden rise in prices can relieve the debtor, a considerable bloc in Congress clamors for currency inflation.

The problem of public and private debt raises questions of deep importance to every group of creditors and debtors. Yet, while theories of how to proceed in the present situation can be plucked off every bush, singularly little information has been made available concerning the amount of indebtedness which must now be carried on the basis of deflated values.

The purpose of this article is to present an estimate of the total amount of this indebtedness and to outline the proposals made for dealing with different phases of the problem it involves.

THE DEBT STRUCTURE

The table at the top of the page is based on hitherto unpublished figures prepared specifically for this purpose by the National Industrial Conference Board. Statisticians of the board do not regard their present estimate as final. It may be revised as a result of later studies. Any attempt to estimate the amount

of debt outstanding encounters many difficulties, since the information available is widely scattered and must be pieced out by more or less arbitrary allowances for items to which existing records furnish no clue. In order to ascertain the principal of the debt and the annual interest charge in any year, it is sometimes necessary to infer the interest from the principal and sometimes the principal from the interest.

Two sets of figures are given in the table. The first shows the estimated domestic debt of the United States in 1922, the first year of our golden era of postwar prosperity. The second shows the estimated debt in 1929, the year which witnessed both the peak of this prosperity and the beginning of depression.

For 1922 the figure, in round numbers, is $115,000,000,000. For 1929 it is $155,000,000,000. The latter figure is much smaller than other estimates, published recently, of the amount of predepression debt which the American people have attempted to carry through a period of severe deflation. Most of these estimates are in the neighborhood of two hundred billion, and one, which has received much prominence, is as high as two hundred and thirty-four billion.

VARIATION IN ESTIMATES EXPLAINED

The discrepancy is not accidental. It is due to the fact that in these larger estimates assets or liabilities arising from the same transaction have frequently been counted twice. For example, most of these estimates include figures for urban real estate mortgages held by banks, insurance companies, and other lenders. But they also include bank loans, which are made in part on these same urban mortgages. This plainly results in double counting of some of the indebtedness outstanding. Similar duplications appear in other places.

The important point, in a compilation of this sort, is to select figures which consistently represent either the assets of the lender or the obligations of the borrower. Unless this precaution is observed—and estimates which place the domestic debt of the United States in 1929, as high as $200,000,000,000, appear to disregard it—the same debt counted both as an asset and as a liability will inevitably pad the total figures.

The estimates presented in this article are based consistently on the obligations of the borrower. The figures arrived at by this method show a net increase of $40,000,000,000 in the domestic debt of the American people during the prosperous years from 1922 to 1929. This was equivalent to a compounded increase of 4.4 per cent a year. During the same period population increased at the rate of 1.4 per cent a year and industrial production, computed on the basis of the annual index numbers of the Federal Reserve Board, increased by 4.8 per cent a year.

Debt, therefore, was increasing more rapidly than population during the golden era of prosperity before 1930, but less rapidly than industrial production. However, the rate of change in indebtedness varied widely among different groups of debtors. This will be seen if we now consider each of the five main classes of borrowers among whom the total burden of domestic indebtedness is distributed—noting in each case the changes that occurred during the period from 1922 to 1929, the amount of indebtedness now outstanding, after three years of depression, in so far as estimates are available, and the various plans for relief of each group of debtors now pending before Congress.

I. Farm debt

Estimates of farm debt are based on figures of the Department of Agriculture. They show a relatively small increase (amounting to $141,000,000) in farm mortgages between 1922 and 1929, accompanied by a larger decrease ($1,300,000,000) in other forms of farm debt.

No authoritative figures for 1933 are now available. But officials of the Department of Agriculture have estimated that the mortgage debt may have declined from $9,241,000,000 in 1929 to about $8,500,000,000 at the present time, owing largely to foreclosures. In this case the total amount of farm indebtedness now outstanding would be between eleven and twelve billion dollars.

It is clear that the farmer's present problems are not due to a large volume of debt contracted in the years immediately preceding the depression. While domestic debt as a whole was increasing by $40,000,000,000 between 1922 and 1929, farm debt actually declined by about one billion. The farmer's difficulties are due primarily to two factors—first, to a burden of debt contracted as early as 1915–1920—a 6-year period during which farm mortgages practically doubled, on land then selling at inflated values; second, to the sharp decline in the value of farm commodities since 1929, accompanied by a crippling loss of foreign markets.

THE DECLINE OF INCOME

Gross income from farm production in the United States in 1932 is estimated by the Department of Agriculture at $5,240,000,000, compared with $11,911,000,000 in 1929. In the last three years the farmer has lost nearly 60 per cent of the dollars which paid his bills in 1929, while the amount of his mortgage debt has been reduced only nominally, perhaps by as much as 7 or 8 per cent, and principally through the harsh method of foreclosure.

This is the nub of the problem of farm indebtedness. But the burden of a disproportionate decline in income and in mortgage debt is by no means evenly distributed among all farmers. More than half of the farms in the United States are wholly free of mortgage, and more than two-thirds of the remainder are mortgaged at less than half their value. This brings the farm-mortgage problem within narrower limits than the bare figures themselves suggest.

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II. Railroad debt

The second great group of borrowers is composed of the railroad companies. Figures showing their funded debt are readily available in reports of the Interstate Commerce Commission. Between 1922 and 1929 this debt increased from $11,502,000,000 to $12,459,000,000. During the same period it is estimated that unfunded indebtedness decreased from five hundred and twelve millions to two hundred and fifty-one millions. Total indebtedness of the railroads was increasing during the prosperous years before 1930, but at a slower rate than the average gain either in population or in industrial production.

At the end of 1931, after two years of depression, the funded debt of the railroads amounted to $12,739,000,000—an increase of $280,000,000 since the end of 1929. No figures for the end of 1932 are now available, but it is certain that the debt has not been reduced. Meantime earnings of the railroads have been drastically curtailed. Net operating income dropped from $1,274,000,000 in 1929 to $324,000,000 in 1932—a loss of 74.6 per cent.

Of the 138 legally solvent Class I roads only 38 finished the first 10 months of 1932 without a deficit. Of the 100 which showed a deficit, 45 did not earn their operating expenses. The remaining 55 covered costs of operation, but did not earn enough to meet fixed charges. Since receivership may legally follow any failure to pay fixed charges it is a contingency which must be faced by many roads, unless earnings improve, costs are reduced, or new loans are received from public or private lenders.

THE VITAL HANDICAP

The problem is unquestionably a difficult one, but the core of it is the amount of fixed charges which must be met in the immediate future. Less than 3 per cent of the funded debt of the railroads matures in 1933 and less than 4 per cent in 1934. Nearly 80 per cent of the entire bonded indebtedness is not due for redemption until after 1941. No one can possibly foresee at the present time what the railroads will earn eight years from now, or what value the dollar will command in terms of the commodities it can purchase.

For the transportation companies therefore the problem is not one of liquidating their entire debt at present prices, but of meeting charges which fall due at a time when their earnings have been greatly depleted by loss of traffic. Two ways of dealing with this problem have been proposed to Congress.

The first is to extend additional Government credit to roads in need of it. The desirability of averting railway receiverships was one of the chief motives of Congress in establishing the Reconstruction Finance Corporation in January of last year, and during 1932 loans to the carriers amounting to $359,000,000 were authorized by this agency, with the approval of the Interstate Commerce Commission.

There are still roads that possess collateral which they can pledge with the Reconstruction Finance Corporation when they need to borrow. But there are many other roads which have largely exhausted such collateral. For their benefit it is now proposed that the reconstruction finance act be amended to permit loans to railways without collateral, upon certificate from the Interstate Commerce Commission that in its judgment the ability of the borrower is reasonably assured by its past record of earnings and its prospects for the future.

FACILITATION OF REORGANIZATIONS

The second proposal is to amend existing bankruptcy laws in order to facilitate the reorganization of railroads threatened with receiverships. As the Interstate Commerce Commission pointed out in its last report, "Much of the delay, expense, and difficulty involved in a receivership and reorganization is due to the opportunity afforded under our present laws for a minority, no matter how small, to make trouble without regard to the interests of the property as a whole." The proposed amendment would authorize reorganizations which have received the approval of the Interstate Commerce Commission, of two-thirds of the stockholders, and of holders of two-thirds of each class of claims against the road.

This proposal is consistent with the first point in the program of railway legislation advocated by Mr. Roosevelt during the presidential campaign. He then recommended "that the Government announce its intention to stand back of the railroads for a specified period, its help being definitely conditioned upon acceptance by the railroads of such requirements as may in individual cases be found necessary to readjust top-heavy financial structures through appropriate scaling down of fixed charges."

III. Public debt

The third great group of borrowers in the United States consists of public agencies—Federal, State, and local.

The indebtedness of these public authorities has followed no consistent course. Between 1922 and 1929 State and local debt increased from $7,154,000,000 to $13,452,000,000, a swift advance amounting on the average to 9.4 per cent a year. But during this same period a succession of large surpluses enabled the Federal Government to reduce its own indebtedness from twenty-two thousand nine hundred and ninety-six million to sixteen thousand seven hundred and forty-three million. Debt retirement in Washington almost offset debt expansion in the States, counties, and municipalities, with the result that the aggregate amount of public indebtedness increased only nominally—from $30,150,000,000 in 1922 to $30,195,000,000 in 1929.

Since 1929, however, the figure has mounted rapidly. It is estimated that State and local debt now stands at about $15,472,000,000, an increase of approximately 15 per cent in the last three years. Meantime the series of surpluses in Washington has ended,

and the Federal Government has been forced to borrow heavily in order to meet successive deficits and to provide funds for the Reconstruction Finance Corporation. Its debt now stands at about $20,375,000,000, an increase of 22 per cent since the end of the fiscal year 1929. The total of all public debt in the United States at the present time may thus be estimated at $35,847,000,000. This is about one-third larger than the total of both farm debt and the funded debt of the railways.

TWO COURSES OPEN

Short of default or redemption by the Federal Government of some of its obligations by the device (now proposed in Washington) of issuing new currency, there are only two ways in which public agencies can reduce the burden of their indebtedness. The first is through economies which will enable them to apply toward amortization part of the funds now used to cover current expenditures. The second is to refinance existing obligations at lower interest rates as the opportunity occurs.

There is much discussion at the present time of the possibility of such refinancing by the Federal Government. First Liberty loan bonds amounting to $536,000,000 and bearing interest at 4¼ per cent are now "callable"—that is, the Government may redeem them on three months' notice at any time it chooses. On October 15 the great fourth Liberty loan series, amounting to $6,268,000,000 and also bearing interest at 4¼ per cent, becomes callable. About 35 per cent of the entire Federal debt can thus be redeemed during the next 12 months if the Government decides to substitute new securities for old ones. In a recent message to Congress President Hoover described as "essential" the refunding of "outstanding high-interest-bearing Liberty bonds into bonds bearing a lower rate of interest."

Such action would be similar to the recent conversion by England of nearly £2,000,000,000 of her war debt, previously bearing interest at 5 per cent, into new bonds bearing only 3½ per cent—with a consequent saving to the British Treasury of £30,000,000 a year.

IV. Corporate debt

Up to the present point we have considered debts of farmers, of railways, and of public agencies amounting in the aggregate to about $55,000,000,000 at the peak of prosperity in 1929 and to about $60,000,000,000 at the present time. We now come to a fourth class of indebtedness, exceeding (at least in 1929) the total obligations of all three of these groups. This is the indebtedness of corporations.

Figures showing the bonded debts and mortgage liabilities of all corporations are given in the annual reports of the Treasury Department, Statistics of Income. But figures concerning unfunded indebtedness are not so readily obtained. The method used by the National Industrial Conference Board in preparing its estimate has been to compute the principal of the unfunded debt from the interest—the latter figure being available in the Treasury Department's publications.

By this method the total debt of corporations (other than railways) is estimated at $42,386,000,000 in 1922 and at $74,661,000,000 in 1929. During this period the average rate of increase in corporate debt amounted to 8.4 per cent a year—a more rapid rate than that shown for any other class of indebtedness we have thus far considered, except the indebtedness of State and local governments. Factors contributing to this increase included a great expansion of loans to corporations on urban real estate, loans for the extension of plant equipment and loans to investment trusts and other financial institutions which expanded so rapidly during this period.

LIQUIDATION HEAVY

No estimate can now be made of the amount of corporate indebtedness outstanding at the end of 1932. Income-tax returns for that year will not even be filed until March 15 and the Treasury Department's analysis of the debts and interest charges shown in these returns will not be published until 1934. Nevertheless, it is certain that a large amount of the indebtedness outstanding in 1929 has been written off the books, and that at many points the process of liquidation, whether voluntary or compulsory, has been carried far.

Figures compiled by R. G. Dun & Co. for the years 1930–1932 show no less than 86,590 business failures during these three years, with aggregate liabilities of more than $2,322,000,000. Loans on securities, which reached the spectacular total of $17,000,000,000 in 1929, have now been scaled down to less than $6,000,000,000. In New York City alone more than 18,000 foreclosure actions during the last three years have liquidated indebtedness on urban real estate assessed at over $1,100,000,000, and the same process of liquidation has been in progress in all parts of the country. Obligations incurred by manufacturers for such purposes as the extension of plant equipment have in some cases been readjusted through cooperative action on the part of creditors.

THE PROSPECT AHEAD

Liquidation is still under way. The financial reorganization of corporations which are not properly capitalized for a period of lower prices and smaller profits requires the reduction of fixed charges, the funding of floating debts, the conversion of maturing obligations into new types of securities, and in some cases mergers and sales of assets.

It is proposed that Congress facilitate such steps, where they are necessary, by amending the legal code which now governs corporate reorganizations. The plan is similar to that proposed in the case of the railways. Its chief purpose is to prevent a small minority of creditors from blocking reorganization in the hope of obtaining favored treatment for their claims.

Such action, favored by leaders of both political parties, was recommended by Attorney General Mitchell in his last report to Congress. He then pointed out that in many cases "the cumbersome process of corporate reorganization through equity receiverships and mortgage foreclosures affords no hopeful opportunity for speedy reorganization of going concerns, embarrassed by debt, even through agreement of large majorities of their creditors."

V. Individual debt

We come now to the last of the five main groups of borrowers. It includes individuals (other than farmers) and partnerships. With this group we complete the list. For there is no way in which people can borrow, single-handedly or collectively, except in the capacity of public agencies, corporations, partnerships, and individuals.

An approximate figure for the amount of indebtedness outstanding, in the case of individuals with incomes of more than $5,000, can be obtained from reports of the Treasury Department by capitalizing the amount of interest paid. In its compilation of the total debt the National Industrial Conference Board has added to this figure an arbitrary but reasonable estimate of the indebtedness of partnerships and of individuals with incomes below $5,000. The conclusions reached by this method show an estimated debt of $16,933,000,000 in 1922 and of $24,971,000,000 in 1929. Of the latter figure about one-half represents loans on mortgages.

METHODS OF REDUCTION

For obvious reasons it is even more difficult to guess at the present amount of indebtedness owed by individuals and partnerships, after three years of deflation, than to guess at a corresponding figure for the indebtedness of corporations. But it is clear that the same processes which have reduced one type of debt have reduced the other. Many of the casualties on Dun's list of failures have been individuals and partnerships. A large part of the reduction of loans on securities has scaled down personal as well as corporate obligations. Foreclosure of mortgages has accomplished the same end, though the process has meant for many small owners the wiping out of equities which represented years of labor.

In July of last year Congress enacted the home loan bank law, intended to relieve the mortgage situation. Bills now pending in the House of Representatives, designed to facilitate corporate reorganizations, also include provisions amending the existing bankruptcy laws in their application to individuals. The purpose of these provisions is not to release solvent debtors from payment of their obligations at the expense of the general public, but to encourage a reasonable adjustment between creditor and debtor, according to the circumstances of each case.

ALTERNATIVE POLICIES

From this summary of the debts of different groups of borrowers in the United States several conclusions may be drawn:

First. During the prosperous years before the depression the most rapid increase of indebtedness occurred in the case of corporations. Debts of railways, of partnerships, and of individuals (other than farmers) increased at a slower pace. The net debt of all public agencies practically stood still. Farm indebtedness fell slightly.

Second. Since 1929 the debt of public agencies has increased substantially. There has been some increase in the obligations of railways. Farm debt has continued to decrease slightly. Larger reductions appear to have been made in the case of partnerships and individuals and much larger reductions in the case of corporations.

Third. Within each field of indebtedness, except that of public agencies, adjustments are constantly in progress which bring fixed charges into line with a lower price level and thereby strengthen the influences making for recovery. Some of these adjustments are reached by voluntary agreement. When the creditor is less willing to compromise, they take the form of bankruptcies and foreclosures.

Fourth. Measures are now pending before Congress which would facilitate adjustments of the first sort—that is, by voluntary agreement. These measures are not planned on the theory that every private debt in the United States, no matter when and how contracted, is precisely like every other private debt. They distinguish between different groups of borrowers and, within different groups, between the merits of individual debts and claims.

* * * * * * *

The debt structure

[The interest-bearing debt, classified by borrowers—a preliminary estimate prepared by the statistical department, National Industrial Conference Board]

(In millions of dollars)

Borrowers	1922		1929	
	Principal	Interest	Principal	Interest
1. Farmers:				
Mortgages	9,100	568	9,241	554
Other debts	4,283	257	2,983	179
	13,383	825	12,224	733

The debt structure—Continued

(In millions of dollars)

Borrowers	1922		1929	
	Principal	Interest	Principal	Interest
2. Steam railroads:				
Funded debt	11,502	539	12,459	581
Unfunded debt	512	31	251	15
	12,014	570	12,710	596
3. Public agencies:				
Federal	22,996	990	16,743	680
State and local	7,154	420	13,452	801
	30,150	1,410	30,195	1,481
4. Corporations: [1]				
Funded debt	15,498	855	33,962	1,856
Unfunded debt	26,888	1,613	40,699	2,442
	42,386	2,468	74,661	4,298
5. Individuals and partnerships [2]	16,933	1,016	24,971	1,499
Total	114,866	6,289	154,761	8,607

[1] Other than steam railroads. [2] Other than farmers.

REFINANCING OF FARM MORTGAGES

Mr. GEORGE. Mr. President, before I take my seat let me say that the Banking and Currency Committee this morning had hearings upon one or more of the measures dealing with the refinancing of farm mortgages. I wish to take occasion to say that in this time of stress if the conservative element of our population is not anchored to something, the public men of this day may have occasion hereafter to regret it. There is nothing to which they can be anchored with half the assurance of the ultimate perpetuity and stability and progress of our civilization than the land of the country.

I wish to take occasion to say that I have not now the slightest sympathy for and I shall oppose to the last ounce of my power any proposal to refinance farm mortgages or home mortgages in the interest of the creditor class alone. The hour has certainly come when some one must insist that the refinancing of homes and farms must be on the basis of readjusted valuations and in the interest of the debtor as well as of the creditor. Particularly, Mr. President, would I feel it my duty to resist to the last any effort to refinance farm mortgages through direct further bounties to the Federal land banks or to the joint-stock land banks. Those institutions I would of course treat justly, but if refinancing farm mortgages is to be for the benefit strictly of the creditors and of some of the agencies in this emergency that have failed in their service, then I think it would be equally the patriotic duty of any man in public life at this hour to oppose the refinancing, as I believe it would be his duty to favor any sound scheme of refinancing if the interest of the debtor is also to be taken into account.

I want to take occasion to thank the Banking and Currency Committee for the very patient and, I hope, very helpful hearing this morning upon a bill which I had the honor to introduce in this body, as well as a bill introduced by the Senator from North Dakota [Mr. FRAZIER].

TREASURY AND POST OFFICE APPROPRIATIONS

The Senate resumed the consideration of the bill (H. R. 13520) making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes.

Mr. KING. Mr. President, I send to the desk a notice in writing of a motion to suspend the rule. Under the rules the notice must be read, and I ask that the notice now be read.

The PRESIDING OFFICER. The clerk will read the notice.

The legislative clerk read as follows:

NOTICE OF MOTION TO SUSPEND RULE

Pursuant to the provisions of Rule XL of the Standing Rules of the Senate, I hereby give notice in writing that I shall hereafter move to suspend paragraph 4 of Rule XVI for the purpose of proposing to the bill (H. R. 13520) making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes, the following amendment, viz, on page 16, line 16, after the word "each," to insert the following: " : *Provided further*, That no refund in excess of $20,000 shall be paid until the determination by the Commissioner of Internal Revenue of the overpayment has been transmitted to and approved by the United States Board of Tax Appeals, under such rules as it may prescribe, and the commissioner shall disallow the part thereof not so approved."

Mr. BINGHAM. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BINGHAM. What motion is now pending before the Senate?

The VICE PRESIDENT. The Senator from Nevada [Mr. ODDIE] has sent an amendment to the desk, which is pending.

Mr. ODDIE. Mr. President, I will ask that that amendment lie on the table and that the amendment of the Senator from Tennessee [Mr. McKELLAR] may be first considered.

Mr. McKELLAR. I offer the amendment which I send to the desk.

The VICE PRESIDENT. The Senator from Nevada withdraws his amendment temporarily.

Mr. McKELLAR. I ask that the amendment which is pending before the Senate may be stated.

The VICE PRESIDENT. The amendment proposed by the Senator from Tennessee will be stated.

The LEGISLATIVE CLERK. On page 58, line 2, after the numerals "$19,000,000," it is proposed to insert the following: " : *Provided*, That no part of the money herein appropriated shall be paid to any company for carrying air mail under a contract with the Government in an aggregate sum exceeding 50 per cent of the amount paid by the Government to it at the present time."

INFLATION OF THE CURRENCY

Mr. THOMAS of Oklahoma. Mr. President, I desire at this point to call the attention of the Senate to a news item that appears in to-day's Washington Herald under the following heading:

Roosevelt tells advisers he'll O. K. reflation—Reported prepared to accept some kind of change in currency.

This is an article by Fraser Edwards. I ask that the entire article, which is rather short, may be printed in the RECORD at this point in connection with my remarks.

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

ROOSEVELT TELLS ADVISERS HE'LL O. K. REFLATION—REPORTED PREPARED TO ACCEPT SOME KIND OF CHANGE IN CURRENCY

By Fraser Edwards

President-elect Roosevelt has assured advisers he will sign a measure for controlled currency reflation, it was learned yesterday by Universal Service.

While the President elect was represented as being open-minded on the proper plan to adopt, he was said to be prepared to accept some form of currency inflation in order to raise commodity prices and ease the financial stringency of the Nation. He still is studying the question.

MAKES GLASS HESITATE

As a consequence of this commitment, Senator CARTER GLASS (D.), of Virginia, according to his friends, is hesitating about accepting the post of Secretary of the Treasury, which they say has been offered to him by Roosevelt.

Currency inflation will be one of the paramount issues before the special session of Congress, all leaders concede. What form it will take no one is prepared to say at this time.

This issue has been dinned into the ears of Roosevelt by both Democratic and Progressive partisans. They say they have his promise to accept some plan worked out by the new Democratic Congress.

PLANS NUMEROUS

A number of plans have been proposed. They range from the reduction of the gold content of the dollar to the old Bryan proposal of silver at 16 to 1 and a flood of greenbacks.

The President elect has indorsed none of these plans. He is said to prefer the mildest form of inflation, a plan that can be adopted by statute and changed without difficulty if it fails to accomplish the desired results or when the desired results are achieved.

One of the men closest to Roosevelt, after discussing the currency question with him, said:

"Mr. Roosevelt said he was prepared to experiment with the currency situation. He wants a sound currency, as we all do, but he will sign a bill that will enable people to pay their debts."

PRAISED, DENOUNCED

The inflation issue was aired thoroughly during the recent debate on the Glass banking reform bill. It was advocated in different forms by a dozen Democratic and Progressive Senators. It was denounced vehemently by GLASS and others.

Because of GLASS's violent opposition to inflation, which he said would make American currency "as worthless as wall paper," his friends say he would not become Secretary of the Treasury if Roosevelt embraced the inflation policy.

Mr. THOMAS of Oklahoma. Mr. President, as I read the news item, I get the impression that the President elect, when he becomes President, will approve and sign any bill that shall provide for a reasonable expansion or reflation or addition to the amount of currency in circulation.

In this connection, Mr. President, I call the attention of the Senate to a few news stories and editorials appearing in the public press of yesterday and to-day. I first call attention to the editorial page of the New York Times of Sunday, January 29. The leading editorial is headed as follows:

Defying "Control."

I read the first paragraph, as follows:

We are hearing a great deal in this country about "regulated inflation." Nobody favors an unlimited issue of fiat money. Not even Senator BORAH would have the depreciation of the currency go beyond a certain point. The calamitous experience of Germany in printing marks until a billion or two of them were worth only a dime stands as a continuing reminder and warning before the eyes of even our extreme inflationists. But they keep on talking about the need of a large expansion of our circulating medium, though always strictly under "control" of some unspecified kind. The only assurance they give us is that somehow or other we shall "pull up" in time to prevent such complete devaluation of money as drove Germany almost to ruin and despair 10 years ago. The trouble with this theory is that when you once begin to go down the steep decline of a depreciated currency there is no stopping until you make the final crash.

On the same page I find this editorial under the following heavy heading:

Revolution undefined.

And on the same page I find another editorial under the heavy heading:

Debts and prices.

I cite these editorials, Mr. President, as evidence that the largest newspaper in America, if not in the world, is now seriously considering the question of relief and is giving particular attention to the suggestion of a reasonable inflation of the currency as a relief measure.

In support of the news story just introduced in the RECORD that the President elect is in favor of some form of reasonable inflation or reflation of the currency, I call attention to a news item in yesterday's New York Times under the heading:

Would put barter on national basis—

And the subheading:

P. P. Gourrich suggests plan to use due bill as medium for exchange of goods. Trade groups included. Economist proposes Reconstruction Finance Corporation to start scheme. Little effect on retail business seen.

I call attention next to an article in the New York Times of January 28, under the date line Princeton, N. J., and a headline reading as follows:

Barter plan wins widening interest. Princeton group, sponsor of plan, reports more than 200 units active in Nation. Movement gains daily.

Mr. President, the stories recite that in many places throughout the country, for the want of money and credit, the people are forced to resort to some form of barter plan.

I next call the attention of the Senate to an Associated Press dispatch from Bismarck, N. Dak., the headlines of which are as follows:

North Dakota may adopt scrip plan. Legislature considering two systems as emergency measure.

The Associated Press dispatch is very short, so I ask that the entire item may be printed in the RECORD at this point in connection with my remarks.

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

The dispatch referred to is as follows:

NORTH DAKOTA MAY ADOPT SCRIP PLAN—LEGISLATURE CONSIDERING TWO SYSTEMS AS EMERGENCY MEASURE

BISMARCK, N. DAK., January 28.—North Dakota's legislators are considering two plans to adopt scrip on a state-wide scale.

Both proposals call for issuance of scrip by the state-owned bank of North Dakota as an emergency measure to make money "easier" and aid the State's farmers in paying their debts.

A "bond currency" bill, introduced by Representative H. T. Peterson, is now before the house banking committee.

The other plan, suggested by North Dakota's State treasurer, Alfred S. Dale, is for negotiable scrip issued by the Bank of North Dakota, the State treasurer, or the treasurer of any political subdivision of the State.

Revenue stamps of 3 cents for each $1 would be affixed to the scrip with each transaction, making the scrip redeem itself in 35 transactions.

On presentation to the State treasurer or treasurer of other governing units, the certificate with stamps attached would be redeemed at the face value of the certificate in United States legal tender.

Peterson's proposal calls for issuance of noninterest-bearing bonds by the Bank of North Dakota in exchange for certificates of indebtedness of the State or any of its political subdivisions.

The bond currency would be issued by the bank on application for loans by the State or other governmental units, including counties and towns. They would remit to the bank warrants or certificates of indebtedness and be paid face value in "bond currency."

Mr. THOMAS of Oklahoma. The next news item I desire to call to the attention of the Senate is one of this date or perhaps of yesterday under the headline:

World's jobless total 30,000,000.

Loss in wages alone is put by International Labor Office at $21,000,000,000. Huge sums spent for aid. Universal reduction of hours of work to provide more employment is urged.

I call attention to another news story in one of the large newspapers under a headline as follows:

Commodity prices reach new lows.

This article is under a New York date line of January 26.

I next call the attention of the Senate to another news story in one of the late newspapers, the headings of which read as follows:

Car loadings lower in week.

I call attention to another news item with headlines as follows:

Commodity average declines for week. Has been lowered each week since year-end. London slightly lower.

Under that heading is a dispatch to the New York Times, under the date line New Haven, January 29, the first paragraph which I will read, as follows:

Prof. Irving Fisher's index number of commodity prices, based on 100 as the average for 1926, is 55.5, which compares with 56.4 a week ago, 57.3 two weeks ago, 57.4 three weeks ago, and 57.6 four weeks ago.

I submit these items of news as evidence that times are getting worse instead of getting better, and I base such conclusion upon the proposition that the dollar is going higher and higher and commodity prices are going lower and lower.

I next call the attention of the Senate to a headline in the Washington Post of Sunday, January 29. It is the leading editorial in that publication and the heading of the editorial is:

New York wants a dole.

I read the first paragraph.

No sooner had Governor Roosevelt left Albany than New York came knocking at the door of the Federal Government for emergency aid. So long as Mr. Roosevelt was in charge of New York's affairs he upheld the principle that each State should look after its own destitute people. But the new governor, Herbert H. Lehman, took one look at the $140,000,000 deficit which Governor Roosevelt had left him, and directed a plea for $45,000,000 to Washington.

On the same editorial page, Mr. President, which contains the aforementioned editorial, I find the second leading editorial with the following headline:

What they barter.

That editorial catalogues the class of barter that is now going on throughout the United States.

I next call the attention of the Senate to a news item in to-day's New York Times, the item being under a heading, as follows:

Briton urges rise in value of silver.

The subheadings are as follows:

Sir Robert Horne, in a broadcast from London, says low price perpetuates trade slump. Hopes for action here. Ex-Chancellor of Exchequer believes Britain and United States can aid recovery.

I now read from one paragraph of the story, as follows:

The man who lives on the soil can no longer buy from the manufacturer. He in his turn finds his trade so constricted that he can not meet his establishment charges, and he shuts down. Unemployment stalks like a malevolent specter alike through country lanes and city streets, and it is lasting so long that the world is almost numbed with despair.

The British Government has declared its intention to employ all reasonable measures to raise wholesale commodity prices. I shall not elaborate this matter further, because, so far as I can judge, the policy of the Government of the United States is directed to the same object.

Mr. President, inasmuch as apparently the responsible leader of the United States soon to be is now convinced that something must be done to cheapen the dollar, I desire to make plain, if I may, my position upon this question.

Mr. President, I am in favor of cheapening the buying power of the American dollar. If this can be done, to the extent that the dollar is cheapened to the same extent will commodity prices be increased.

I am not in favor of going off the gold standard; neither am I in favor of reducing the gold content of the dollar, our unit of exchange. I do not think it necessary at this time even to consider going off the gold standard; neither do I think it necessary to consider the proposition of reducing the gold content of the dollar. It occurs to me, however, that those who will stop to think must be of the conviction that no relief is possible save by raising commodity prices; and that, in my judgment, could be done only by cheapening the dollar.

I think economists and those who will stop to think for a moment are agreed that the dollar, in buying power, can be cheapened; and I now suggest three methods for bringing this about.

I suggest, first, the the Federal Reserve Board, acting through the Federal reserve banks, again begin buying Government bonds, paying for such bonds Federal reserve notes. It is true that last year the Federal reserve system did enter upon this policy. It is true that the Federal reserve system did buy some eleven hundred millions of Government bonds, paying for such bonds $1,100,000,000 in Federal reserve notes. But, Mr. President, as soon as the Congress adjourned the Federal reserve system ceased this policy, and stopped buying Government bonds; and because this policy was discontinued the circulation diminished rather than increased, and to-day we have even less money in circulation than when the Federal Reserve Board started buying Government bonds. I suggest a renewal of this policy as one plan for increasing circulation and making money more plentiful, and to the extent that money becomes more plentiful, money will become cheaper, and as money becomes cheaper commodity prices will rise.

Secondly, I suggest as an additional policy for placing more money in circulation, the encouragement of the national banks of the Nation to avail themselves of the law known as the Borah-Glass amendment, enacted as a part of the home loan banking act. If the national banks will avail themselves of this opportunity, they can practically double the amount of their circulation; and to the extent that the national banks take advantage of this opportunity, to that extent will the circulation be increased.

Then as a third proposal, Mr. President, I ask unanimous consent, out of order, to introduce a bill, and ask that it be read.

The VICE PRESIDENT. Without objection, the bill will be introduced. Is there objection to the reading of the bill? The Chair hears none, and the bill will be read.

The bill (S. 5561) to provide funds for meeting the existing and the increasing deficit of the Federal Treasury, and for other purposes, was read twice by its title and referred to the Committee on Banking and Currency, as follows:

Be it enacted, etc., That for the purpose of meeting the existing and the increasing deficit of the Federal Treasury the Secretary of the Treasury is authorized and directed to provide for the issuance from time to time of bonds of the United States as provided by law. Such bonds shall be payable 30 years from their respective dates of issue, except that the Secretary of the Treasury may, in his discretion, provide for a later period of payment of any issue of such bonds if, in his opinion, it is necessary in the public interest. Such bonds shall be in such denominations as the Secretary of the Treasury may prescribe, shall bear interest, payable quarterly, at the rate of 2 per cent per annum, and shall have all the rights and privileges accorded by law to other 2 per cent bonds of the United States: *Provided*, That the rate of interest paid upon said bonds if/or while on deposit with the several Federal reserve banks shall be an amount fixed and agreed upon by and between the Secretary of the Treasury and the Federal Reserve Board, and in no event shall such rate be more than the rate specified herein. The total amount of such bonds herein authorized and directed to be issued shall from time to time be fixed by the Secretary of the Treasury.

SEC. 2. The Secretary of the Treasury is authorized and directed to prorate any issue of such bonds among the several Federal reserve banks as per agreement with and order of the Federal Reserve Board. Each bank receiving any such bonds is hereby authorized to issue Federal reserve bank notes in an amount equal to the face value of the bonds received by it, and such bonds shall be held as collateral security for such bank notes as provided by the Federal reserve act, as amended by Public, No. 2, Seventy-second Congress, being an act to provide emergency financing facilities for financial institutions, to aid in financing agriculture, commerce, and industry, and for other purposes, approved January 22, 1932, and as further amended by Public, No. 44, Seventy-second Congress, being an act to improve the facilities of the Federal reserve system for the service of commerce, industry, and agriculture, to provide means for meeting the needs of member banks in exceptional circumstances, and for other purposes, approved February 27, 1932. Such notes shall be of such denominations (including denominations of $1 and $2) as may be authorized by the Federal Reserve Board and, except as provided in this act, shall be subject to all the provisions of law relating to the Federal reserve notes.

SEC. 3. Such bank notes shall be legal tender in payment of all debts, public and private, except where otherwise expressly stipulated by contract, and shall be receivable for customs, taxes, and all public dues. When issued by the several Federal reserve banks as provided herein, such notes shall be placed to the credit of the Secretary of the Treasury and shall be by the said Secretary of the Treasury paid out in meeting Federal salaries, public pay rolls, estimates for public works, and other special and general expenses of the Government.

SEC. 4. Upon the recommendation of the Secretary of the Treasury, the Federal Reserve Board may require the several Federal reserve banks to sell Government bonds held by such banks in order to withdraw from circulation currency herein authorized to be placed in circulation.

SEC. 5. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions of this act.

SEC. 6. This act may be cited as the "dollar stabilization act."

Mr. THOMAS of Oklahoma. Mr. President, in support of the bill just introduced and read, I ask permission to have printed, in connection with my remarks, an article by the junior Senator from Montana [Mr. WHEELER], entitled "Democrats Must Act Swiftly or Lose Public Confidence, Warns Senator WHEELER."

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

The article referred to is as follows:

DEMOCRATS MUST ACT SWIFTLY OR LOSE PUBLIC CONFIDENCE, WARNS SENATOR WHEELER

By BURTON K. WHEELER, United States Senator from Montana

Unless the Democrat Party speedily develops a leadership capable of grasping the issues involved in the recent campaign, and of giving effect to the demands of the American voters who put the party in power, the Democracy will, before another 12 months have passed, be as bankrupt and discredited as is the Republican Party and its leadership.

We were intrusted with the Government by 20,000,000 voters. They voted Democratic last November not because, in millions of cases, they were Democrats by conviction, but for a number of other reasons.

Chief among those reasons was an absolute determination to repudiate the Republican leadership which they rightly held as largely responsible for the emergency in which we are struggling.

It has been the traditional policy of the Republican Party to confer special privileges, to create privileged economic groups.

This was the real purpose of the tariff, which favors the manufacturing interest as a whole. In this great interest the special pets have been the textile manufacturers, the steel producers, and, since the war, the chemical industry.

It is significant that these special favorites of a favored group have been among the bitterest and most uncompromising enemies of the wage earners. When they could mulct the consumer by exacting exorbitant prices they have done so without conscience.

Other favored groups have been the railroads, whose land grabbing, financial chicanery, and favoritism to special groups of shippers directly caused two of the great panics of the last century. With the benediction of the Republican Party they looted the public domain.

A third carefully fostered special interest has been that of the bankers. Amenable as the Republican Party was to special privilege, the bankers for many years successfully resisted all proposals to make the banks safer for the people and more responsible to investors.

One of the direct causes of the present crisis was the iniquitous Hawley-Smoot Tariff Act, the full bloom of Republican tariff policy.

FAVORED—BUT DENOUNCING THOSE WHO SOUGHT AID

As for the railroads, in spite of all the favors extended them, or, perhaps, because of those favors, many of them are bankrupt today, many others are near it, and hundreds of thousands of investors are in danger of losing their savings.

I need not amplify the astounding story of reckless greed, crime, and irresponsibility exhibited by the banking fraternity during and since the war.

They financed the insane speculative mania that crashed into ruin in 1929.

Since then they have busied themselves in cutting wages and salaries, throwing millions of helpless workers out of employment.

While they were getting special favors at the hands of the United States they were constantly denouncing any other group that sought legislative assistance.

But immediately after the stock break of 1929 we find them coming to the United States on bended knees, begging for the Reconstruction Finance Corporation to save the banks, insurance companies, and railroads from bankruptcy.

This, the bankers pretended, would likewise bring back the price of farm commodities in this country.

Such are a few of the choicer fruits of Republican Party policy. These fruits, that policy, were repudiated with overwhelming emphasis last November by 20,000,000 American voters. The repudiation took the form of hurling the Republican Party from power and placing the reins in the hands of the Democratic Party.

But the reins were given us with the expectation, or at least with the hope, that we would justify the change made by the voters and the confidence they placed in us.

Are we justifying that hope? Are we strengthening the confidence?

We are doing neither one nor the other.

Members of the party spent the first few weeks following the election in devising schemes to avoid a special session of Congress.

We were put in power to grapple with this crisis and most emphatically to mitigate its rigors. It was expected we would proceed with this task at the earliest possible moment.

There should have been no question in the mind of any Democrat in or out of Congress that a special session is imperative.

The leadership which fails to understand this has already failed and merely awaits the inevitable sentence by the people.

While there was a plank in the Democratic platform which talked about "sound money" there was no one on the committee or in the convention who could tell you what sound money meant.

By reason of the depreciated currencies in other countries the first step that should be taken by the newly elected Democratic Government is to grapple with the money situation so as to make it possible for us to carry on trade in the world markets.

Are we as Democrats simply going to offer some bauble to try to fool the people? Or are we going to find the courage to face the facts as they exist and rearrange our money system so that we can deal with other nations that are off the gold standard? Or are we going to allow England and France to regulate our money system?

France did not consult us when it depreciated the franc. England did not consult us when it went off the gold standard. Yet many Democrats are saying we dare not regulate our own system until we have consulted the bankers of England and France.

The Republicans have been making a great clamor at the insistence of their banker friends about balancing the Budget. What does our leadership do about it? Absolutely nothing beyond carrying on the foolish and impossible policies of the Republicans.

We have not heard a single original contribution from Democratic leadership about Budget balancing. We seem quite willing to join the Republicans in another and more disastrous attack upon wage and salary scales, which the Republican-banker conspiracy insists must be slashed in the interest of what they advertise as "economy" and is, in reality, economic and social suicide.

We are committed to a "beer bill." Some such measure should undoubtedly be enacted this session because our party pledged it. But the sort of measure pending will not restore the beer the people demand and for that reason it will not provide a substantial contribution toward the national revenue.

We are committed to "farm relief." On this it is too early to speak finally.

UNEMPLOYED VICTIMS HAVE RECEIVED NO COMFORT

But nothing yet offered by the Democratic leadership in Congress will add a penny to the farmers' incomes or do a single thing toward stopping the ruinous deflation that overwhelms agriculture.

And what of the 12,000,000 unemployed wage earners? What of the hundreds of thousands of home owners who are faced with the loss of their homes? What of the millions of destitute, cold, and hungry men, women, and children in the land? What of our idle factories, mills, and mines?

Has our Democratic leadership said anything helpful about these? Not a word. Have these victims of a cruel emergency received any comfort from us? Not a crumb.

It is my considered opinion that unless the Democratic Party recognizes its responsibility as its opportunity, unless it grasps that opportunity swiftly, firmly, and courageously, it is doomed and will be destroyed by an angry and outraged America.

TREASURY AND POST-OFFICE APPROPRIATIONS

The Senate resumed the consideration of the bill (H. R. 13520) making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes.

The VICE PRESIDENT. The question is on the amendment of the Senator from Tennessee [Mr. McKELLAR].

Mr. JOHNSON. Mr. President, I have asked the Senator from Tennessee if he would permit me to proceed with an amendment to which I hope there will be no particular objection.

The VICE PRESIDENT. Does the Senator from Tennessee withdraw his amendment?

Mr. McKELLAR. Temporarily, until the amendment of the Senator from California can be disposed of.

Mr. JOHNSON. Mr. President, on the 11th day of January last I gave regular notice in writing, according to the rules, that I should move for a suspension of the rules to permit the particular amendment to which I advert to be introduced and to be heard by the Senate. That amendment I desire to perfect; but first, I think, if it be considered to be new legislation, not germane to the subject matter of the bill, that it will be essential for me to obtain the consent of two-thirds of the body to present the amendment.

I desire to say, by way of parenthesis, that in my opinion the legislation presented is germane to the bill, and does not require any such procedure; but in order to be on the safe side the notice has been regularly given. It is printed in the RECORD of January 11 at page 1642, and I am ready to proceed with it.

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

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

Mr. JOHNSON. I yield to the Senator from Tennessee.

Mr. McKELLAR. Will the Senator state what the proposed amendment is? I have not been able to get a copy of it and have not read it.

Mr. JOHNSON. The amendment is to require the purchase of domestic supplies for public use and the use of domestic material in public buildings and works.

Mr. WALSH of Massachusetts. The so-called "Buy American" bill.

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

Mr. JOHNSON. Yes, sir.

Mr. ROBINSON of Arkansas. Is the Senator proposing the amendment that was presented by himself on January 10 (calenday day of January 11), 1933, or is he proposing to substitute something for that amendment?

Mr. JOHNSON. I desire to substitute for it what is termed the Wilson bill, that has passed the House of Representatives.

Mr. ROBINSON of Arkansas. I have sent for a copy of that bill. I have not been able to get it yet.

Mr. JOHNSON. If it would suit the convenience of the Senate, it might be that we could proceed by permitting the presentation of the amendment and its perfection, and then it could lie over until to-morrow if it were desired.

Mr. ROBINSON of Arkansas. I think that would be well.

Mr. McKELLAR. I hope the Senator will take that course. I believe it would be better, as I have not looked at the amendment, and other Senators around me say that they have not.

Mr. JOHNSON. Very well.

Mr. MOSES. Mr. President, if the Senator will yield, may I suggest that in any event it probably would be better to have a vote upon the motion which the Senator has filed for the suspension of the rules in order that the way may be perfectly clear for whatever course is taken.

Mr. JOHNSON. I am perfectly willing to proceed in that fashion, then perfect my amendment, and let it lie on the table, so that any Senators who may desire to study it may have ample opportunity.

Mr. McKELLAR. So that it could be printed to-night and be on the desks to-morrow morning for the use of Senators.

Mr. JOHNSON. I have no objection at all to that course, sir.

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

The VICE PRESIDENT. Does the Senator from California yield to the Senator from Connecticut?

Mr. JOHNSON. I yield.

Mr. BINGHAM. Is the amendment, in its perfected form, to be the equivalent of the bill which was recently reported out of the Committee on Commerce with amendments?

Mr. JOHNSON. Yes, sir; that is exactly the amendment which I desire to present.

Mr. BINGHAM. That bill is now on the calendar.

Mr. JOHNSON. It is on the calendar; but the danger of never reaching it upon the calendar has led me to pursue this course.

Now I ask that the motion to suspend the rules may be put.

The VICE PRESIDENT. The Senator from California moves to suspend the rules for the purpose of offering the amendment which will be stated—or does the Senator desire to have it stated?

Mr. JOHNSON. No; I will state it subsequently.

Mr. KING. Mr. President, what is the motion?

The VICE PRESIDENT. It is a motion to suspend the rules so as to make the amendment in order.

Mr. JOHNSON. So that the amendment may be in order without question.

Mr. KING. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. KING. If the motion just submitted by the Senator from California shall prevail, will that obviate the necessity of obtaining a two-thirds vote?

The VICE PRESIDENT. It will take a two-thirds vote to adopt it.

Mr. McKELLAR. It takes two-thirds now. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. McKELLAR. Does it take a yea-and-nay vote to determine the two-thirds?

The VICE PRESIDENT. It is not necessary, but any Senator may demand the yeas and nays.

Mr. McKELLAR. I understand that.

The VICE PRESIDENT. The Chair might want it. The Chair does not know at present.

Mr. JOHNSON. I ask that the motion be put.

Mr. ROBINSON of Arkansas. Mr. President, I do not know the provisions of the amendment. I am not familiar with it. I wonder if the Senator would suggest the absence of a quorum, in order that all Senators who are interested in it may have an opportunity of being here.

Mr. JOHNSON. I should be very glad to do that, Mr. President; but I thought the other course would answer the purpose of permitting us to perfect the amendment, let it lie upon the table then until to-morrow, and then it would be printed, and all would have the opportunity to see it. Will the Senator permit that course, please?

Mr. ROBINSON of Arkansas. I shall not object to it.

Mr. GORE. Mr. President, I am not quite sure that I understand what is proposed. I do not wish to obstruct the consideration of this "buy-American" scheme, and I should be perfectly willing if it could be arranged by the Senator from California to perfect his amendment; but I should not be willing to have the rules suspended by a mere viva voce vote.

Mr. President, I may want to offer some amendments to this proposition myself. I may wish to offer amendments providing that no State shall buy anything that is not produced within the State, and that no county shall buy anything that is produced outside the county, and that no farmer shall be allowed to buy anything at all or sell anything that he grows on his farm, and also to offer a motion that the American eagle shall be displaced as the emblem of the Republic and a terrapin be substituted in its stead—a terrapin closed up in its shell and hermetically sealed. If trade is a curse let us stop it.

Mr. JOHNSON. Mr. President, ample opportunity for those very intelligent amendments will be afforded the Senator from Oklahoma, of course; but the only thing that is asked now is that permission be given for the presentation of the amendment. We will argue it out subsequently, and be very glad to argue it out subsequently. I thought there was nothing unusual in the request that the two-thirds consent may be accorded for the presentation of the amendment. The amendment will be presented, it will lie upon the table, and to-morrow, if it can then be reached, will be reached with full opportunity accorded every Member to present his views respecting it and any amendments that he may desire.

Mr. KING. A parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. KING. Does it require suspension of the rules, which would require a two-thirds vote, in order merely to present the amendment which the Senator from California has in mind?

The VICE PRESIDENT. The amendment may be presented at any time.

Mr. KING. I have no objection to the Senator from California presenting it and speaking upon it at length; indeed, I shall welcome the opportunity being afforded the Senator in order to explain his views. I do not wish, however, to consent to an abrogation of the rule.

Mr. GORE. Mr. President, I wish to express the same sentiment. I am anxious to facilitate the presentation of the amendment. I am sure the Senator from California has every facility for doing that. The only point is, I do not wish the rules of the Senate to be suspended. They could be suspended by a two-thirds majority, but possibly there would be a third who would prevent that. If so, I should not wish the matter to be passed over without an expression of the views of the Senate.

Mr. ODDIE. Mr. President, will the Senator from California yield to me?

Mr. JOHNSON. I yield.

Mr. ODDIE. The Committee on Appropriations considered an amendment quite similar to the one suggested, which was to have been offered on the floor by the Senator from South Carolina [Mr. BYRNES]. The Senator from South Carolina, however, and the Senator from California, have discussed the amendment, and I believe the differences between the two bills have been ironed out, and the understanding is that the amendment of the Senator from California will be the one the committee will approve. I hope the motion of the Senator from California will be carried. I think it is a very necessary thing.

Mr. ROBINSON of Arkansas. Mr. President, I suggest to the Senator from California that he offer his amendment perfected, that it be then discussed, and perhaps an agreement can afterwards be reached. I suggest that the question of the suspension of the rules be taken up afterwards.

Mr. JOHNSON. I think it is absolutely essential that we have at this time permission for its presentation by a suspension of the rules, if that be necessary.

Mr. ROBINSON of Arkansas. My idea is that the Senate can suspend the rules if it chooses to do so after it understands just what the proposition is. I should prefer to have the Senator pursue the course I have suggested.

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

Mr. JOHNSON. I yield.

Mr. TYDINGS. I do not want to do anything to delay the Senator's request, but I do know that four or five Senators who are in line with the general philosophy of his amendment are absent, and I was wondering whether the Senator would yield for the suggestion of the absence of a quorum, so that an amendment might be offered if any one wishes to offer one.

Mr. JOHNSON. It will not be necessary, because I will adopt the suggestion of the Senator from Arkansas. I will perfect the amendment, with the consent of everybody, the amendment may be printed, and to-morrow, if it be necessary, we will take up the question of the consent of two-thirds to the presentation of the amendment, if that be required. With that understanding I present a modification of the amendment that is found printed at page 1572 of the CONGRESSIONAL RECORD of the session dated January 11, 1933, and I ask that it be printed, and to-morrow, if opportunity presents, I will make the motion for the suspension of the rules if it be essential, and then proceed with the amendment, if we can do it, upon the bill.

Mr. WALSH of Massachusetts. Mr. President, for the sake of the RECORD, may I inquire whether the amended bill the Senator is now presenting contains the amendments which I offered for certain interests and certain producers?

Mr. JOHNSON. Yes; two of them.

Mr. BLAINE. Mr. President, does the Senator's proposed amendment textually follow House bill 10743, reported by the Committee on Commerce?

Mr. JOHNSON. Yes. There are, however, a few brief amendments, which have been presented in conjunction with the Senator from Massachusetts, the Senator from Connecticut, and various others.

Mr. JOHNSON's amendment, intended to be proposed by him to House bill 13520, the Treasury and Post Office Departments appropriation bill, was ordered to lie on the table and to be printed, as follows:

On page 87, after line 15, insert:

"TITLE V

"That when used in this title—

"(a) The term 'United States,' when used in a geographical sense, includes the United States and any place subject to the jurisdiction thereof;

"(b) The terms 'public use,' 'public building,' and 'public work' shall mean use by, public building of, and public work of, the United States, the District of Columbia, Hawaii, Alaska, Puerto Rico, the Philippine Islands, American Samoa, the Canal Zone, and the Virgin Islands.

"SEC. 2. Notwithstanding any other provision of law, and unless the head of the department or independent establishment concerned shall determine it to be inconsistent with the public interest, or the cost to be unreasonable, only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States, shall be acquired for public use. This section shall not apply with respect to articles, materials, or supplies for use outside the United States, or to be used for experimental or scientific purposes, or if articles, materials, or supplies of the class or kind to be used, or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in commercial quantities and of a satisfactory quality.

"SEC. 3. (a) Every contract for the construction, alteration, or repair of any public building or public work in the United States shall contain a provision that in the performance of the work the contractor, subcontractors, material men, or suppliers, shall use only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States, except as provided in section 2: *Provided, however,* That if the head of the department or independent establishment making the contract shall find that in respect to some particular articles, materials, or supplies it is impracticable to make such requirement or that it would unreasonably increase the cost, an exception shall be noted in the specifications as to that particular article, material, or supply, and a public record made of the findings which justified the exception.

"(b) If the head of a department, bureau, agency, or independent establishment which has made any contract containing the provision required by subsection (a) finds that in the performance of such contract there has been a failure to comply with such provisions, he shall make public his finding, including therein the name of the contractor obligated under such contract, and no other contract for the construction, alteration, or repair of any public building or public work in the United States or elsewhere shall be awarded to such contractor, subcontractors, material men, or suppliers with which such contractor is associated or affiliated, within a period of three years after such finding is made public.

"SEC. 4. This act shall take effect on the date of its enactment, but shall not apply to any contract entered into prior to such effective date."

Mr. BRATTON. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BRATTON. Has disposition been made of all committee amendments?

The VICE PRESIDENT. All except the economy amendment, and that is to go over until all individual amendments have been disposed of. All the committee amendments have been disposed of with that exception.

Mr. McKELLAR obtained the floor.

Mr. BYRNES. Mr. President, will the Senator from Tennessee permit me to offer an amendment, as to which I know there will be no controversy, simply to perfect language?

Mr. McKELLAR. I yield.

The VICE PRESIDENT. The Senator from Tennessee yields to the Senator from South Carolina so that he can present an amendment, which will be read.

The LEGISLATIVE CLERK. On page 65, line 15, after the word "the," the Senator from South Carolina moves to insert the words "President or of the," so as to read:

(b) For the maintenance, operation, and repair of any Government-owned motor-propelled passenger-carrying vehicle not used exclusively for official purposes; and "official purposes" shall not include the transportation of officers and employees between their domiciles and places of employment, except in cases of medical officers on out-patient medical services and except in cases of officers and employees engaged in field work the character of whose duties makes such transportation necessary and then only as to such latter cases when the same is approved by the head of the department or establishment concerned. The limitations of this subsection (b) shall not apply to any motor vehicles for official use of the President or of the heads of the executive departments.

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

Mr. BINGHAM. Just a moment.

Mr. BYRNES. Mr. President, the amendment would simply place the automobiles of the President in the same class with automobiles of the Members of the Cabinet, exempting them from the provisions limiting the amount to be spent for maintenance and operation of official cars.

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

The amendment was agreed to.

Mr. McKELLAR. Mr. President, I now offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The LEGISLATIVE CLERK. On page 58, line 2, after the numerals "$19,000,000," the Senator from Tennessee proposes to insert the following proviso:

Provided, That no part of the money herein appropriated shall be paid to any company for carrying air mail under a contract with the Government in an aggregate sum exceeding 50 per cent of the amount paid by the Government to it at the present time.

Mr. McKELLAR. Mr. President, on page 58 of the bill will be found an item for the inland transportation of mail by aircraft, amounting to $19,000,000. The effect of my amendment, if it is adopted, will be to reduce that amount to $9,500,000, or to cut it in two.

Mr. President, much has been said about violating contracts. This reduction can be made without the violation of any contract. The Postmaster General has complete au-

thority in all of the contracts to reduce the route, to reduce the service, to reduce the number of ships, or to make any other change he desires to make.

I turn to page 301 of the hearings on the air mail contracts and read as follows from one of the contracts:

7. It is hereby further stipulated and agreed that this contract may be terminated whenever, in the judgment of the Postmaster General, the interest of the Postal Service shall so require, upon serving notice upon the contractor at least 45 days prior to such termination, provided that in case of such discontinuance of service, as a full indemnity to the contractor, one month's extra pay, based on the average pay for the preceding 6-month period or the full period of service, if less than six months, shall be allowed.

In the testimony of Postmaster General Brown before our committee he said that these services could be reduced. Many of the contracts provide for night flying and also for day flying. On one of the routes as many as eight services across the continent are now provided. There would be no trouble about reducing under this amendment.

Mr. President, as to the advisability of it, a Senator told me to-day, in speaking of one of these domestic air mail contracts, that the contractor, or some member of the firm, stated that really the Government subsidy was so large in his particular case that it was embarrassing.

It seems to me that with conditions as they are, and with the conditions which confront this country, we ought not to give these enormous subsidies to the aircraft companies. They certainly might be cut in two. There is no reason why they can not be cut in two.

I am not going into the subject of carrying mail by air. I have always been very much in favor of air mail. I know the Senator from Utah [Mr. KING] will recall that in 1917 or 1918, not long after I came to the Senate, I introduced and had passed a bill providing for an air mail route from here to New York, and the next year one from New York to San Francisco. The Government ran those services and afterwards transferred them to private enterprises, and they are now in the hands of private enterprises.

I remember there was very much objection to the expenditure of $100,000 for a trial air mail route between here and New York. Afterwards there was great objection to the expenditure of a million dollars. But now we are asked to pay in subsidies to air mail companies $19,000,000, and that does not include the subsidies we are paying for lighting the air routes and arranging the routes. My recollection is that it is something like $15,000,000 additional.

We are doing too much for these companies, especially in these hard times. Our Government is so badly behind in its running expenses that it seems to me to be indefensible for the Congress to appropriate these vast sums for air mail companies.

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

Mr. McKELLAR. In just one moment. I want to call the attention of the Senate to just one illustration of what we are doing. There are four big lines, but the Ludington Line is not one of the four. The Ludington Line, as Senators know, runs a service from Washington to New York. That line has never been given a subsidy. Just the other day it established a new line from Nashville, Tenn., to Knoxville, and to Bristol, to Lynchburg, and to Washington, and they are getting along without subsidies. They are doing the business without Government subsidy. If a line like the Ludington Line can get along in this day of depression without a Government subsidy, it seems to me that subsidies ought to be done away with. We should not contribute, out of an empty Treasury, these vast sums of money, when many of our own people are starving, and many millions of them, some eleven million, I believe, are without employment at all. I offer this amendment for the purpose of asking the Senate at least to cut down the subsidy 50 per cent.

Now I yield to the Senator from Michigan.

Mr. VANDENBERG. I should like to ask the Senator two or three questions.

Mr. McKELLAR. I will be delighted. If I can, I shall answer them.

Mr. VANDENBERG. The first question relates to whether we have an unqualified right to change the contract.

Mr. McKELLAR. Will the Senator yield to me just a moment?

Mr. VANDENBERG. I heard what the Senator read. I simply want to ask the Senator if there is any controversy over the question whether we have it within our power to change these contracts. Is that controverted?

Mr. McKELLAR. So far as I am able to ascertain, it is not controverted in the slightest. We took the testimony of the Postmaster General on this subject, which is to be found on pages 35 and following of the Senate hearings on this very bill. He did not controvert it. He said that it could be done. They have ample authority in the contract for cutting down the services, so to speak. They have ample authority in the contract for cutting down the service, so as to make it accord with the 50 per cent reduction, and it is so admitted. I am quite sure, from reading the contract, that there is not the slightest question about the right to reduce the appropriation as provided for in the amendment.

Mr. VANDENBERG. Very well; that settles that question. I might say to my friend from Maryland that it is a question which differentiates this problem and the one upon which we were voting earlier in the day.

Let me ask another question: Would it be more practical simply to reduce the total and permit the Postmaster General to allocate the reduced total in whatever aspect he considers to be the best for the service?

Mr. McKELLAR. I am very happy that the Senator asked that question. My purpose is, if the amendment is adopted, then to offer a further amendment striking out $19,000,000 and inserting $9,500,000 in accordance therewith.

Mr. VANDENBERG. Then, another question: Would it be practical in any degree to increase air mail postage rates to a point where the service would be self-sustaining?

Mr. McKELLAR. I can not answer that question. I am inclined to think that those who desire air mail service should pay for it. But whether or not it would be feasible I do not know. In other words, the Senator knows that in all transportation the cost of the transportation can be fixed higher than the traffic will bear. We would not want to do that, because we do not want to exclude air mail.

Mr. VANDENBERG. If it were practical?

Mr. McKELLAR. If it were practical, it ought to be done, by all means, or substantially done, at all events.

Mr. VANDENBERG. If it could be done, there certainly would be no objection to the maintenance of air mail service to any extent?

Mr. McKELLAR. Indeed, not only is there no objection to it, but I think every thinking man would be delighted to have it. But it ought to stand on its own bottom, certainly to the very largest extent possible.

Mr. VANDENBERG. Then, would the Senator have any objection to adding a further clause to his amendment which would permit the contracts to continue so long as they are self-liquidating?

Mr. McKELLAR. I think that would be legislation, and I am afraid it would make the amendment out of order. I should not like to have it tacked on this amendment, but later I shall be glad to confer with the Senator about it.

Mr. VANDENBERG. That would be a fair proposition, would it not?

Mr. McKELLAR. Offhand, it would appear so.

Mr. TYDINGS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Tennessee yield to the Senator from Maryland?

Mr. McKELLAR. Certainly.

Mr. TYDINGS. The amount of the appropriation is $1,900,000. May I ask the Senator from Tennessee what is the amount of money required to meet the contracts now made by the Government?

Mr. McKELLAR. As explained by Postmaster General Brown and as the contracts themselves explain, the service could be reduced on each one of the routes.

Mr. TYDINGS. How much?

Mr. McKELLAR. Whatever the Congress would desire to fix. It is a matter under the contract entirely in the discretion of the Congress as to how much shall be paid.

Mr. TYDINGS. Suppose we wipe out the whole $19,000,000, would it be a violation of the Government contracts?

Mr. McKELLAR. I do not think so.

Mr. TYDINGS. Is there any question about it?

Mr. McKELLAR. The Senator is a lawyer, just as I am, and I will let him read the contract. This is the provision in the contract. I read from page 301 of the air mail contracts:

> It is hereby further stipulated and agreed that this contract may be terminated whenever in the judgment of the Postmaster General the interests of the Postal Service shall so require, upon serving notice upon the contractor at least 45 days prior to such termination: *Provided*, That in the case of such discontinuance of service, as a full indemnity to the contractor, one month's extra pay based on the average for a six months' period or the full period of service if less than six months, shall be allowed.

Mr. TYDINGS. Under that contract I think anyone would say the Government had the right on 45 days' notice to wipe out the entire contract. I think the Senator has cleared that up. The first part of his amendment reads:

> That no part of the money herein appropriated shall be paid to any company for carrying air mail under a contract with the Government that has not been declared valid by a court of competent jurisdiction.

Mr. McKELLAR. Those last words have been stricken out of the amendment as prepared and sent to the desk.

Mr. TYDINGS. What words have been stricken out?

Mr. McKELLAR. It now reads this way:

> No part of the money herein appropriated shall be paid to any company for carrying air mail under a contract with the Government in an aggregate sum exceeding 50 per cent of the amount paid by the Government at the present time.

Mr. TYDINGS. In other words, the Senator is going to cut the subsidy in half?

Mr. McKELLAR. Yes.

Mr. TYDINGS. But the Senator has eliminated that portion of the amendment which would compel the airplane company to go into court and have its contract declared valid before it could get any of the money?

Mr. McKELLAR. That is true.

Mr. TYDINGS. What the Senator really does is to strike out $1,900,000 and insert in lieu thereof, in effect, $9,500,000?

Mr. McKELLAR. Yes; if the amendment is agreed to, that is what will be done.

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

The PRESIDENT pro tempore. Does the Senator from Tennessee yield to the Senator from New York?

Mr. McKELLAR. I yield.

Mr. COPELAND. I am not as well informed as I might be regarding air mail contracts. I know more about the ocean mail contracts. I take it from what the Senator said that in these air mail contracts there are liberal provisions for cancellation. Is that true?

Mr. McKELLAR. Not only liberal, but it gives express authority to the Postmaster General to do it. In other portions of the contract it is also provided that he may reduce the number of services on the lines or routes. For instance, as Mr. Brown stated, he could do away with night flying entirely or day flying entirely. There is this difference between night and day flying. In the daytime the planes usually carry passengers, but that is not true of night flying to the extent that it is of flying in the daytime. People fly more in the daytime than they do at night.

Mr. COPELAND. I am really astonished to find that the contracts are written on a different basis than those relating to ocean mail.

Mr. McKELLAR. There is a difference, as the Senator well knows from the testimony. The air mail contracts and the ocean mail contracts are very different.

Mr. COPELAND. Of course, we could not do with ocean mail contracts what the Senator mentions, but I am anxious to have his views about air mail contracts.

Mr. McKELLAR. If the Senator will look at page 301, at the top of the page, under paragraph 7 of the air mail contracts, he will find it.

Mr. TYDINGS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Tennessee yield further to the Senator from Maryland?

Mr. McKELLAR. Certainly.

Mr. TYDINGS. As I understand, the mail rate for airplane mail is fixed by law.

Mr. McKELLAR. No; it is fixed by the Postmaster General.

Mr. TYDINGS. In that event would it not be well to give the Postmaster General, along the lines of the proposition advanced by the Senator from Michigan [Mr. VANDENBERG], some authority to raise or lower the rates, as the case may be, with the idea of increasing the revenue? If the service is self-sustaining, we would not want to cut it down; but what we are trying to do is not to have money taken out of the Public Treasury for this particular service. If the Postmaster General could raise the rate a cent or two per letter and after experimenting a month or two increase the revenue, I would be glad to increase the appropriation to the extent of the increased revenue.

Mr. McKELLAR. As I said to the Senator from Michigan when he first presented the suggestion a few moments ago, I think it is an exceedingly wise suggestion, and the only reason why I am not willing to accept it on this amendment is that I am afraid it would be legislation and not in order.

Mr. VANDENBERG. Can the Senator tell me the total postal receipts from air mail last year?

Mr. McKELLAR. I have a very general recollection about it. It was about $6,000,000.

Mr. VANDENBERG. In other words, it is about one-third of the cost?

Mr. McKELLAR. Yes; just about that. I am not positive as to the figures.

Mr. ODDIE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Tennessee yield to the Senator from Nevada?

Mr. McKELLAR. I have finished what I wanted to say if anyone else wishes to take the floor.

Mr. ODDIE obtained the floor.

Mr. COPELAND. Mr. President, will the Senator yield to me for a moment to ask the Senator from Tennessee a question?

Mr. ODDIE. I yield for that purpose.

Mr. COPELAND. I want to ask the Senator from Tennessee if there is any dispute as to the right of the Postmaster General to change the contract?

Mr. McKELLAR. I think not. Does the Senator mean to modify or annul it?

Mr. COPELAND. To modify it.

Mr. McKELLAR. I am certain there is no question about it.

Mr. COPELAND. I should like to have it clearly understood on the floor of the Senate that the contention is made by the Senator from Tennessee that under the air mail contracts the Postmaster General has the right to make certain modifications. I am not advised about it. I know that is not the case as regards ocean mail contracts.

Mr. McKELLAR. It is a very different kind of contract that is made with the ship companies.

Mr. COPELAND. I am anxious that those here who are interested in the air mail may be fully advised as to the situation. I myself have had a great interest in the subject because I thought it had to do with the development of aviation and I felt kindly disposed toward it; but I am in no position to defend the proposal of whether the contract shall or shall not be modified. I think the Senator from Tennessee has raised a very important point.

Mr. McKELLAR. The Senator has the contract before him. That condition prevails in the contract.

Mr. VANDENBERG. Mr. President, will the Senator from Nevada yield?

Mr. ODDIE. Certainly.

Mr. VANDENBERG. I would like to pursue the suggestion which the Senator from Maryland [Mr. TYDINGS] and I previously brought to the attention of the Senator from Tennessee. Would it be feasible and has an appropriation

ever been made in such form as to make the appropriation read something like this:

Nine million five hundred thousand dollars, and any sum in excess thereof which may be produced by revenues of the air mail.

Mr. McKELLAR. I doubt if that would be in order on this bill, and I hope the Senator will not undertake to offer it that way on the pending bill.

Mr. VANDENBERG. The thing I am trying to do, as the Senator will observe, is to permit the service to make itself self-sustaining, if it wants to expand itself on a self-sustaining basis.

Mr. McKELLAR. But remember that even if we cut it in half we are giving it probably one-third more than the revenues now produced.

Mr. VANDENBERG. I understand, and I am not quarreling with the Senator's purpose in that aspect. I am asking if we could not find a way to make it sufficiently elastic to meet a subsequent situation in which it might be made self-sustaining.

Mr. McKELLAR. I doubt if that would be good legislation under any circumstances. I understand the point the Senator makes, and I would like to pass some measure that would reach the conclusion the Senator suggests. However, I hope he will not offer it as an amendment to this particular amendment.

Mr. GLASS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from Virginia?

Mr. ODDIE. I yield.

Mr. GLASS. I find myself in agreement with the suggestion just made by the Senator from Michigan [Mr. VANDENBERG]. No one would object to the air mail if people who want air mail are willing to pay for it. But the last suggestion made would seem to me to involve a subsidy of $9,000,000 to begin with.

Mr. McKELLAR. Twice the amount that the air mail produces.

Mr. GLASS. Yes.

Mr. McKELLAR. Which would be, I think, too much in any event.

Mr. GLASS. I think it is a complete fad, and I have said so in the committee over and over again. It is nothing but a fad. It is not a necessity. We have the best railway mail service in the world, and if anybody finds that the best railway mail service in the world is inadequate for his particular purposes and fancy, he can resort to the day letter or the night letter of the telegraph companies, without any taxation on the people of the country, and, if he finds that that is not adequate for his purposes, he has the long-distance telephone service available to him. It is nothing but a fad, and, in my judgment, it is a wicked expenditure of the taxpayers' money in these times of dreadful necessity.

Mr. McKELLAR. Mr. President, may I say to the Senator from Virginia, in order to show what the air mail is doing to the railroads' mail business, that in 1931 we paid the railroads $111,634,000 for carrying the mails; in 1932 that amount was reduced to $103,000,000, and the bill now pending provides for the next fiscal year an appropriation of only $97,000,000. It will thus be seen that the air mail service is very much in competition with the railroads, and, of course, it costs the Government a great deal more, and I doubt if the public is benefited to any very great extent. As the Senator knows, he and I have taken the same position about it in the Committee on Appropriations for a long time, and I agree with everything he has said about the subject.

Mr. GLASS. In other words, the Government is pursuing practices that are undermining the railroads of the country and then we are appropriating hundreds of millions of dollars to save the railroads.

Mr. McKELLAR. That is right.

Mr. LONG. Mr. President——

The PRESIDENT pro tempore. The Senator from Nevada has the floor. Does he yield to the Senator from Louisiana?

Mr. ODDIE. I will yield in just a moment. I wish to give some figures which I think will be helpful. In the last two and a half years the Post Office Department has made four reductions in the rates for carrying the mail. For instance, first from $1.26 a mile to 85 cents a mile, then to 72 cents, then to 62 cents, and in November, 1932, the rate was further reduced to 45 cents a mile.

To further reduce the appropriation which the House has provided in this bill would seriously cripple the air mail service. This question has been fought on the floor of the Senate for some time past, and it has been demonstrated that the American people desire the service to be continued and improved. It has been increased to a large extent, and the Department of Commerce has done wonderful work in providing ground facilities, making flying safe, and night flying has been added. The American people are receiving a great service, which they do not want to lose.

I have many figures here which I would like to present, but I will not do so at this time. I will, however, ask to have placed in the RECORD a statement on the aircraft industry in general by the Aeronautical Chamber of Commerce of America contained in the Senate committee hearings on the Treasury and Post Office appropriation bill from page 82 to page 92, not including the illustrations. This statement gives a very good résumé of the aircraft industry generally.

The PRESIDENT pro tempore. Without objection, the statement will be printed in the RECORD.

The statement referred to is as follows:

AERONAUTICAL CHAMBER OF COMMERCE OF AMERICA (INC.),
New York City, December 9, 1932.

Hon. TASKER L. ODDIE,
United States Senate, Washington, D. C.

DEAR SENATOR: I have the honor to transmit to you herewith a memorandum on "The aircraft industry and appropriations for the fiscal year 1934." I am sending this memorandum to you in the hope that the facts stated therein may be of use to you in consideration of such aviation matters as may come before Congress.

If there is any additional information which you would like to have, please consider our organization at your service.

Yours very truly,

CHARLES L. LAWRENCE, *President.*

[Memorandum]

THE AIRCRAFT INDUSTRY AND APPROPRIATIONS FOR THE FISCAL YEAR 1934

THE FEDERAL GOVERNMENT AND THE NATIONAL AVIATION PROGRAM

(A survey of the scope, significance, and present and future mission of the national aviation structure, with particular reference to its function in the present economic situation)

NOTE.—All figures for the calendar year 1932 are of necessity estimates, based on careful study of data from what we believe to be reliable sources.

INTRODUCTION

As the time arrives for consideration of the 1933–34 National Budget a great deal of thought is being given to what amounts, in various categories, should most fittingly be allotted by the Nation through Congress to the country's aviation structure. The aspects of the Budget affecting aviation naturally are of vital concern to the aviation industry, which has developed itself and its resources in tune with the requirements of commerce and of an effective but economical national defense program.

In expressing its views of the conditions affecting the allotments for aeronautical purposes, the aviation industry recognizes fully the economic situation facing Government and business. Consideration of the economic exigencies serve only to strengthen the industry's confidence that the aeronautical establishment never was more vital to national welfare than at the present time, that its peculiar attributes are especially valuable in seeking business revival and expansion.

* * * * * * *

The aviation industry frankly hopes that the cooperation of the Government will be continued along the lines indicated:

1. Provision of air-mail compensation sufficient to assure operation of the present services, which include the highly organized passenger and express system, at their highest possible scope and efficiency, and to make necessary adjustments to increase their effectiveness where most needed. This involves the full administration of the Watres bill, approved by Congress for the development of an adequate national mail and passenger system in the service of business.

2. Assurance of the continuation of the vital services to all phases of aviation—commercial and military—as rendered by the Department of Commerce in accordance with policies initiated by Congress through the air commerce act of 1926.

3. Assurance of logical and economical procurement programs for the Army and Navy in line with the time-honored policies of

national defense, and similar to the recent 5-year procurement programs.

* * * * * * *

We feel that there are only four legitimate reasons in favor of any appropriation from the next Congress. An appropriation must—

1. Help sustain or increase employment.
2. Contribute to the recovery of general business.
3. Contribute to the economic structure of the next decade; anticipate the future economic needs of the country.
4. Assure an element essential to national defense.

* * * * * * *

How closely do allotments for aeronautical purposes meet the requirements outlined? How are aviation's requests for continued Government cooperation justified?

I. Aviation allotments and employment

We believe that the general employment situation will be influenced substantially by the provisions for the national aviation program made by the next Congress. Appropriations for the year ending June, 1932, for (1) military procurement, (2) the air mail, (3) Federal airways and allied administration totaled $79,158,531.

Outside the Government services—which include the employees of the Aeronautics Branch of the Department of Commerce, employees of the Post Office Department concerned with air mail, and the military aviation branches—there are approximately 30,000 persons making up what is designated as the aviation industry. About 6,500 are engaged in air transportation, about 9,200 in commercial and military aircraft production, about 2,300 in commercial and military aircraft engine production, and about 12,000 in miscellaneous flying services, airport operations, servicing stations, and the like. The first three categories are notably affected by the amount of Government participation in aviation. The latter category is scarcely less so. And, as will be shown, the influence of the Federal aviation program does not stop with the aviation industry itself. It reaches out into many fields.

Though numerically these groups may not compare impressively with larger industries, their importance soars in the light of their highly specialized and expert nature. The average person engaged in aviation must be specially trained, must acquire expensive experience, and must be competent to an unusual degree. Few other industries depend so much upon the capacity of the average individual.

This is due largely to the fact that the aeronautical industry still is, for the most part, in an engineering stage. The history of the automotive industries and others is being repeated in aviation. Thus, a vast amount of experimental and engineering work requiring highly trained specialists must precede anything approximating quantity production or large-scale operation with the benefit of low labor costs. Meeting high labor costs is one of aviation's problems to-day.

INFLUENCE FAR-REACHING

The extent to which the Government may influence the general employment problem is indicated by the distribution of the 1932 appropriations. Of the $41,796,231 made available for military procurement, for instance, almost half was devoted directly to labor. This was, of course, the largest single item. The same proportion applies also to the disposition of the $27,000,000 for foreign and domestic air mail. These two appropriations affect directly about 18,000 persons.

Indirectly many more are affected. The manufacturing and airline organizations spend about one-fourth of the appropriations outside their fields. The manufacturers, for instance, acquire a great deal of fabricated and raw materials from a wide variety of sources. Much of the factory's work consists of assembling parts fabricated elsewhere, another evidence of the engineering characteristic of aircraft manufacturing. The acquisition of fabricated and raw materials causes a much wider spread of Government money than appears on the surface. The same is true of the money applied to air mail. About one-fourth finds its way to the manufacturing departments of the industry in payment for new aircraft and engines, thus stimulating those branches. The balance finds its way into the gasoline and oil industries, telephone and telegraph services, and miscellaneous allied activities. Infiltration of the appropriations through many ramifications is obvious.

AVIATION PERSONNEL A NATIONAL ASSET

The basic elements of aeronautical manufacturing and air transportation are capital, mechanical equipment and engineering, and trained operating personnel. Experienced and skilled personnel are the most important and the most difficult to replace. The present staffs throughout the country represent years of intimate association with the development of commercial and military aviation. Many personnel adjustments have been made already on account of economic pressure, but many others have been made from time to time by the industry itself in the interest of greater service to commerce and to national defense. We believe it to be to the best interests of the Nation to guard against further unfavorable personnel adjustments. Conservation of personnel in aviation is conservation of a definite national asset.

II. Air transportation essential to business recovery

We believe that air transportation, which has come to be the capstone of the civil aviation industry, is indispensable to the recovery of business and to business expansion in the next decade. It is recognized as the most recent refinement in transportation. It has taken its place in the series of transportation improvements, which have included the clipper ship, the steamship, the railroad, electric car, and the bus. Not an experiment or a luxury, it already is an integral part of our economic system and any qualification of its effectiveness is as unthinkable as turning back a decade in other transportation and communication services.

Because air transportation provides speed and mobility supplied by no other medium, its development in the economic structure becomes a matter of national concern. The stringencies of the economic period merely make the investment more potent.

AIR TRANSPORTATION SUPPLEMENTS OTHER TRANSPORTATION MEDIA

Enough emphasis can not be placed, we believe, on the fact that air transportation is a supplement to other transportation media. It replaces none of them. It supplies a service which no others can supply and therefore is not a rival to any existing form of transportation. Its relations to others is similar to that between the telephone and the telegraph. The former has supplemented the latter and, as is usually the case, has stimulated its business in certain directions. Air transportation becomes another element in the transportation structure and our economic system to-day would be unpardonably backward without it. The harmonious functioning of all methods in a complete transportation service is needed to cope best with business conditions, present and future.

AIR MAIL ESSENTIAL TO AIR TRANSPORT SYSTEM

The Government participates in this new transportation function through appropriations for the air mail and for the airways system. The air mail service is and has been the heart of air transportation. Without it the air transport system could not be anywhere near as well developed as it is to-day and, consequently, any retractions from the present contracts would be reflected seriously throughout the entire aeronautical industry and by general business.

AIRWAYS ALSO ESSENTIAL TO AIR TRANSPORT

Fundamental to the maintenance of a satisfactory standard in air transport, in business and private flying, and in national defense operations is the Federal airways system, developed on the necessary interstate basis by the Department of Commerce. This national project was provided for by Congress in the air commerce act of 1926, and the reasons for it are just as sound to-day as then. The air transport system would have to suspend operations were the Federal aids to air navigation eliminated. Even a partial curtailment would threaten its effectiveness and, far more important, seriously jeopardize the safety of its operation.

In other words, commerce needs the service of air transportation and to make this possible the Federal airways, obviously, must be maintained at their fullest capacity. Failure to do so, we are convinced, would be the falsest kind of economy.

AIRWAYS A FEDERAL RESPONSIBILITY

The airways system is primarily a Federal responsibility because of the fact that State boundaries must give way to a national system if the full effectiveness of air transportation is to be achieved. The airways are the modern counterpart of the lighthouse service and other aids to shipping, traditional functions of the Government.

They constitute as real avenues of commerce up and down and across the country as the highways and the railroads. The radio communications and radio range beacons, the weather service, the beacon lights, the intermediate landing fields, and other component parts form the new channel of commerce.

SPEED, THE ALLY OF BUSINESS

The value of a developed transportation medium varies directly with the speed with which it is able to operate satisfactorily. Speed has been the main characteristic of modern business, and it was but logical that air transportation would arrive in answer to the constant demand for more and more speed. It is significant, too, that faster aircraft and more efficient operating methods have aided in increasing the speed of air transportation as use of the service grew.

Trade follows speed. Improved transportation media have played fundamental rôles in each broad period of economic development. Thus, the clipper ships, because of their ability to get about the globe faster than their rivals, enabled this country to achieve a leading position in foreign commerce early in the nineteenth century. Steamships later arrived on the scene with their superior speed, and the constant refinement in their performance has been particularly noticeable in recent years in the commissioning of record-breaking liners.

The pony express will be identified forever with the development of the West. Then came the faster railroads with which the opening up of the West was immeasurably quickened. Communication by mail was supplemented by the telegraph and that in turn was supplemented by the telephone and radio. Supplementing all other forms of transportation and communication we have to-day the air transport service.

The virtue of speed is seen in a number of basic business operations. Financial houses are among the greatest users of the air mail because it cuts down the interest charges and other losses on commercial paper by lessening time taken in transit. Quick turnover in capital is of obvious benefit to the credit market. Fast transportation also aids in quick turnover in merchandise stocks. Smaller stocks can be carried safely with the assurance that needed additions can be secured in a hurry and that fast delivery can be made to the consumer. Speed also has an important bearing in taking advantage of prices and in the intense competition imposed by changing styles. Furthermore, the economy of time means economy of money, or it can mean greater results for the outlay

invested. For instance, fast communication and transportation permit considerably extended executive control over a business territory.

The amount of additional speed which air transportation actually provides is indicated by the fact that mail, passengers, and express may be transferred from New York to San Francisco by air to-day in 27 hours eastbound, 31 hours westbound, as compared to 3 days and 12 hours by railroad, and between New York and Los Angeles in less than 23 hours eastbound, 26 hours westbound, as compared to 3 days and 11 hours by rail. Corresponding savings are made by the air lines linking Montreal and Miami, Winnipeg and New Orleans, Victoria and San Diego, Atlanta and Los Angeles. And these times are being reduced within a few months by the introduction of faster equipment.

RECORD JUSTIFIES FEDERAL SUPPORT

Though aviation, particularly air transport, is a comparative youngster in our national organization, it is able to present a formidable record in justification of the cooperation it has received from the Government and in justification of the place in the economic scale claimed for it. Furthermore, it is able to point to this record with the additional satisfaction that its services have been supplied with decreasing unit costs to the Government and to the public. This is a particularly important point in these days of economic stress.

The cost to the Post Office Department of having the air mail carried by the domestic contractors has decreased from an average of $1.09 per mile in 1929 to 80 cents per mile in 1931 and 57 cents per mile this year. The miles scheduled for air mail planes per day stood at 101,089 on September 1. This means that the air transport companies are attempting to perform their original assignments without the benefit of the compensation originally arranged.

One of the most remarkable air transport developments anywhere in the world is the foreign air mail system which has been built up under the sponsorship of the Post Office Department. This system calls for 11,000 miles of flying daily with mail, passengers, and express into Canada and south throughout Latin America. The nominal advantages of transportation by air are vastly increased in sparsely settled areas which are for the most part poorly served by ground transportation media. These services have placed an extremely effective tool in the hands of our interests engaged in foreign trade.

During the first eight months of 1932 the United States air mail planes in domestic and foreign operations flew 32,459,482 miles, carried 5,369,575 pounds of mail, 903,322 pounds of express, and 336,409 passengers.

Passenger fares have been steadily reduced. In 1929 the fares averaged about 15 cents per mile, considerably above the average rate charged by other ground transportation media. Quite naturally, time and experience were required to determine the proper rate. Scaling downward began and with the adjustments came increased patronage and expanded operations. The rate now averages throughout the country slightly more than 6½ cents per mile.

Both air mail and passengers have benefited by the constant stepping up of speed on the air lines. Though cooperation has existed between operators and the Government and between the operators themselves, there still remains a healthy competition typical of American business methods. The rates are more or less standardized; the great factor of speed with safety is the object of most intense refinement.

Furthermore, the routes have been pushed out in many directions to tap every area, so that there are more than 25,000 miles of mail airways, providing air mail service in all sections of the country. Mail planes actually land at 164 points; close coordination of operations of ground and air transport media provide the necessary connections with the air mail so that a letter dispatched in a community off the air lines will be transferred in a few hours to an air mail stop and be flown on to its destination.

Improvements have been made also in the number of times per day mail is flown over certain important routes, thus again reducing transit time by frequent pick-ups and increasing the value of the air mail service and enhancing its economic contribution.

Appropriations for the Federal airways system has enriched the country by the installation of 19,000 miles of airways lights for night navigation. More than 400 intermediate fields have been built. More than 90 radio range and radio marker beacons have been provided to guide pilots along the true airways when visual references are lacking, and 59 radio communication stations are in operation to broadcast the all-important weather information and other important data. The communication system is augmented by a far-flung system of teletypewriter machines which serve 13,000 miles of the airways. Two hundred and thirty-four meteorological stations have been established on the airways for the specific purpose of collecting and interpreting at frequent intervals the type of data useful for aeronautical purposes. There are more than 500 other weather stations providing aerological data.

CHART SHOWS GAIN

Exhibit A shows the growth of some of the main factors in air transportation. The appropriations for air mail have grown, but they have not increased as much, relatively, as have the services which they directly and indirectly account for. Air mail appropriations for 1932 were six times the amount of 1927, and air mail poundage is six times the 1927 figures. Passenger traffic has multiplied forty-one times in the same period, express ninety-six times, and miles flown annually in scheduled air transport almost ten times. In other words, for every dollar spent by Congress in furnishing air transportation many times as much return is being realized to-day as compared with 1927.

High standards in air transportation have been established under Federal supervision. Standards have been fixed also in the construction and operation of civil aircraft. Miscellaneous aviation operations, both commercial and private but outside the scheduled transport system, have ripened into effective servants of the business man under Federal supervision and leadership. The caliber of the work and personnel made possible through appropriations has a direct bearing upon the safety, business stability, and general progress in civil aviation affairs.

By-products of the Federal aviation program have reacted notably to the benefit of other activities. For instance, the exceedingly close relation between satisfactory air transport operations and the state of the weather has been responsible for the development of meteorology to a degree inspired by no other activity. Again, radio direction instruments have been perfected for operating in what used to be impossible weather.

COST TO GOVERNMENT LOW

The investment made in the Federal airways system is little enough. The actual cost of airways construction is approximately $500 per mile. Operation and maintenance averages $200 per mile per year. These facilities are available, in all their capacity for flexibility and expansion, to all phases of civil and military aviation. These figures are impressively low in comparison with the known cost of $9,000 per mile for a first-class highway.

It is especially important to note that a substantial proportion of the appropriation for domestic air mail is offset by the revenue from stamps for air mail matter.

The economic return from this investment in the airways is tremendous. Their traffic capacity is unlimited and they can be adjusted with comparative ease to accommodate changing conditions. Furthermore, what air transportation alone is able to offer the public to-day is unrivaled service of speed and mobility (that is, freedom from the limitations imposed by fixed nature and traffic characteristics of tracks and highways) right now far exceeds the return which any older form of transportation was able to offer at a comparable period in its history. This high return should be even more striking in the next decade.

Consideration should again be given in this connection to the economic significance of air transport's function as a supplement of other forms of transportation. Air transportation rounds out the transportation system. The close relationship is indicated by interchange of passengers and coordination of schedules between air lines and bus and railroad services.

III. Aviation in the economic trend

The economic trend inevitably is in the direction of increased speed. The demand for speed accounts for the automobile, the express highways, the express trains, subways, crack liners, the telephone, the airplane, and the airship. While all forms of transportation have their place, the service now being performed by air transport clearly indicates that in the next decade of business and industry the airplane and airship will prove particularly adaptable to the tempo and spirit of the times.

We can not escape the fact that economy of time is economy of money. For this reason it has long been a precept that mail shall travel by the fastest means of transport, as governed by conditions and necessity. This may be all air, all rail, all boat, or all dog sled, or a combination of these forms. Is it not logical to expect that air mail must occupy an increasingly important place in business of the future, and that by the same token all other forms of air transportation will likewise grow in value?

What is being built to-day, necessary and effective as it is, is at the same time an invaluable investment for the coming years. The economic life of the country in the next decade or two will derive incalculable benefit from the equipment already serving us through progressive government and private enterprise. Air transportation is an instrument by which we aid contemporary economics and coincidentally prepare wisely and solidly for the business and industrial future.

IV. Aviation industry essential for national defense

A strong civil aviation structure is a national defense asset. Civil aeronautics occupies a particularly important position in any national defense consideration because of its unique ability to supply immediately for national defense purposes both a key transportation service and a key manufacturing organiaztion.

At the same time the permanent national defense organization continues to make essential contributions to the welfare of commercial aviation. The military services have been responsible for refinements and developments in equipment, operating, and manufacturing technique, and miscellaneous branches of aviation, which have formed the basis of a great deal of the success of commercial operations. In fact, there have been a number of periods when military aviation has provided the vital stimulation to sustained commercial progress.

No other transportation system could be adapted as quickly and effectively to the requirements of national defense as the air transport organization and the associated Federal airways system. The air lines' maintenance bases, distributed strategically throughout the country, alone constitute a military asset of extremely impressive proportions. (See Exhibit B.) These are supplemented by more than 90 repair stations approved by the Department of Commerce and operated by commercial concerns. The indispensable nature of the hundreds of commercial and municipal airports throughout the country, part of the civil aviation structure, was demonstrated strikingly in the Air Corps maneuvers of 1931.

Capacity and skill in aircraft production are matters for deep concern in both military and commercial aeronautics. Since all but one aircraft manufacturing plant in this country are commercial, the civil aviation industry must be in tune with the requirements of normal times, and must be prepared to bear the brunt of tremendous and sudden expansion to meet national defense needs. The basis for capacity and skill in military production lies in the military procurement programs. Again the program of the Government works two ways at once—while equipping the military forces with essentials it is providing the civil plants with desirable business and improving their ability to supply the commercial market.

For their own sake, as well, the services need to be assured of adequate procurement programs. They keep fresh blood, so to speak, flowing into the national defense structure in the form of up-to-date equipment. They assure constant progress in types, design, and operating technique. Such planning obviously is superior to the alternative of periodic spurts of heavy buying with inevitable penalties in cost to the Government. Continuation of the methods embodied in the recently completed 5-year program is highly to be desired.

In recent years the proportion of military to commercial aircraft construction has grown, as indicated by Exhibits C and D. This is not because military procurement has increased. It is due rather to the fact that military procurement has remained fairly constant while commercial production has felt the pressure of the times. The dependence of the commercial plants on military production at the present time is obvious. The protection of these plants is essential for the sake of both their availability for national defense purposes and their ability to serve the commercial markets.

The following charts (Exhibits C and D) indicate the degree to which the commercial manufacturing industry has had to depend upon military aircraft and engine production programs in recent years. It will be noted that commercial production has dropped off while military procurement has remained fairly constant, accounting for the greatly increased proportion of the military over commercial work. Note also the steady drop in airplane and engine plants and plant employees.

V. In summary

Thus the air transport and Federal airways system and the civil manufacturing and servicing facilities constitute an indispensable element in our economic organization. They are of vital importance for their commercial services alone. But they take on additional importance in the light of the fact that while serving the needs of commerce and without extra burden they fit impressively into our national defense needs; and still more importance must be ascribed to civil aviation when its inevitable rôle in the next decade is realized. Already the modern tool for speeding up and otherwise aiding our economic life, it is certain to serve forthcoming business and industrial life even more effectively.

Therefore, we believe the Federal Government fully justified in continuing its participation along the lines already established and proven productive of high returns in the fields of commerce and national defense.

Scheduled air transport operations of American air lines

	1926	1927	1928	1929
Planes	95	144	294	619
Passengers	5,782	12,594	52,934	165,263
Air mail	433,649	1,222,843	3,632,059	7,772,014
Express	6,467	12,495	35,376	197,538
Scheduled miles flown	2,025,824	3,922,304	10,472,024	20,242,891
Employees	527	840	1,740	4,430
Number of operators	19	24	32	27

	1930	1931	1932
Planes	637	720	655
Passengers	385,910	457,753	520,000
Air mail	8,513,675	9,351,195	7,266,000
Express	286,798	885,164	1,372,000
Scheduled miles flown	28,833,967	43,395,478	51,206,000
Employees	6,350	7,000	6,500
Number of operators	35	41	42

AIRPLANES PRODUCED

Year	Military		Unit value	Commercial		Unit value
	Units	Value		Units	Value	
1925	447	$5,174,024	$11,575	268	$1,499,634	$5,595
1926	532	6,154,708	11,569	604	2,716,319	4,497
1927	621	7,528,383	12,123	1,565	6,976,616	4,457
1928	1,219	19,066,379	15,641	3,542	17,194,298	4,854
1929	677	10,832,544	16,221	5,357	33,624,756	6,276
1930	747	10,723,720	14,355	1,937	10,746,042	5,547
1931	812	12,971,028	15,974	1,582	6,655,738	4,207
First 7 months, 1932	364	6,047,105	16,612	369	1,529,231	4,144
1932, estimate	575	9,797,000	--------	500	2,075,000	--------

ENGINES PRODUCED

Year	Military		Unit value	Commercial		Unit value
	Units	Value		Units	Value	
1925	(1)	(1)	(1)	(1)	(1)	(1)
1926	842	$4,080,571	$4,846	(1)	(1)	(1)
1927	1,397	6,550,533	4,689	(1)	(1)	(1)
1928	2,620	12,407,920	4,735	632	$979,600	$1,550
1929	1,861	8,600,530	4,621	5,517	17,895,300	3,243
1930	1,841	10,823,423	5,879	1,925	6,255,493	3,249
1931	1,800	10,417,718	5,788	1,955	4,148,131	2,121
First 7 months 1932	757	4,474,197	5,910	417	1,152,929	2,764
1932, estimate	1,082	6,400,000	--------	600	1,658,400	--------

COMMERCIAL AND MILITARY AIRPLANE PLANTS

Year	Number plants listed	Number actually doing business	Employees
1925	44	(1)	2,701
1926	62	(1)	(2)
1927	70	(1)	4,422
1928	78	(1)	(2)
1929	101	92	16,105
1930	100	67	12,000
1931	82	46	11,500
1932	55	31	9,200

COMMERCIAL AND MILITARY ENGINE PLANTS

1925	4	(1)	(2)
1926	5	(1)	(2)
1927	6	(1)	(2)
1928	17	(1)	(2)
1929	32	30	5,977
1930	34	28	3,500
1931	31	19	3,150
1932	20	11	2,300

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

Mr. ODDIE. I yield first to the Senator from Louisiana who asked me to yield a few moments ago.

Mr. LONG. What I want to find out is this: I understand that this amendment proposes to reduce the appropriation from $19,000,000 to $9,000,000, or about 50 per cent. Is $19,000,000 what the service cost last year?

Mr. ODDIE. It cost a little more than that last year. The appropriation provided in the pending bill is a reduction from last year's appropriation.

Mr. LONG. I should like to have the attention of the Senator from Tennessee, if I may. As I understand, the Senator does not intend to cut out the air mail service altogether, but only desires to reduce the amount appropriated for that service?

Mr. McKELLAR. I merely propose to reduce it one-half.

Mr. LONG. Does any department of the Government contend that such a reduction can be made without seriously impairing the air mail service?

Mr. McKELLAR. The Postmaster General does not desire the service to be reduced at all. Instead of that, he wanted the appropriation increased from $19,000,000 to $20,000,000, but he said that there was no doubt in the world about Congress having the right to reduce it if it saw fit.

Mr. ODDIE. But he also said that the reduction suggested by the Senator from Tennessee would ruin the air mail service.

Mr. McKELLAR. Oh, no.

Mr. ODDIE. The Senator will find that, in answer to a question by the Senator from New Hampshire [Mr. MOSES], the Postmaster General made that statement in so many words.

Mr. McKELLAR. A man may be beguiled into saying almost anything when the very lovable Senator from New Hampshire is seeking to beguile him.

Mr. LONG. What did the Postmaster General say?

Mr. McKELLAR. He gave as the reason why it should not be done that he was reducing the cost per mile and enlarging the service. The Postmaster General is a very enthusiastic advocate of subsidies to mail carriers, but at

the same time he admitted that there was no question about the right of the Congress to reduce it.

Mr. LONG. The point I am making is this: I voted to cut out——

The PRESIDENT pro tempore. The Chair will inquire if the Senator from Nevada has yielded the floor.

Mr. ODDIE. I yield the floor.

The VICE PRESIDENT. Then, the Chair would like to get the question of recognition determined. The Chair recognized the Senator from Connecticut [Mr. BINGHAM] when he thought the Senator from Nevada had yielded the floor on a prior occasion. The Senator from Nevada had not yielded the floor at that time. Therefore, recognition now goes to the Senator from Connecticut.

Mr. BINGHAM. Mr. President, the amendment offered by the Senator from Tennessee will wreck commercial aviation in America; there can be no question about that. Any one who has studied the facts and figures as to commercial aviation knows that if the sum now paid by the Government to the lines carrying the mails shall be cut down arbitrarily by 50 per cent, at least 90 per cent of them will go out of business; there can be no question about that.

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

Mr. BINGHAM. I did not interrupt the Senator when he was speaking, and I want to say just a few words about this subject. I happen to have spent a good many years studying it, and I feel very keenly about it.

We have gradually increased our air service to cover the United States in a very remarkable manner. Some people think we have gone too fast; but, as was pointed out by the Senator from Nevada [Mr. ODDIE] a few moments ago, the amount that we pay per mile for carrying the mail has been very greatly reduced, and as fast as the Postmaster General—and he has entire access to the books of the companies—is able to find out that they are getting, in his opinion, more than they ought to get for carrying the mail, he makes a new agreement with them, and the amount per mile is reduced. He then takes the money which he saves by not paying them so much per mile as they previously received to open up other lines. As a result, Mr. President, notwithstanding the depression, the number of passengers carried in the air and the number of miles flown during the past three years have steadily increased. If we want simply to knock this industry on the head, if we want to put the companies out of business, we will adopt this amendment on the mistaken idea that it is going to save us money.

I know the Senator from Virginia [Mr. GLASS] does not believe in the air mail. He thinks that is a foolish expenditure of money and that our citizens ought to be satisfied with the ordinary mail, and, if one is in a hurry, that he should use the telegraph service. He has an entire right to that opinion, of course, and he will vote to reduce the amount; but I submit, Mr. President, if we believe $19,000,000 is more than we think we can afford to spend at this time in promoting aviation in America, while we may reduce the amount down, do not let us reduce it to such an extent as to put out of business the companies that are now carrying the mail.

Mr. GLASS. Mr. President——

The PRESIDING OFFICER (Mr. FESS in the chair). Does the Senator from Connecticut yield to the Senator from Virginia?

Mr. BINGHAM. I yield.

Mr. GLASS. The Senator knows perfectly well that $19,000,000 is not all that we spend for promoting aviation.

Mr. BINGHAM. Oh, no.

Mr. GLASS. The amount is approximately $40,000,000.

Mr. BINGHAM. We spent a great many million dollars in keeping airways lighted, in keeping airways open, and in establishing and maintaining them, through the Department of Commerce, and we do it chiefly for the benefit of the mail service. We do not give the air mail companies contracts except where airways have been opened. We have encouraged the people of this country to spend large amounts of money on airports. Many of the larger cities of the country are building very extensive and first-class airports. I see the Senator from Louisiana on his feet. I know that in his State there is now being constructed one of the best airports in the world. If we blindly slash the amount of money paid to these companies, we will put them out of business and there will be nobody to use the airports. It is the most unintelligent way of doing business.

The present Postmaster General has, and after the 4th of March the new Postmaster General, who will belong to the party of the Senator from Tennessee, will have the right to reduce the contracts as far as can be done and still keep the lines going and it will naturally be to their interest to do so; but blindly to say that no company shall receive more than 50 per cent of what it is being paid at the present time is an absolutely wrong way of proceeding unless we want to destroy the air mail and commercial aviation.

Mr. LONG. Mr. President——

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from Louisiana?

Mr. BINGHAM. I yield.

Mr. LONG. Various localities and communities, regarding this aircraft travel as a growing business, have established airports and lights and facilities in the expectation of an increase in the air mail business. I have been led to believe that $40,000,000 was a drop in the bucket as compared to the amount we spend for the Navy. We spend for the Navy several hundred million dollars a year. It looks to me as if we are cutting off the least expensive and most desirable and probably the best service from the standpoint of national defense. I think $10,000,000 is too little to talk about for this service when we are spending hundreds of millions on the Navy.

Mr. BINGHAM. Mr. President, in the first place, to promote air commerce by the carriage of the mail and by the granting of subsidies such as are granted to-day by the very flexible contracts under which the Postmaster General operates does not mean giving large amounts of money to any one company. None of those companies is paying any dividends to-day. None of those companies is able to pay any income tax. They are running on a very narrow margin, barely able to get along. In the case of a few companies carrying mail from New York to San Francisco by way of Chicago the amount received for the mail carried pays the entire cost—a subsidy, if one chooses to call it so, but actually it is not a subsidy; it is an amount paid for services rendered.

Mr. President, it may not be generally known that, under these contracts, if there is only one service, the rate is so much per mile; if there are two services per day, the rate is cut down by perhaps 25 per cent of the original rate. The Senator from Tennessee spoke about one company having eight services. I do not happen to know of any company that has eight services, but if any company has three services or more, the rate is then cut down 50 per cent of the original contract.

Mr. President, these contracts are not of a kind to permit the companies to make money. As I have said, they are barely able to meet expenses to-day. Furthermore, by keeping these companies going we are furnishing a certain amount of experience for pilots, and that is a very valuable part of the national defense. We are, furthermore, giving the industry a certain amount of business, not a great deal for there are not a great many planes involved, but it does furnish something that keeps the industry going in addition to contracts, which are constantly being reduced, for the aviation service of the Army and of the Navy.

To reduce this amount in this arbitrary fashion, blindly, is simply to put these companies out of business. They are not obliged to carry the mail. They have not that kind of a contract. They can not tell the Postmaster General a year from now, "You must pay the same amount that you are paying to-day." Within the next three months, after the new Postmaster General comes in, he can get these companies together, and he can say to them, "I do not want to pay you more than half what I am paying now." If they show him that they can not possibly run on that, he can make the amount whatever he thinks is wise and

just to keep those companies going. If he will not give them enough to operate on, then they are not obliged to operate, and they will have to go out of business; and that is what will happen to more than three-quarters of the companies.

Mr. President, the Senator from Tennessee [Mr. McKELLAR] has spoken about the experience of the Ludington Line, running from Washington to New York. It happens that that line has been able to operate fairly well, without paying any dividends, without any contract for carrying the mail. There is a line running from New York to Washington which has a contract to carry the mail. The difference between the two companies is this: The line carrying the mail has to have two pilots per plane, and has to have radio on the plane. It has to have a kind of service that seems safer to the Postmaster General. The Ludington Line has operated extremely well, and has built up a very large clientele; and in operating between the cities of Washington and New York by way of Baltimore and Philadelphia it goes over a territory where there are many millions of people living. By operating about one plane for every train operated on the Pennsylvania Railroad they succeed in getting enough passengers to keep going; but except for the line from New York to Chicago and the lines from Chicago to the Pacific coast, there is probably no other place in the country where a line can hope to run merely on the business it can secure, without aid from the United States Government.

Mr. President, I hope most sincerely that everyone interested in aviation will realize that the Postmaster General can cut the rates by agreement as fast as he learns that they are too high, and that he is doing so, and that unless we want to put commercial aviation in America out of business this amendment ought to be defeated.

Mr. ODDIE. Mr. President, a few minutes ago I referred to a question asked the Postmaster General by the Senator from New Hampshire [Mr. MOSES]. I find it on page 134 of the hearings. He said to the Postmaster General:

> Before you leave, I should like to get into the record your opinion as to the effect upon the air mail service if the appropriation is cut as proposed by the amendment offered by the Senator from Tennessee.

The Postmaster General replied:

> It would ruin it.

Mr. NORRIS. Mr. President, I do not want to be put in the attitude that one might infer I was in if he takes the position of the Senator from Connecticut when he says, "If you are a friend of aviation, you ought to vote against the amendment of the Senator from Tennessee."

I am wondering all the time, when I listen to this debate, what has become of our economy program—what has become of the desire to try to make our Budget balance. I believe, Mr. President, that I am a friend of aviation. I know that I want to be a friend of aviation. I would not want to put anything in the way of the success of the aviation business.

I have voted, and I expect to vote, against a good many appropriations where I am voting against what would be my judgment under any ordinary circumstances. If we are going to follow out the plan of economizing, that every one of us in general wants to follow out, we must vote against many appropriations that we would like to see passed and utilized in the various activities of the Government. Unless we do this, we are absolutely going to fail in bringing about the economies that all of us undoubtedly desire, and that most of us have promised to the people of the United States. We must give up some of our favorite appropriations because of the terrible financial condition in which the Government now finds itself.

I repeat, unless we are willing to do that, we might just as well throw to the winds our ideas of economy and trying to balance the Budget without issuing bonds to do so.

Maybe that would be right. Maybe we ought not to cut down any of these appropriations where any reasonable excuse can be given for their existence; but that has not been our attitude. That has not been in accordance with the promises we have been making to the people. After all, nobody believes that aviation and the carrying of the mail through the air are necessary for the upkeep of the Government. After all, when we take the clothing off this appropriation, it is a subsidy.

I am not complaining against the man who believes in that kind of a subsidy under any ordinary circumstances. Under normal conditions I would be willing to go a reasonable distance, because I should like to develop and help the aviation business, but I do not want to do it on a theory that I do not believe to be true.

We do not need the flying machine in the carrying of mails. We have facilities that we are keeping up for the carrying of mails that under any reasonable conditions are sufficient to meet the needs of the people.

The man who writes a letter in New York, and wants it delivered in San Francisco or Chicago, has, without the flying machine, a very expeditious, reasonable, and—compared to aviation—economical method of having his message carried to its destination. After all, when we clear this subject of all its disguises, it is only an indirect method of subsidizing a business. Under ordinary conditions I should feel that to a limited extent we ought to subsidize it; but that time does not exist now, Mr. President. Now we have to cut out all unnecessary appropriations if we would meet the program of economy that everybody wants to see carried out, and this is one of them.

It seems to me, no matter how much we may like it, no matter how much we may be in favor of developing the airplane and the doing of all kinds of business through the instrumentality of the flying machine, that we have reached a time here now when we can not afford to use public money to carry it on. At least, that is the way I look at it; and unless we are going to economize all along the line, I for one, am not in favor of compromising part of the way. I want every activity of the Government to bear its share of the economy that we must put into force.

Here is a place where, as far as the Government is concerned, we can economize without any injury to anyone. Admitting for the sake of argument that it will injure the airplane business, that is true almost universally. Every time we economize anywhere we will either directly or indirectly, and usually both directly and indirectly, injure to some extent, some activity of some corporation or some individual. We can not economize without doing that. If we are not going to do that, let us throw overboard the idea of economy and not try to economize and see where we come out. At least we ought not to be professing that we are going to cut these appropriations to the bone when we are talking in glittering generalities, and then, when we come to real action, forget the promises that we have made and the desire that I think all of us have to try to cut down the appropriations.

Mr. LONG. Mr. President, probably my viewpoint is actuated by a little selfishness. Down in several of our cities we have tried to extend our airport facilities. We have spent millions and millions of dollars building airport facilities in New Orleans. We have spent a large amount of money building airport facilities in Baton Rouge. We have the third attack wing of the United States Army located in Shreveport, La. A large amount of money is being spent in building airports in other places. In our State we have expended all this money in the hope and in the belief that transportation by air was a coming, and not a going, proposition.

Now we are debating over $10,000,000. I can well see that all that the Senator from Nebraska says is very logical. We ought to economize wherever we can; but we are not economizing here, Mr. President. Forty millions of dollars is all that is charged to have been spent in air work for the Army and for the Navy and for the air contracts. Suppose we cut $10,000,000 of it off: We have cut it down to $30,000,000, and we have crippled the domestic air industry of America. If we ever promote and build up and improve our air service, it is going to be done by contributing to and by expanding it domestically.

I think that our chief agency of national defense is going to be the aircraft, Mr. President; and if we are to-day spending from three to four hundred million dollars a year on the Navy, and I do not know how many millions on the Army, and planning to spend several hundred millions more on the Navy—and we are going to have to spend some of that money—I think it is the weakest kind of a thing for us to do now, with all the commercial bureaus, and the cities and the towns and the boards and the States having spent millions and millions and hundreds of millions of dollars depending upon air mail service and air transportation and the improvement of this service, to be niggardly about the thing, and to take a chance on giving this kind of service a black eye at this particular time.

Mr. ODDIE. Mr. President——

Mr. LONG. I yield to the Senator from Nevada.

Mr. ODDIE. I should like to ask the Senator if he receives many air mail letters from his home State?

Mr. LONG. Plenty.

Mr. ODDIE. And is it not a fact that these letters that come by air mail facilitate the public business, in the Senator's opinion?

Mr. LONG. I want to say, Mr. President, that I know that probably the mail I receive and the mail I send is unimportant. My constituents and other friends might be better off if they did not write me at all or if I wrote them less; but I do say that I have the feeling that the air mail which I receive constitutes part of a very valuable service.

As an example, a charge was made here in a newspaper yesterday morning requiring voluminous documents and date in order to enable me to answer it here to-day; and I was able to telephone to New Orleans, and the letter was sent by air mail in the darkness, and I had it on the floor of the Senate this morning.

I want to economize as much as anybody does; but all the leading journals and periodicals that I read—and I do not read too many—tell us that if we ever defend ourselves in another war, it is going to be a war in the air. We know that in the World War we spent millions and hundreds of millions of dollars trying to build up an air service for this country, and that after having spent all of the hundreds of millions of dollars we were a third-rate proposition in the war when it came to the air. We never were able in the great World War to cope with the aircraft of our enemies.

We have in my home State—I say this because it probably will explain my selfishness in the matter—several large concerns, none of which have air mail contracts, some of which hope maybe some day they will get some, I guess; but we have any number of persons who have interested themselves in the air service.

I hope that we will not cripple this service for the little stake of $10,000,000. It does not mean that that $10,000,000 would be thrown away. The Democratic administration is coming in, and everybody knows the Democratic Party can be depended upon not to spend too much. If the Postmaster General, or the President of the United States, who appoints him, feels that these contracts ought to be reformed, he can reform them. He is not required to carry them out if he does not want to. This provision would not require him to spend any such sum of money as is stated. But certainly to say that every contract is to be cut down 50 per cent is unwise. What kind of business would that be? Either we have sat here in this Chamber and allowed things to go on which should not have gone on or we would be making a mistake to say that every contract that has been made should be cut 50 per cent. If these contracts have been within the bounds of reason, we know that they could not be cut down 50 per cent of the amount they have been carrying without injury to the service. The Postmaster General might find in one case that the contractor has been receiving three-fourths too much, perhaps in another case would find that the contract ought to be cut out altogether; I do not know about that. But for every one of the contracts to be cut down 50 cents on the dollar would mean that if they have been anywhere within the bounds of reason—and nobody is contending that they have not been—we could not continue our air service in this country to-day.

Mr. BINGHAM. Mr. President, does not the Senator know that the Postmaster General can cut down the rates on any line?

Mr. LONG. Yes.

Mr. BINGHAM. They do not have to have the same rates on every line.

Mr. LONG. The Postmaster General can regulate these rates just as he sees fit. He can make the rate for carrying the mail by airplane from Florida to Washington one thing, and the rate for carrying the mail by airplane from New York to Washington another. He can regulate that. But I say that for us to try to regulate that matter in a haphazard way, to say that every contract is to be just 50 per cent of what it has been, is not scientific.

Mr. TYDINGS. Mr. President, granting that what the Senator from Louisiana says is so, he must bear in mind that when the Army and Navy appropriations come before the Senate an effort will be made to reduce the appropriations for those services, which are the real defense factors of the country, in my humble judgment; and if we are going to appropriate money for national defense, we should not cut down the Army and the Navy. We would better cut down the civil service or cut it out than to cut down the Army and the Navy, assuming we are making this appropriation upon the grounds of national defense.

If the Senator will yield just a moment further——

Mr. LONG. I yield further.

Mr. TYDINGS. Undoubtedly every dollar we cut off the Army and the Navy, the airplane sections of the Army and the Navy must take their proportionate amount, and certainly, from the standpoint of defense, it would be better to cut out the civil fliers than to cut down the Army and Navy fliers, who have had training in combat work, in pursuit work, in locating ships at sea, in Army maneuvers, in Navy maneuvers, in sending messages from the air to artillery, in sending messages from the air to battleships and destroyers, in scouting over the ocean. Certainly, if we must choose between cutting out one or the other, from the standpoint of national defense, it is best to cut out somewhat on the civil side than to cut our defense forces.

Mr. LONG. I am glad the Senator mentioned that, because I can show him just how wrong he is, and I am sure he will admit it.

If we had had to depend upon men who had been trained to shoot a gun in the Army, when we started out to organize the Army for the World War, we would have had a difficult task. We can depend on the American soldiers because in their private, domestic pursuits they learn how to shoot a gun. If we want to develop an air service, we are going to have to train men so they will know something about the air service. If we have, in order to train a man to run an airplane, to put him in the Army, and not build up a civilian air service, we will wind up with nobody knowing anything about a plane but a few thousand men in the Army or the Navy. We are trying to provide that the men of this Nation shall know just as much about the air as those of any other nation. We are getting some little good out of training the men in the Army, but we will get a far greater amount of good out of the expenditure of the small amount of money called for in this bill. We are asked to appropriate $19,000,000 to extend the air service, to teach people how to build airplanes, and that will result in building up our country. They are lighting the rights of way, and things of that sort.

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

Mr. LONG. Just a moment. We are getting thousands and thousands of people to-day trained in the airplane servive who never would have been in it if they had had to depend upon getting their training in the Army or the Navy. We will get soldiers to operate our airplanes out of civilian life, when the time of emergency comes. We are

not going to build up the Army in time of emergency from what we have in the regular personnel of the Army and the Navy.

I am against maintaining big armies, which we do not need if we can get a reserve organization. We are only spending $10,000,000, and we are actually accommodating the States, and accommodating the cities. They have depended upon it, and we are getting the air mail service. That is worth something, at least.

Let me make a comparison: $500,000,000 is being spent on the Navy. Now it is proposed to cut off $10,000,000 in the air service. We are spending $111,000,000 on mail contracts on the railroads. $10,000,000, when compared with $111,000,000, is not a lot of money. I do not know exactly how much is being spent on the Army, but it is many millions of dollars, and it is proposed to cripple what every writer on earth says is the one service we will have to depend upon for national defense.

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

Mr. LONG. I yield.

Mr. TYDINGS. I would like to point out to the Senator from Louisiana that at the last session of Congress an effort was made to cut down every supply bill 10 per cent. That generally was accepted until it came to the Army and Navy appropriation bills. It was found then, as I recall, that the effort to cut down those supply bills was lost because many Senators took the position that it was not safe to cut the Army and Navy appropriation bills any farther than they were projected in the estimates sent down by the Budget and revised by the Senate and House committees.

I want to say to the Senator from Louisiana that there is a lot in what he says. I do not deny that these airplanes have certain defense value, and I, like the Senator from Nebraska, feel that in normal times I would not for one instant make the contention I have been making. But I do want to call the Senator's attention to the fact that when we get to the Army and the Navy appropriations, he will find it very difficult to effect economies in those appropriations. Unless we can make economy in services such as that under consideration, there will be no economy.

I may finally say this, that, in my humble judgment, the time is coming, even with the President performing miracles, when the new administration comes in, when every dollar this Government may possibly spare is going to be needed in a welfare program for next winter. It is not going to be easy to change the barriers and the conditions to economic recovery in a month, or six months, or a year, and if we are prudent and wise, we will look ahead and cut down on all normal activities we can, to the end that we will have money for the extremely necessary program of welfare and unemployment relief when the snows of next winter fly. Heaven knows, it has been difficult enough to get employment campaigns under way now, and when next winter comes, unless there is a business pick-up, which I hope will come, it will be much more difficult for the communities to raise their community funds.

There are airplane factories in my State, and they have begged me to vote against these cuts, and those interested in some of them are the best friends I have in the world, some of them contributed to my campaign, and many of them have worked for me. So it is very embarrassing for me to advocate these cuts. But may I say to those people back in Baltimore that, in the end, a cut now will save their business, because if we do not straighten this Government out and cut off the waste, and bring it down to a sound basis, and have some money for the unemployed and for rehabilitation, they will not have their airplane factories in the long run anyway.

Mr. BINGHAM. Mr. President, will the Senator from Louisiana yield to me?

Mr. LONG. I yield.

Mr. BINGHAM. In reply to what the Senator from Maryland just said, if the Senator wants merely to save money, let him cut the appropriation down to whatever he thinks it ought to be, but let us not adopt an amendment which simply would put all the companies out of business, which is what the pending amendment would do.

Mr. TYDINGS. What does the Senator mean by that?

Mr. BINGHAM. The amendment offered by the Senator from Tennessee provides that—

> No part of the money shall be paid to any company for carrying air mail under contract with the Government in an aggregate sum exceeding 50 per cent of the amount paid by the Government to it at the present time.

Mr. TYDINGS. Let me say to the Senator from Connecticut that the Senator from Tennessee, as I understand it, proposes to revise his amendment so as to carry out the Senator's intention, and strike out the words the Senator has just read.

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

Mr. LONG. I yield.

Mr. McKELLAR. It has been suggested that the proposed amendment be changed so as to provide as follows: To strike out $19,000,000 and to insert in lieu thereof $9,500,000, and that when the net receipts from domestic air mail exceed the sum of $9,500,000, then such excess shall be used for this purpose by the Postmaster General in addition to the said sum of $9,500,000.

Mr. LONG. The Senator means when it gets to be self-sustaining?

Mr. McKELLAR. In other words, when the receipts from the service exceed $9,500,000, in order to encourage these companies, the excess shall be used in addition.

Mr. BINGHAM. Mr. President, does not the Senator from Louisiana think that it would be just as fair to say that the money we spend on rural free delivery——

Mr. LONG. Should be cut 75 per cent? Certainly.

Mr. BINGHAM. Unless the rural free delivery pays for itself?

Mr. LONG. Yes. Why not say that the Army shall pay for itself? Why not say that the Navy shall pay for itself?

Mr. McKELLAR. Mr. President, will the Senator yield to me for a reply to what has just been said?

Mr. LONG. Yes; I yield to the Senator.

Mr. McKELLAR. The Senator from Connecticut asks why it would not be just as reasonable to make the rural free delivery self-sustaining.

Mr. LONG. On principle.

Mr. McKELLAR. I think there is a good deal in what the Senator has to say, but let me ask the Senator a question, in reply. For the last three years this Government has been behind $5,200,000,000 in running expenses, and our deficit is increasing $200,000,000 a month. Where would the Senator get the money to pay these extravagant subsidies out of the Treasury?

Mr. LONG. Does the Senator want me to tell him?

Mr. McKELLAR. I would like to have the Senator do so.

Mr. LONG. I put that all in the newspapers, and in the RECORD. The Senator failed to read it. I have explained all that.

Mr. McKELLAR. Will not the Senator tell us again? How would he do it?

Mr. LONG. That has been answered. I was accused of filibustering. I told the Senate that at great length here the last three weeks, and the Senator from Tennessee voted to stop me when I was trying to inform him; and now it develops that he did not even hear what I said, and wants me to tell him again. I will not do it. [Laughter.]

Mr. McKELLAR. I accept the Senator's explanation.

Mr. LONG. I knew that the Senator from Tennessee would be fair about it now that he remembers it. I will get for the Senator a memorandum of the pages where I made the explanation, for there are several of them.

Where are we to get the money? I am not going to argue that just for the moment; I will come to that in a little while. What I am saying is this: We are about to cripple an industry that the Government has had the State of Louisiana spend $5,000,000 on this year, and we are only one little State. We went out and floated bonds. Only yesterday we got $1,300,000 from the Reconstruction Finance Cor-

poration to complete an airport at New Orleans which we have been working on all this time. We built highways to the airport. We spent over $5,000,000. I do not know how much other States have spent, but I venture the assertion that my State is not an exception. The State of Florida spent several million dollars and Maryland has done likewise.

Mr. TRAMMELL. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Louisiana yield to the Senator from Florida?

Mr. LONG. I yield.

Mr. TRAMMELL. A great many of the Florida towns have established airports and spent the public money for that purpose. I imagine the expenditures run into the millions of dollars.

Mr. LONG. I know that is so; and yet now it is proposed to clip the wings of all of us by taking $10,000,000 off of the air mail service, which costs only $19,000,000 all together. If Senators want to save something, I suggest that they attack the War Department and the Navy Department. We can a great deal better afford to have one less dreadnaught for the next year than to discontinue the air mail service. I do not want to have one less dreadnaught built, but I would rather dispense with one battleship than to cut off half of the air mail service.

Mr. President, we have barely started into the airplane business yet. We are only getting started. We are not up to date with airplane service. Foreign countries are away ahead of us. They have supported it much better than we have. We are not keeping up with it. In my opinion the appropriation ought not to be reduced below $19,000,000, and then spend $400,000,000 for the Navy and perhaps as much more for a building program. We ought to be spending a greater percentage of our funds for the air service. We are not hurting anybody in particular when we do not build a battleship, but when we interfere with the air service we are hurting every town in the country. Every little municipality that has not had an airport has arranged to put up one. They have gone into debt. If there was ever any idea that we were going to reduce the air program, we certainly ought not to have allowed our people to spend all the money they have and encouraged them in this way for years to put up airports, and then suddenly say that we have decided that the air mail contracts are not any good and that we ought to have been carrying the mail by train all the time.

If the Congress had said last year or the year before any such thing as that, we would have been in a position to do it. But now the Senate comes along—after having encouraged everybody in the United States to go out and light up the airways, North, East, South, and West, from one end of the country to the other, and to build airports—when the people became accustomed to air mail service, and says we are going to cripple it. I submit that is not good sense and it is not good business.

I voted with the Senator from Tennessee for his amendment to strike out a subsidy for the Seatrain Co. which goes to New Orleans. I voted to strike that out. I voted to strike it out—although it is my city that is affected—because I could not see where a national service was being rendered. But if Senators are talking about discontinuing the air service after the municipalities have equipped themselves to provide for it, I submit that we are striking out one of the most valuable and most progressive things we have undertaken in the country.

The Senator from Tennessee talks about economy. I will show him where we can economize. If he will build up a first-class air service it will save this country not less than 25 per cent of the cost of the Navy and the Army. If this country will build up an air-trained people, according to the economists and statisticians without one single exception, whether in the Army or the Navy or anywhere else, it will save 25 per cent of the cost of the national defense. It will probably save the country $100,000,000, for it will develop the air service, and it is on the way to saving that much now.

Mr. ODDIE. Mr. President, before I ask for a recess I want to put some figures in the RECORD.

Supplementing the figures I presented a few minutes ago regarding reductions in the rate per mile paid air mail contractors, I will state that under the first formula of $1.26 per mile two and a half years ago, 1,932,439 miles per month were being flown. Now they are flying 2,927,349 miles a month.

Mr. President, I oppose the amendments reducing the amount in the bill. I feel that it will do harm if either of these amendments is adopted. The wages paid the air-mail pilots will probably have to be reduced. I will resist with every power that I have any reduction in the pay of these men. These brave, noble men who are flying our mail every day and night, through all kinds of weather, are entitled to what they are getting, if not more, and either one of these amendments will probably mean a serious reduction in their pay. Their occupation is necessarily a hazardous one, and we certainly should not cut down the appropriations in this bill for air mail, which cuts will probably make necessary the reduction of their pay if the service is not to be seriously crippled or ruined.

Mr. HALE. Mr. President, I dislike to put myself in the attitude of one who is criticizing this honorable body of which I am a Member. I realize the importance of the amendment that is before us and the other amendments which have been offered and which will be offered to the pending bill. But, the fact remains that we are not making satisfactory progress with the appropriation bills. We have but 1 day left of this month, 24 legislative days next month, and 3 legislative days in March, before the end of the session. Unless we speed up and get somewhere with legislation and unless the whole Senate takes hold and helps, we are not going to get the appropriation bills through at this session of Congress.

Mr. President, I am going to insist that the Senate begin holding night sessions. It is absolutely necessary to do so, if we are going to make any progress. There is other important legislation besides the appropriation bills that ought to be attended to at this session. Not only will there be no time to get the appropriation bills through, but there will not be time to take up any other measures unless we make much better progress than we are now making.

Mr. ROBINSON of Arkansas. Mr. President, it is apparent that we are not making as much progress in the disposition of appropriation bills as we should. I have no criticism to offer of anyone or of the management of the bill, but the bill has already been before the Senate several days. We have only disposed of a few amendments. The features of the bill which are calculated to provoke long discussion remain undisposed of. I wish to join with the Senator from Maine [Mr. HALE] in the request that we try to speed up our work all we can.

It will not be possible to dispose of the appropriation bills and other legislation which ought to be considered if we devote 10 days or two weeks to a single bill. There are less than five weeks remaining of the present session and there are many measures which require attention. Certainly we ought not to take so much time on an appropriation bill. I hope we may make better progress. It will be necessary to hold night sessions unless we can find some way to move forward a little faster.

Mr. McKELLAR. Mr. President, I agree with all the Senator from Maine and the Senator from Arkansas have said. I want to say that I shall join with the Senators in every effort to expedite the bill. I think we ought to make greater progress than we have made to-day. We should use every effort not only to get this bill through, but to get all the appropriation bills through at the present session of Congress.

Mr. HALE. Mr. President, I would like to say that tomorrow, with the cooperation of the Senator in charge of the bill, I shall ask the Senate to hold a night session.

THE JOURNAL

Mr. FESS. I ask unanimous consent for the approval of the Journal for the calendar days of Friday, January 27, and Saturday, January 28, 1933.

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

CLAIMS OF THE SEMINOLE NATION OR TRIBE OF INDIANS—VETO MESSAGE (S. DOC. NO. 177)

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, as follows:

To the Senate:

I return herewith without approval S. 4340, an act authorizing the District Court of the United States for the Eastern District of Oklahoma to hear and determine certain claims of the Seminole Nation or Tribe of Indians.

The tract of land therein described was formerly owned by the Seminole Tribe of Indians in Oklahoma. It was appraised and sold at public auction as provided by law. The full consideration was paid and title to the land has passed into the hands of a bona fide purchaser through transactions with the Government had in the utmost good faith. There is no substantial basis for thinking that Congress was without power to grant authority to the Secretary of the Interior to make the sale. There would seem to be no justification for now authorizing a committee of the tribe to bring a harassing suit against a private owner who bought and paid for this property in good faith many years ago. Moreover, this legislation might prove to be a precedent for private litigation affecting many other titles and large sums of money through other than the regular procedure. The rights of the Indians, if any, can be presented and adjudicated by the Court of Claims in the litigation pending before it under the act of May 20, 1924.

I attach hereto a letter from the Secretary of the Interior setting forth the views of the department on the bill.

HERBERT HOOVER.

THE WHITE HOUSE, *January 30, 1933.*

Mr. THOMAS of Oklahoma. Mr. President, just a word in explanation of the bill. In the Seminole Indian Nation in Oklahoma for years we had a school for the benefit of the Indian children of such tribe of Indians. Some years ago oil was discovered in that section of the State. The land upon which the school was located was desired by some of the large oil companies. The Seminole Tribe did not desire to dispose of the land.

The Secretary of the Interior tried to get the Seminole Tribe to enter into an arrangement for the sale of the property. The Indians refused to consider the sale of the property, and the chief refused to execute the deed. Whereupon the chief was removed and another chief appointed. The second chief likewise refused to sign the deed. And when it was discovered that no Indian could be secured to assume the rôle of chief who would sign the deed the Secretary of the Interior proceeded to sell the land himself and signed the deed as the guardian of the Indians. The land was sold, the deed was signed and approved by the Secretary of the Interior, and it has since proved to be oil property.

The Indians have never been satisfied with the transaction. Some time ago, as a representative in part of the tribe of Indians, I introduced a bill authorizing the tribe to go into the Federal court of the eastern district of Oklahoma and present their claims against the oil company, in the hope, of course, that the deed might be set aside and the property restored to the Seminole Tribe of Indians.

The Congress passed the bill and now the President has seen fit to veto the measure asked for by the wards of the Government. Not having the time now to go into the matter fully and thoroughly, I ask unanimous consent that the bill, with the message, lie upon the table for future consideration by the Senate.

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

RELIEF OF AGRICULTURAL INDEBTEDNESS

Mr. SHIPSTEAD. I ask unanimous consent to introduce a bill, and, in order to save time, I ask that a short explanatory statement may be printed in the RECORD as a part of my remarks.

The PRESIDENT pro tempore. Is the Senator desirous that it be printed, together with the text of the bill?

Mr. SHIPSTEAD. The bill is quite extensive; but I should like, if there is no objection, to have the text of the bill printed.

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

The bill (S. 5562) to relieve agricultural distress through the consolidation and adjustment of indebtedness and the reduction of the rate of interest thereon, to release frozen credits and stimulate the recovery of business, to create in the Department of Agriculture an administration of agricultural loans with which will be consolidated, in the interest of economy and efficiency, all agencies of the Federal Government concerned with agricultural credit, and for other purposes, was read twice by its title, referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

Be it enacted, etc., That this act may be cited as the "Agricultural loan administration act of 1933."

SEC. 2. It is hereby declared to be the policy of Congress that the loaning of money to persons engaged in the production and distribution of agricultural products, and all undertakings relating, directly or indirectly, to agricultural credit in any of its phases, are affected with a public interest and that the proper regulation of the conditions under which the business of loaning money and of extending credit to persons engaged in producing and distributing agricultural products shall be carried on should be considered as an integral and inseparable part of the power of Congress to regulate commerce among the several States.

SEC. 3. The purposes of this act are hereby declared to be as follows:

(a) The consolidation of agricultural indebtedness;

(b) The relief of agriculture from onerous charges upon indebtedness to the Federal Government and to private lenders;

(c) The orderly facilitation of credit to agriculture for the seasonal movements of commodities and livestock;

(d) The stabilization, to a reasonable and practicable extent, of the range of prices obtainable by agricultural producers for what they produce, with reference to trustworthy indices of general price levels;

(e) The encouragement of all dependable marketing cooperative processes and devices calculated to cheapen the cost of distribution of agricultural products and their derivatives among consumers thereof at home and abroad;

(f) The reinforcement of buying power among all elements of the population of the United States through the restoration and preservation of equilibrium between consuming demand and reasonable costs of producing and distributing agricultural products;

(g) The consolidation in the Department of Agriculture in an administration of agricultural loans, in the interest of economy and efficiency, of all the powers, duties, and functions of the governmental agencies heretofore established by the Federal Government; and

(h) The improvement of the standard of living of the people of the United States.

SEC. 4. (a) There is hereby created in the Department of Agriculture an administration of agricultural loans, hereinafter referred to as the administration. The President, by Executive order, shall, within 60 days from the date of enactment of this act, consolidate and coordinate in the administration all executive and administrative bureaus, agencies, offices, or corporations (except those in the Department of Agriculture), especially created for or concerned in the administration of laws relating to agricultural credit in any of its phases, including the Federal Farm Loan Board, the Federal land banks, the Federal intermediate credit banks, the regional agricultural credit corporations of the Reconstruction Finance Corporation, and the Federal Farm Board and all agencies subject to its jurisdiction, and the President shall likewise transfer to the administration the duties, powers, and functions now vested in the bureaus, agencies, offices, or corporations so consolidated and coordinated, and the whole or any part of the records or public property belonging thereto. The Secretary of Agriculture shall, within 10 days from the date of enactment of this act, transfer to the administration all bureaus, agencies, offices, or corporations in the Department of Agriculture which are concerned with agricultural credit in any of its phases, together with the duties, powers, and functions now vested by law in such bureaus, agencies, offices, or corporations, including the whole or any part of the records and public property belonging thereto. The personnel of any bureaus, agencies, offices, or corporations so consolidated and coordinated in or transferred to the administration, may, in the discretion of the commissioner of agricultural loans, be transferred to and given employment in the administration, subject to such change in designation and organization as the commissioner may deem necessary.

(b) Upon the completion of the transfers to the administration provided for in this section the Federal Farm Board and the

Federal Farm Loan Board, and the offices of the appointive members thereof, shall be abolished; and all powers, duties, and functions vested (1) in such boards and the members thereof, (2) in the Secretary of Agriculture under the Reconstruction Finance Corporation act, as amended, and the emergency relief and construction act of 1932, and (3) in the Reconstruction Finance Corporation, with respect to regional agricultural credit corporations, shall be vested in the administration and shall be exercised, except as otherwise provided in this act, by the commissioner of agricultural loans.

SEC. 5. (a) There shall be at the head of the administration a commissioner, to be known as the commissioner of agricultural loans, to be appointed by the President, by and with the advice and consent of the Senate. The commissioner shall hold office for a term of nine years and shall receive a salary of $10,000 a year. No commissioner shall be eligible for reappointment.

(b) The commissioner shall have general supervision over the administration of this act, and is authorized, in accordance with the civil service laws, to appoint, and, in accordance with the classification act of 1923, as amended, to fix the compensation of such assistants, officers, and employees, and to make such expenditures (including expenditures for rent at the seat of government and elsewhere, and for printing and binding, law books, books of reference, and periodicals) as may be necessary to carry out the purposes of this act.

(c) The commissioner is authorized to establish regional offices at any place within the United States or its Territories and possessions whenever in his opinion such establishment is necessary to carry out the purposes of this act, but, so far as practicable, the work of the administration shall be carried on through the bureaus, agencies, offices, and corporations consolidated and coordinated in and transferred to the administration under section 4. The Federal land banks shall be the principal offices of the administration in their respective Federal land-bank districts, and after the date of enactment of this act such banks shall be known as principal offices of the administration of agricultural loans.

(d) Within 30 days after the date of enactment of this act the commissioner shall prepare, and within 50 days after such date he shall publish, a compilation of all regulations issued by the bureaus, agencies, offices, and corporations so consolidated and coordinated in and transferred to the administration, which the commissioner shall deem to be necessary and appropriate to continue in effect for the purposes of this act, and from the date upon which such consolidation of regulations takes effect, as determined by the commissioner, all other regulations of such bureaus, agencies, offices, or corporations not included in such consolidation of regulations shall be without legal force and effect. A copy of such consolidated regulations shall be furnished upon request to any person applying therefor, and to every corporation which has any business relations with or which is in process of transacting any business with any of such bureaus, agencies, offices, or corporations.

(e) In addition to the consolidation of regulations hereinbefore provided for, the commissioner is authorized to make such further rules and regulations as he may deem necessary and appropriate for carrying out the purposes of this act, but before any such regulations are issued the commissioner shall submit the same to the advisory council and to the Secretary of Agriculture for their information and recommendations.

(f) Within 60 days after the date of enactment of this act the commissioner shall transmit to the Director of the Budget, and the President shall transmit to the Congress, an estimate of the appropriations required by the administration for the balance of the fiscal year ending June 30, 1933, and for the fiscal year ending June 30, 1934. For the expenses of the administration there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $500,000. The unexpended balances of all appropriations for administrative expenses of the bureaus, agencies, offices, or corporations consolidated and coordinated in and transferred to the administration under section 2 shall be covered into the Treasury as miscellaneous receipts upon the expiration of 60 days after the date of enactment of this act.

(g) The commissioner shall submit estimates of expenditures and receipts of the administration to the Director of the Budget, and he shall submit to the Comptroller General of the United States all accounting records which are required under the provisions of the budgeting and accounting act of 1921, as amended.

(h) The commissioner shall cause to be prepared and published prior to the 1st day of February of each year a handbook containing, in simple language, a statement of the procedure to be followed by applicants for loans from the administration and a summary of all regulations issued by the commissioner during the preceding calendar year for the purpose of carrying out the provisions of this act. Such handbook shall be distributed at cost by the Public Printer.

(i) The commissioner shall transmit to the Congress in January of each year a report on the state of agricultural credit in the United States during the preceding calendar year and the factors which fundamentally affect it. The commissioner shall also submit to the Secretary of Agriculture for inclusion in the annual report of the Department of Agriculture a report showing the operations of the administration for the fiscal year preceding the issue of such annual report, and he shall include in the appendix to the report submitted to the Secretary of Agriculture an independent report by the board of review of the administration with respect to administrative and budgetary matters of concern to the board.

SEC. 6. There shall also be in the administration five assistant commissioners of agricultural loans, to be appointed by the President, by and with the advice and consent of the Senate. Each assistant commissioner shall hold office for a term of three years and shall receive a salary of $7,000 a year. Such assistant commissioners shall perform such duties as the commissioner may prescribe and, in addition, they shall have general supervision over the various divisions of the administration hereinafter provided for.

SEC. 7. (a) There shall also be in the administration an advisory council, to be composed of three members appointed by the President, by and with the advice and consent of the Senate. Such appointments shall be made with due regard to representation on the council of different sections of the country. No person shall be appointed as such member who has not had a broad experience in the field of agricultural credit and related fields. Terms of office of the members first taking office after the date of enactment of this act shall expire, as determined by lot, one at the end of 6 years, one at the end of 9 years, and one at the end of 12 years after the date of enactment of this act. The term of office of a successor to any such member shall expire 12 years from the date of the expiration of the term for which his predecessor was appointed, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. The members appointed for 6 and 9 years, respectively, shall be eligible for reappointment, but no member appointed for a term of 12 years shall be eligible for reappointment. Each such member shall receive a salary of $9,000 a year.

(b) It shall be the duty of the advisory council to determine the general policy of the administration, and to render opinions upon all questions submitted to it in writing by the commissioner of agricultural loans, including questions relating to the interpretation of this act and of relevant legislation, questions relating to the loan policies of the administration, and like general questions; but the opinions of the advisory council shall not be binding upon the commissioner. All such opinions shall be duly recorded in a journal and shall be transmitted annually to the Congress by the commissioner as an appendix to his report on the state of agricultural credit.

(c) The advisory council shall have a secretary, to be selected by the council, and such additional clerical assistants as it may require, to be assigned to the council by the commissioner.

SEC. 8. (a) There shall be in the administration of agricultural loans the following divisions:

(1) The division of titles and records, which shall receive and record all transcripts of mortgages or original mortgages on land, and all chattel mortgages, warehouse receipts, and other collateral instruments held by the administration, and transact all business relating to the validity of title, and the due and proper form of the instruments; and shall have general jurisdiction over all files of the administration.

(2) The division of loans, which shall state and carry out the loaning policy of the administration, regulate and supervise appraisals, and conduct all correspondence relative to new or old loans secured by mortgages on farm land and buildings, and shall certify to the divisions of finance and of accounts the action it has taken in each instance.

(3) The division of seed, crop, and livestock loans, which shall be concerned with all short-term and intermediate-credit operations, appraise the value of security proffered in each instance, accept and deposit with the division of titles and records all chattel mortgages, warehouse receipts, and other collateral instruments, and certify to the divisions of finance and of accounts the action it has taken in each instance.

(4) The division of finance, which shall receive all funds paid into the administration, and make disbursements of such funds as provided by law, and in accordance with the regulations of the Comptroller General.

(5) The division of accounts, which shall compute and record all payments due to or payable by the administration, prepare and certify all bills, pay rolls, vouchers, and like instruments.

(6) The division of property, which shall have general charge of all property, equipment, supplies, and material belonging to the administration.

(7) The division of operations, which shall be responsible for the administration of all property taken in foreclosure, and all crops and livestock acquired by the administration under the provisions of this act, and shall render current reports in detail of its action in each instance, to the divisions of loans, finance, and accounts, and shall pay to the division of finance all proceeds from the operations of management or of sale, pursuant to regulations to be prescribed by the commissioner.

(8) The division of research, which shall study all economic, statistical, and related problems arising out of the administration of this act.

(9) The legal division, which shall supervise the preparation of all legal cases before the board of review of the administration, and before the courts of record in the United States.

(10) The personnel division, which shall establish and maintain personnel records in accordance with the civil service act, as amended, and the classification act of 1923, as amended.

(b) Each such division shall be under the control and administration of a director to be appointed by the commissioner. Each such director shall receive a salary of $6,000 a year. The commissioner is also authorized to appoint an assistant director for each

such division and to assign thereto such other employees as may be necessary to carry out the work of the division. No assistant director or other employee in any division shall receive a salary in excess of $5,500 a year.

SEC. 9. (a) There shall be in the administration a board of review consisting of seven members, to be appointed by the President, by and with the advice and consent of the Senate. Each member shall hold office for a term of six years and shall receive a salary of $7,500 a year.

(b) The board shall have jurisdiction to hear and determine all questions arising out of the administration of this act and the extension of agricultural credit thereunder. The hearings of the board shall be public, and all persons interested in any such question shall be notified and afforded a reasonable opportunity to be heard, in accordance with such rules of procedure, practice, and evidence as the board shall prescribe. In each case brought before the board for determination an assistant commissioner shall be designated by the commissioner as attorney for the administration.

(c) An appeal may be taken to the commissioner from any decision of the board within 30 days from the date such decision was rendered, and the decision of the commissioner upon any such appeal shall be final; except that the circuit courts of appeals and the Court of Appeals of the District of Columbia shall have exclusive jurisdiction to review the decisions of the commissioner (except as provided in section 239 of the Judicial Code, as amended); and the judgment of any such court shall be final, except that it shall be subject to review by the Supreme Court of the United States upon certiorari in the manner provided in section 240 of the Judicial Code, as amended. Upon such review such courts shall have power to affirm or, if the decision of the commissioner is not in accordance with law, to modify or to reverse the decision of the commissioner, with or without remanding the case for a rehearing, as justice may require.

(d) The decisions of the board and the decisions of the commissioner on appeal from the board shall be published each month in an official edition.

(e) The board shall select its own secretary, recorder, and reporters, and such additional assistants as the board may require shall be assigned to the board by the commissioner.

SEC. 10 (a) The administration of agricultural loans is authorized and directed to accept from any individual or joint-stock land bank, national farm-loan association, insurance company, or any other institution organized under the laws of the United States, or of any State or Territory, engaged in the business of making loans on farm mortgages, any obligations which are secured by duly recorded first mortgages on farm lands and buildings, but no such obligations shall be accepted by the administration unless the holders thereof are willing to receive in exchange for such obligations certificates to be issued by the commissioner. Each such certificate shall be in an amount equal to the face value of the obligation received by the administration plus interest thereon accrued and unpaid at the time of the presentation of such obligation to the administration and shall be convertible at the Treasury of the United States or at any Federal reserve bank into bonds of the United States of the character described in section 11, except that the amount by which the face value of the certificate exceeds the highest multiple of $50 shall be paid in cash. All such obligations accepted by the administration under this section shall be accompanied by an assignment to the administration of the mortgages securing the farm indebtedness evidenced by such obligations. With the consent of the mortgagors, the administration shall provide for refinancing the farm indebtedness secured by such mortgages on an amortization plan providing for the payment of the principal and interest by means of a fixed number of annual or semiannual installments sufficient to extinguish the indebtedness within an agreed period of not to exceed 47 years. The farm indebtedness so refinanced shall bear interest at the rate of 2¼ per cent per annum, and the amount of each such installment shall be covered into the sinking fund provided in section 11; except that not to exceed one-ninth of all amounts received by the administration as interest shall be covered into the Treasury as miscellaneous receipts. As a condition to refinancing the indebtedness secured by any such mortgage the mortgagor shall agree not to assume any further financial obligation with respect to the farm land or buildings covered by such mortgage without first obtaining the consent of the administration. At any time during the first five years after the date of enactment of this act the commissioner is authorized to grant an extension of time for the payment of such installments for not to exceed two years from the date on which the same are due.

(b) The administration is further authorized to accept, under the terms and conditions provided in subsection (a), any obligations which are secured by other than duly recorded first mortgages on farm lands and buildings if such obligations are offered to the administration either at the time the obligations secured by such first mortgages are offered or within such time thereafter as the commissioner may by regulation prescribe; except that if any such obligation is offered to the administration at any time after the expiration of the time so prescribed by the commissioner it shall be accepted by the administration only on condition that the holder thereof agrees to accept in exchange therefor a certificate of the character described in subsection (a) in an amount equal to the value of such obligation computed on the basis of the fair market value of the farm land and buildings securing such obligation as determined upon a reappraisal thereof by the administration.

(c) The administration is further authorized and directed to refinance the farm-mortgage indebtedness due to the Federal land banks on the same terms and conditions as are applicable with respect to the farm-mortgage indebtedness taken over by the administration under subsection (a) of this section.

(d) In so far as practicable, the administration shall provide for an adjustment of the terms of the loans heretofore made by any bureau, agency, office, or corporation consolidated and coordinated in or transferred to the administration under section 4 which are not secured by duly recorded first mortgages on farm lands and buildings, in a manner corresponding to that employed with respect to farm indebtedness which is refinanced under subsection (a) or (c) of this section.

(e) All new loans made by the administration within a period of nine years from the date of enactment of this act shall be secured by a duly recorded first mortgage on farm lands and buildings and shall be made on the same terms and conditions with respect to amortization and rates of interest as are applicable under this section with respect to farm indebtedness taken over or refinanced by the administration; except that in the case of loans made for agricultural purposes (including crop production) and for the raising, breeding, fattening, or marketing of livestock where it is impracticable to secure the same by a duly recorded first mortgage on farm lands and buildings, such loans shall be made on such terms and conditions and on such security as the commissioner shall prescribe, but in no case shall the combined interest rate and amortization payment exceed 3½ per centum per annum.

SEC. 11. (a) The Secretary of the Treasury is authorized and directed to borrow from time to time on the credit of the United States and to issue bonds to be known as United States agricultural loan bonds, in such form as he may prescribe. Such bonds shall be in denominations of not less than $50, and shall mature 50 years from the date of their issue, except that the Secretary of the Treasury may, upon 90 days' notice, call in at any time any such bonds which are outstanding 30 years after such date. Each such bond shall bear interest at 2 per centum per annum and shall bear the circulation privilege. The principal and interest of such bonds shall be payable in United States gold coin of the present standard of value, and such bonds shall be exempt, both as to principal and interest, from all taxation (except estate, inheritance, and gift taxes, and surtaxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority. Such bonds shall be issued by the Secretary of the Treasury from time to time as required for the purposes of this act in such amounts as may be certified by the Commissioner of agricultural loans. Such bonds shall be available for the purposes of this act at the Treasury of the United States, or at the Federal reserve banks, under regulations to be prescribed by the commissioner, with the approval of the Secretary of the Treasury.

(b) There is hereby created in the Treasury a cumulative sinking fund for the retirement of the bonds issued under this section. The sinking fund and all additions thereto are hereby appropriated for the payment of such bonds at maturity or for the redemption thereof before maturity by the Secretary of the Treasury at such prices and upon such terms and conditions as he shall prescribe, and shall be available until all such bonds are retired. The average cost of the bonds purchased shall not exceed par and accrued interest. Bonds purchased, redeemed, or paid out of the sinking fund shall be canceled and retired and shall not be reissued.

(c) The Secretary of the Treasury is authorized to sell in the open market or otherwise such amounts of United States agricultural-loan bonds or other obligations of the United States as may be necessary to provide funds for the administration of agricultural loans for carrying out the purposes of this act, and there is hereby authorized to be appropriated all amounts obtained from the sale of such bonds or obligations for such purposes. Such bonds shall be first offered at not less than par, as a popular loan, under such regulations to be prescribed by the Secretary of the Treasury as will give all citizens of the United States an equal opportunity to participate therein. Any portion of the bonds so offered and not subscribed for may be otherwise disposed of by the Secretary of the Treasury at not less than par. No commission shall be allowed or paid in connection with the sale or other disposition of any such bonds.

(d) The Secretary of the Treasury shall submit to Congress at the beginning of each regular session (until all bonds issued under this section are retired) a report of the action taken under the authority contained in this section.

SEC. 12. If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act and the application of such provision to other persons or circumstances shall not be affected thereby.

Mr. SHIPSTEAD. Mr. President, there have been signs for a long time that a major crisis was coming in the matter of long-term loans on land. The accumulation of indebtedness has threatened to ruin agriculture as a whole. The Nation is vitally interested, and has always been vitally interested, in the stability and prosperity of its agricultural producers. Many acts of government can be cited, from the earliest days of the Republic, to demonstrate that sound public policy was considered to be based upon intelligent assistance to agriculture. It may be that from time to time acts were committed inconsistent with this general intention, but

the general intention has been repeatedly affirmed. We have passed various important acts to provide and stabilize agricultural credit in all its phases, short term and long term, on land, on crops, in livestock.

And now in this last session of the Seventy-second Congress we are faced with the necessity of reconsidering the whole subject, and of furnishing facilities greater than we have heretofore thought necessary. Many bills have been introduced in this session. Some are predicated upon the theory that Congress should cut down the principal of public loans secured by mortgages, just as Congress has already authorized the Secretary of Agriculture to adjust, within reasonable discretion, loans secured by crops and other chattels. Others contemplate the reduction of the interest rate and leave the principal untouched. Both schools of thought expect private lenders to come in with their mortgages and take whatever compensation is provided for them.

As I think over this complicated question, I believe that I see certain basic principles. First, we all want the problem out of the way for the balance of the current economic crisis, and for as much longer as we can see ahead. Secondly, we want a solution that is in line with basic objectives in recovery, that is, we do not wish to settle the farm credit problem by resort to measures that will throw everything else into worse conditions than we have now. Thirdly, those basic objectives of a sound program of recovery seem to begin with the urgent need of getting the unemployed back to work not by job sharing and wage cutting, but by providing credit for producers in industry, and legitimate distribution in commerce. But the banks will lend only on Government securities, and all the money that has gone to them from the Treasury to absorb the shock caused by their own imprudent policies before 1930 has stayed right where it went, and has not gone on to help industry. So that making funds available to industry is indispensable, whether it is done by conferring upon the reserve banks power to do a general banking business, or through the Reconstruction Finance Corporation, or through releasing the frozen hundreds and thousands of millions of dollars tied up in farm mortgages. Fourthly, I see the paramount necessity of getting interest rates down at all costs, for all the Nation. I am convinced that a sound and lasting public policy can be worked out to provide for low interest rates at the same time that quickened and stimulated industry leads to a gradual reabsorption of the unemployed, and a gradual rise in commodity prices, and a gradual increase in the volume of traffic, and of transaction. I am convinced that the key log in the jam will continue to be the farm-credit situation, unless we provide some comprehensive scheme for lowering rates and on such a scale as will be calculated to fix the standard interest rates of the country for at least 8 or 10 years. And we will need that long to repair the damage, and recover equilibrium.

Fifthly, I wish to get through this operation soon. Time is important in this matter. It will not do, in my opinion, to start some elaborate process of revaluation. We have no William the Conqueror to ordain the preparation of a domesday book, in which would be the revaluation of all land, farm or city, and all improvements thereon. Theoretically I accept the idea of revaluation of the capital structure of the Nation, but practically I find it quite impossible. It seems to me like deciding upon several capital operations at one and the same time upon a famished and anemic patient, instead of giving him rest and nourishment and composure to face the operations. I am prepared to take mortgages, even second mortgages, at their face value and provide so low a rate of compensation upon the security I give for them as to reduce carrying charges by at least one-half. By doing so I believe that we will achieve much more than merely to solve the farm problem, serious and indispensable as this is. We hold down interest rates generally and contribute to make recovery possible upon a basis that does not involve too much mortgaging of future income for the Nation as a whole. Writing down capital sums and letting interest take care of itself would probably lead to a scramble for funds and a very high interest rate. Holding down the interest rate, but leaving the capital unimpaired, would have the effect of freeing funds for industry without asking the farmer to carry a loan which in a few years might again paralyze his efforts.

It is not generosity to mortgagees that prompts me to propose that we take all mortgages at par of the amount due plus unpaid interest but cold considerations of the practical necessity of liquidating the whole complicated situation at once. I think that this bill will do it, and I invite the attention of the Senate to the following statement which summarizes its provisions.

This bill undertakes to make possible the expeditious, efficient, and inexpensive refinancing of all the farm indebtedness in the United States of whatever character. It aims to consolidate all agencies of the United States Government primarily concerned with agricultural credit, whether long time or short term, set up by the farm loan act of 1916, the rural credits act of 1923, the agricultural marketing act of 1929, and the Reconstruction Finance Corporation act of 1932; and to effect this object the bill creates a new agency in the Department of Agriculture, to be known as the administration of agricultural loans, to which it proposes to transfer all the powers, functions, and duties of the Federal Farm Loan Board and the Federal Farm Board and, so far as they have to do with agricultural credit, those of the Reconstruction Finance Corporation and the Secretary of Agriculture. Greater efficiency and economy seem certain to result from the elimination of overlapping services and from the intelligent coordination of the functions of these various establishments. The Federal land banks will become the principal regional offices of the administration.

Under the bill all first mortgages held by land banks would be taken over at par by the administration of agricultural loans, with all unpaid interest, and all first mortgages held by other mortgagees would be taken at par if offered for this purpose.

The mortgagor would contract a new mortgage for this total outstanding of principal and unpaid interest upon the face value of which he would make an annual payment of 3½ per cent, and the interest rate would be uniformly 2¼ per cent, thus amortizing the mortgage in about 46½ years. A 2-year moratorium upon these payments would be permitted, under regulations prescribed by the administration. Second mortgages and other junior liens secured by land or buildings would be taken over at par and assimilated with the old first mortgages, in the making of the new first mortgages, provided the holders of second mortgages and similar liens would offer them within a reasonable time to be prescribed; otherwise, if offered at any later time, their mortgages would have to be submitted for revaluation upon a basis of reappraisal of the fair value. All loans for seed, crop production, and like objects secured by chattel mortgages and other collateral would be adjusted by a special division of the new administration in accordance with general principles defined in the bill.

Under this bill the farmer will pay interest at the rate of 2¼ per cent on his mortgage plus 1¼ per cent per annum to pay off principal, making a total annual charge of 3½ per cent instead of 6 per cent or more as at present.

None of the assistance thus accorded to farmers would be granted unless they explicitly committed themselves to incur no further indebtedness on their land without the prior consent of the administration during the life of such mortgages.

The mortgagees would receive from the United States Treasury, upon presenting receipts for their first or second mortgages, bonds of the United States to be known as the United States agricultural-loan bonds, maturing in 50 years, but callable after 30 years. These bonds would bear 2 per cent interest and would be tax free (except from inheritance, estate, gift taxes, and surtaxes). They would be issued in denominations of $50, $100, $500, $1,000, $5,000, and $10,000 and would bear the circulation privilege for national banks. Odd amounts not divisible by 50 would be paid in cash. For example, the Federal land banks, which would hereafter be the branches of the new administration, receiving these bonds, would be in a position to offer them at par to holders

of their present outstanding bonds in exchange for the latter, or to sell them in the market, and with the proceeds purchase their outstanding bonds to-day commanding a rather low price. Similarly, the outstanding securities of the other establishments which the bill contemplates winding up would be taken in exchange or acquired by purchase. Thus there would be no increase in the aggregate indebtedness of agriculture, but a writing down of interest rates on all that is now outstanding; and the 50-year bonds would be retired at the same rate as the 46 or 47 year mortgages (plus the 2 years of breathing space for the nearly insolvent agricultural producers). The bill contemplates new business which would be held to a 3½ per cent basis including amortization of principal for at least nine years. Thus, it is hoped to keep the general interest level down in this country, at least for agriculture, during the period of reconstruction lying ahead, when the liquidation of the inheritance of debts can be carried out in an orderly fashion, with no destruction of private property, and no discouragement of real saving. The bill contemplates driving out of business the high-interest second-mortgage racketeer and freeing agriculture from the threat of perpetual servitude. It also protects the farmer against his own improvident incurring of new indebtedness.

The bill has numerous other administrative features, such as the creation of an advisory council solely concerned with agricultural-credit policy and a board of review to deal with litigation and controversies arising out of the operation of the law. The bill also declares the loaning of money to agriculture to be a business having a public interest of the Nation as a whole, subject to the power of Congress to regulate commerce; but the bill makes no immediate use of the power thus defined.

It is believed that this measure will greatly simplify the process of according credit to those engaged in agriculture in the United States and render it inexpensive to them, and at the same time relieve the Nation as a whole of the burden of heavy expenditure. Moreover, a great deal of money now tied up in frozen farm loans will be liberated, and insurance companies and other lenders will be in a position to reinvest their money, even though on a lower average interest level. They will at least recover the principal sums of their investments. This should provide additional sources of capital for industry and other purposes.

There are several thousand people now employed in this field by the Federal Government directly, with a total annual outlay in salaries approximating $2,000,000; and there are probably a still larger number in the numerous land banks, joint-stock banks, and other subordinate corporations receiving an aggregate in salaries much greater than $2,000,000.

The entire major personnel of the new administration would receive less than $175,000 yearly in aggregate salaries; and any agency authorized to refinance the total—conceivably exceeding $10,000,000,000—of farm indebtedness, in the business world, would carry a far larger salary item for its responsible officers. It is expected that a saving of several million dollars can be effected in administrative costs under this bill. The saving to the Nation as a whole from the rehabilitation of agriculture will be incalculable.

FINANCIAL CONDITION OF THE REPUBLIC OF COLOMBIA

Mr. THOMAS of Oklahoma. Mr. President, I ask unanimous consent that there may be printed in the RECORD an abstract of the indebtedness, defaults, revenues, resources, security pledges, original and present market values, and so forth, of the departments and municipalities of the Republic of Colombia, being a statement of the financial condition of that Republic.

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

STATISTICAL ANALYSIS OF THE FINANCIAL POSITION OF COLOMBIAN DEPARTMENTS AND MUNICIPALITIES

The following statistical analysis of the financial position of the various departments and municipalities of Colombia is based on the best available information taken, in most part, from official sources, but it is not entirely complete in many instances, inasmuch as many departments and municipalities have not given out pertinent statistics with respect to their financial affairs. The independent bondholders committee for the Republic of Colombia, therefore, does not assume responsibility for the accuracy of the statistics, although it is believed to be correct as far as can be ascertained by its statistical staff.

Every bond issue has been analyzed separately, the analysis showing the amount of debt outstanding, annual debt service thereon, and interest in arrears to the end of 1932. The nature of the lien guaranteeing each issue is recorded and the amount of pledged revenues under each issue for several years is shown. In addition, the revenues and expenditures of each department and municipality for five years are given and a 5-year average of total revenues and expenditures is compiled upon which the ratios of debt charges are calculated in order to indicate the approximate financial condition of the various debtors over a period of time, inasmuch as revenues have had a considerable decline in the past three years, and current returns do not necessarily reflect the proper position of the debtors. Likewise, debt charges are based on the debt presently outstanding, which debt did not exist to the same extent in previous years, being created largely in the past five years. Various items are shown in round numbers and are calculated in many instances, inasmuch as statistics obtained with regard to finances of Colombian departments and municipalities vary with the source from which they have been obtained.

The statistical representation of the financial position of the departments and municipalities and the ratios which have been compiled are an attempt to indicate the approximate financial position of the departments and municipalities. The percentage of pledged revenue to interest and debt service respectively indicates the number of times by which the receipts from pledged revenues have covered the debt-service charges of each issue. The calculations are based usually on the latest year of pledged receipts available. The ratio of total interest and total debt service to the average revenue indicates the percentage of the revenue of each department and municipality required to meet respective debt charges. A large ratio indicates heavy debt charges with respect to income of the debtor and as such must be considered burdensome, although the Colombian departments and municipalities own and operate various railways and public utilities which are revenue producing, and this factor is lightening the burden. Such ratios would be considered normal if they were approximately 25 per cent for the departments and approximately 30 per cent for the municipalities.

The prices at which the various bond issues were offered are included as well as the price of the bonds at the close of the year 1932, showing the abnormally low quotations at which the bonds are presently valued and the liquidation of which would involve an unwarranted sacrifice on the part of the bondholders.

REPUBLIC OF COLOMBIA

Antioquia (Department of), Series A, B, C, and D, 7%, 1945: Outstanding, $17,100,000; defaulted July 1, 1932; partial payment, $23.80 per $35, coupon of July 1, 1932.

Annual debt service:	
Interest	$1,200,000
Sinking fund	745,000
Interest in arrears to end of 1932	792,000

Security of issue: First lien upon 75% of the tobacco revenues of the department; also first lien on the properties and earnings of the Antioquia Railway, including all extensions with a few exceptions.

Receipts from pledged revenues, year ended June 30

	Net operating income of the railway (calendar year)	Net deficit (after fixed charges of railway)	Tobacco receipts
1928	$1,829,300	$284,480	$2,389,800
1929	2,089,260	378,100	2,622,071
1930	2,183,424	431,000	2,279,691
1931	1,902,283	884,472	2,115,886
1932			[1] 1,731,749

[1] Official estimate.

Pledged revenues to interest of this issue, approximately 260 per cent.

Pledged revenues to debt service, including sinking fund of this issue, approximately 160 per cent.

Position of the department: Antioquia has an area of 25,019 square miles and a population of about 1,000,000. It owns and operates the Antioquia Railway, due to which the bulk of the debt has been contracted.

Total debt, approximately	$42,000,000
External	28,900,000
Internal	13,100,000

Year ended June 30—	Revenues	Expenditures
1929	$9,539,313	[1] $13,280,678
1930	7,345,023	9,271,916
1931	6,916,659	9,099,576
1932 budget	6,394,386	6,394,386
1933 budget	5,035,465	[2] 5,035,465

[1] Includes $5,000,000 capital expenditures. [2] Not including external debt service.

Annual revenue (5-year average) $7,046,150
Annual expenditures (5-year average) 7,616,500
External-debt interest 2,005,000
Total debt interest 2,922,000
Total debt service (including S/F; appr.) 3,900,000

Ratio of total debt interest to average revenue, 41.5 per cent.

Ratio of total debt service (including S/F to average revenue), 55.3 per cent.

NOTE.—On or about March 2, 1932, departmental assembly approved an ordinance notifying the foreign creditors that the department was unable to appropriate any amount of funds in the fiscal year beginning July 1, 1932, for foreign-debt service.

Originator of issue: Bankamerica-Blair Corporation.

Participating: E. H. Rollins & Sons; Chase, Harris, Forbes Corporation.

Offered in 1925 and 1926 at 90 and 95½.

Present price, December 31, 1932, 7.

Antioquia (Department of), Series 1, 2, and 3, 7 per cent, 1957: Outstanding, $11,500,000; defaulted April 1, 1932; paid $7 per $35, coupon of April 1, 1932.

Annual debt service:
Interest $805,000
Sinking fund 195,000
Interest in arrears to end of 1932 725,000

Security of issue: First lien upon 75 per cent of the gross receipts of the liquor tax; 75 per cent of slaughterhouse taxes; and upon 100 per cent of the registration taxes.

Receipts from pledged revenues, year ended June 30

	75 per cent liquor	75 per cent foreign liquor revenues	75 per cent slaughter-house	Registra-tion	Total
1929	$1,809,055	$156,898	$468,914	$262,081	$2,696,948
1930	1,140,226	105,767	410,145	165,554	1,821,692
1931	919,006	126,203	397,573	126,499	1,569,281
1932 [1]	870,350	110,296	374,334	100,066	1,455,046

[1] Official estimates.

Pledged revenues to interest of this issue, approximately 180 per cent.

Pledged revenues to debt service of this issue, approximately 145 per cent.

Originator of issue: Guaranty Co.

Participating: International Acceptance Bank.

Offered in 1927 at 93.

Present price (December 31, 1932), 6¾.

Cundinamarca (Department of), 6½-1959: Outstanding, $11,537,000; defaulted May 1, 1932; paid $19 per $32.50 coupon of May 1, 1932.

Annual debt service:
Interest $750,000
Sinking fund 151,000
Interest in arrears to end of 1932 525,000

Security of issue: Direct first lien upon the gross revenues of the department derived from its monopoly on distilled liquor and taxes thereof, taxes on foreign liquors, and slaughterhouse and tobacco taxes, after deducting the participation of the municipalities.

Receipts from pledged revenues, year ended June 30

	Liquor	Tobacco (net)	Slaughter-house	Total
1929	$2,944,900	$776,100	$262,000	$3,983,000
1930	3,606,000	733,700	265,500	4,605,200
1931	2,168,700	684,900	255,200	3,108,800

Pledged revenues to interest of this issue, approximately 415 per cent.

Pledged revenues to debt service of this issue, 345 per cent.

Position of the department: Cundinamarca has an area of 10,810 square miles and a population of 1,500,000, with its capital the city of Bogota.

Dollar loan $11,500,000
Other external debt 3,000,000
Internal (maximum) 1,000,000

Total debt 15,500,000

Year ended June 30—	Revenues	Expendi-tures
1928	$5,807,470	$6,511,980
1929	8,257,326	8,281,040
1930	9,912,899	8,240,092
1931 [1]	5,131,192	2,757,308
1932 [2]	8,273,050	8,273,050

[1] Only 6 months.
[2] Budget which was subsequently revised placing expenditures at 6,621,925 pesos as against 7,363,077 pesos in 1931.

Annual revenue (5-year average) $7,600,000
Annual expenditures (5-year average) 7,400,000
External-debt interest, approximately $1,000,000
Total debt interest, approximately 1,100,000
Total debt service 1,400,000

Ratio of total debt interest to average revenue, 14.5 per cent.

Ratio of total debt service to average revenue, 18.4 per cent.

NOTE.—On or about March 10, 1932, the departmental assembly approved an ordinance prescribing a new order of payment on departmental obligations relegating service on public debt to practically last place. On April 10, 1932, the assembly voted to suspend making deposits against debt service due in New York after it rejected the scrip plan as unconstitutional.

Originator of issue: J. & W. Seligman & Co.

Participating: E. H. Rollins & Sons; Redmon & Co., Graham, Parsons & Co.

Offered in 1928 at 95½.

Present price (December 31, 1932), 10.

Caldas (Department of), 7½-1946: Outstanding, $8,591,000; defaulted July 1, 1932.

Annual debt service:
Interest $645,000
Sinking fund 222,000
Interest in arrears to end of 1932 650,000

Security of issue: First lien upon 93 per cent of tobacco tax; 85 per cent of liquor tax; 50 per cent of the slaughter tax; and a first mortgage upon the properties of the Caldas Railway and its gross receipts.

Gross receipts from pledged revenues, year ended June 30

	Liquor	Tobacco	Slaughter-house	Gross railway revenues	Total revenues
1928	$1,855,866	$1,628,100	$220,000	$1,039,000	$4,742,966
1929	1,514,100	1,691,100	215,100	989,800	4,320,200
1930 [1]	691,900	1,310,800	125,300	427,670	[2] 2,555,670
1931 [3]	587,080	978,000	177,480	.....	.....
Estimated 1932	1,200,000	1,980,000	330,000	560,000	4,070,000

[1] 9 months.
[2] Net receipts applicable to bonds for full year 1930 partly estimated was $2,757,790.
[3] 6 months.

Pledged revenues (1930) to interest of issue, 427.5 per cent.

Pledged revenues to debt service, 318 per cent.

Position of the department: Caldas has an area of 5,419 square miles and a population of about 657,000. It operates its railways and cableways.

External $8,600,000
Internal 4,400,000

Total debt 13,000,000

Year ended June 30 (in pesos)—	Extraor-dinary rev-enues	Total reve-nues	Expendi-tures on public works	Total expendi-tures
1928	1,091,000	7,509,000	2,731,000	7,299,000
1929	1,369,000	5,653,000	1,144,000	5,566,000
1930	1,525,000	5,057,000	1,314,000	5,201,000
1931 [1]	(2)	5,568,000	(2)	5,568,000
1932 [1]	1,563,000	5,505,000	1,972,000	5,505,000

[1] Budget figures. [2] Not available.

Annual revenue (5-year average including the railroad income but excluding extraordinary items) $5,858,400
Annual expenditures (same basis) 5,827,800
External-debt interest 645,000
Total debt interest 995,000
Total debt service 1,250,000

Ratio of total debt interest to average revenue, approximately 17 per cent.

Ratio of total debt service to average revenue, approximately 21.3 per cent.

Originator of issue: Baker, Kellogg & Co.

Participating: Blythe, Witter & Co.

Offered in 1926 at 95½ and 98.

Present price (December 31, 1932), 12.

Cauca Valley (Department of), 7½-1946: Outstanding, $3,408,500; defaulted October 1, 1932.

Annual debt service:
Interest $256,000
Sinking fund 142,000
Interest in arrears to end of 1932 175,000

Security of issue: By first lien upon the tobacco tax, 80 per cent of the slaughterhouse tax, and 80 per cent of the liquor tax.

Receipts from pledged revenues

Year ended June 30—	Tobacco	Slaughter-house	Liquor	Total
1929	$1,307,740	$248,210	$1,784,960	$3,340,910
1930	730,730	235,600	1,250,800	2,217,130
1931	541,057	225,242	843,578	1,609,877
1932 (estimated)	725,000	240,000	944,000	1,909,000

Pledged revenues to interest of this issue (1932), 645 per cent.
Pledged revenues to debt service of this issue, 400 per cent.
Position of the department: Cauca Valley has an area of about 11,000 square miles and a population of about 650,000.

External	$7,250,000
Internal	1,250,000
Total debt	8,500,000

Year ended June 30—	Revenues	Expenditures
1929	$4,950,189	$5,176,258
1930	3,308,500	4,355,402
1931	2,093,356	3,227,298
1932	2,350,244	[1] 1,438,328
1933 [2]	2,167,000	2,167,000

[1] Only 6 months.
[2] Budget estimates; provision for debt service amounted to 29,090 pesos as against 268,000 pesos in previous fiscal year.

Annual revenue (5-year average not including extraordinary expenditures which apparently pertain to public works)	$2,624,600
Annual expenditures (not clear of what they consist)	3,053,360
External-debt interest	535,000
Total debt interest	700,000
Total debt service	1,000,000

Ratio of total debt interest to average ordinary revenue, 19 per cent.
Ratio of total debt service to average ordinary revenue, 27.5 per cent.
NOTE: The department made no provisions for its external-debt service on its 1932–33 budget, according to the budget.
Originator of this issue: J. & W. Seligman & Co.
Participating: Baker, Kellogg & Co.
Offered in 1927 at 98.
Present price (December 31, 1932), 10.
Cauca Valley (Department of), 7 per cent, 1948: Outstanding, $3,865,000; defaulted June 1, 1932.

Annual debt service:	
Interest	$270,550
Sinking fund	151,000
Interest in arrears to end of 1932	150,000

Security of issue: First lien upon the registry and mortgage tax; second lien upon the tobacco tax; first lien upon 90 per cent of the foreign liquor tax; and second lien upon the liquor (domestic) and slaughter taxes, subject to 7½ per cent dollar loan of 1926. In addition, it is secured by a first pledge of 1,150,000 pesos par value of 8 per cent gold bonds of the Sociedad Constructora de la Carrebera del Pacifico owning the Cali-Buenaventura Highway and 600,000 pesos par value capital stock of the same corporation.

Receipts from pledged revenues

Year ended June 30—	Total receipts, less prior charges	Registry and mortgage tax	Foreign liquor tax	Total, less prior charge
1929	$2,935,900	$148,500	$195,000	$3,279,400
1930	1,812,100	70,770	80,100	1,962,970
1931	1,204,800	52,770	42,500	1,300,070
1932 (estimated)	1,504,000	60,000	99,000	1,663,000

Pledged revenues to interest of this issue (1932), 614 per cent.
Pledged revenues to debt service of this issue, 394 per cent.
Originator of this issue: Baker, Kellogg & Co.
Participating: Field, Glore & Co.
Offered in 1928, at 96.
Present price (December 31, 1932), 7⅛.
Santander (Department of), 7–1948: Outstanding, $1,791,000; defaulted April 1, 1932; paid $28 per $35, coupon of April 1, 1932.

Annual debt service:	
Interest	$125,500
Sinking fund	63,500
Interest in arrears to end of 1932	100,000

Security of issue: First lien upon net taxes derived by the department from distilled liquor and tobacco.

Receipts from pledged revenues

Year ended June 30—	Tobacco, net revenue	Liquor, net revenue
1928	$196,800	$565,420
1929	247,900	493,430
1930	(1)	483,550
1931	(1)	344,430

[1] Estimated to be at least $200,000.

Pledged revenues to interest of this issue, 434 per cent.
Pledged revenues to debt service of this issue, 288 per cent.
Position of the department: Santander has an area of about 12,500 square miles and a population of about 600,000. It is the center of the petroleum industry.

External	$1,791,000
Internal	709,000
Total debt	2,500,000

Year ended June 30—	Revenues	Expenditures
1928	$2,321,140	$1,905,372
1929	2,256,963	2,782,791
1930	4,272,776	4,186,818
1931	(1)	3,879,453
1932 [2]	2,541,385	2,541,385

[1] Placed at approximately $3,200,000.
[2] Budget data.

Annual revenue (5-year average)	$2,918,450
Annual expenditures	3,059,164
External-debt interest	125,500
Total debt interest	190,000
Total debt service	250,000

Ratio of total debt interest to average revenue, 6.8 per cent.
Ratio of total debt service to average revenue, 8.6 per cent.
Originator of issue: Redmond & Co.
Participating: E. H. Rollins & Sons.
Offered in 1928 at 94.
Present price, December 10, 1932, approximately 10.
Tolima (Department of), 7 per cent, 1947: Outstanding, $2,112,000; defaulted May 1, 1932; paid $27 per $35, coupon of May 1, 1932.

Annual debt service:	
Interest	$150,000
Sinking fund	90,000
Interest in arrears to end of 1932	100,000

Security of issue: First lien upon 90 per cent of the liquor revenue, slaughterhouse, tobacco, and foreign-liquor taxes.

Receipts from pledged revenues

Year ended Apr. 30—	Liquor	Slaughterhouse	Tobacco	Foreign liquor	Total
1928	$508,730	$281,874	$337,506	$45,171	$1,173,281
1929	1,126,302	324,444	380,329	99,547	1,930,622
1930	1,302,089	331,771	385,011	68,771	2,087,642
1931	860,351	336,382	311,446	37,090	1,545,269

Pledged revenues to interest of this issue (1931), 927 per cent.
Pledged revenues to debt service of this issue (1931), 579 per cent.
Position of the department: Tolima has an area of about 9,100 square miles and a population of about 450,000.

External	$2,112,000
Internal	888,000
Total debt	3,000,000

Year ended Apr. 30—	Revenues	Expenditures
1928	$1,307,750	$1,302,114
1929 [1]	4,983,018	5,007,042
1930	2,736,331	2,794,765
1931 [2]	1,785,975	1,931,961
1932 [3]	1,979,909	1,979,644

[1] Includes the extraordinary budget.
[2] For 8 months ended Dec. 31.
[3] Budget figures; includes a provision for debt service of 552,325 pesos, against 492,867 in 1931 and 755,136 in 1930.

Annual revenue (5-year average)	$2,133,590
Annual expenditures (5-year average)	2,198,100
External-debt interest	150,000
Total debt interest	250,000
Total debt service	340,000

Ratio of total debt interest to average revenue, 11.7 per cent.
Ratio of total debt service to average revenue, 16 per cent.
Originator of issue: Redmond & Co.
Participating: E. H. Rollins & Co.
Offered in 1928 at 93½.
Present price, (December 31, 1932), 8.
Bogota (municipality of), 6½–1947: Outstanding, $2,257,000; defaulted April 1, 1932.

Annual debt service:	
Interest	$147,200
Sinking fund	96,000
Interest in arrears to end of 1932	200,000

Security of issue: First lien upon the majority of shares and dividends thereon of the United Electric Power Co.; first lien upon the city's share in the taxes of the Department of Cundinamarca on liquor, tobacco, and slaughterhouses; and a second lien upon other municipal taxes.

Receipts from pledged revenues

Year ended Dec. 31→	Pledged and income taxes	Earnings of pledged shares
1928	$756,715	$166,612
1929	890,656	217,524
1930	865,847	201,186
1931 (6 months only)	427,726	132,043

Pledged revenues to interest of this issue, 800 per cent.

Pledged revenues to debt service of this issue, 485 per cent.

Position of the city: Bogota has a population of about 225,000. It is the capital of Colombia. The city has a substantial interest in the utilities operating in Bogota.

External (dollar bonds)	$7,006,000
Other external debt	1,800,000
Internal	1,200,000
Total debt	10,000,000

Year ended Dec. 31→	Revenues	Expenditures
1928	$3,020,741	$2,988,125
1929	3,215,726	2,787,229
1930	2,582,168	2,700,387
1931	2,458,133	(1)

[1] Not available; it was reported that tax collections in arrears amounted to approximately 1,500,000 pesos.

Annual revenue (5-year average)	$2,750,000
Annual expenditures (5-year average)	2,750,000
External-debt interest	675,000
Total debt interest	760,000
Total debt service	1,060,000

Ratio of total debt interest to average revenue, 27.5 per cent.

Ratio of total debt service to average revenue, 38.5 per cent.

NOTE.—Early in 1932 a resolution was passed by the city council requesting the American bondholders to reconsider the loan terms, and a committee was appointed to arrange to end the proposition of the National Government whereby scrip was to be issued in the place of interest due to bondholders.

Originator of issue: Baker, Kellogg & Co.

Participating: P. W. Chapman & Co.; Tucker, Anthony & Co.

Offered in 1927 at 91.

Present price (12/10/32), approximately 10.

Bogota (city of), 8 per cent, 1945; Outstanding, $4,749,000; defaulted April 1, 1932.

Annual debt service:	
Interest	$385,000
Sinking fund	200,000
Interest in arrears to end of 1932	400,000

Security of issue: First lien upon the gross income from the real-estate taxes and all the public utilities owned and operated by the city. These include trainways, waterworks, electric power plants, markets, etc.

Receipts from pledged revenues, year ended December 31, 1931 [1]

Gross revenues of utilities	$1,327,260
Real-estate taxes	296,018
Total	1,623,278

Pledged revenues to interest of this issue, 800 per cent.

Pledged revenues to debt service of this issue, 510 per cent.

Originator of issue: Dillon, Read & Co. No participants.

Offered in 1924 at 98.

Present price, December 31, 1932, 14.

Medellin (municipality of), 7 per cent 1951; Outstanding, $2,644,000; defaulted December 1, 1931; paid $10.80 per $35, coupon of December 1, 1931.

Annual debt service:	
Interest	$186,500
Sinking fund	84,475
Interest in arrears to end of 1932	250,000

Security of issue: Secured by a first lien upon the physical properties of the public utilities and net earnings of such properties. In addition, the issue is secured by a first lien upon all the revenues of the municipality.

Receipts from revenues pledged, year ended December 31

	Gross income of utilities	Net before depreciation
1929	$1,551,960	$830,780
1930	1,669,000	840,000
1931	1,489,195	845,743
1932*	367,072	187,405

* Three months only.

[1] Only 6 months.

NOTE.—Ratios were not calculated because net income is not available, inasmuch as depreciation is not given.

Position of the municipality: Medellin has a population of about 120,000. It is the capital of Antioquia. Medellin owns and operates the utilities of the city. Debts have been largely contracted for the construction of new hydroelectric plants which are said not to have been completed as yet. The city, however, is applying part of debt service for completion of its electric properties, this being to the benefit of the bondholders, according to the municipality's contention.

External	$11,000,000
Internal	2,500,000
Total debt	13,500,000

Year ended Dec. 31→	Revenues	Expenditures
1928	$2,970,000	[1] $8,039,975
1929	3,016,500	[1] 6,916,394
1930	(2)	(2)
1931	3,327,072	3,516,652
1932 [3]	3,976,469	3,976,469

[1] Include extraordinary expenditures but amounts are not known.
[2] Not available.
[3] Budget estimates.

Annual revenue (5-year average)	$3,200,000
Annual expenditures (estimated, not clear as to what it includes)	3,800,000
External-debt interest	731,500
Total debt interest	931,000
Total debt service	1,200,000

Ratio of total debt interest to average revenue, 29.1 per cent.

Ratio of total debt service to average revenue, 37.5 per cent.

NOTE.—In November, 1931, the municipality authorized the suspension of debt service by requesting a moratorium on its external debt, inasmuch as the continuance of service payment was impossible.

Originator of issue: Hallgarten & Co.

Participating: Kissell, Kinnicutt & Co. (not Kidder, Peabody & Co.); Halsey, Stuart & Co.

Offered in 1927 at 93½.

Present price (December 31, 1932), 12¼.

Medellin (municipality of), 6½, 1954: Outstanding, $8,378,000; defaulted December 1, 1931; paid $9.10 per $32.50 coupon of December 1, 1931.

Annual debt service:	
Interest	$545,000
Sinking fund	177,050
Interest in arrears to end of 1932	600,000

Security of issue: None. It is the only Colombian issue (department and municipality) which is not specifically secured.

Originator of issue: Hallgarten & Co.

Participating: Kissell, Kinnicutt & Co. (now Kidder, Peabody & Co.); Halsey, Stuart & Co.

Offered in 1928 at 93¼.

Present price (December 31, 1932), 7½.

Cali (municipality of), 7 per cent, 1947: Outstanding, $2,408,000; defaulted May 1, 1932.

Annual debt service:	
Interest	$169,000
Sinking fund	103,700
Interest in arrears to end of 1932	200,000

Security of issue: First lien and mortgage on the waterworks and on the principal items of improved real property owned by the municipality. Also secured by a first lien upon all the revenues except the municipality's participation in the departmental revenue.

Receipts from revenues pledged—Year ended December 31

	Total receipts
1928	$855,719
1929	915,279
1930	707,065
1931 [1]	312,512

Pledged receipts to the interest of this issue, 353 per cent.

Pledged receipts to debt service of this issue, 225 per cent.

Position of the municipality: Cali has a population of about 125,000. The city was reported to have properties with a value of about $2,500,000 in 1928.

External	$2,408,000
Internal	592,000
Total debt	3,000,000

Year ended Dec. 31→	Ordinary revenue	Extraordinary revenue	Expenditures
1928	$972,407	$1,108,369	$1,783,192
1929	1,040,088	336,408	1,336,155
1930	803,484	263,584	1,058,696
1931	690,307	----------	(*)

* Not available.

[1] Only 6 months.

Annual revenue (4-year average)	$875,000
Annual expenditures	950,000
External-debt interest	169,000
Total debt interest	215,000
Total debt service	318,500

Ratio of total interest to average revenue, 24.5 per cent.
Ratio of total debt service to average revenue, 36.4 per cent.
Originator of issue: Field, Glore & Co.
Participating: Baker, Kellogg & Co.
Offered in 1927 at 93.
Present price, approximately, 8.

NOTE.—The Colombian peso is equal to United States $0.973 at par, but its current value is being regulated and quoted at $0.955.

SPANISH-AMERICAN WAR VETERANS' PENSIONS—ADDRESS BY HON. RICE W. MEANS

Mr. ROBINSON of Indiana. Mr. President, a few days ago, on Friday, January 20, 1933, Col. Rice W. Means, a former Member of this body, delivered a radio address, upon invitation of the National Broadcasting Co., on the subject of the Spanish War Veterans' Pensions. It is a very interesting address and full of information which I think the Senate ought to have. I ask unanimous consent to have it printed in the RECORD.

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

Thirty-five years ago May Day the world received news of the wonderful victory of Dewey and his fleet. That moment we became a great world power. Our people lifted their eyes from the horizon of domestic affairs and saw their relationship to the other peoples of the world.

Our country was totally unprepared for war. When the President called for volunteers, men responded immediately. They were hastened to camps in southern States located in places that we go to war in behalf of suffering humankind.

The young men from the North and the young men from the South marched away shoulder to shoulder. The wounds from the great civil strife were healed by the patriotism of those sons of America.

Our country was totally unprepared for war. When the President called for volunteers, men responded immediately. They were hastened to camps in southern States located in places which were considered most convenient but which, in most instances, were insanitary and injurious to the health of the command. The doctors had little or no medicine. They were without experience in the handling of large groups of men. What uniforms they had were heavy ones for service in the North and not fit to be worn by men in service in the Southland and in the Tropics. The commissary department absolutely broke down. The whole country was shocked by the "embalmed beef scandal" and the terrible epidemic of fever that broke out in those camps. Men were taken to the Tropics without proper clothing or food and without medicines. It is a wonder that any of them lived to tell the story of their experiences.

Those men carried liberty to Cuba; they fed the starving in Puerto Rico, took happiness to the Philippine Islands, provided for the open door in China, and stamped out the yellow fever in our Southern States. They carried the sunlight of American ideals into the darkest places of the world. They were the cause of the building of the Panama Canal. The period from 1900 to 1907 has been declared by statisticians to be the most prosperous in the entire existence of this Nation. It has been truly called the "golden era."

Through their insistence this Nation provided for a national defense. Their organization was dedicated to be a valuable aid to the Army and Navy and the Government of the United States during any future war.

The Spanish War, including the Philippine campaign, lasted 4 years, 2 months, and 14 days. Congress has repeatedly declared that to be the period of the war. Sixty-one per cent of the men saw service in the Tropics and the other 39 per cent in the fever-infected camps in this country.

DEFINITE POLICY EXISTED

When those veterans entered the service there was in existence a definite fixed veterans' policy established by the Congress of the United States in the year 1862 and amended in 1890. That policy constituted a definite promise to those men. It was a part of their enlistment contract, as definitely known as if it had been in words written therein.

When this Nation entered into the World War the Congress on October 6, 1917, declared a new veterans' policy by which the Government of the United States would reward the officers and enlisted men of the World War. It provided for compensation, family allowances, increased pay, additional pay because of continued service, vocational training, a new rating schedule, and the advantage of presumptions in aid of proof. No one at that time ever suggested that this same act or any part of the benefits it gave to the boys of the World War was to apply to the veterans of the Civil War or of the Spanish War.

Now certain leaders of organized business, after a period of 34 years, have asked the Government to repudiate its solemn obligation to those Spanish War veterans and thus take away all pension rights unless they can prove their disabilities to be service connected. They must know that is an impossibility. There are no medical or hospital records in existence of sufficient value to constitute such proof.

DIFFICULT TO GET RECORDS

The Surgeon General of the United States Army, in a report to the Secretary of War as of date June 30, 1899, said: "It was difficult to obtain, even from the regular regiments when in the field, the monthly reports of sick and wounded required by the regulations. This was due in part to the impossibility of having a full staff of regular medical officers with each regiment, on account of the limited number of the regular Medical Corps, and of the many members of that corps who had to be assigned to important administrative duties as chief surgeons or corps, division, and brigade surgeons on duty in hospitals and hospital ships, medical supply depots, etc.

"Many surgeons on contract, with no experience in the keeping of the records of sick and wounded, had therefore to be assigned to duty with the regiments. Chiefly, however, was this difficulty due to the unusual conditions under which the Medical Department was required to do its duty during and after the attack on Santiago. Something may be understood of these conditions when I state that the casualty lists required to be forwarded to my office by each surgeon immediately after an engagement with the enemy were not received for a month after the fighting had ceased. When they arrived they were found to be written in pencil on blank sheets torn, apparently, from private letters and other such scraps of soiled and weather-stained paper as could be obtained in the trenches or in the camps to which the regiments were afterwards withdrawn.

CHIEF SURGEON'S REPORT

"Later, when the health of the troops broke down under the exposure and fatigue of the campaign, with malarial fevers prevalent, yellow fever spreading, and from 100 to 200 men in each regiment claiming attention at sick call every morning, even the best trained and most energetic medical officer found it difficult to keep a satisfactory record of his cases, while others gave up the attempt to do so and devoted the whole of their energies to the care of their sick men."

Now, let us inquire into the conditions surrounding the service of the men in the Philippine Islands.

The chief surgeon of the Eighth Army Corps, in an official report to the Surgeon General, United States Army, said:

"SIR: I have the honor to herewith submit report of a special examination as made by the writer of the First South Dakota Volunteer Infantry, one of the units of his division, on account of complaint from headquarters at Manila that 'so many men from this expedition have been sent in from duty for treatment.'"

In order to ascertain present physical condition of troops, this regiment was selected by "lot."

"Total number of men examined was 540, balance of the regiment (over 600) being in hospital in Manila, Corregidor Island, or elsewhere. A very few were away on detached service.

"Of the entire number examined only 96 were normal. The unique feature of this examination was the condition of the heart; 179 of those examined had a pulse rate from 85 to 100, and 191 ranged from 100 to 150 (normal is 72).

"A large majority of these tachycardiacs had normal temperatures, the exception being an occasional slight rise. These observations were under exceptionally quiet conditions, men sitting, with absolutely nothing in the surroundings tending to excitement. Many of these cases used no tobacco, and the majority were young men. Those not on 'sick report' made no complaint of condition.

"These men have been either on the firing line, in the trenches, or on outpost duty almost continuously since February 4, 1899. Their sleep has been broken night after night by the now famous night attacks of the enemy, and during a great part of this time they have been exposed to the tropical sun at midday, poor water, no shelter at night, no bathing facilities or change of clothing, and from date of leaving Calumpit there was about two weeks of subsistence upon 'travel ration' only.

"This somewhat extensive campaign has demonstrated the fact that the white man in the Tropics can not endure the same amount of nerve tension and physical exertion that he can in the Temperate Zone.

"From many personal inspections, careful observations during this campaign, together with the result of the above examination, it is the opinion of the writer that the entire Second Division, Eighth Army Corps, is near a physical breakdown, and it is herewith recommended that each unit be relieved from duty as rapidly as it can be replaced by fresh troops and sent in from the front for rest and recuperation.

"Very respectfully, your obedient servant,

"HENRY F. HOYT,

"Major and Chief Surgeon, United States Volunteers."

ADHERED TO OLD POLICY

"When those men were discharged, they did not seek special legislation for their benefit. They willingly adhered to the policy then in existence, deeming it to be a part of their contract with the Government. It is well to bear in mind that President Roosevelt, an active, enthusiastic member of our organization, whose attitude toward veterans was well known, would have caused the enactment of special legislation for our benefit had we asked him so to do. Spanish War veterans had every reason to believe that the Government would carry out its solemn obligations to them

and would grant benefits in the same manner and in like amounts as were then or would thereafter be granted to veterans of the Civil War.

The United States Court of Claims, in a decision which has been cited with approval by the United States Supreme Court, has defined a pension to be: "A pension is a periodical allowance of money to a person, in the nature partly of a gratuity and partly of payment for past benefits conferred; payment because it is supposed to be in consideration of previous services rendered to the Government or the public, for which the compensation before made, if any, was inadequate in proportion to the benefits received and the ability of the nation in its prosperity to pay."

NATIONAL ECONOMY LEAGUE

The National Economy League, that illegitimate child of organized business and international bankers, appeared before the joint committee of Congress authorized to examine into all existing legislation and report to the Congress a veterans' policy, and testified through the medium of their attorney, Mr. Marshal Bullitt. I quote from the record:

"Mr. BULLITT. There is no reason for this dole.

"Senator ROBINSON. A dole! Do you mean that this money paid to veterans is a dole?

"Mr. BULLITT. Yes; nothing but a pure dole; and the position of the Economy League is that there is no reason for its payment; that it is a dole, a gratuity for nothing."

If he had uttered those words in the years 1898 or 1918, he would have been incarcerated as an enemy of his country. His present employers would have at that time called it treason.

ISSUE IS CLEAR CUT

The issue has been made; it is clear cut and understandable. The amounts received by Spanish War veterans have never been questioned. The issue is: Were the services of those veterans of such value to this Nation and its people as to warrant a payment of the benefits they now receive as a reward for those services? Or were their services valueless and the amounts now received by those veterans a dole, a gratuity for nothing?

It seems hardly possible that citizens would so far forget themselves as to besmirch the services of America's only volunteer army. Because of those services more benefits flowed to this country than from any other conflict in which this country has been engaged since the day of independence.

The New Orleans Times-Picayune, in a recent editorial said: "If ever a war pension was justified by logic and sentiment, it is that small amend made to the most patriotic and worst-treated army ever assembled by the American Republic."

We are content to submit our case to the Congress and to the patriotic people of the United States. We are proud of our service, proud of our country, and proud of our contract of enlistment which has been partly performed on the part of the Government and fully performed on the part of Spanish War veterans. The Congress will never consent to this Government's repudiating that contract. They will declare in no uncertain language the debt to Spanish War veterans must be paid.

BONDS OR CHARITY—ADDRESS BY REV. CHARLES E. COUGHLIN

Mr. NYE. Mr. President, I ask unanimous consent to have printed in the RECORD a radio address delivered by Rev. Charles E. Coughlin. It contains so much valuable information and thought that I believe it to be deserving of the attention of the Senate.

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

It appears that religion has lost much of its charm and forcefulness in the scheme of our modern civilization.

This is so true that more than 60 per cent of our fellow citizens profess no allegiance whatsoever to any organized church. They regard dogmas as unscientific presumptions. They look upon morals as unreasonable impositions.

While the Bible is regarded as a book to be revered, it is oftentimes considered archaic to maintain that its contents are revealed truths.

This is most unfortunate, especially when we are confronted with the momentous problems of the present day.

For a short period of time the world of men more or less became disciples of the goddess of a science divorced from religion. Like a meteor in the night she appeared on the distant horizon of the eighteenth-century sky. Brighter and more beautiful she loomed through the years, transforming darkness into apparent sunshine. Then, at the very moment when men deemed that day had dawned forever, there was a hissing sound as this vagrant of the heavens dashed herself into the depths of an ocean of blood where mingled the rivers of sorrow which flowed from the wounds of the Great War.

Night returned from its darkness, more terrible than ever. Men once more began their gropings and their searchings after light. When, lo! through the clouds of doubt there appeared the dim silver shining of the morning star, God's ambassador, heralding the approach of the eternal Sun of Justice, Christ Jesus, the Light of the World!

My friends, it were inexpedient for me to scorn the magnificent developments attributed to the scientific experimentation of the century which has passed. Too well are you acquainted with the progress of steam and of electricity, with the marvels of chemistry, with the secrets of physics which now are so commonplace. Too well have we all tasted of the sweets of their victories. Our generation, equipped with a new ammunition of learning and fortified with new weapons of science, has fought battles on the frontiers of a new world of progress—frontiers which were uncharted on the maps of our grandparents' knowledge.

Nevertheless, I honestly lament the absence of religious principles during this period of magnificent material achievement—principles designed not to impede progress; not to retard the advance of science; not to perpetuate the abuses of the past, but, on the contrary, religious principles which are intended to reach out a guiding hand to science as together they both seek their way from the deserts of bondage to the meadows of liberty; from the winter of discontent to the summer joys of happiness.

Unguided by faith or by Biblical principles, what solution has science offered to liquidate the imponderable debts accumulated by the Great War or to stem the ever-increasing tide of losses which threaten to engulf us?

With all the gifted intelligence resident in the minds of economists, which one of them, divorced from religion, has approached the problem of unemployment with such clarity of thought as is manifest in the legislation of the Mosaic Law or in the verses of Saint Paul's inspired Letter to the Corinthians, chapter the thirteenth?

Not one of them! These problems which are deep-rooted in man's social relations, one to another, have baffled a Pericles and an Aristotle of old, and will continue to defy lesser minds to-day unless the dim, fluttering candle of reason gives way to the lustrous, shining of the Light of the World!

God's standard has been bartered for an impossible gold standard. Debts and financial rights have been deemed more precious than love and human rights.

I

First. Let us consider the stupendous debts which are devastating our farms, confiscating our homes, divorcing our life's savings, destroying our industries, and throwing into inevitable bankruptcy our once prosperous country.

As you are already apprised of the fact, our national and private debts have reached approximately $235,000,000,000.

Definitely related to these debts is a conservative loss of $264,000,000,000, sustained by our citizens during the past three years.

This total of nearly $500,000,000,000 is so staggering that our capacity to pay has long since become an impossibility.

Now, with what solution do the sacred Scriptures supply us when we are confronted by such a perplexing situation?

Read with me the twenty-fifth chapter of the Book of Leviticus. There you find inscribed the following words:

"Thou shalt sanctify the fiftieth year, and shalt proclaim remission to all the inhabitants of thy land; for it is the year of jubilee. Every man shall return to his possession, and everyone shall go back to his former family. * * *

"In the year of jubilee all shall return to their possessions.

"When thou shalt sell anything to thy neighbor or shalt buy of him * * * thou shalt buy of him according to the number of years from the jubilee. * * *

"Do not afflict your countrymen."

Here, then, both a principle and a practice are expressed.

The principle is plainly this, namely, that debts have a limitation and an ending. They must not afflict your fellow countrymen, nor, in any event may they endure in perpetuity.

It is a principle which plainly infers that financial rights have a termination and that human rights are eternal.

It is a principle which was not abrogated under the Christian dispensation; for Christ came to perfect and not to destroy.

It is a divinely inspired principle which seemingly has not filtered through the minds of those into whose hands the destiny of our Nation has been placed.

"Do not afflict your countrymen!" What care they for this economic inspiration that was born in heaven?

If it fits not into the philosophy of creditors, let it perish. Let poverty reign; let stark starvation run rampant through our countryside; let evictions multiply. In a word, crush out human rights. Pillory them in every public place to teach a broken-hearted people that financial rights are supreme.

How inconsistent we so-called Christians are. Invokers of the name of God in our political speeches. Builders of churches with our ill-gotten gains. Mumblers of prayers in public places. And hypocrites when actions would be more eloquent than words.

II

Take up and read not only those of you who still cling to the outstretched hand of religion, but also those of you who, oppressed by debt, have forsaken her guidance to wander aimlessly down life's treacherous pathway.

Take up and read this twenty-fifth chapter of Leviticus in its entirety.

And what else shall you find?

At least one more principle that is applicable in our present day when the Budget is unbalanced, when taxes are being multiplied, when unemployment has reached a national crisis, and when the concentration of wealth in the hands of a few rides ruthlessly on under the whip and spurs of bonds and interest.

Let me read for you the passage at hand:

"If thy brother be impoverished and thou receive him as a stranger and sojourner, and he live with thee, take not usury from him nor more than thou gavest.

"Thou shalt not give him thy money upon usury, nor exact of him any increase of fruits. * * *

"If thy brother, constrained by poverty, sell himself to thee, thou shalt not oppress him with the service of bond servants."

Usury! Interest! Bonds! Taxation!

Were we religiously minded, it would not be difficult to apply this principle to-day.

It is a long, sordid story, my friends, in the telling of which I shall try to be brief.

Many of our social and economic sorrows are traceable to the lust for power and to the greed for gold which dictated the policies which culminated in the Great War.

No one seriously denies that this wholesale carnage was an inevitable sequence to the commercial and financial greed which characterized the age of reason.

This is a serious statement to make. It is one which should not go unchallenged unless substantiated by facts.

For a moment let us disregard the European nations and focus our attention upon America.

If you recollect, we entered the Great War on Good Friday in the year 1917.

On the eve of that eventful day our Senate was assembled.

Long into the hours of Holy Thursday night serious-minded men debated both on grounds of patriotism and of righteousness whether or not we should take up arms against the Central Powers.

The night when nearly 1,900 years before the Master supped with His apostles and said to them, "This is the chalice of the new and eternal testament which shall be shed for you and for many unto the remission of sins!"

The night when Judas betrayed Him for 30 pieces of silver!

The night of Gethsemane with its horrors, with its infuriated mob.

The night when were spoken the words, "Put up thy sword into its scabbard. Know ye not that they who use the sword shall perish by it."

The short-lived night when Annas and Caiaphas gloried in their passing triumph.

The clock in the Senate Chamber moved toward midnight.

Frenzied words passed to and fro.

Voices were filled with emotion.

Was there ever such nervous tension before in the history of that august body? Never! Never!

The hands of the clock ticked off the seconds, the minutes.

It was 10 minutes to 12—and yet no decision had been made.

From his seat rose a white plumed, fearless, honest man. It was Senator James Reed, of Missouri.

"If you must declare war," said he, "for God's sake, do it now before it becomes Good Friday."

And then the bells of midnight began to toll the yearly requiem for the Prince of Peace.

The Senate had waited too, too long.

Waited for the anniversary of His death day to declare the most iniquitous war that was ever waged.

It was the Good Friday of that memorable year of 1917.

It was the doomsday of thousands of America's youths who, like the innocent Victim of old, were herded to their Calvary of sacrifice to be crucified between the two thieves of gold and greed.

On that eventful day the president of the bank board of the United States was Mr. W. P. G. Harding.

If the Senators knew not why they declared war, at least Mr. Harding was not ignorant.

On March the 22d previous to the declaration, mind you, he knew that eventually we would commit ourselves against the Central Powers. He knew it and knew why, as is evident from these historic words—words that shall go down to blot with shame the pages of American history. Mr. Harding said:

"As a banker and creditor, the United States would have a place at the peace-conference table, and be in a much better position to resist any proposed repudiation of debts, for it might as well be remembered that we will be forced to take up the cudgels for any of our citizens owning bonds that might be repudiated."

What a confession, my friends; what a paradox to Christian teaching; what a burlesque on human rights. To think of it we must take up the cudgels, we must rush headlong into a sea of blood, we must sacrifice our boys, we must crush the hearts of their mothers, we must multiply barbarously the orphans in our fair land, we must crucify again the Prince of Peace, we must consign to hell the doctrines of charity—all for the sake of bloody bonds, owned by private citizens, and bought at their personal risk. Bonds which to-day sleep in vaults where wealth lies buried but which to-morrow shall rise like ghosts from graves in hell to haunt and to torment both us and our children.

Some future historian, my friends, will have both the courage and the honesty to analyze that statement of the president of the bank board of the United States and to tell fearlessly to the generations to come that our entrance into the Great War was motivated not to make the world safe for democracy but to make the bonds and debts collectible by our private lenders.

Christ was betrayed again for 30 dirty pieces of silver. And once again they who thus used the sword shall perish by it.

What had happened to evoke such a heinous, sinful statement from the official mind of the president of the bank board of the United States?

Briefly, this is the outline of the facts:

We are discussing the year 1917.

For three years previous to this date American corporations had been waxing fat on the war materials which they were shipping, chiefly to England and to France.

Already billions of dollars worth of wheat, of cotton, of arms and munitions had been poured into the lap of the Allies. Hardly a penny in actual money had been extended to them.

Now, in 1917, it seemed certain that Germany would be victorious. If so, it seemed equally certain that England and France and the Allies would repudiate their debts to private bondholders in the United States.

Thus, it appeared that the private contracts entered into directly by American munition manufacturers with the allied Governments of Europe would be disavowed.

So we went to war to save our thirty pieces of silver; to guarantee that the Allies, whom our wealthy citizens had staked for three years, would win and therefore pay.

Now, the United States as a nation, after 1917, was officially participating in the conflict.

Now, the complexion of the loans to the Allies was undergoing a change. Their payment was being made secure by the bodies and souls of innocent men.

More than ever in 1917 arms, munitions, coal, and foodstuffs were required by the Allies as well as by our own Army and Navy. But from this year on our Federal Government, which means the American taxpayer, undertook to carry the burden.

Roughly estimated, $14,000,000,000 of war material was loaned to the Allies by the broad shouldered American taxpayer until eventually came the armistice, and with it a second chapter of bond history was written.

For behold! The $14,000,000,000 worth of material—of wheat and of cotton, of meat and coal and munitions which we shipped abroad to England, to France, to Italy, to the Allies—was summarily canceled. Their war debts were officially wiped out!

Meanwhile the American producers of these war materials had been paid in American dollars.

Meanwhile Government interest-bearing bonds had been sold to our banks and to our citizens to raise these dollars. Those who were crucified to the cross of poverty must offer up sacrifice to those, their fellow citizens, who sat upon the thrones of the Herods of wealth.

Do you understand? The taxpayers of the United States assimilated the debts canceled so generously to the European nations. We assimilated the debts; and the taxpayers, through the medium of bonds, began to pay back the manufacturers of munitions and bullets used to kill and to destroy.

Oh, indeed, if the debts had been canceled in favor of the foreigners, the bonds representing them and piled upon the backs of the American public had not been canceled! They still remained. Our citizens were still pledged to redeem these bonds which our Government had issued to pay the great corporations of America for their profitable contribution in having made a shambles of the civilized world.

We who thought that the flower of our youth had been sacrificed to make the world safe for democracy now agreed with President Wilson when he disillusioned us with the statement: "This was a commercial war."

Thus, once more I stress the point that as a result of the Great War the citizens of this Nation are, in one sense, debtors to the war profiteers of this country.

Their profits ran into billions of dollars. And as a result of it all there sprang up in our midst in a period little over one year and a half 16,500 more millionaires than we had before we entered the conflict.

Let me give you a few examples from the official records in our Federal archives.

First comes the Bethlehem Steel Co. The profits of this corporation for the years 1911, 1912, and 1913 averaged $3,075,108 per year. But in 1915 the profits jumped to $17,762,813. In 1916 they totaled $43,503,968. And in 1918 they pyramided to $57,188,769.

Second. Twenty-nine leading copper-producing companies from 1915 to 1918 had a surplus of $330,798,593 compared with the surplus of $96,711,392 on the same day of 1914.

Third. The United States Steel Corporation, with a capital stock of approximately $750,000,000, made a profit in 1916 and 1917 alone of $888,931,511.

Fourth. In the Senate Document 259 of the Sixty-fifth Congress there are made manifest the profits gained by American business during the year 1917. This document contains 388 pages of almost unbelievable facts.

In the meat-packing business alone half of the concerns made a profit of more than 50 per cent, and a sixth of them admit they made a profit of over 100 per cent.

Of the 340 coal producers in the Appalachian field 79 of them reported profits between 50 and 100 per cent; 135 of them testified that they profited to the extent of 100 to 500 per cent; 21 reported profits of from 500 to 1,000 per cent; and 14 testified that they made profits of more than 1,000 per cent.

Of course, my fellow citizens, immediately following the Great War $14,000,000,000 which Europe owed us at that moment in 1918 were summarily canceled. But that does not signify that the United States Government bonds which floated these debts and which eventually are payable by your tax money and by mine—it does not signify that these were canceled. For generations to come the American people will be paying out taxes to the dollar-a-year profiteer who already had grown fat upon the misery of a stricken people.

Perhaps the truthful historian to whom I referred a few moments ago will regard the Great War as the death knell to a system of irrational capitalism which greedily profiteered upon misery, and to a system of financial control which waxed fat upon the bonded debts of a patient people.

And so to-day, my friends, the American people are demanding the normalization of the American dollar—a dollar that was abnormalized and rendered dishonest by the issuance of war bonds, by the inflation of domestic credit at home, by the breakdown of foreign commerce and trade, and by the subsequent flight of currency money from the channels of circulation.

To-day as in the year 1862, we are being terrorized and tyrannized by the philosophy which then was spoken by the house of Rothschild to the American bankers.

In a letter, known as the "hazard circular," received by every bank in the State of New York and in New England on that date, we find the following statement:

"The great debt that capitalists will see to it is made out of the war must be used as a means to control the volume of money. To accomplish this, the bonds must be used as a banking basis."

Thus everyone is aware that money is controlled both by the debts and the profits arising from the war and by the multiplicity of bonds, bloody bonds, which bind us to the past and prevent us striving for the better things of the future.

No wonder that to-day following the Great War it is just as true as in the days following the Civil War that bankers are adverse to the issuance of currency money to replace the existing interest-bearing bond money that is sucking the lifeblood from our Nation.

In 1872 a mighty group of New York bankers sent the following circular to every bank in the United States. It reads as follows:

"DEAR SIR: It is advisable to do all in your power to sustain such prominent daily and weekly newspapers, especially the agricultural and religious press, as will oppose the issuing of greenback paper money, and that you also withhold patronage or favors from all applicants who are not willing to oppose the Government issue of money. * * * To repeal the law creating national-bank notes, or to restore to circulation the Government issue of money, will be to provide the people with money, and will therefore seriously affect your individual profit as bankers and leaders."

Thus the question of issuing noninterest bearing Government money to replace the interest-bearing bond money has become a national issue.

The principle of Scripture supports Government non-interest-bearing money. The principle of bankers stands firmly behind the bond money.

"If thy brother be impoverished," says the Scripture—and God knows as a Nation we are not only impoverished, but we are on the verge of bankruptcy—"if thy brother be impoverished and weak of hand, take not usury from him nor more than thou gavest."

By which principle do the people of this Nation wish to stand? By the principle revealed by Almighty God to His chosen people or by the policy advocated in the financial documents which I quoted?

Billions of dollars of war bonds bearing interest and multiplying wealth at the expense of our misery!

Or the equivalent of these bonds handed to their present posessors in new currency at which they will scoff and say: "Fiat money" as if it were not backed by gold; as if it were not cleaner and holier than the blood money of war bonds to which they cling!

It would be billions of sterile currency dollars which the present bondholders would perforce invest in industry or in other tax-bearing bonds.

It would help substantially to end the famine of money from which we are suffering.

Religion! Faith! Revelation. These things, so taught the proud rationalist of the previous century, were relics of the uncultured past. Let us replace them with the clay god of reason. Let us substitute for God's word the word of erring man.

If in ancient days it was taught that thou shalt not oppress thy brother, we of this new age shall shout from the housetops and preach in the press that this absurdity must terminate once and for all.

If bonds and interest were forbidden even in the dim past of Mosaic days, we of this age of reason shall teach a new doctrine that there can be no progress, no concentration of wealth in the hands of a few unless these instruments of tyranny are revived.

If there needs be such an illusion as religion, says the rationalist, bind it and cabin it up within the narrow precincts of a Sabbath day, for it has no place in the bank, no place in the stock exchange, no place in the secular life of a world's prosperity.

Oh, my fellow men, what price have we paid for this philosophy, for our cleverness, for our rationalism; what sacrificial victim have we offered up at the feet of this dirty god of clay!

With tears in our eyes, with hearts filled with sepentance, we have sadly staggered under the weight of this cross; we became its victims until we were crucified between the thieves of greed and gold. But to-day I trust that we are glimpsing the first rays of a new sunrise, of a revived faith, of a happy Easter morn of resurrection from the dead past.

Once more we shall take up and read the Scriptures. Once more we shall turn to that beautiful letter which Paul inscribed to the Corinthians and read therein God's philosophy of man's relation to his fellow man as we put aside once and for all the rugged individualism, the pagan selfishness, and the cursed exploitation which have temporarily replaced it in the days just passed.

"If I speak with the tongues of men and of angels, and have not charity, I am become as sounding brass, or a tinkling cymbal.

"And if I should have prophecy and should know all mysteries and all knowledge, and if I should have all faith, so that I could remove mountains, and have not charity, I am nothing.

"And if I should distribute all my goods to feed the poor, and if I should deliver my body to be burned, and have not charity, it profiteth me nothing.

"Charity is patient, is kind; charity envieth not, dealeth not perversely, is not puffed up, is not ambitious, seeketh not her own, is not provoked to anger, thinketh no evil; rejoiceth not in iniquity, but rejoiceth with the truth; beareth all things, believeth all things, hopeth all things, endureth all things.

"Charity never falleth away: whether prophecies shall be made void or tongues shall cease or knowledge shall be destroyed.

"For we know in part: and we prophesy in part.

"But when that which is perfect is come, that which is in part shall be done away.

"When I was a child, I spoke as a child, I understood as a child, I thought as a child. But, when I became a man, I put away the things of a child.

"We see now through a glass in a dark manner; but then face to face. Now I know in part; but then I shall know even as I am known.

"And now there remain faith, hope, and charity, these three; but the greatest of these is charity." (I Cor. xiii, 1–14.)

And that, my friends, is the beautiful philosophy which God reveals to us—the doctrine of charity which is counter to the doctrine of rugged individualism. Charity, which looks into the soul of your fellow man and sees there not only the facial expressions of another human being but the borrowed splendor of the God who created him!

Charity bids us love our fellow men not for what they are in themselves but because God dwelleth in the temple of their hearts.

Charity, greater than all things, greater than all power, all wealth, teaches us to love the Lord our God with our whole heart, with our whole soul, with our whole mind, and our neighbor as ourselves. Charity teaches us that whatsoever we do unto the least of God's little ones we do unto Him!

Without charity you can not even pretend to Christianity.

Thus, my friends, shall we go down the highway of time perpetuating the hypocrisy of the past? Shall we endeavor to work hardship and exploitation upon our fellow man, knowing that whatever we do unto him we are doing unto Christ?

Oh, rob, steal, profiteer, and exploit, bend low and break your fellow citizens! Every time you lift a lash of oppression; every time you raise a scourge of exploitation you are lashing Christ again at the pillar in Pilate's hall, you are driving home once more the thorns of worry into His brow; you are crucifying Him upon the cross of Calvary!

Whatsoever you do to the least of His little ones you do unto Him!

Unless we adopt this doctrine, proclaimed both by Catholic and Protestant and revered by Jew, let us be honest and take the name of God from our coins; erase the image of Christ from our minds, and become pagans in deed and in name both. Like Magdalen of old, or like the thief upon the cross, let us turn to the crucified Christ, beg for forgiveness, and from Him the promise shall come to-day as of old, "This day thou shalt be with Me in paradise."

DISTRIBUTION OF GOVERNMENT-OWNED COTTON—CONFERENCE REPORT

Mr. BINGHAM. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nevada yield to the Senator from Connecticut?

Mr. ODDIE. I yield.

Mr. BINGHAM. Mr. President, it is obvious that to-morrow we shall be occupied all day long, and somewhat into the evening, with the pending appropriation bill. It is well known that we have been endeavoring now for some weeks to get a little relief for those who are cold by distributing through the Red Cross cotton that is owned by the United States Government.

The bill for that purpose passed the House; it passed the Senate with amendments; it went to conference; the conferees agreed; the House has adopted the conference report; it came to the Senate; the report was adopted by the Senate; but when the Senator from Utah happened to return to the floor and discovered that it had been adopted, he, very properly, in his own right, entered a motion to reconsider.

We have been endeavoring now for some 10 days to get the Senator from Utah to press his motion to reconsider. I realize that I or any other Senator might have pressed it; but, out of courtesy to him and his desires, I have refrained from doing so. Now we have been told by the chairman of the Appropriations Committee that we have got to hold night sessions in order to secure the passage of the appropriation bills. I wonder if the Senator from

Utah will not be willing—it is not very late—to take the matter up at this time?

I dislike to make a motion, but we have had a promise from him at least three times during the last 10 days that the report might be taken up on either the next day or the next day but one. The Senator realizes that winter is progressing, and that every day's delay means additional discomfort for thousands of people. I appreciate the fact that the Senator has very strenuous objections to certain features of the bill, but the Senator from Tennessee has assured us to-day that the majority of the Senate are in sympathy with him; so why not let us vote on the question as to whether the conference report shall be agreed to or, if the Senator wishes to make his motion, vote on the question of sending the bill back to conference? Let us vote on it and get somewhere. It seems to me it is not quite fair for two or three Senators who are particularly interested, although they have every right to oppose a certain feature of the bill to which they object and which was agreed to in conference with the House, to prevent us from giving any relief through the Red Cross.

I dislike to emphasize this matter any more, but it does seem to me we have a right to have this question settled once and for all and as promptly as possible. If it be true, as the Senator from Tennessee says, that a majority of the Senate wants to send it back to conference to see if we can not write a better bill, let us send it back. I do not want to delay it, and I beg of him that he will not delay it any longer, but let us vote on the question this evening and determine whether or not we want to send the bill back to conference.

Mr. McKELLAR and Mr. KING addressed the Chair.

The PRESIDENT pro tempore. The Senator from Nevada continues to hold the floor. To whom does he yield?

Mr. ODDIE. I yield first to the Senator from Tennessee.

Mr. McKELLAR. Mr. President, the Senator is not charging me with delay? I have no objection to voting on the question right now.

Mr. BINGHAM. Then let us vote.

Mr. McKELLAR. And I asked unanimous consent to proceed a while ago, but the Senator objected.

Mr. BINGHAM. No; I did not object. The Senator wanted to ask unanimous consent that Senators who believed in the bill as it stands at present should waive consideration and that the bill should be sent back to conference. That is quite a different thing from voting on it.

Mr. McKELLAR. I merely suggested there was no reason in the world why we could not expedite the matter by sending it back to conference and upholding what the Senate has already done and not vote a subsidy to the Farm Board.

Mr. BINGHAM. Let us vote on it now without further discussion.

Mr. KING. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from Utah?

Mr. KING. I do not want to take the Senator from Connecticut off the floor.

The PRESIDENT pro tempore. The Senator from Utah is recognized.

Mr. KING. Mr. President, the Senator from Connecticut knows that the Senator from Oklahoma objected to his motion a little while ago. The Senator is absent from the Chamber. When he shall return in the morning I will have not the slightest objection to the consideration of the report, but I want to say to the Senator that there is more involved than what he attempts to indicate to the Senate. He does not seem to think it is important to take ten or twelve million dollars out of the Treasury. Under the bill as it passed the Senate the Farm Board would be compelled to pay out of its funds obligations which it had directly or indirectly brought about. I want to save the Treasury of the United States that ten or twelve million dollars. I have not any objection at all to the bill which passed the Senate. The Senator from Tennessee and myself indicated when the measure was before us and when the amendment was tendered by the Senator and later amended by myself that we had no objection to the bill with the amendment which was offered and which was unanimously accepted by the Senate. The bill went to conference; the action of the Senate was disregarded entirely; the House bill was brought back as a conference report; and I have simply urged that we have an opportunity to consider the entire question.

I should like to see the bill passed, but not in a form to take ten or twelve million dollars out of the Treasury of the United States. The Farm Board obtained an appropriation of $500,000,000. It has now on deposit in the Treasury of the United States adequate funds for the purpose of meeting the obligation, the lien, upon this cotton; and the only controversy between the Senator and myself is that I insist that we shall not take the money out of the Treasury but let the Farm Board pay its own obligations.

Though he is struggling with the Economy Committee and the Appropriations Committee to balance the Budget, and insisting that we balance the Budget, he is perfectly willing to dip into the Treasury of the United States and take out ten or twelve million dollars more instead of taking it out of the funds which belong to the Farm Board. I am perfectly willing when the Senator from Oklahoma shall return to the Chamber to-morrow morning to have the matter taken up for consideration.

Mr. BINGHAM. Mr. President, that is the fourth time the Senator from Utah has said he would be "perfectly willing" to take the matter up at some future date. I hope that this time he may succeed in doing so. I will refrain from making a motion now. I realize that it is late. The Senator incidentally said that he objected to my motion. I made no motion, although I have every right to do so and perhaps I am wrong in not making the motion. The Senator from Massachusetts asked unanimous consent that the matter might be considered at 4.30 to-day. The Senator from Oklahoma entered an objection to that; but, Mr. President, I now give notice that to-morrow morning when the Senate shall meet, unless the Senator from Utah chooses to do so I will ask for the consideration of the motion to reconsider which he has entered.

TREASURY AND POST OFFICE APPROPRIATIONS

The Senate resumed the consideration of the bill (H. R. 13520) making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes.

Mr. McKELLAR. I desire to have printed and lie on the table a proposed substitute for the amendment which I offered this afternoon.

The PRESIDENT pro tempore. The amendment in the nature of a substitute proposed by the Senator from Tennessee will be printed and lie on the table.

RECESS

Mr. ODDIE. I move that the Senate stand in recess until 12 o'clock noon to-morrow.

The motion was agreed to; and (at 5 o'clock and 25 minutes p. m.) the Senate took a recess until to-morrow, Tuesday, January 31, 1933, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate January 30 (legislative day of January 10), 1933

SECRETARY IN THE DIPLOMATIC SERVICE

Robert G. McGregor, jr., of New York, now a Foreign Service officer, unclassified, and a vice consul of career, to be also a secretary in the Diplomatic Service of the United States of America.

PROMOTIONS IN THE REGULAR ARMY

To be first lieutenant

Second Lieut. Francis Elliot Howard, Infantry, from January 21, 1933.

DENTAL CORPS

To be captains

First Lieut. Leland Grant Heder, Dental Corps, from January 9, 1933.

First Lieut. Samuel Rush Haven, Dental Corps, from January 14, 1933.

First Lieut. Mallery Carpenter Jones, Dental Corps, from January 22, 1933.

CHAPLAINS

To be chaplain with the rank of major

Chaplain Perry Orlando Wilcox (captain), United States Army, from January 20, 1933.

HOUSE OF REPRESENTATIVES

MONDAY, JANUARY 30, 1933

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Heavenly Father, Thou art still stretching out Thine arms of love to claim us as Thine own. O Thou in whom power and pity blend tenderly and freely, Thou dost give us all things. By many considerations Thou dost restrain us from evil impulses and wrongdoing. O fill us with the visions, the charities, and the enthusiasms of a new life and make us Christian in deed and in truth. Create in us new instincts, new desires, new powers of thought and feeling and will. Almighty God, may we prescribe to-day sovereign remedies that shall bless and brighten every hearthstone in all the land. In the name of Jesus our Savior. Amen.

The proceedings of the Journal of Saturday, January 28, 1933, were read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Craven, its principal clerk, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 4412. An act to provide for the safer and more effective use of the assets of Federal reserve banks and of national banking associations, to regulate interbank control, to prevent the undue diversion of funds into speculative operations, and for other purposes.

The message also announced that the Vice President had appointed Mr. REED and Mr. FLETCHER members of the Joint Select Committee on the part of the Senate as provided for in the act of February 16, 1889, as amended by the act of March 2, 1895, entitled "An act to authorize and provide for the disposition of useless papers in the executive departments," for the disposition of useless papers in the War Department.

JOINT COMMITTEE ON INTERNAL-REVENUE TAXATION

Mr. COLLIER, pursuant to section 710 of the revenue act of 1928, submitted a report by the Joint Committee on Internal Revenue Taxation, dated January 28, 1933, covering refunds and credit of internal-revenue taxes for the calendar year 1931, which was referred to the Committee on Ways and Means and ordered printed.

ORDER OF BUSINESS

The SPEAKER. If the House will permit, the Chair will make a statement so the Members may know the order of business for the day.

It has occurred to the Chair that probably it would be well to begin suspension of the rules at once. Next Tuesday is Consent Day and we can devote almost the entire day to the Consent Calendar. However, if we should get through with the suspensions in time to-day the Chair hopes the House can spend an hour or more on some of the bills on the Consent Calendar. The Chair understands there are some bills on the Consent Calendar that are quite important and are perhaps emergency matters; but the Chair thought it best to first recognize the gentleman from Alabama, Mr. STEAGALL, then the gentleman from Mississippi, Mr. COLLIER, and then the gentleman from Texas, Mr. SUMNERS.

CALENDAR WEDNESDAY

Mr. RAINEY. Mr. Speaker, I ask unanimous consent that business in order on Calendar Wednesday of this week be dispensed with.

The SPEAKER. Is there objection?

There was no objection.

IMPROVEMENT OF FACILITIES OF THE FEDERAL RESERVE SYSTEM

Mr. STEAGALL. Mr. Speaker, I move to suspend the rules and pass the bill (S. 5484) to extend the time during which certain provisions of the act of February 27, 1932, relating to improving the facilities of the Federal reserve system to meet the needs of member banks in exceptional circumstances, shall be effective.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 10(b) of the Federal reserve act, as amended (U. S. C., Supp. 6, title 12, sec. 347b), and the second paragraph of section 16 of the Federal reserve act, as amended by section 3 of the act entitled "An act to improve the facilities of the Federal reserve system for the service of commerce, industry, and agriculture, to provide means for meeting the needs of member banks in exceptional circumstances, and for other purposes," approved February 27, 1932 (U. S. C., Supp. 6, title 12, sec. 412), are amended by striking out the date "March 3, 1933" wherever it appears and inserting in lieu thereof "March 3, 1934."

The SPEAKER. Is a second demanded?

Mr. McFADDEN. Mr. Speaker, I demand a second.

Mr. STEAGALL. Mr. Speaker, I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. Is there objection?

There was no objection.

Mr. STEAGALL. Mr. Speaker, this is a Senate bill which has also been reported by the House Committee on Banking and Currency. We are asking the House to pass the Senate bill in order to simplify the procedure.

The purpose of the bill is to extend for one year the operation of the second and third sections of the Steagall-Glass bill, which was passed last year.

Section 1 of this bill permits Federal reserve banks to make loans to a group of five banks upon the joint obligation of those banks. This is permanent law under the original act.

Section 2 of the bill authorizes Federal reserve banks, under exigent circumstances, to make loans on collateral not eligible for loans under the general provisions of the Federal reserve act; but no such loans are permitted under this provision of the bill except to banks not in position to offer eligible collateral, and such loans must be approved by not less than five members of the Federal Reserve Board, and a rate of interest must be imposed amounting to 1 per cent in excess of the highest interest rate obtaining in the Federal reserve district in which the loan is to be made; and under the bill no such collateral pledged to a Federal reserve bank is permitted to be used as a basis for note issue by the Federal reserve bank.

Under this provision considerable loans have been made to banks that otherwise could not have obtained the accommodations that were extended.

Any bank with a capital not in excess of $5,000,000 is permitted to apply for such loans. Only 62 banks are excluded from this provision of the bill.

Mr. SNELL. Will the gentleman yield?

Mr. STEAGALL. I yield.

Mr. SNELL. I understood the gentleman to say that the banks in quite considerable number have been taking advantage of these provisions, and that a good many loans have been made under the provisions of the bill.

Mr. STEAGALL. A substantial number; yes. Loans made aggregate $134,000,000.

Mr. SNELL. And I understand there is no opposition anywhere to this extension.

Mr. STEAGALL. There is not the slightest opposition, so far as I know. There was no opposition in the committee and the Senate passed the bill unanimously.

The proposal before us is to extend the last two provisions of the act for a period of one year.

The third section of the Glass-Steagall bill authorizes the Federal reserve banks to use Government securities in lieu of commercial paper as collateral for note issue. The purpose of the legislation was to ease the gold position of the banks and the country and to free something like $1,000,000,000 of gold that was tied up at that time as security for note issue, the banks carrying, as I recall, 77 per cent in gold against the note issue when, under the law, it was never contemplated they should carry more than 40 per cent. Under the original Federal reserve act banks are permitted to use obligations of member banks secured by Government bonds as a basis for note issue. The bill permits freedom of action in the operation of the Federal reserve banks that will enable them to adopt liberal policies in extending credit and in expanding the currency in the effort to relieve conditions.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. STEAGALL. I will.

Mr. LAGUARDIA. I heard the gentleman with a great deal of interest when the original bill was before us. But admitting that it eased the credit, admitting that it has permitted some expansion of the currency, it certainly has not been reflected in the commodity prices. Can the gentleman account for that?

Mr. STEAGALL. Of course, that is true in the sense that we have not witnessed a rise in the commodity price level, as many of us so much desire. I am not sure that the gentleman's suggestion is literally true, for the reason that he leaves out of the calculation the clearly beneficent effect of this legislation as it affected the lack of confidence and general trend downward that might have been much worse than they have been.

Mr. LAGUARDIA. I concede that it eased credit in some instances, but it would seem to me that the banks have not carried out their duty. Senator Pomerene told me that most of the large banks were 86 per cent liquid, and yet would not extend credit.

Mr. STEAGALL. The gentleman's suggestion leads us somewhat afield in regard to the bill under consideration, and would certainly extend the discussion along lines that can hardly be allowed in the limited time. The truth of the situation is—and I think the gentleman from New York is in accord with me—it is important that the credit situation be kept easy; and I think it is important, in view of the breaking down of bank credit, that we should supply more money with which the people buy commodities.

I am in accord with the gentleman's view so long as measures in that direction are kept within the proper bounds and under proper control and do not operate to destroy confidence or reach the point where there might be danger of defeating purposes contemplated.

In my view of the matter, if we were to expand the currency or coin gold and silver in great amounts, it would not relieve the situation in this country unless such money could be put in circulation. So long as the available supply of money or currency is tied up in banks, idle and unused, we can not return to normal conditions.

Wrapped up in that problem and playing a stupendous part is the lack of confidence. The business of the country requires bank credit, and bank credit depends on the deposits of the public. The public will not deposit unless they are assured their deposits are safe.

There is an unfortunate state of fear in the mind of the public to-day. Worst of all, this fear is not limited to the depositing public, but the bankers themselves are afraid. Conservative banks, banks operated in accordance with sound rules of banking developed by experience, solvent banks, no matter how well they are managed, are in continual danger of frightened depositors, liable any day to rush in demanding cash to cover their deposits.

I believe—and I think the gentleman from New York agrees with me—that we ought to require the banking system in this country to apply the principle of insurance to bank deposits. [Applause.] It is a thoroughly recognized principle universally applied in the business affairs of the world.

I believe that if we had employed the vast resources set up by the Government for the operation of the Reconstruction Finance Corporation and used a portion of the money that has been loaned by the Reconstruction Finance Corporation to insure deposits of the public, that their deposits would be protected against loss, confidence would have been restored, and, instead of having a decline of ten or fifteen billion dollars in bank deposits, the banks would have more money than ever and, above all, free to employ their deposits as a basis for bank credit. We can never work out of our difficulties without the normal use of bank credit. Ninety-five per cent of the Nation's business is done with bank credit, and to afford the credit banks must have deposits and be free to use them.

Mr. CELLER. Mr. Speaker, will the gentleman yield?

Mr. STEAGALL. I yield to the gentleman from New York.

Mr. CELLER. Has there been any substantial demand for additional printing of Federal reserve notes? If the gentleman knows that, will he kindly state it?

Mr. STEAGALL. There is one of the difficulties. There is not the demand, because confidence is lacking and business is paralyzed. Everyone knows that he has no collateral that will be accepted as security or that anybody will loan money on.

Mr. CELLER. In other words, what is needed is more bank credit in place of more currency.

Mr. STEAGALL. What we need is a restoration of confidence and a resumption of bank credit in the business of the country. We need more confidence and more money.

At the time the Glass-Steagall bill was passed Federal reserve banks had only $416,000,000 of gold not required under the law. They were carrying nearly $1,000,000,000 as collateral for note issue beyond the 40 per cent required by law. By using Government securities in place of gold, using Government securities instead of commercial paper, banks are in position to release that amount of gold for use in connection with additional note issue. It makes possible an easy credit policy and encourages banks to use their credit facilities to the improvement of prices and business conditions.

Mr. Speaker, I reserve the remainder of my time.

Mr. McFADDEN. Mr. Speaker, I yield five minutes to the gentleman from Texas [Mr. PATMAN].

BANKERS' BONUS BILL

Mr. PATMAN. Mr. Speaker, I respectfully take issue with the distinguished gentleman from Alabama [Mr. STEAGALL], chairman of the Committee on Banking and Currency. This bill is a bankers' bonus bill. It is not an expansion measure; it will not expand the currency. It is very doubtful that it will expand credit except for the purpose of speculation. What do you want your gold reserve used for? Do you want it used for speculation, to be used by a few bankers for that purpose, or do you want it used in trade and commerce? If you want it used in trade and commerce, you had better vote against this bill. I know the bill is going to pass, because we have not the time to inform the membership about its proposals. If we had the time, I believe you would be convinced that it is not sound legislation.

FIAT MONEY SECRETARY OF TREASURY

If you take Mr. Mills's definition of fiat money, this is a fiat money bill. Imagine Mr. Mills, Secretary of the Treasury, and Mr. Meyer, governor of the Federal Reserve Board, coming up here and advocating the issuance of fiat money! For whom? Not for the people, but to put more idle dollars into the vaults of the big banks that already have plenty of idle dollars in them. You might just as well expect more commodities to move over the railroads if you put more idle box cars on the railroad tracks as to expect business to pick up by giving a few large banks more idle dollars to do business with. They are not going to do business with them.

FEDERAL RESERVE STILL DEFLATING COUNTRY

The Federal reserve system instead of expanding the currency, as the gentleman from Alabama [Mr. STEAGALL],

suggested was possible under this bill—and I will admit it is possible, but not probable—is actually contracting the currency to-day. For every dollar that is put in circulation under the terms of the Glass-Borah amendment to the home loan bank bill, the Federal reserve system is taking a dollar out of circulation. Instead of expanding the currency, as they should, they are actually contracting the currency to-day, and if you want to give them a better opportunity of continuing this depression and using the reserves of gold of the people of this Nation for the purposes of speculation and not for trade and commerce, then vote for this bill.

GAG RULE

I am very sorry that bills like this and the bankruptcy bill are brought up under suspension of the rules. If any kind of bill should be passed under suspension of the rules, I would prefer to pass an appropriation bill in that way and give more time for legislation like this and legislation like the bankruptcy act. If we make a mistake in an appropriation bill, the same bill will be before us the next year and we can correct that mistake, but whenever we pass a bill like the bankruptcy bill it is permanent law, it can not be changed the next year, and it should certainly be thoroughly discussed in the House of Representatives before it is passed. I am sorry that the condition of the calendar is such that the leaders have seen fit to bring this legislation and the bankruptcy proposal up under suspension of the rules. They are very important measures. Great principles are involved, and they should be discussed more thoroughly.

AMENDMENT SUGGESTED

This bill, for instance, should contain a very material amendment. We have no opportunity of offering that amendment. It is an amendment that was suggested by me to the committee, but the committee said that this is only for one year, and that they would not consider it as this time, but I shall tell you what the amendment is. Under section 16 of the Federal reserve act the law states that whenever Federal reserve notes are delivered by the Federal reserve agent to the Federal reserve bank, an interest charge shall then be collected for those notes to go into the Public Treasury of the United States. Why was that written into the law, a mandatory provision like that? It was written into the law in order that those who are permitted to use the credit of this Nation, which represents a mortgage on all of the homes and other property of all of the people in the country, shall pay a small interest charge for the use of that credit.

BANKERS EXPEDITIONARY FORCE

This bill should contain a provision requiring payment for the use of the Government credit if it is going to be used by a few large bankers in order to speculate with.

Under the home loan bank bill two banks, the National City Bank and the Chase National Bank, can obtain $272,000,000 in money on Government bonds and still get interest on the bonds they place on deposit as collateral security for that money. Under this bill they are not restricted to $272,000,000, but they can get $500,000,000 by putting up an obligation of this Government that is drawing interest and getting money and using the money and also getting interest on the bonds. If you believe in debt-secured and bond-secured money and believe in paying the banks a bonus to take money, vote for this bill.

The SPEAKER. The time of the gentleman from Texas has expired.

Mr. McFADDEN. Mr. Speaker, I yield three minutes to the gentleman from Mississippi [Mr. BUSBY].

Mr. STEAGALL. Mr. Speaker, I yield three minutes to the gentleman from Mississippi [Mr. BUSBY].

The SPEAKER. The gentleman from Mississippi is recognized for six minutes.

Mr. BUSBY. Mr. Speaker, I am favorable to the bill which is presented to extend for another year the provisions that were originally incorporated in the Glass-Steagall Act. The Glass-Steagall Act as administered was a disappointment. It did not pan out as the Members of Congress hoped it would.

TREASURY AND FEDERAL RESERVE MUST AID

I want to say this to you, and I hope you will bear it in mind, that it is absolutely impossible for any monetary policy devised by legislation in Congress to be successful if the Treasury officials are opposed to that legislation and its workings and if the Federal Reserve Board and the Federal reserve system is opposed to that legislation's being put into effect. It is not possible, Mr. Speaker, for the Congress of the United States to lay down by legislation any monetary policy which will become effective if we do not have cooperation by the Treasury and by the Federal reserve system. Let me call attention to the manner in which this proposition has been dealt with.

FEDERAL RESERVE BANKS HAVE FAILED TO HELP

It is possible to issue Federal reserve notes on 40 per cent gold and 60 per cent eligible paper and Government bonds. The two largest Federal reserve banks in this country are in Chicago and New York. The January statement in the Federal Reserve Bulletin, page 39, shows that the New York bank had $616,000,000 in gold back of its $587,566,000 notes in circulation, and it had $30,000,000 in eligible paper and only $5,000,000 in Government bonds. Chicago used $699,000,000 in gold, $14,000,000 in eligible paper, and $22,000,000 of Government bonds to back its $692,150,000 notes in circulation. It will be noted that those two banks alone used and are using at the present time $1,316,500,000 of this country's gold to back their issues of reserve notes in circulation of only $1,279,716,000, or a $1.03 of gold for each dollar of reserve notes in circulation. It will be noted also that the two banks used only $65,000,000 of eligible paper and $27,000,000 of Government bonds, a total of—except $1,316,000,000 gold—of only $92,000,000. Now, what is the result of that?

OVER 100 PER CENT GOLD USED BY BANKS

You have just 6 per cent of eligible paper and national bonds back of the note issues of the Federal reserve banks of New York and Chicago and 1.03 per cent of gold back of their notes in circulation. That is the way they have been cooperating in handling this proposition, and of using the advantage that will be given by the provisions of the act that is now before you.

There is another thing I want to refer to. You have been told the banks are full of cash. The banks are not full of cash. They have not got the money, and they can not make loans because they do not have money in their vaults to make loans safe. Somebody said if you issued new currency and put it out among the people it would soon get back into the vaults of the banks. The banks have $700,000,000 in their vaults. I am sure they would feel a lot more comfortable if they had a billion or so additional in their vaults. They have $600,000,000 excess reserves in the Federal reserve banks. They owe the Federal reserve system $300,000,000 on borrowings. They are indebted to the Government for $9,032,000,000 for postal savings deposited in the banks. It is required by law that postal savings be deposited in banks. They owe the Reconstruction Finance Corporation $475,000,000. Bank assets are absolutely static, except for the little amount of cash they have, and what they call their liquid assets, which for the most part are Government bonds. What does a bank do business on? It makes loans in the community, and it owns an interest in the properties of that community, which property is the security for its loans, and when the properties of a community get to the point where they will not sell at public auction, the bank has to carry them on its books as long as it can.

BANKS ARE NATURAL INFLATIONISTS

Banks are natural inflationists because to them is entrusted "bank credit money" which is made at will by the banks and borrowers. Banks in good times will not let business proceed on a level. They make loans and inflate the "medium of exchange." The banks of the country have been given the opportunity and the duty of furnishing nine-tenths of the circulating medium that goes into business. We hear a great deal about the fear of "inflating the currency," but you hear very little about the most dangerous of all "inflations," that of bank credits—increased loans—

gambling credit loans often—the kind of inflation which skyrocketed prices and brought the present ruin upon the country.

The SPEAKER. The time of the gentleman from Mississippi has expired.

Mr. McFADDEN. Mr. Speaker, a year ago, when this particular bill was passed, it was stated to the House that it was an emergency bill. Those people who appeared before committees representing the Treasury and Federal reserve system stated that they wanted to use this bill to release the gold which was tied up back of Federal reserve notes and in the Federal reserve system; that the free gold in the United States was down to a low point of about $450,000,000. There were demands from abroad which were embarrassing to the Federal reserve and the Treasury at that time. It was also stated that they wanted to help out many of the little banks so that they could use their Government bonds to secure relief in this emergency. Now we find, a year after the bill has been in operation, that this emergency act is still required; that the situation has not been relieved. It is a fact, however, that the gold reserves of the country have been replenished by shipments of gold from abroad; and, as I recall it, the Secretary of the Treasury stated to the committee the other day that something over $1,100,000,000 was the free-gold reserve at this time, although there is some question in my mind regarding the accuracy of that, because of the uncertainty with which the Secretary stated it. The press informed us a few days ago, in a communication that was apparently sent to the Senate by Acting Governor Hamlin, of the Federal Reserve Board, that the first section of this bill has not been operative, owing to some defect which forbids the administration of the act, and that the relief which was intended to be given to the small banks has not been extended. Whether or not loans have been applied for is an uncertain question.

The uses under this bill have come where advances have been made to the large banks, where they have been authorized to make loans to them in the aggregate not exceeding $5,000,000 against paper which is eligible, for the substitution of Government bonds. The method under which this release of gold comes about is through the permitting of the substitution of Government bonds for eligible paper as security for Federal reserve notes. The gentleman from Mississippi [Mr. BUSBY] has pointed out this morning the small amount of paper that is used by the two largest Federal reserve banks. They find it more convenient to use Government bonds than to use eligible paper. The truth of the matter is, and we must recognize it, that the original provisions providing for the use of eligible paper in connection with the issuance of Federal reserve notes, has almost completely broken down, and the banks of the Federal reserve system are holding increased amounts of investment securities and we now have gone back to the old basis, which was largely the argument back of the creation of the Federal reserve act, that we must get away from Government bond-secured currency, because Government bond-secured currency was not elastic. The big banks find it more convenient to use United States bonds than eligible paper.

I am sure some of the older Members who were here during the enactment of the Federal reserve law will recall the argument that this was the one great thing we were getting away from. Now we find we were taking a step backward and continuing the use of Government bonds, and under this act a substitution of Government bonds for eligible paper can be made to almost any extent. Still it is advocated here, and put forward as an emergency piece of legislation.

Mr. MAY. Mr. Speaker, will the gentleman yield?

Mr. McFADDEN. Very briefly.

Mr. MAY. Is it not a fact there are approximately $45,000,000,000 of deposits in the entire banking system of the country, approximately $12,000,000,000 of which are invested in Government bonds?

Mr. McFADDEN. The gentleman is practically correct, yes; and I may add right here that the real purpose of this bill is to aid the Treasury in carrying on its operations with foreign countries in connection with gold shipments and in order to stimulate the market for Government bonds. Perhaps this is a proper thing to do, but we might just as well recognize the fact that the banks of the United States are carrying almost three-quarters of the indebtedness of the United States to-day. The banks are frozen with Government securities almost to the extent, if not to a greater extent, they were in 1929 with stock exchange securities; and if the same situation developed where all at once everybody was selling Government bonds, we would see what the price of Government bonds would do in such a situation. I do not say that it will happen, but I do say that the Government bonds of the United States, for the benefit of the people, might better be held by the investors of the country than by the banks of the country. The banks of the country find themselves frozen now to a great extent with assets which are unliquid in addition. To-day, because they do not know what else to do with their money, they are being used to handle these Government bond transactions.

Mr. Speaker, my position in regard to the Federal reserve system is pretty well known to the Members of this House. I have pointed out repeatedly that the greater part of the economic distress was because of the change of policy in the operation of the Federal reserve system. What this House should do, instead of passing this kind of punitive legislation, is to go into the fundamental operations of the Federal reserve system and understand what effect the maladministration of this system is having on our whole economic and financial structure.

Mr. Speaker, I have had pending in the Committee on Rules for over a year a resolution proposing to make this study, this investigation, if you please, of the operations of the Federal reserve system. Nothing has been done except the holding of a hearing last year, at which the Treasury and the Federal reserve people discussed and resisted the matter. Action was postponed until after the election on the theory that if the investigation were made then it might get into politics.

I may say to the responsible leadership of this House that it is making a mistake if it does not give consideration to this resolution for the investigation of the operation of the Federal reserve system. Go into fundamentals and you will come nearer solving this whole economic problem than in any other manner. All these bills that are being passed deal with the effects and not the causes of this situation.

I stated in the committee the other day when this matter was up before the committee, that so far as I was concerned I was not going to support any more petty amendments to the Federal reserve act until we had gone into the fundamental causes and operations of the Federal reserve system so we could act intelligently; and that is my position at this moment.

[Here the gavel fell.]

Mr. STEAGALL. Mr. Speaker, I yield the balance of my time to the gentleman from Massachusetts [Mr. LUCE].

Mr. LUCE. Mr. Speaker, in February of last year, in a time of the greatest peril, the President summoned to the White House Republican and Democratic members of the Senate and House Committees on Banking and Currency. He laid before us the situation as far as in my belief it was prudent for him to do. This is, if I understand aright, the episode he had in mind when in the course of the campaign he disclosed that at one time there was grave danger we would have to go off the gold standard within a few days. Had we gone off the gold standard then, we would have plunged ourselves into the depths of disaster. The President asked, under these circumstances, that we take out of the so-called Glass banking bill three sections and give them temporary life. We so did, and by an overwhelming, possibly a unanimous vote in both branches—I do not recall its exact size—we enacted this legislation to continue for one year.

We had hoped that by this time need for it would no longer exist, but most lamentably the need still exists. Therefore, in the judgment of your committee, unanimous,

I think, with the possible exception of the gentleman from Pennsylvania, we advise that the life of this bill be extended for one year, again in the hope that before 12 months have passed the emergency occasion for it will have ended.

If the committee had changed the proposal at all, I am confident it would have so done by advising that the provisions be made permanent.

[Here the gavel fell.]

The SPEAKER. The question is on the motion to suspend the rules and pass the bill.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

A similar House bill (H. R. 14252) was laid on the table.

FEDERAL GASOLINE TAX

Mr. COLLIER. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 14416) to make the Federal gasoline tax effective until June 30, 1934, as amended.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 629 of the revenue act of 1932 is amended by striking out the following: ", or after June 30, 1933, in the case of articles taxable under section 617, relating to the tax on gasoline."

SEC. 2. Section 617 of the revenue act of 1932 (relating to the tax on gasoline) is amended by adding at the end thereof a new subsection to read as follows:

"(d) Refund of the tax imposed by this section may be made to a State, or political subdivision thereof, in the amount of any tax under this section which has been paid with respect to the sale of gasoline purchased by it after this subsection takes effect for use solely in the exercise of an essential governmental function."

The SPEAKER. Is a second demanded?

Mr. HAWLEY and Mr. HASTINGS demanded a second.

The SPEAKER. Is the gentleman from Oregon opposed to the bill?

Mr. HAWLEY. I am not.

The SPEAKER. Is the gentleman from Oklahoma opposed to the bill?

Mr. HASTINGS. I am.

The SPEAKER. The Chair recognizes the gentleman from Oklahoma [Mr. HASTINGS] to demand a second.

Mr. COLLIER. Mr. Speaker, I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. Is there objection?

There was no objection.

Mr. COLLIER. Mr. Speaker, it was the hope of every member of the Ways and Means Committee when the gasoline tax was imposed that it would run for only one year; but in view of the fact that the condition of the Treasury is about as bad now as it was then and that our deficit is continually increasing, and in view of the further fact that of all the taxes we imposed the gasoline tax as a revenue-producing tax has proved to be more fruitful than any of the others, we have found it is absolutely necessary to continue it for another year.

The verbiage of the bill may mislead some of the Members. All the taxes in section 617 expire in 1934, except gasoline, which was especially exempted, and we simply remove the exemption by this bill.

In the first month of July last we collected very little money from the gasoline tax, because the taxpayer had 30 days in which to pay, but in the months of August, September, October, November, and December we have collected $63,000,000, and it is estimated that this tax will bring in $137,000,000 by the 1st of July of this year. The experts state that by reason of the fact that we collected so little the first month, the $137,000,000 is practically based on a period of 11 months, and I think we can estimate about $145,000,000 to $150,000,000 as the amount to be received from this tax from July 1, 1933, to July 1, 1934.

Mr. TREADWAY. Will the gentleman yield?

Mr. COLLIER. I will.

Mr. TREADWAY. Is it expected there will be any other form of revenue taxation reported before the close of the present session?

Mr. COLLIER. It is not.

Mr. LAMNECK. Will the gentleman yield?

Mr. COLLIER. I yield.

Mr. LAMNECK. I have had considerable correspondence about the discrimination against the dealer with respect to refunds when selling to States or other government agencies. Has this matter been corrected in the provisions of the bill?

Mr. COLLIER. The committee added an amendment which provides that any State or political subdivision thereof, whenever this tax is paid, may get refunds from the Government where the gasoline is used for purely government functions.

Mr. LAMNECK. When sold by either a dealer or a refiner?

Mr. COLLIER. Yes. We had the very point raised by the gentleman in mind.

Mr. WARREN. Will the gentleman yield?

Mr. COLLIER. I yield.

Mr. WARREN. I happen to be one who thinks this particular tax is a most unwarranted transgression, we might say, on the rights of the States. I wonder if the committee, headed by the gentleman, is considering making this Federal tax a permanent thing?

Mr. COLLIER. Without agreeing to the gentleman's premise as to this being distinctly a State tax matter, I may say they did beat us to it. There has been much pro and con discussion about that. I do not care to go into any argument of the matter, but the States have invaded the Federal Government field in the taxing of cigarettes and other things and for this reason we had the Joint Committee on Internal Revenue Taxation bring in this report, which I have just submitted, and which I commend to the reading of every Member of the House.

In answer to the gentleman's question in regard to the permanency of this tax, I may say to the gentleman from North Carolina that this question was asked the committee a number of times during the hearing. Every tax in section 617 expires in 1934, including now the gasoline tax. I can not tell what the condition of the Treasury will be a year from now, nor what a future Congress may do, but it is not the intention of the present committee to make this a premanent tax. It is only an emergency matter.

Mr. DOUGHTON. Will the gentleman yield?

Mr. COLLIER. I yield to the gentleman from North Carolina.

Mr. DOUGHTON. As the matter was discussed in committee, this was simply a tax imposed to meet a temporary emergency or until a general revision of the revenue law could be taken up, and there was no thought at all in the committee to make this permanent legislation.

Mr. COLLIER. The House never put this tax in effect in the original instance. It came from the other body, and it is not the present purpose to make this tax permanent.

Mr. KNUTSON. Is it the chairman's hope that in another year we will be able to do away with this tax?

Mr. COLLIER. It certainly is.

Mr. HOUSTON of Hawaii. Will the gentleman yield?

Mr. COLLIER. I yield.

Mr. HOUSTON of Hawaii. Would not the gentleman accept an amendment to add Territories to the government units referred to in the bill as to which refunds may be made on gasoline purchased for State or government purposes?

Mr. COLLIER. I would have to submit a parliamentary inquiry to find out whether that could be done. I would have no objection myself.

Mr. WHITLEY. Will the gentleman yield?

Mr. COLLIER. Yes.

Mr. WHITLEY. What procedure would a municipality have to take in order to get the refund?

Mr. COLLIER. The administration of that will be set out by the Treasury. I do not know just what it is, but, of course, it will be a rather easy matter.

Mr. BOLAND. Will the gentleman yield?

Mr. COLLIER. Yes.

Mr. BOLAND. I would like to ask the chairman of the Ways and Means Committee whether he expects to give any

consideration to the tax on busses and trucks, as called for by the bill which I have introduced. The bill has been before the Ways and Means Committee for some time.

Mr. COLLIER. I may say to the gentleman that, personally, I would like to go into that tax, but owing to the fact that we have only five or six weeks between now and adjournment of Congress, I will have to answer the question in the negative. It is not the purpose of the committee to do that at this time.

Mr. BOLAND. Will the chairman have the committee take it up next session?

Mr. COLLIER. I will not have that opportunity. If the committee is willing to go into it, the chairman will be willing to go into it with it.

Mr. CULLEN. Will the gentleman yield?

Mr. COLLIER. I yield.

Mr. CULLEN. With all due deference to the chairman of the Ways and Means Committee, of which I am a member, I want to say to the gentleman from Pennsylvania [Mr. BOLAND] that in regard to the motor-bus tax, we discussed it informally in the Ways and Means Committee, and it was suggested that that matter go over to the next session when in all probability another tax bill will be considered. And if there is any effort to distinguish between the bills to be considered by the next Congress the gentleman from Pennsylvania's bill would receive preference.

Mr. BOLAND. I am happy to know that, because it is an important matter before the people to-day, and it is really a way of raising revenue for the Government that would balance the Budget.

Mr. COLLIER. In conclusion, I want to say that the committee knows that this gasoline tax is a disagreeable tax. In fact, I have not found any one that is pleasant. I reiterate that in taking the picture of the Federal Treasury we can not go along without this tax without invading a field that would be more obnoxious than this.

Mr. GIFFORD. Will the gentleman yield?

Mr. COLLIER. I yield.

Mr. GIFFORD. I would like to ask the gentleman if he has considered those who oppose the principle of the sales tax—will they vote for this already too-much-taxed article?

Mr. COLLIER. I am hopeful that the bill may pass.

Mr. GIFFORD. Hopeful that they will lay aside their principles.

Mr. COLLIER. It has always been the custom to levy special excise taxes, and this bill violates no principle of established precedents.

Mr. CAVICCHIA. Will the gentleman yield?

Mr. COLLIER. I yield.

Mr. CAVICCHIA. As I understand, the State that buys from the refinery pays no tax. But if an individual sells to the State, he does pay the tax. Does the bill correct that?

Mr. COLLIER. It attempts to.

Mr. CAVICCHIA. The dealer pays the tax, and the Government makes a refund.

Mr. CHINDBLOM. Will the gentleman from Mississippi [Mr. COLLIER] yield?

Mr. COLLIER. I yield.

Mr. CHINDBLOM. I want to call attention to the language of the bill, which is:

> Refund of the tax imposed by this section may be made to a State, or political subdivision thereof, in the amount of any tax under this section, which has been paid with respect to the sale of gasoline purchased by it after this subsection takes effect for use solely in the exercise of an essential governmental function.

It appears plain to me that the refund will be made to the State or political subdivision of the State, and the dealer who sells the gasoline to the State will have to make an arrangement with the State or the political subdivision.

Mr. COLLIER. I think that is true.

Mr. CAVICCHIA. If the gentleman from Illinois [Mr. CHINDBLOM] is correct, you are not curing the matter. I want to know whether the refinery and the dealer are put on the same basis in dealing with the State or political subdivision. Heretofore the refinery had the better end of it.

Mr. COLLIER. The dealer will have to go to the State to get his refund. I imagine he keeps books and will have no difficulty in so doing.

Mr. CAVICCHIA. The private dealer will have a great amount of money held up for months, whereas the refinery has no money tied up at all.

Mr. CHINDBLOM. Mr. Speaker, will the gentleman yield?

Mr. COLLIER. Yes.

Mr. CHINDBLOM. In my opinion, inasmuch as the refund is given on account of the purchase by or for a State or political subdivision thereof, and since the refund shall be made to the State or to the political subdivision thereof, it will be made in that manner in every case, whether the seller is a refiner or a wholesaler or a retail dealer. I do not see how there can be any question about that.

Mr. COLLIER. Mr. Speaker, I thank the gentleman for his contribution, and I reserve the remainder of my time.

Mr. HASTINGS. Mr. Speaker and Members of the House, if gentlemen will recall the history of this legislation, when the revenue bill was under consideration a year ago, a tax on gasoline was not included in the bill as it passed the House, but was added as an amendment over in the Senate. It was then stressed that it was emergency legislation and that the condition of our Treasury made it necessary to include it only for one year. A great many of us who were opposed to this legislation indulged in the hope that it would not be continued. The only thing that I see at all good about this bill is that it continues the tax for only one year. However, I want you to know that we are not deceived. I fear that many years will elapse before this Federal tax is removed from gasoline.

I am opposed to it for two reasons. First, I think there ought to be something left for the States to tax. The genial chairman of the committee evaded the question the gentleman from North Carolina asked, whether gasoline had been previously taxed by the Federal Government. I think this is the first instance. This field has been used by every State in the Union. The lowest State tax on gasoline is 2 cents a gallon. My recollection is that the highest is 7 cents. I think the average State tax is about 4 cents. We find in some States that some of the counties have a county tax and some of the cities have a municipal tax on gasoline. So that, in my judgment, gasoline is paying a disproportionate share of the taxes, or the people who use gasoline are.

Mr. CHINDBLOM. Mr. Speaker, will the gentleman yield?

Mr. HASTINGS. Yes.

Mr. CHINDBLOM. It appeared before the committee that while the price of gasoline, f. o. b. at the refinery, is 3½ to 4 cents per gallon, there are places in the United States where the total of the State, Federal, and local taxes amounts to 10 cents per gallon on gasoline.

Mr. HASTINGS. I thank the gentleman for his contribution. I have just stated that gasoline is taxed from 2 to 7 cents, and that, in addition, counties and cities impose an additional tax.

Mr. RANKIN. Mr. Speaker, will the gentleman yield?

Mr. HASTINGS. Yes.

Mr. RANKIN. I agree with the gentleman from Oklahoma. I opposed this tax before. I think this is the opening wedge to usurp the gasoline tax and to driving the States out of this field. When you do that, under present conditions, we will not have much left to tax.

Mr. HASTINGS. I was about to remark that the State and local subdivisions have been taxing gasoline for a number of years. The Federal Government has now entered the field, and you know it is driving the States to a larger ad valorem tax, and that is what I want to discuss with you for just a moment. Throughout practically every State in the Union the gasoline tax is used for the purpose of building roads, matching the Federal contribution to roads, maintaining roads, and building bridges. We had hoped

in Oklahoma and in a number of other States that sooner or later we should be able to redistribute more of the gasoline tax to the several counties, and that the money derived from the tax could be use in lieu of this heavy ad valorem tax on farm lands. On Wednesday last I tried to discuss this question of farm mortgages, and to analyze a bill which I have introduced, which is now pending before this committee. In yesterday's New York Times it is reported that the farm mortgages throughout the United States aggregate $9,100,000,000, and that the other farm indebtedness aggregates a little more than $4,283,000,000, making the farm indebtedness total about $13,283,000,000.

One of the reasons for the present condition of the farmer is that the Federal Government is entering every field of State taxation, including gasoline, and therefore the States can not tax some of the things as much as they otherwise would and redistribute the taxes back to the counties and to the school districts so as to be able to reduce the ad valorem tax on farm lands. In my judgment, the question of the ad valorem tax on farm lands and of farm mortgages is the most pressing thing that comes before this Congress for consideration. Of course, Congress can not lower the ad valorem tax on farm lands; but we can keep from placing a tax on gasoline. We can leave that for the several States, and the States can tax gasoline and the amount of money derived from that source can be redistributed back to the several school districts, and in that way the States would be able to lower the ad valorem tax on farm lands. You have seen in the last few days where distressed farmers out in Iowa have resisted the sale of land under foreclosure. You read in the newspapers yesterday where that had been done in Minnesota. You find it all over the South and the West, and the trouble is just beginning. I warn the membership of the House that there must be some legislation looking to a relief of the ad valorem tax on farm lands; and when you go into the field of taxing gasoline, which has never been entered before and was not entered last year by the affirmative action of the House, you are invading the prerogatives of the States. Yesterday I read the hearings on this revenue bill, held last year. The gasoline tax was not originally advocated by the Secretary of the Treasury; and when he appeared before the committee, he invited attention to the fact that it was a tax imposed by the States and was regarded as a State tax.

Mr. VINSON of Kentucky. Will the gentleman yield?

Mr. HASTINGS. I yield.

Mr. VINSON of Kentucky. I understood the gentleman to say that the Secretary of the Treasury did not initially recommend this?

Mr. HASTINGS. He did not.

Mr. VINSON of Kentucky. On January 13 last year when the Secretary came here, he did not, but after they figured out that they needed $320,000,000 additional, then he did recommend it, and the committee and the House did not add it to the bill.

Mr. HASTINGS. I am glad to have the gentleman's correction. I read his original statement on yesterday; and when he was asked whether or not he advocated it, he invited attention to the fact that this field had been entered by practically every State in the Union, and it was regarded as a field that ought to be left to the States.

The next point I wish to make is this: The chairman of the committee stated a few moments ago the wholesale price of gasoline was around 3 or 3½ cents a gallon. The average State tax per gallon is 4 cents. If we add 1 cent a gallon Federal tax, that makes 5 cents a gallon. In other words, we will be taxing gasoline by this bill, when added to the average State tax, 166⅔ per cent of the wholesale price.

Mr. YON. Will the gentleman yield for a question?

Mr. HASTINGS. I do.

Mr. YON. It is the gentleman's idea, is it not, that this field of taxing gasoline should be left to the exploitation of the States?

Mr. HASTINGS. Well, I did not use the word "exploitation." But I do think it ought to be left to the States, and I think the gentleman's State taxes gasoline 7 cents a gallon.

Mr. YON. My State taxes it 7 cents a gallon, and in some municipalities there is another cent added; and when they pay the Federal tax, it will be 9 cents a gallon.

Mr. HASTINGS. I think the highest tax is in Florida, and perhaps the next highest, or the same, 7 cents, is in the State of Tennessee.

Mr. YON. Still, I think that ought to be left to the States entirely.

Mr. HASTINGS. I am glad the gentleman from Florida agrees with me.

Mr. GIFFORD. Will the gentleman yield?

Mr. HASTINGS. I do.

Mr. GIFFORD. I should like to ask the gentleman from Oklahoma and the gentleman from Kentucky [Mr. VINSON], who is so anxious about his tobacco industry, with 166⅔ per cent tax on gasoline and almost that tax on tobacco, would the gentleman not prefer a general sales tax of 2½ per cent on all things?

Mr. HASTINGS. No, sir. I will answer flatly. I made an extended speech last year against the sales tax. I was opposed to the sales tax then, and I am opposed to a sales tax now.

Mr. GIFFORD. Is the gentleman opposed to a sales tax on tobacco?

Mr. HASTINGS. I have tried to express myself as vigorously as I possibly could.

Mr. GIFFORD. But the gentleman has always supported the sales tax on tobacco?

Mr. HASTINGS. I have not taken any active part in taxing tobacco. I have not extensively studied the tobacco question; but I want to say again, if the gentleman will permit, that I am opposed to a sales tax. I was opposed to it last year, and I am opposed to it now.

Let me say again, a great many of the States and local subdivisions have anticipated the gasoline tax for the payment of bonds which they have issued. I think some of the States have also, yet this is a further entering wedge that looks to permanently invading the field by the Federal Government. I think that gasoline and the gasoline industry pay too great a proportion of the taxes both for State, municipal, and Federal Governments.

Mr. DISNEY. Will the gentleman yield?

Mr. HASTINGS. I yield.

Mr. DISNEY. Will the gentleman please discuss the effect of this tax on the two important industries, that is to say, the oil business and the automobile business, if the gentleman has gone into its effect upon those two important industries.

Mr. HASTINGS. Of course, it is very important. In our State and in every State where petroleum is produced, there is a gross-production tax. That tax in Oklahoma is 3 per cent of the gross proceeds. Then we place a license tax on automobiles.

Mr. CHINDBLOM. Will the gentleman yield?

Mr. HASTINGS. I do.

Mr. CHINDBLOM. Reference was made to a general manufacturers' sales tax. The sales tax recommended last year by the Ways and Means Committee at the rate of 2¼ per cent would have placed a tax on gasoline of nine-tenths of 1 mill. That would not have been burdensome, would it?

Mr. HASTINGS. Well, the gentleman answers himself. What question does the gentleman want to ask me?

Mr. CHINDBLOM. My question is this: If the gentleman would support a general sales tax, the burden on gasoline would be the same as on every other article, and it would not be burdensome.

Mr. HASTINGS. Yes. I tried to explain to the gentleman from Illinois and to the Members of the House in some remarks that I made to the House when that bill was being considered, that I was opposed to a tax on consumers, and I am opposed to a sales tax. I went into that rather extensively when the bill was considered in the House before.

Mr. CHINDBLOM. We would all be happy if we did not have to vote for any taxes.

Mr. GIFFORD. Will the gentleman yield further?

Mr. HASTINGS. I yield.

Mr. GIFFORD. I had expected the remarks of the gentleman from Oklahoma would lead to the argument that a tax on gasoline was a depressive tax on industry, on the gasoline and automobile business in general. Was that the gentleman's idea?

Mr. HASTINGS. I did intend to discuss that, but my attention was diverted to other things; but that is the fact.

Mr. GIFFORD. The gentleman realizes that the tobacco interests argue that the tax which the gentleman and I pay on cigarettes has a general depressive effect on that industry. We still ride and we still smoke. Is that not the reason this tax is a favored tax?

Mr. HASTINGS. Well, I suppose that is one of the reasons.

Mr. GIFFORD. The gentleman does not think it has a depressive effect on the automobile industry?

Mr. HASTINGS. Yes; I think it has.

Mr. RANKIN. Will the gentleman yield?

Mr. HASTINGS. Yes; I yield.

Mr. RANKIN. There is quite a difference between a gasoline tax and a tobacco tax. Gasoline has become almost one of the necessities of life, and it is utterly impossible to carry on the business of this country as now constituted without the use of gasoline.

When you place this additional tax on it, you are placing an additional burden on the man of enterprise who has to use gasoline in his business.

Mr. HASTINGS. Mr. Speaker, I reserve the balance of my time.

Mr. COLLIER. Mr. Speaker, this bill was unanimously reported by the committee. I now yield all my remaining time to the gentleman from Oregon [Mr. HAWLEY], to dispose of in any way he may see proper.

Mr. HAWLEY. Mr. Speaker, I yield three minutes to the gentleman from Massachusetts [Mr. TREADWAY].

Mr. TREADWAY. Mr. Speaker, the argument of the gentleman from Oklahoma, who has just taken his seat, to my mind is about the best proof we can have that we should pass this bill. He brings in the question of the Federal Government stepping aside in order to permit States to lay as large a tax upon gasoline as they may see fit. I believe the levying of taxes to meet the expenses of running the Federal Government certainly should take precedence over the levying of taxes for local purposes. Further than that, he also made a splendid argument in behalf of the manufacturers' excise tax which was reported to this House by the Ways and Means Committee last year.

As has been pointed out, nine-tenths of a mill would have been the tax on gasoline had the House seen fit to adopt the recommendations of the Ways and Means Committee. Therefore, when we come to placing a gasoline tax as an emergency measure, I do not think the Members of the House who voted against the excise tax will have any excuse whatsoever to oppose this bill. We would not have needed a 1-cent gasoline tax had we passed the manufacturers' excise tax as we should have done at the last session. This, it seems to me, covers the point at issue.

The excessive amounts which certain States, particularly Florida, are charging in the nature of gasoline taxes is unfair. Instead of its being said that gas is taxed 166 per cent in some instances, it should be said that practically 99 per cent of it is levied by the States. I, for one, have bought a good deal of gasoline in the State of Florida. I hope to buy more. I am proud of the State roads in Florida, but I do not think tourists ought to be called upon to support all the institutions of the State of Florida.

Mr. YON. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. I can not yield.

I think in view of the emergency in which we find ourselves, the impossibility of balancing the Budget, and the statement the chairman has made that this is the only tax measure the Democratic majority intends to bring in, we should pass this gasoline tax and give the Federal Government this opportunity of securing at least a portion of the revenue needed to run the affairs of government.

Mr. Speaker, I yield back the balance of my time.

Mr. HASTINGS. Mr. Speaker, I yield two minutes to the gentleman from Iowa [Mr. GILCHRIST].

Mr. GILCHRIST. Mr. Speaker, when this tax was before the House last year, I made some inquiry as to the amount of tax that was being paid on gasoline in the several States. I do not have the figures with me, but at that time I had them and I became convinced that the farmers of my State, and perhaps of other States, are paying a great deal more in Federal gasoline taxes than is equitable; and that the law which Congress passed last year, and which this bill will continue for another year, does them injury. For example, the amount of gasoline consumption in Iowa, when compared to the gasoline consumption in continental United States, is much higher proportionally than is the population of the State when compared to the population of the United States. The gasoline-tax law which Congress passed last year and which this bill will continue for another year does an injury to the farmers of Iowa and, I think, also to the farmers of the United States as a whole. This is true because the amount paid by the farmers of my State under this tax is much more than they should pay as measured by their population, their wealth, their income, their proportion of other Federal taxes, or their ability to pay.

This is a discrimination against the farm sections. If there is any person on earth who needs to use gasoline, it is the farmer. He uses it in his tractors, in his farm machinery, and in his engines. He must have it. He trucks his livestock and grain to market with it; he runs his automobile by it. And, if there is any business man on earth who needs an automobile, it is the farmer, because he lives at a great distance from the place where he must go to do business. A business man in the city is not compelled to use an automobile, because he can go to and from his home, his office, his bank, his store, or his factory in a taxi or a street car. But the farmer has no such accommodations. He must use an automobile. He can not carry on without it. He is the one business man in the world who must have it.

This bill further taxes him unjustly and out of all proportion when considered in the light of cardinal principles of just and fair taxation and is a discrimination against that basic industry which we all know is in the greatest distress. Almost every wind that blows, the click of many telegraph instruments, the voices in the air, the dispatches in the daily papers—all bring fresh intelligence to this Congress of the suffering and destitution which have overtaken those engaged in that industry. If you will not listen to those who are asking for relief, if it is settled that you will not help them affirmatively and quickly, if you are decided to continue to fiddle while Rome burns, you may of course do so and go on with your irresolution and static inertia, but in any event and for every reason you should not add new burdens for the farmer to carry and new taxes for him to pay.

Mr. HAWLEY. Mr. Speaker, I yield two minutes to the gentleman from Georgia [Mr. LANKFORD].

Mr. LANKFORD of Georgia. Mr. Speaker, I am not in favor of the extension of the Federal gasoline tax and, therefore, shall not vote for this bill. I voted against the imposition of this tax last year. I feel that Congress is going entirely too far in this matter; and unless a halt is called at once, the States will not have any source of revenue other than the present objectionable ad valorem property tax. For this reason, and others, I am also opposed to all other similar excise taxes for national purposes. I am opposed to, and at the last session of Congress voted against, all excise taxes on candies, cool drinks, cosmetics, and other similar articles. I am still very much opposed to them and will fight them at every opportunity.

I am most anxious for the States and local governments to be able to relieve the home owners and others of much, if not all, of the present ad valorem taxes and, for this reason, am very much opposed to all these excise taxes, and also purpose to fight in every way possible the so-called

manufacturers' general sales tax, regardless of the form in which such proposal may be presented.

It will be remembered that I bitterly opposed and voted against the bank-check tax and also the postage increase at the last session of this Congress. The check tax is unwarranted, is an unnecessary and unfair nuisance, and causes more trouble and annoyance than is at all right or necessary in order to raise the small amount of revenue derived from this source. I am very much opposed to it as a national means of raising revenue.

The increase of postage on first-class mail from 2 cents to 3 cents should never have taken place. It is not fair and does much more harm than good. The first-class mail had been paying a profit to the Government, and there was absolutely no excuse for Congress to make this increase.

Many Members say that Congress must simply impose these burdens in order to raise revenue that we must have at this time. I feel that this is an erroneous idea, but I have heretofore presented my views rather fully along this line, and time will not permit further elaboration of this subject at this time.

Mr. HAWLEY. Mr. Speaker, under the existing law, the tax on gasoline is included in a paragraph containing several items. The tax on these items expires on June 30, 1934, with the reservation, however, in the case of gasoline, on which the tax expires June 30, 1933. This bill strikes out that reservation and allows the gasoline tax to continue until June 30, 1934, at which time all the taxes under that paragraph will cease.

It has been stated that the States have had the gasoline tax heretofore as a source of revenue and that the Federal Government is invading the prerogatives of the States. I do not agree that either the States or the National Government have any prerogative or exclusive right to the use of any tax. The United States first taxed tobacco. A great many States tax tobacco now. The United States established the income tax. Many States have established an income tax since then. The United States introduced the estate tax as a measure of raising revenue, and later, upon the insistence of the States, the Federal Government yielded to them 80 per cent of the income from this tax.

The United States is endeavoring to deal fairly with the subdivisions of the Union, namely, the States and their political subdivisions. There now comes a time in our history when the National Government, which has contributed large sums of money to many enterprises more of a State character than of a national character, finds itself as the result of the Great War in serious difficulties in the matter of revenue. The pending bill provides that the Federal Government take a very small proportion of the gasoline tax.

It has been stated that the States use the proceeds of the gasoline tax for roads. They are not using it all for roads. Many of the States are diverting it to other uses than that of road construction or road maintenance. The United States has contributed tremendous sums to the construction of roads. So, taking it as a whole, the necessities of the States as compared with the Union and considering that the Federal Government is bearing many burdens that are more strictly of State character than of national character, I think the continuance of the gasoline tax for one year at the low rate of 1 cent a gallon is entirely justified.

The SPEAKER. The question is on the motion to suspend the rules and pass the bill.

The question was taken; and on a division (demanded by Mr. WARREN and Mr. RANKIN) there were—ayes 136, noes 49.

Mr. RANKIN. Mr. Speaker, I object to the vote on the ground there is not a quorum present and make the point of order there is no quorum present.

The SPEAKER. The gentleman from Mississippi makes the point of order there is not a quorum present. The Chair will count. [After counting.] Two hundred and sixty-one Members present, a quorum.

Mr. RANKIN. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were refused.

So the bill was passed.

ESTABLISHMENT OF A UNIFORM SYSTEM OF BANKRUPTCY THROUGHOUT THE UNITED STATES

Mr. SUMNERS of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 14359) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, and acts amendatory thereof and supplementary thereto, as amended.

The Clerk read the bill, as follows:

Be it enacted, etc., That the act of July 1, 1898, entitled "An act to establish a uniform system of bankruptcy throughout the United States," as amended by the acts of February 5, 1903, June 15, 1906, June 25, 1910, March 2, 1917, January 7, 1922, May 27, 1926, and February 11, 1932, be, and it is hereby, amended by repealing sections 12 and 13 thereof and by adding thereto a new chapter to read as follows:

"CHAPTER VIII

"PROVISIONS FOR THE RELIEF OF DEBTORS

"SEC. 73. Additional jurisdiction: In addition to the jurisdiction exercised in voluntary and involuntary proceedings to adjudge persons bankrupt, courts of bankruptcy shall exercise original jurisdiction in proceedings for the relief of debtors, as provided in sections 74, 75, and 76 of this act.

"SEC. 74. Compositions and extensions: (a) Any person excepting a corporation may file a petition, or, in an involuntary proceeding before adjudication, an answer within the time limited by section 18 (b) of this act, accompanied in either case, unless further time is granted, by his schedules, stating that he is insolvent or unable to meet his debts as they mature, and that he desires to effect a composition or an extension of time to pay his debts. The term 'debt' for the purposes of an extension proposal under this section shall include all claims of whatever character against the debtor or his property, whether or not such claims would otherwise constitute provable claims under this act. Upon the filing of such a petition or answer the judge shall enter an order either approving it as properly filed under this section, if satisfied that such petition or answer complies with this section and has been filed in good faith, or dismissing it. If such petition or answer is approved, an order of adjudication shall not be entered except as provided in subdivision (j) of this section: *Provided, however*, That in staying the action for adjudication in an involuntary proceeding the court shall make such stay conditional upon such terms for the protection and indemnity against loss by the estate as may be proper, and that in any other proceeding under this section the court may, as the creditors at the first meeting may direct, impose similar terms as a condition of delaying the appointment of a trustee and the liquidation of the estate. Any person by or against whom a petition is filed shall be referred to in the proceedings under this section as a 'debtor.' The term 'creditor' shall include for the purposes of an extension proposal under this section all holders of claims of whatever character against the debtor or his property, whether or not such claims would otherwise constitute provable claims under this act.

"(b) After the filing of such petition or answer, the court may upon reasonable notice to creditors and attorneys of record appoint a custodian or receiver, who shall inventory the debtor's estate and exercise such supervision and control over the conduct of the debtor's business as the creditors at any meeting or the court shall direct.

"(c) The court in cases involving extension proposals where it is not necessary to appoint a custodian or receiver shall promptly call the first meeting of creditors, stating in the notice that the debtor proposes to offer terms of composition or extension, and inclosing with the notice a summary of the inventory, a brief statement of the debtor's indebtedness as shown by the schedules, and a list of the names and addresses of the secured creditors and the 15 largest unsecured creditors, with the amounts owing to each as shown by the schedules.

"(d) At the first meeting (1) the debtor may be examined; (2) the creditors may nominate a trustee, who shall thereafter be appointed by the court in case it becomes necessary to liquidate the estate as provided in subdivision (j) of this section; and (3) the court shall, after hearing the parties in interest, fix a reasonable time within which application for confirmation shall be made. The court may later extend such time for cause shown, and may require, as a condition of such extension, additional terms for the protection of and indemnity against loss by the estate as may be proper.

"(e) An application for the confirmation of a composition or extension proposal may be filed in the court of bankruptcy (1) after, but not before, it has been accepted in writing by a majority in number of all creditors whose claims have been allowed, including secured creditors whose claims are affected by an extension proposal, which number must represent a majority in amount of such claims; (2) failing to obtain the acceptance of a majority in number of all creditors whose claims have been allowed, including secured creditors whose claims are affected by an extension proposal representing a majority in amount of all claims as in clause (1) the debtor may file a proposal for an extension, including a feasible method of financial rehabilitation for the debtor which is for the best interest of all the creditors, including an equitable liquidation for secured creditors whose claims are affected; and the money or security necessary to pay all debts which have

priority unless waived and the costs of the proceedings, and in case of a composition the consideration to be paid by the debtor to his creditors, have been deposited in such place as shall be designated by and subject to the order of the court.

"(f) A date and place, with reference to the convenience of the parties in interest, shall be fixed for a hearing upon each application for the confirmation of the composition or extension proposal, and such objections as may be made to its confirmation.

"(g) The court shall confirm the proposal if satisfied that (1) it includes an equitable and feasible method of liquidation for secured creditors whose claims are affected and of financial rehabilitation for the debtor; (2) it is for the best interests of all creditors; (3) that the debtor has not been guilty of any of the acts, or failed to perform any of the duties, which would be a ground for denying his discharge; and (4) the offer and its acceptance are in good faith, and have not been made or procured except as herein provided, or by any means, promises, or acts herein forbidden. In application for extensions the court shall require proof from each creditor filing a claim that such claim is free from usury as defined by the laws of the place where the debt is contracted.

"(h) The terms of an extension proposal may extend the time of payment of either secured or unsecured debts, or both, and may provide for priority of payments to be made during the period of extension as between secured and unsecured creditors. It may also include specific undertakings by the debtor during the period of the extension, including provisions for payments on account, and may provide for supervisory or other control over the debtor's business or affairs during such period by a creditors' committee or otherwise, and for the termination of such period under certain specified conditions.

"(i) Upon its confirmation an extension proposal shall be binding upon the debtor and his secured and unsecured creditors: *Provided*, That such extension or composition shall not impair the lien of any secured creditor, but shall affect only the time and method of its liquidation.

"(j) Upon the confirmation of a composition the consideration shall be distributed as the court shall direct, and the case dismissed. Upon the confirmation of an extension proposal the court may dismiss the proceeding or retain jurisdiction of the debtor and his property during the period of the extension in order to protect and preserve the estate and enforce the terms of the extension proposal.

"(k) The judge may, upon the application of the parties in interest, filed at any time within six months after the composition or extension proposal has been confirmed, set the same aside and reinstate the case, if it shall be made to appear upon a trial that fraud was practiced in the procuring of such composition or extension, and that knowledge thereof has come to the petitioners since the confirmation thereof.

"(l) If the debtor shall (1) fail to comply with any of the terms required of him for the protection of and indemnity against loss by the estate; or (2) fail to apply for confirmation within the time fixed therefor; or (3) have applied for confirmation and confirmation has been denied; or (4) without sufficient reason default in any payment required to be made under the terms of the composition or extension proposal, the court may appoint the trustee nominated by the creditors at the first meeting, and if the creditors shall have failed to so nominate, may appoint any other qualified person as trustee to liquidate the estate except debtors engaged in farming or the tillage of the soil unless they consent. The court shall in addition adjudge the debtor a bankrupt if satisfied that he commenced or prolonged the proceeding for the purpose of delaying creditors and avoiding an adjudication in bankruptcy, or if the confirmation of his proposal has been denied.

"(m) The filing of a debtor's petition or answer pleading for relief under this section shall subject the debtor and his property, wherever located, to the exclusive jurisdiction of the court in which the order approving the petition or answer as provided in subdivision (a) is filed. In proceedings under this section, except as otherwise provided therein, the jurisdiction and powers of the court, the title, powers, and duties of its officers and, subject to the approval of the court, their fees, the duties of the debtor, and the rights and liabilities of creditors, and of all persons with respect to the property of the debtor, shall be the same as if a voluntary petition for adjudication had been filed and a decree of adjudication had been entered on the day when the debtor's petition or answer was filed and any decree of adjudication thereafter entered shall have the same effect as if it had been entered on that day.

"(n) After the filing of the petition, as provided in subdivision (a) of this section, the court, on such notice and on such terms, if any, as it deems fair and equitable may enjoin secured creditors from enforcing their rights in security held by them until the confirmation of the composition, or the extension has been denied by the court.

"(o) Notwithstanding the provisions of this act, in any proceedings under this section involving a plan of extension the following fees, and none other, shall be charged to the debtors;

"For the clerk's fees, $2;

"For the referee, upon entry of order of confirmation, $10 if the total assets as shown by the schedule are $10,000 or less, and $5 for each $5,000 of assets, or fraction thereof, that exceeds $10,000; and

"Upon the filing of a petition the filing fee in all cases shall be $5.

"(p) The judges of the courts of bankruptcy shall appoint sufficient referees to sit in convenient places to expedite the proceedings under this section, and where the business and conditions permit there shall be at least one in each county: *Provided*, That hearings and examinations before the referee shall be held in the county of the debtor's residence.

"SEC. 75. Corporate reorganizations: (a) Any corporation which could become a bankrupt under section 4 of the act, drainage, irrigation, levee, sewer, and paving improvement districts established under the laws of the State of their creation, except as hereinafter provided, may file a petition, or, before adjudication in an involuntary proceeding, an answer, stating that the corporation is insolvent or unable to meet its debts as they mature and that it desires to effect a plan of reorganization. The petition shall be filed with the court in whose territorial jurisdiction the corporation, during the preceding six months or the greater portion thereof, has had its principal place of business or its principal assets. The petition or answer shall be accompanied by payment to the clerk of a filing fee of $100, which shall be in addition to the fees required to be collected by the clerk under other sections of this act. Upon the filing of such a petition or answer the judge shall enter an order either approving it as properly filed under this section if satisfied that such petition or answer complies with this section and has been filed in good faith, or dismissing it. If the petition or answer is so approved, an order or adjudication in bankruptcy shall not be entered and the court in which such order approving the petition or answer is entered shall during the pendency of the proceedings under this section have exclusive jurisdiction of the debtor and its property wherever located, for the purposes of this section. The corporation shall be referred to in the proceedings as a 'debtor.'

"(b) A plan of reorganization within the meaning of this section (1) shall include a proposal to modify or alter the rights of creditors generally, or of any class of them, secured or unsecured, either through the issuance of new securities of any character or otherwise; (2) may include, in addition, provisions altering the rights of stockholders generally, or of any class of them; (3) shall provide adequate means for the execution of the plan, which may include the transfer of all or any part of the property of the debtor to another corporation or to other corporations, or the consolidation of the properties of the debtor with those of another corporation, and the issuance of securities of either the debtor or any such corporation or corporations, for cash, or in exchange for existing securities, or in satisfaction of claims or rights, or for other appropriate purposes; and (4) may deal with all or any part of the property of the debtor. The term 'securities' shall include evidences of indebtedness, either secured or unsecured, stock, certificates of beneficial interest therein, and certificates of beneficial interest in property. The term 'stockholders' shall include the holders of voting trust certificates. The term 'creditors' shall include for the purposes of a reorganization proceeding under this section all holders of claims of whatever character against the debtor or its property, whether or not such claims would otherwise constitute provable claims under this act.

"(c) Upon approving the petition or answer, the judge (1) may temporarily appoint a trustee or trustees of the debtor's estate, who shall have all the title and shall exercise subject to the control of the judge and consistently with the provisions of this section all the powers of a trustee appointed pursuant to section 44 of this act, and, subject to the court's control, the power to operate the business of the corporation, shall fix the amount of the bond of such trustee or trustees, and require the trustee or trustees to give such notice as the order may direct to creditors and stockholders and to cause publication thereof to be made at least once a week for two successive weeks of a hearing to be held within 30 days after such appointment, at which hearing or any adjournment thereof the judge may make permanent such appointment, or terminate it and appoint a substitute trustee or substitute trustees, and may appoint an additional trustee or additional trustees, and shall fix the amount of the bond of the substitute or additional trustee or trustees; (2) may, for cause shown, authorize the trustee or trustees to issue certificates for cash, for such lawful purposes, and upon such terms and conditions and with such security and such priority in payments over existing obligations, secured or unsecured, as may be lawful in the particular case; (3) shall require the debtor, at such time or times as the judge may direct, and in lieu of the schedules required by section 7 of this act, to file such schedules and submit such other information as may be necessary to disclose the conduct of the debtor's affairs and the fairness of any proposed plan; (4) shall determine a reasonable time within which the claims and interest of creditors and stockholders may be filed or evidenced and after which no such claim or interest may participate in any plan, except on order for cause shown; the manner in which such claims and interests may be filed or evidenced and allowed, and, for the purposes of the plan and its acceptance, the division of creditors and stockholders into classes according to the nature of their respective claims and interests; (5) shall cause reasonable notice of such determination and of all hearings for the consideration of any proposed plan, or of the dismissal of the proceedings, or the liquidation of the estate, or the allowance of fees or expenses, to be given creditors and stockholders by publication or otherwise; (6) if a plan of reorganization is not proposed or accepted within such reasonable time as the judge may fix, or, if proposed and accepted, is not confirmed, may, whether the proceeding be voluntary or involuntary, dismiss the proceeding or direct the trustee or trustees to liquidate the estate, as the interests of the creditors

and stockholders may equitably require, provided that if the proceeding is involuntary it shall not be so dismissed until after a hearing upon notice sent to the creditors and stockholders; (7) may allow a reasonable compensation for the services rendered and reimbursement for the actual and necessary expenses incurred in the proceeding by officers and parties in interest, including reorganization managers and committees or other representatives of creditors or stockholders, and their attorneys or agents; and (8) may refer any matters to a special master, who may be one of the referees in bankruptcy, for consideration and report, either generally or upon specified issues, and allow such master a reasonable compensation for his services. Any creditor or stockholder shall be heard on the question of the appointment of any trustee or trustees, and on the proposed confirmation of any reorganization plan, and upon filing a petition for leave to intervene, on such other questions arising in the proceeding as the judge shall determine.

"(d) A plan of reorganization which has been approved by creditors of the debtor, being not less than 25 per cent in amount of any class of creditors and not less than 10 per cent in amount of all the creditors of the debtor, whose claims or interests would be affected by the plan, may be proposed by the debtor or by any creditor or by any stockholder at a hearing duly noticed for its consideration or for the consideration of any other plan of reorganization similarly proposed.

"(e) A plan of reorganization shall not be confirmed until it has been accepted in writing and such acceptance shall have been filed in the proceeding by or on behalf of creditors holding two-thirds in amount of the claims of each class whose claims or interests have been allowed and would be affected by the plan, and, unless the judge shall determine after a hearing that the debtor is insolvent, by or on behalf of stockholders of the debtor holding two-thirds of the stock of each class: *Provided, however,* That if adequate provision is made in the plan for the protection of the interests, claims, and liens of any class of creditors or stockholders in the manner provided in subdivision (f), clause (5) of this section, then the acceptance of the plan by such class of creditors or stockholders shall not be requisite to the confirmation of the plan. With such acceptance there shall be filed a statement, verified in such manner as the judge shall require, showing what, if any, claims and shares of stocks have been purchased or transferred by those accepting the plan after the commencement or in contemplation of the proceeding, and the circumstances of such purchase or transfer: *Provided, however,* That if the judge is satisfied that by reason of the number of securities outstanding and the extent of the public dealing therein the preparation of such a statement would be impractical, he may direct that it be not filed.

"(f) Upon such acceptance, and after hearing such objections as may be made to the plan, the judge shall confirm the plan if satisfied that (1) it is equitable and does not discriminate unfairly in favor of any class of creditors or stockholders; (2) all amounts to be paid by the debtor or by any corporation or corporations acquiring the debtor's assets, for services or expenses incident to the reorganization, have been fully disclosed and are reasonable, or are to be subject to the approval of the judge; (3) the offer of the plan and its acceptance are in good faith and have not been made or procured by any means or promises forbidden by this act; (4) the plan provides for the payment in cash of all costs of administration and other allowances made by the court; (5) the plan provides with respect to stockholders not accepting the plan (unless the corporation shall have been found to be insolvent) and who do not become bound by the plan under the provisions of subdivision (g) of this section adequate protection for the realization by them of the value of their equity, if any, in the property of the debtor dealt with by the plan, either by a sale of the property at not less than a fair upset price or by appraisal and payment in cash of the value of such stock, or, at the objecting stockholders' election, of the securities allotted to such stockholders under the plan, if any; and the plan provides with respect to creditors not accepting the plan, and who do not become bound by the plan under the provisions of subdivision (g) of this section adequate protection for the realization by them of the value of their liens on or claims against the property of the debtor dealt with by the plan, either (a) by the sale of such property subject to such liens or claims, or (b) by the sale free of such liens or claims at not less than a fair upset price, and the transfer of such liens or claims to the proceeds of such sale, or (c) by appraisal and payment in cash of the value of such liens and claims, or, at the objecting creditors' election, of the securities allotted to such liens and claims under the plan; (6) the debtor, and every other corporation issuing securities or acquiring property under the plan, is authorized by its charter, and has obtained such authority as may be required by the laws of the United States or of any State or Territory or subdivision thereof, to take all action necessary to carry out the plan.

"(g) Upon such confirmation the provisions of the plan shall be binding upon (1) the corporation, (2) all stockholders thereof, (3) all creditors whose claims are payable in cash in full under the plan, (4) all creditors entitled to priority under subdivision (c) of this section, whose claims are not payable in cash in full under the plan, provided two-thirds in amount of such creditors shall have accepted the plan in writing filed in the proceeding, (5) all other unsecured creditors, provided two-thirds in amount of such creditors shall have accepted the plan in writing filed in the proceeding, and (6) all secured creditors of each class of which two-thirds in amount shall have accepted the plan: *Provided, however,* That any secured creditor who is unwilling to accept the benefits provided for him under the plan may file with the clerk at any time prior to the confirmation of the plan a demand in writing that his lien be afforded the protection required by subdivision (f), clause (5) of this section, in which event he shall be entitled to such protection of his interests. The confirmation of the plan shall discharge the debtor from its debts except as provided in the plan.

"(h) Upon confirmation of the plan the property dealt with by the plan shall be transferred by the trustee or trustees to the debtor or the other corporation or corporations provided for by the plan, free and clear of all claims of the debtor, its stockholders and creditors, except such as may consistently with the provisions of the plan be reserved in the order directing such transfer. Upon the termination of the proceedings a final decree shall be entered discharging the trustee or trustees and closing the case.

"(i) If a receiver of all or any part of the property of a corporation has been appointed by a Federal, State, or Territorial court, whether before or after this amendatory act takes effect, the corporation may nevertheless file a petition or answer under this section at any time thereafter, but if it does so and the petition or answer is approved, the trustee or trustees appointed under the provisions of this section shall be entitled forthwith to possession of such property, and the judge shall make such orders as he may deem equitable for the protection of obligations incurred by the receiver and for the payment of such reasonable administrative expenses and allowances in the prior proceeding as may be fixed by the court appointing said receiver. If a receiver has been appointed by a Federal or State or Territorial court prior to the dismissal, under subdivision (c) clause (6), of a proceeding under this section, the judge may include in the order of dismissal appropriate orders directing the trustee to transfer possession of the debtor's property within the Territorial jurisdiction of such court to the receiver so appointed, upon such terms as the judge may deem equitable for the protection of obligations incurred by the trustee and for the payment of administrative expenses and allowances in the proceeding hereunder. For the purposes of this section the words 'Federal court' shall include the district courts of the United States and of the Territories and possessions to which this act is or may hereafter be applicable, the Supreme Court of the District of Columbia, and the United States Court of Alaska, and the District Court of the United States for the Territory of Hawaii.

"(j) In addition to the provisions of section 11 of this act for the staying of pending suits against the debtor, such suits shall be further stayed until the question of the confirmation of a proposed plan of reorganization has been determined; and until such determination the judge may, upon notice and for cause shown, enjoin or stay the commencement or continuance of any judicial proceeding to enforce any lien upon the estate.

"(k) A certified copy of an order confirming a plan of reorganization shall be evidence of the jurisdiction of the court, the regularity of the proceedings, and the fact that the order was made. A certified copy of an order directing the transfer of the property dealt with by the plan as provided in subdivision (h) of this section shall be evidence of the transfer of title accordingly, and if recorded shall impart the same notice that a deed, if recorded, would impart.

"(l) If an order is entered directing the trustee or trustees to liquidate the estate pursuant to the provisions of clause (6) of subdivision (c) of this section: (1) The case may be referred to a referee as provided in section 22, who shall be compensated as provided in section 40, except that such compensation shall not exceed a total of $7,500 in any single case; (2) the first meeting of creditors shall be held as provided in section 55, upon notice as provided in section 58; (3) a trustee or trustees shall be appointed as provided in section 44, and be compensated as provided in section 48; (4) claims which are provable under section 63 may be proved as provided in section 57, except that the time within which proof may be made shall not expire until six months after the date of the last publication of the notice of the first meeting; (5) debts shall be entitled to priority as provided in section 64; (6) sales shall be made as provided in subdivision (b) of section 70; (7) dividends may be declared and paid as provided in section 65. None of the sections enumerated in this subdivision (l), except subdivisions (g), (l), (j), and (m) of section 57, and subdivisions (a) and (e) of section 70, shall apply to proceedings instituted under this section 75 unless and until an order has been entered directing the trustee or trustees to liquidate the estate. All other provisions of this act, except such as are inconsistent with the provisions of this section 75, shall apply to proceedings instituted under this section, whether or not an order to liquidate the estate has been entered. For the purposes of such application, provisions relating to 'bankrupts' shall be deemed to relate also to 'debtors'; 'bankruptcy proceedings,' or 'proceedings in bankruptcy,' shall be deemed to include proceedings under this section; the date of the order approving the petition or answer under this section shall be taken to be the date of adjudication, and such order shall have the same consequences and effect as an order of adjudication.

"(m) Whenever in this act the words 'receiver' or 'trustee' are used, same shall mean a natural person, except, however, upon good cause affirmatively shown by any interested party or parties that it is for the best interests of the debtor or the plan generally, the court may appoint a corporation, but such corporation shall not be appointed in a multiplicity of cases.

"(n) Nothing contained in this section whatsoever shall be construed or be deemed to affect or apply to the stockholders, creditors, or officers of any corporation operating a railroad or railroads owned in whole or in part by any municipality and/or

owned or operated by a municipality, or under any contract to any municipality by or on its behalf or in conjunction with such municipality under any contract, lease, agreement, certificate, or in any other manner provided by law for such operation."

"SEC. 76. Reorganization of railroads engaged in interstate commerce: (a) Any railroad corporation, but subject to first having obtained the approval of the Interstate Commerce Commission, may file a petition stating that the railroad corporation is insolvent or unable to meet its debts as they mature and that it desires to effect a plan of reorganization. The petition shall be filed with the court in whose territorial jurisdiction the railroad corporation, during the preceding six months or the greater portion thereof, has had its principal or executive or operating office. The petition shall be accompanied by payment to the clerk of a filing fee of $100, which shall be in addition to the fees required to be collected by the clerk under other sections of this act. Upon the filing of such a petition the judge shall enter an order either approving it as properly filed under this section, if satisfied that such petition complies with this section and has been filed in good faith, or dismissing it. If the petition is so approved, the court in which such order approving the petition is entered shall, during the pendency of the proceedings under this section, have jurisdiction of the debtor and its property wherever located, for the purposes of this section. The railroad corporation shall be referred to in the proceedings as a 'debtor.' Any railroad corporation, the majority of the capital stock of which having power to vote for the election of directors is owned or controlled, either directly or indirectly through an intervening medium, by any railroad corporation filing a petition as a debtor under this section, or substantially all of whose properties are operated by such a debtor under lease or operating agreement may file, with the court in which such other debtor had filed such a petition, and in the proceeding upon such petition under this section, a petition stating that it is insolvent or unable to meet its debts as they mature and that it desires to effect a plan of reorganization in connection with, or as a part of, the plan of reorganization of such other debtor; and thereupon such court shall have the same jurisdiction with respect to it, its property, and its creditors and stockholders as the court has with respect to such other debtor. Creditors of any railroad corporation, being not less than 25 per cent in amount of any class of creditors and not less than 10 per cent in amount of all creditors of such railroad corporation, whose claims or interests would be affected by the plan proposed by them, may, if the railroad corporation has not filed a petition under this section, but subject to first having obtained the approval of the Interstate Commerce Commission, file with the court in which such railroad corporation might file a petition under the provisions of this section, a petition stating that such railroad corporation is insolvent or unable to meet its debts as they mature and that such creditors propose that it shall effect a plan of reorganization; upon such filing of such a petition a copy thereof shall be served by the petitioning creditors forthwith upon the railroad corporation; the railroad corporation shall, within 10 days after such service, answer such petition; if such answer shall admit the jurisdiction of the court, that the claims of the petitioning creditors constitute the amounts necessary to entitle them to file such petition under this section, and that the railroad corporation is either insolvent or unable to meet its debts as they mature, the court shall enter an order approving the petition as properly filed under this section, and the proceedings thereon shall continue with like effect as if the railroad corporation had itself filed a petition under this section; if such answer shall deny either the jurisdiction of the court or that the claims of the petitioning creditors constitute such necessary amounts or that the railroad corporation is insolvent or unable to meet its debts as they mature, the court shall summarily try the issues, and if it shall find that the petition has been properly filed under this section, the court shall enter an order approving the petition as so filed, and the proceedings thereon shall continue with like effect as if the railroad corporation had itself filed a petition under this section; otherwise the court shall dismiss the petition.

"(b) A plan of reorganization within the meaning of this section (1) may include a proposal to modify or alter the rights of creditors generally, or of any class of them, secured or unsecured, either through the issuance of new securities of any character or otherwise; (2) may include, in addition, provisions altering the rights of stockholders generally, or of any class of them; (3) shall provide adequate means for the execution of the plan, which may include the transfer of all or any part of the property of the debtor to another corporation or to other corporations or the consolidation of the properties of the debtor with those of another railroad corporation, or the merger of the debtor with any other railroad corporation and the issuance of securities of either the debtor or any such corporation or corporations, for cash, or in exchange for existing securities, or in satisfaction of claims or rights, or for other appropriate purposes; and (4) may deal with all or any part of the property of the debtor. The term 'securities' shall include evidences of indebtedness, either secured or unsecured, bonds, stocks, certificates of beneficial interest therein, and certificates of beneficial interest in property. The term 'stockholders' shall include the holders of voting trust certificates. The term 'creditors' shall include, for the purposes of a reorganization proceeding under this section, all holders of claims of whatever character against the debtor or its property, whether or not such claims would otherwise constitute provable claims under this act. Nothing contained in this act shall be construed as amending or in any way altering the provisions of the railway labor act, as amended and supplemented.

"(c) Upon approving the petition as properly filed the judge (1) may temporarily appoint a trustee or trustees recommended by the Interstate Commerce Commission of the debtor's estate, who shall have all the title, powers of a trustee appointed pursuant to section 44 or any other section of this act, and, subject to the judge's control, shall have the power to operate the business of the railroad corporation; the judge shall fix the amount of the bond of such trustee or trustees and require the trustee or trustees to give such notice as the order may direct to creditors and stockholders and to cause publication thereof to be made at least once a week for two successive weeks of a hearing to be held within 30 days after such appointment, at which hearing and/or any adjournment thereof the judge may make, upon such recommendation, permanent such appointment, or may terminate it and may, upon such recommendation, appoint a substitute trustee or substitute trustees, and may, upon such recommendation, appoint an additional trustee or additional trustees, and shall fix the amount of the bond of the substitute or additional trustee or trustees; any creditor or stockholder shall be heard on the question of the appointment of any trustee or trustees; (2) may for cause shown, and with approval of the Interstate Commerce Commission, authorize the trustee or trustees to issue certificates for cash, for such lawful purposes, and upon such terms and conditions and with such security and such priority in payments over existing obligations, secured or unsecured, as might in an equity receivership be lawful; (3) shall require the debtor, at such time or times as the judge may direct and in lieu of the schedules required by section 7 of this act, to file such schedules and submit such other information as may be necessary to disclose the conduct of the debtor's affairs and the fairness of any proposed plan; (4) shall determine a reasonable time within which the claims and interests of creditors and stockholders may be filed or evidenced and after which no such claim or interest may participate in any plan, except on order for cause shown; the manner in which such claims and interests may be filed or evidenced and allowed, and, for the purposes of the plan and its acceptance, the division of creditors and stockholders into classes according to the nature of their respective claims and interests; (5) shall cause reasonable notice of such determination, or of the dismissal of the proceedings, or the allowance of fees or expenses, to be given creditors and stockholders by publication or otherwise; (6) if a plan of reorganization is not proposed or accepted within such reasonable time as the judge may, upon cause shown, fix, or, if proposed and accepted, is not approved, shall dismiss the proceeding; (7) may, subject to the approval provided in subdivision (f) of this section, allow a reasonable compensation for the services rendered and reimbursement for the actual and necessary expenses incurred in connection with the proceeding and plan by the Interstate Commerce Commission, officers, parties in interest, reorganization managers, and committees or other representatives of creditors or stockholders, and their attorneys or agents; and (8) may on his own motion or at the request of the Interstate Commerce Commission refer any matters for consideration and report, either generally or upon specified issues, to one or more of six special referees, who may also perform all the functions and exercise all the powers of referees in bankruptcy and who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, each for a term of six years, except that the first two appointments shall be for two and the next two appointments for four years. Authority is herewith granted for the appointment of such special referees and such additional special referees as may be required. Such special referees shall sit in Washington, D. C., and in such other places as may be designated in any instance by the judge referring a matter to them on his own motion or at the request of the commission, and shall receive such compensation as shall be allowed them by such judge, with the approval of the Interstate Commerce Commission, including reasonable traveling and subsistence allowances, and shall be subject to all applicable provisions of this act, except fees, regarding referees in bankruptcy. For all purposes of this section 76, claims against a railroad corporation which would have been entitled to priority over existing mortgages if a receiver in equity of the property of the debtor had been appointed by a Federal court at the date of the filing of the petition hereunder shall be entitled to such priority, and holders of such claims shall be treated as a separate class of creditors. Any creditor or stockholder shall be heard on the question of the proposed approval of any reorganization plan, and upon filing a petition for leave to intervene on such other questions arising in the proceeding as the judge shall determine. The debtor, or the trustees if appointed, shall within 15 days or, upon cause shown, such other time as may be directed by the judge, prepare (1) a list of all known bondholders and creditors of, or claimants against, the debtor and the amounts and character of debts owing to them or claims by them against the debtor, with the last known post-office address or place of business of each creditor or claimant, and (2) a list of the stockholders of the debtor, with the last known post-office address or place of business of each. The contents of such lists shall not constitute admissions by the debtor or the trustees in a proceeding under this section or otherwise. Such lists shall be open to the inspection of any creditor or stockholder of, or claimant against, the debtor, during reasonable business hours, upon application to the debtor or trustees, as the case may be.

"(d) Before creditors and stockholders of the debtor are asked to accept any plan of reorganization, the Interstate Commerce Commission shall, after due notice, hold a public hearing at which the debtor shall present its plan of reorganization and at which, also, such a plan may be presented by or on behalf of creditors of the debtor, being not less than 25 per cent in amount of any class of creditors and not less than 10 per cent in amount of all the creditors of the debtor whose claims or interest would be affected by the plan. Following such hearing, the commission shall render a report in which it shall recommend a plan of reorganization (which may be different from any which has been proposed) as it shall find will be equitable, will not discriminate unfairly in favor of any class of creditors or stockholders, will be financially advisable, and will be compatible with the public interest. In such report the commission shall state fully the reasons for its conclusions, and it may thereafter, upon petition for good cause shown, modify any of its findings and conclusions in a supplemental report stating the reasons for such modification. Thereafter the plan of reorganization recommended by the commission shall be submitted to the creditors and stockholders of the debtor for acceptance or rejection, together with the report or reports of the commission thereon; and the commission may at the same time afford an opportunity to accept or reject any other plan of reorganization.

"(e) A plan of reorganization shall not be transmitted by the commission to the court until it has been accepted in writing and such acceptance shall have been filed in the proceeding by or on behalf of creditors holding two-thirds in amount of the claims of each class whose claims or interests have been allowed and would be affected by the plan, and, unless the judge shall have determined after a hearing that the debtor is insolvent, by or on behalf of stockholders of the debtor holding two-thirds of the stock of each class: *Provided, however,* That if adequate provision is made in the plan for the protection of the interests, claims, and liens of any class of creditors or stockholders in the manner provided in subdivision (f), clause (5), of this section, then the acceptance of the plan by such class of creditors or stockholders shall not be requisite to the approval of the plan. With such acceptance there shall be filed a statement, verified in such manner as the commission shall require, showing what, if any, claims and shares of stock have been purchased or transferred by those accepting the plan after the commencement or in contemplation of the proceeding, and the circumstances of such purchase or transfer. If the United States is directly a creditor or stockholder, the Secretary of the Treasury is hereby authorized to accept or reject the plan for the United States.

"(f) Upon the acceptance as provided in subdivision (e) the Interstate Commerce Commission shall reopen the proceeding in which it recommended the plan of reorganization, for the purpose of considering the accepted plan and if the commission finds, after due notice and a public hearing, that (1) the accepted plan is equitable and does not discriminate unfairly in favor of any class of creditors or stockholders; (2) all amounts to be paid by the debtor or by any corporation or corporations acquiring the debtor's assets, for services or expenses incident to the reorganization and cost of financing, have been fully disclosed and are reasonable; (3) the offer of the plan and its acceptance are in good faith and have not been made or procured by any means or promises forbidden by this act; (4) the accepted plan provides for the payment of all costs of administration and other allowances made by the court; (5) the accepted plan provides, with respect to stockholders of any class when two-thirds in amount of that class have not accepted the plan (unless the railroad corporation shall have been found to be insolvent), adequate protection for the realization by them of the value of their equity, if any, in the property of the debtor dealt with by the plan either by a sale of the property at not less than a fair upset price, or by appraisal and payment in cash either of the value of such stock or, at the objecting stockholder's election, the value of the securities, if any, allotted to such stock under the plan, and the plan provides with respect to any class of creditors not accepting the plan, and who do not become bound by the plan under the provisions of subdivision (g) of this section, adequate protection for the realization by them of the value of their liens on or claims against the property of the debtor dealt with by the plan, either (a) by the sale of such property subject to such liens or claims, or (b) by the sale free of such liens or claims at not less than a fair upset price, and the transfer of such liens or claims to the proceeds of such sale, or (c) by appraisal and payment in cash of either the value of such liens and claims or, at the objecting creditors' election, the value of the securities allotted to such liens and claims under the plan; (6) the debtor, and every other corporation issuing securities or acquiring property under the plan, is authorized by its charter to carry out the plan and should be granted for that purpose by the commission such further authority as may be necessary under and consistent with the provisions of the interstate commerce act; and (7) in respect of the financial advisability of the plan and otherwise, the consummation of the plan is compatible with public interest; the commission is hereby authorized and directed thereupon and without further proceedings to grant, subject to the provisions of the interstate commerce act as amended, authority for the issue of any securities or the assumption of any obligations by the debtor or by any other railroad corporation in accordance with the accepted plan, and likewise authority for the transfer of all or any part of the property of the debtor to another corporation or to other corporations or the consolidation of the properties of the debtor with those of another railroad corporation, or the merger of the debtor with any other railroad corporation to the extent that such transactions are contemplated by the accepted plan and are consistent with the provisions of the interstate commerce act, as amended. In such proceeding the commission shall also fix the compensation to be paid to reorganization managers, special referees, trustees, officers, parties in interest, committees, or other representatives of creditors or stockholders for services rendered and reimbursement for the actual and necessary expenses incurred in connection with the proceeding and plan: *Provided,* That unless good and sufficient reasons appear therefor no allowance for fees or compensation shall be made to officers of corporations who acted as managers or in any capacity in connection with the reorganization when such corporation had an interest in the matter.

"(g) Thereupon the commission shall transmit the accepted and approved plan, its findings, and the record in the proceedings to the court, and the said plan upon approval by the judge on the said record shall be final and binding upon (1) the corporation; (2) all stockholders thereof; (3) all creditors whose claims are payable in cash under the plan; (4) all creditors entitled to priority under subdivision (c) of this section, whose claims are not payable in cash in full under the plan, provided two-thirds in amount of such creditors shall have accepted the plan in writing filed in the proceeding; (5) all other unsecured creditors, provided two-thirds in amount of such creditors shall have accepted the plan in writing filed in the proceeding; and (6) all secured creditors of each class of which two-thirds in amount shall have accepted the plan. The approval of the plan shall discharge the debtor from its debts except as provided in the plan. In the event that the judge should disapprove the plan on the said record he shall enter an order together with his reasons therefor.

"(h) The provisions of the revenue act of 1932, sections 721, 722, 723, 724, and 725, shall not apply to the issuance, transfers, or exchange of securities or filing of conveyances to make effective such reorganization, mergers, or consolidations.

"(i) Upon approval of the plan the property dealt with by the plan shall be transferred by the trustee or trustees to the debtor or the other corporation or corporations provided for by the plan, free and clear of all claims of the debtor, its stockholders, and creditors, except such as may consistently with the provisions of the plan be reserved in the order directing such transfer. Upon the termination of the proceedings a final decree shall be entered discharging the trustee or trustees and closing the case.

"(j) If a receiver of all or any part of the property of a corporation has been appointed by a Federal or State court, whether before or after this amendatory act takes effect, the railroad corporation may nevertheless file a petition or answer under this section at any time thereafter, but if it does so and the petition is approved the trustee or trustees appointed under the provisions of this section shall be entitled forthwith to possession of such property, and the judge shall make such orders as he may deem equitable for the protection of obligations incurred by the receiver and for the payment of such reasonable administrative expenses and allowances in the prior proceeding as may be fixed by the court appointing said receiver. If a receiver has been appointed by a Federal or State court prior to the dismissal, under subdivision (c), clause (6), of a proceeding under this section, the judge may include in the order of dismissal appropriate orders directing the trustee to transfer possession of the debtor's property within the territorial jurisdiction of such court to the receiver so appointed, upon such terms as the judge may deem equitable for the protection of obligations incurred by the trustee and for the payment of administrative expenses and allowances in the proceeding hereunder. For the purposes of this section the words 'Federal court' shall include the district courts of the United States and of the Territories and possessions to which this act is or may hereafter be applicable, the Supreme Court of the District of Columbia, and the United States Court of Alaska.

"(k) In addition to the provisions of section 11 of this act for the staying of pending suits against the debtor, such suits shall be further stayed until the question of the approval of a proposed plan of reorganization has been determined; and until such determination the judge may, upon notice and for cause shown, enjoin or stay the commencement or continuance of any judicial proceeding to enforce any lien upon the estate.

"(l) A certified copy of an order approving a plan of reorganization shall be evidence of the jurisdiction of the court, the regularity of the proceedings, and the fact that the order was made. A certified copy of an order directing the transfer of the property dealt with by the plan as provided in subdivision (h) of this section shall be evidence of the transfer of title accordingly, and if recorded shall impart the same notice that a deed if recorded would impart.

"(m) All other provisions of this act, except such as are inconsistent with the provisions of this section 76, shall apply to proceedings instituted under this section. For the purposes of such application, provisions relating to 'bankrupts' shall be deemed to relate also to 'debtors'; 'bankruptcy proceedings' or 'proceedings in bankruptcy' shall be deemed to include proceedings under this section; the date of the order approving the petition under this section shall be taken to be the date of adjudication, and such order shall have the same consequence and effect as an order of adjudication.

"(n) The term 'railroad corporation' as used in this act means any common carrier by railroad engaged in the transportation of persons or property in interstate commerce, except a street, suburban, or interurban electric railway which is not operated as a part of a general railroad system of transportation."

SEC. 2. This amendatory act shall take effect and be in force from and after the date of its approval, and shall apply as fully to debtors, their stockholders and creditors, whose interests or debts, whether secured or unsecured, have been acquired or incurred prior to such date, as to debtors, their stockholders and creditors, whose interests or debts have been acquired or incurred after such date. Proceedings under sections 74 and 75 of this amendatory act may be taken in proceedings in bankruptcy which are pending when it takes effect.

The SPEAKER pro tempore (Mr. WOODRUM). Is a second demanded?

Mr. DYER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Is the gentleman from Missouri opposed to the bill?

Mr. DYER. I am.

Mr. SUMNERS of Texas. Mr. Speaker, I ask unanimous consent that a second may be considered as ordered.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. SUMNERS of Texas. Mr. Speaker, this is an important bill, and I ask unanimous consent that the time for debate may be extended to 2 hours, 1 hour to be controlled by myself and 1 hour to be controlled by the gentleman from Missouri [Mr. DYER].

The SPEAKER pro tempore. The gentleman from Texas asks unanimous consent that the time for debate on the bill be extended to two hours, the time to be equally divided and controlled by himself and the gentleman from Missouri. Is there objection?

Mr. MICHENER. Mr. Speaker, reserving the right to object, this is possibly the most important bill that has been or will be before this Congress at this session; certainly, the most important bill that has been before the Congress in years in its ultimate effect.

The bill is to be considered under suspension of the rules, which permits 20 minutes of debate on the side. I am informed that when the chairman of the Judiciary Committee was recognized and moved to suspend the rules, he also added the statement to suspend the rules and pass the bill with amendments.

I want it understood that the committee knows nothing about the amendments which are proposed. We have not seen them; we do not know what they are, and under the procedure the gentleman from Texas has unlimited authority to offer such amendments as to him may seem advisable.

Some of us have a number of amendments which we feel are of vital importance and which the Department of Justice insists upon, and we should like an opportunity to offer these amendments.

Mr. BLANTON. Mr. Speaker, I ask for the regular order. The proposed amendments were all read from the Clerk's desk immediately following the reading of the bill.

The SPEAKER pro tempore. The regular order is demanded. Is there objection to the request of the gentleman from Texas?

Mr. MICHENER. Mr. Speaker, I do not think the gentleman wants to be quite so unfair.

Mr. BLANTON. I shall not insist on the regular order if the gentleman is not going to make an extended speech in time that others may want.

Mr. MICHENER. This would not be taken out of the time for debate.

Mr. BRITTEN. Why can not the gentleman submit a unanimous-consent request to offer such amendments?

Mr. MICHENER. If the gentleman will let me proceed, that is what I am coming to.

I would like to couple with the unanimous-consent request of the gentleman from Texas the request that amendments which were embodied in the memorandum prepared by the Solicitor General, which were submitted to the House on Saturday last and which are included in Saturday's RECORD, be also in order.

The SPEAKER pro tempore. The Chair can not entertain the request of the gentleman from Michigan at this time. Is there objection to the request of the gentleman from Texas that the time for general debate be extended to two hours?

Mr. DYER. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Texas how many amendments he has in connection with this bill, which I am advised were not presented to or considered by the Judiciary Committee.

Mr. SUMNERS of Texas. Mr. Speaker, may I say to my friend from Missouri that if I have the opportunity I am going to direct attention to the amendments, and I believe every member of the committee will recognize that these amendments simply clarify the measure and do not add materially to the provisions of the bill.

Mr. DYER. How many amendments are there, may I ask the gentleman?

Mr. SUMNERS of Texas. Five or six.

Mr. DYER. I think if we added two or three hundred amendments, Mr. Speaker, we would not clarify the bill.

Mr. LAGUARDIA. It depends on who is trying to understand the bill.

Mr. DYER. I shall object to two hours if there is no chance to amend the bill except by the amendments which have been offered by the gentleman from Texas and about which we know nothing. I shall not object to 1 hour or 30 minutes on the side.

Mr. SUMNERS of Texas. Mr. Speaker, may I suggest to the gentleman from Missouri that I agree with the gentleman from Michigan that this is an important piece of legislation. I have no disposition to make a speech on the bill, but we are all engaged here in a common effort to do the thing that is right. We may have gone about it in the wrong way. I hope the gentleman will not object.

Mr. DYER. Is the gentleman's request to have one hour on the side?

Mr. SUMNERS of Texas. Yes.

The SPEAKER pro tempore. The gentleman from Texas asks unanimous consent that the time for debate be extended to two hours, to be equally divided and controlled by the gentleman from Missouri [Mr. DYER] and himself Is there objection?

There was no objection.

Mr. CELLER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. CELLER. Mr. Speaker, do I understand the arrangement to be that the request of the gentleman from Texas is modified by the request of the gentleman from Michigan?

The SPEAKER pro tempore. No.

Mr. SUMNERS of Texas. Mr. Speaker, in view of the observations made in reference to the amendment, I ask unanimous consent that I may have 10 minutes in which I may direct the attention of gentlemen of the House to the amendments that have been proposed, not to be taken out of the time, neither for the bill nor against the bill.

Mr. DYER. We would not know any more about the bill after we take two hours than we know now, and I object.

Mr. MICHENER. Mr. Speaker, I ask unanimous consent that it may be in order to offer such amendments to the bill as were submitted to the House on Saturday last and printed in the CONGRESSIONAL RECORD, a part of the memorandum suggested by the Solicitor General of the United States.

The SPEAKER pro tempore (Mr. WOODRUM). Is there objection to the request of the gentleman from Michigan?

Mr. LAGUARDIA. Reserving the right to object——

Mr. BLANTON. I make the point of order against the request, that it is out of order. The motion has been made to suspend the rules and pass the bill, and the Chair has recognized the gentleman from Texas [Mr. SUMNERS], and I have demanded the regular order.

The SPEAKER pro tempore. Does the gentleman from Texas object to the request?

Mr. BLANTON. I make the point of order that it is out of order; I have demanded the regular order.

Mr. CHINDBLOM. The unanimous-consent request is not out of order.

The SPEAKER pro tempore. The point of order is tantamount to an objection. Objection is heard. The gentleman from Texas is recognized for an hour.

Mr. BLANTON. I made the point of order that the request was not in order. I had demanded the regular order.

Mr. RAMSPECK. Mr. Speaker, I object to the request of the gentleman from Michigan.

Mr. MAPES. A point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MAPES. I think it is rather important that the Chair should not decide that the unanimous-consent request is out of order. It seems to me that it is in order. The House may do by unanimous consent almost anything it wants to do, and I do not understand how the request to submit a unanimous consent can be ruled out on a point of order.

Mr. MICHENER. As I understand the situation, the gentleman from Michigan submitted a unanimous-consent request, and the gentleman from Texas made a point of order against that request, and the Speaker overruled the point of order.

Mr. BLANTON. The gentleman from Georgia objected to the request.

The SPEAKER pro tempore. The gentleman from Georgia has already objected to the request. The gentleman from Texas is recognized for one hour.

Mr. SUMNERS of Texas. Mr. Speaker, I ask to be notified when I have used five minutes.

Gentlemen of the House, if you are interested in these amendments, turn to your bills. The first is on page 9, at the end of line 15, add the following:

The judges of the courts of bankruptcy shall appoint sufficient referees to sit in convenient places to expedite the proceedings under this section, and where business and conditions permit there shall be at least one in each county, provided the hearings and examinations before the referee shall be held in the county of the debtor's residence.

Mr. STAFFORD. Will the gentleman yield?

Mr. SUMNERS of Texas. Yes.

Mr. STAFFORD. Would it be agreeable for the gentleman to have the Clerk report each amendment?

Mr. SUMNERS of Texas. Mr. Speaker, I ask unanimous consent that the Clerk report the amendments, not to be taken out of my time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read as follows:

Page 9, line 16, strike out subsection (p), beginning in line 16 and ending in line 19, and insert in lieu thereof the following: "The judges of the courts of bankruptcy shall appoint sufficient referees to sit in convenient places to expedite the proceedings under this section, and where the business and conditions permit there shall be at least one in each county: *Provided*, That hearings and examinations before the referee shall be held in the county of the debtor's residence."

In line 21, page 9, strike out the word "including" after the word "corporation" and insert "which could become a bankrupt under section 4 of the act."

Page 10, beginning with the word "any" in line 2, strike out the language "any corporation which could become a bankrupt under section 4 of this act may file such a petition or answer."

Page 22, beginning with line 22, strike out all of section 2 and, beginning in line 1 on page 23, strike out all of section 3.

Page 27, after the word "act" in line 9, insert "nothing contained in this act shall be construed as amending or in any way altering the provisions of the railway labor act as amended and supplemented."

Page 32, in line 21, after the word "shall," insert the word "have" and strike out the word "determine" and insert in lieu thereof the word "determined," so that it will read "shall have determined."

Page 33, after the word "transfer" in line 10, insert "If the United States is directly a creditor or stockholder, the Secretary of the Treasury is hereby authorized to accept or reject the plan for the United States."

Page 35, line 20, after the word "plan," insert "and are consistent with the provisions of the interstate commerce act as amended."

Page 40, line 1, strike out the parentheses and the letter "o" and insert in lieu thereof "Sec. 2," and at the end of line 7, after the word "date," insert "proceedings under sections 74 and 75 of this amendatory act may be taken in proceedings in bankruptcy which are pending when it takes effect."

Mr. CHINDBLOM. Mr. Speaker, will the gentleman yield before he starts with the amendments?

Mr. SUMNERS of Texas. Yes.

Mr. CHINDBLOM. Were any of the amendments recommended by the Solicitor General incorporated in the amendments just reported by the Clerk?

Mr. SUMNERS of Texas. I do not know.

Mr. McKEOWN. If I may be permitted to answer the question, all of the amendments in sections 74 and 75 were recommended by the Solicitor General.

Mr. CHINDBLOM. My question is whether the amendments recommended by the Solicitor General in the document printed in the RECORD last Saturday are included in the amendments that have been reported now.

Mr. McKEOWN. Not all of them.

Mr. MICHENER. One or two formal ones.

Mr. LAGUARDIA. None of them in the railroad reorganization. I want to make that clear.

Mr. CHINDBLOM. I am very glad that the gentleman made it clear.

Mr. SUMNERS of Texas. Mr. Speaker, this bill in its first provisions seeks to retain as far as it may the present economic organizations, to make it possible for the bankrupt or distressed creditor to avail himself of the machinery of the Federal courts and effect if he can a settlement with his creditors. The philosophy of the bill rests upon the assumption that it is better for all parties concerned that these various activities—farms, businesses, and so forth—shall be kept intact than to break them up and undertake out of the junk to find something that shall go to the creditors. With regard to the railroad features of the bill—and I am touching only a few high spots—it is recognized, I believe, by everybody who understands the situation that many of the railroad companies must soon reorganize. They must reorganize through equity receiverships or reorganize under some such proceeding as is provided in this bill. The general plan with regard to individuals, with regard to corporations which are not railroads, is identical except as it is required to be modified by reason of the difference in the character of the things being dealt with.

With regard to the plan for the reorganization of the railroads, and I am not speaking technically accurately, an effort has been made to utilize the organization and expert knowledge of the Interstate Commerce Commission, to assist the court, sitting as a court of bankruptcy, and in a sense relate the Interstate Commerce Commission to the court of bankruptcy much as a master in chancery is related to the court whose master he is.

In the framing of this bill in so far as it relates to interstate railroad companies, of course, the Congress may act under two powers, the power conferred by the interstate commerce clause of the Constitution and the power conferred by the bankruptcy provision of the Constitution. Then, of course, there is that other power, incidental power, namely, the equity power of the courts. With regard to that feature of the bill, I doubt that it can be very much objected to. With regard to the provisions of the bill which are applicable to farmers and persons in that class, and I think still within the constitutional powers, an effort is made to preserve a breathing spell, to go as far as the Congress can constitutionally go to ease up on the ouster suits and foreclosures which are taking place in this country. This is incidental of course to the general powers and plan embodied in the bill. That is a very important provision of the bill, a very important feature of the bill. Just how much good will come from that will depend much upon some additional contemplated legislation.

Mr. SIROVICH. Will the gentleman yield for a question?

Mr. SUMNERS of Texas. I yield for a very brief question.

Mr. SIROVICH. On page 11, section 3, I think that section provides the means, under the guise of the bankruptcy act, to accomplish mergers and consolidations of corporations in violation of the Sherman and Clayton Acts. I would like to have the gentleman interpret that section.

Mr. SUMNERS of Texas. I do not have time to go into detail, but I do not believe so. Mergers are not per se illegal. Certain mergers may be effected which do not vio-

late the antitrust act. No merger is authorized by this bill which violates the law.

Mr. CULLEN. Will the gentleman yield for a question?

Mr. SUMNERS of Texas. I yield.

Mr. CULLEN. Is there anything in this bill that will cause tax liens of municipalities and States to be wiped out?

Mr. SUMNERS of Texas. That will wipe them out?

Mr. CULLEN. Yes.

Mr. SUMNERS of Texas. There is not.

Mr. CULLEN. That is a point that has been raised by the city of New York, and I am anxious to have that point cleared up.

Mr. SUMNERS of Texas. May I say to the gentleman there is no disturbance by this bill of the relative relationship of liens, and certainly no disturbance of tax liens in this bill.

Mr. GARBER. Will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. GARBER. What will be the preferential status given loans made by the Government to the railroads, over investments in stocks and bonds?

Mr. SUMNERS of Texas. They are not given by this bill any preferred status which they do not now have and to whatever degree now preferred the status is not lessened. They are not disturbed.

Mr. LAGUARDIA. In answer to that, I would suggest that they are treated as creditors. All loans made under section 2 of the transportation act.

Mr. GARBER. On the same status as investment creditors?

Mr. SUMNERS of Texas. Mr. Speaker, I am sorry I can not yield further.

Mr. EATON of Colorado. Will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. EATON of Colorado. My question concerns the last amendment which would attempt to make this bankruptcy statute immediately applicable to pending cases. Is that correct?

Mr. SUMNERS of Texas. Yes; with some qualifications, I believe.

Mr. EATON of Colorado. Does the gentleman consider it constitutional and proper legislation to apply it to bankruptcy cases now pending?

Mr. SUMNERS of Texas. I can not yield further. I am sorry.

Mr. HORR. May I be permitted to ask the gentleman a question?

Mr. SUMNERS of Texas. I yield.

Mr. HORR. May I inquire whether or not, where the word "reorganization" is used, the gentleman is of the opinion that this would encourage consolidations of railroads?

Mr. SUMNERS of Texas. They could not be consolidated in violation of the interstate commerce act.

Mr. HORR. They would first have to go through that?

Mr. SUMNERS of Texas. They would first have to go through that.

Mr. LANKFORD of Georgia. Will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. LANKFORD of Georgia. In a case where a farmer owes over half of his debts to a loan concern, can he file a petition under this bill without getting the consent of that creditor who holds over one-half of his claims?

Mr. SUMNERS of Texas. I think so.

Mr. HASTINGS. Will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. HASTINGS. Is this a unanimous report from the Committee on the Judiciary?

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. DYER. Mr. Speaker, I desire to use five minutes.

Mr. Speaker, the Congress obtains jurisdiction of this matter because of the provision in the Constitution that authorizes the Congress to establish uniform bankruptcy laws. This is supposed to be an amendment to the bankruptcy act in three sections. One of them has to do with individuals. Another has to do with corporations that are now subject to the bankruptcy act. The other section, section 76, is a new effort to put in the railroads which are not now subject to the bankruptcy laws.

The first two, Mr. Speaker, are, in effect, to establish a moratorium for debtors. It is not a far stretch when I say it is akin to what is already being done in some sections of the country by those who owe debts, and are preventing foreclosures. This is to do the same thing, in effect, legally.

I do not know, Mr. Speaker, about the amendments that have been offered, except as I have listened to them as they have been read by the Clerk. The chairman of the Committee on the Judiciary has not given the members of the committee of which he is chairman an opportunity to find out about them before he presented them. That is true largely of the whole bill. Of that committee of some 22 members, I dare say, Mr. Speaker, there are not 5 members who know what this legislation will or will not do. It was considered by two or three members. The gentleman from Oklahoma [Mr. MCKEOWN] has worked upon the first two provisions. The gentleman from New York [Mr. LAGUARDIA] has worked upon the railroads. They have conferred with numerous people, most of them outside the committee room. We have held no hearings; and you are asked to-day to vote to suspend the rules and pass one of the most complicated and important pieces of legislation that have been before this House in more than 20 years of my service here.

It was stated this morning by the gentleman from Texas [Mr. PATMAN] that you are asked to-day to vote up or down an important piece of legislation under suspension of the rules, whereas we come here and spend two or three days in general debate, talking about anything and everything, upon an appropriation bill. Some Members say, "Let us pass it and let us send it to the Senate. They will straighten it out." That is a fine way for the House of Representatives to discharge its responsible duty.

Mr. Speaker, let us look at the last section, section 76, the amendment pertaining to railroads.

This legislation will take away from the United States courts what authority they have heretofore had in the reorganization of railroads. It transfers it to the Interstate Commerce Commission, not composed necessarily of lawyers, but of men who come and go. It takes away from the United States courts the authority they have heretofore had in the reorganization of our railroads. It gives to the Interstate Commerce Commission authority in perfecting the plans, not only from the public standpoint but from the standpoint that they are to determine, in effect, upon the plan that has to do with millions of dollars' worth of securities. The courts are not permitted to pass upon the question of the rights of the people in these great concerns. It is only submitted to the courts when the commission has worked out this plan.

Mr. BURTNESS. Mr. Speaker, will the gentleman yield?

Mr. DYER. I yield.

Mr. BURTNESS. What authority have the Federal courts heretofore exercised with reference to the reorganization of railroads? The gentleman suggests that the courts are being deprived of the powers they have heretofore had. I am just wondering what sort of power the courts have had heretofore over the reorganization of the railroads other than the pure liquidation of them in bankruptcy and receivership?

Mr. DYER. Of course, the gentleman knows railroads can go into court. Creditors can go into court. They work out a reorganization. The values of the securities are considered. Now the authority is to be transferred. If the House is in favor of it, then that will be the will of the House, but I think it is a very serious problem, and I, for one, do not approve of taking away from the courts the question of the settlement of these important rights affecting the railroads.

Mr. RAYBURN. Mr. Speaker, will the gentleman yield?

Mr. DYER. I yield to the gentleman from Texas.

Mr. RAYBURN. The gentleman, of course, knows that since 1920 no railroad can issue new securities, either stocks or bonds, in any reorganization without approval of the Interstate Commerce Commission. This does not change that law, and should not.

Mr. DYER. It does not change the law with reference to the issuance of new securities. I agree with the distinguished gentleman from Texas.

Mr. RAYBURN. And, if the gentleman will yield one moment further, with reference to reorganization: They can not do so under this act either without the approval of the Interstate Commerce Commission.

Does not the gentleman think that a body expert in these matters, a body that has made long and painstaking study of them, would have a better idea of a proper reorganization set-up, especially with reference to finances, than the courts would have?

Mr. DYER. Mr. Speaker, the judges of the courts are appointed for life or during good behavior. The members of the Interstate Commerce Commission are not so appointed. A President could appoint all members of the Interstate Commerce Commission during his term of office and have a partisan control of the railroads. We certainly want to prevent such a thing happening.

Mr. MAPES. Mr. Speaker, will the gentleman yield?

Mr. DYER. I yield.

Mr. MAPES. It has been difficult for me to figure out just what this bill does, but is it not true that the rights which minority security holders now have under existing law to go into court are taken away from them by this bill?

Mr. DYER. Mr. Speaker, the bill is too important, as has been evidenced by some of the questions that have been asked affecting all the railroads of our country and transferring to the Interstate Commerce Commission of these important matters, to be acted on thus hurriedly. Under this bill they not only have the question of the consideration under which these securities are to be issued, but the plan for reorganization must be submitted to them; it must be equitable, but the plan must be submitted by the Interstate Commerce Commission. Not only must they submit the plan affecting the private rights of those who have money invested in securities, but the question of policy.

Mr. Speaker, my judgment is that we should leave to the Interstate Commerce Commission, as we have largely in the past, the question of policy, but these matters affecting property and rights heretofore under the jurisdiction of the courts should remain there.

In general the plan is to put under the jurisdiction of the Interstate Commerce Commission the reorganization of railroads, and substantially everything in connection with such reorganization has to have its approval.

If a receiver has been appointed by a Federal or State court, whether before or after the act, the railroad may file a petition or answer under this section and thereupon the trustee appointed under the act shall be entitled to possession of the property, and this proceeding will supercede the equity proceeding. Apparently this applies to an involuntary as well as a voluntary proceeding.

While it is a proceeding in court, practically the court is subject to the action of the Interstate Commerce Commission in all important matters.

The railroad, having first obtained approval of the Interstate Commerce Commission, may file its petition, which must be filed in a court having jurisdiction at its principal or operating office.

Creditors of any railroad, not less than 25 per cent in amount of any class, and not less than 10 per cent in amount of all creditors whose claims would be affected by the plan, may file a petition, but must first obtain the approval of the Interstate Commerce Commission. The court classifies the creditors, except there is a provision that claims having priority over mortgages on receivership, which means claims for labor and material, shall be treated as a separate class, and, therefore, 25 per cent of such creditors might be held to be sufficient with 10 per cent of other creditors to file an involuntary petition. The fact that the approval of the Interstate Commerce Commission is necessary would prevent filing of an involuntary proceeding in many cases. Therefore, if a receiver had been appointed in equity, it would seem very unlikely that the Interstate Commerce Commission would authorize an involuntary petition and permit interference with the normal proceeding in equity for reorganization.

Upon approving the petition the court may temporarily appoint a trustee or trustees recommended by the Interstate Commerce Commission, and upon such recommendation may make such appointment permanent or terminate it and appoint other trustees. While it is not clear that the court would not have the right to appoint other trustees of its own selection if the Interstate Commerce Commission permitted the termination of the temporary appointment, yet it is not to be expected that the Interstate Commerce Commission would permit such action without approving the appointment of such substituted trustees. Therefore the trustees would be persons selected by the Interstate Commerce Commission. These trustees, with the approval of the Interstate Commerce Commission, may issue trustees' certificates similar to those authorized by a court of equity, and generally would have the power of receivers.

Before a plan of reorganization can be accepted by creditors the Interstate Commerce Commission shall hold public hearings, following which the Interstate Commerce Commission shall recommend a plan, which will be equitable and compatible with the public interest. The latter provision gives the Interstate Commerce Commission great latitude in determining what is a proper plan. The plan may be satisfactory to the several classes of creditors, but the commission may find that it is not in the public interest. The commission is not required to approve any plan presented by creditors, but may approve a plan different from any which has been proposed, all of which makes it clear that the reorganization will be a reorganization by the commission, which will not be limited to a plan agreed upon, but may be modified as the commission thinks necessary in the public interest.

The commission shall not report the plan to the court until it has been accepted in writing by creditors holding two-thirds in amount of the claims of each class which would be affected by the plan and unless the judge shall find that the railroad is insolvent by stockholders holding two-thirds of the stock of each class and unless provision is made for the protection of certain claims.

The commission must find that the plan is equitable and does not discriminate and that the offer of the plan is in good faith, with provision for protection of the interest of stockholders or creditors not assenting and who are not bound by the plan.

The plan is then submitted to the court, and, if the judge approves, it becomes binding on the railroad and its stockholders and all creditors whose claims are payable in cash under the plan and all creditors entitled to priority, provided two-thirds of their class have assented, and unsecured creditors, provided two-thirds have assented. It does not appear that the judge has any right to modify the plan, and can only approve or disapprove.

If the receiver has been appointed by a Federal or State court, whether before or after the act takes effect, the corporation may file a voluntary proceeding or answer (which indicates that an involuntary proceeding may be filed and if the petition is approved the trustees appointed shall immediately take possession of the property. Until a plan has been approved or the petition dismissed, all other proceedings are stayed.

The method of reorganization by appointment of receivers and the working out of a plan by committees of bondholders with the aid of bankers, and so forth, has been thoroughly tested out, takes a long time, and is the result of compromise, and, if there are creditors who will not assent, the court has the power to order a foreclosure of mortgages, and nonassenting creditors must either accept what is offered them or take their pro rata share on sale. Practically, if the court approves the plan and there are non-

assenting creditors, the court will fix an upset price, which will give them what it thinks is fair to them.

The obvious objection to this bill is that it is a reorganization by the Interstate Commerce Commission, which would control in every respect, and the interposition of the court is simply to give legality to the Interstate Commerce Commission action. Substantially, it amounts to an act authorizing the Interstate Commerce Commission to reorganize railroads not only in the interest of the owners but in public interest, which may mean anything.

It does not seem that it would be more speedy than the present procedure. The usual objection by different classes of creditors and the final agreement by them will not be avoided, except that their rights will be submitted to the Interstate Commerce Commission, which will hold hearings and ultimately decide as to what their rights are and proceedings which may consume more time than the present method.

One of the ideas seems to be that it might be possible to deal with the single class of creditors and require nonassenting creditors of that class to come in. This can not be done under this bill, as all through it the provision is for a reorganization and not the adjustment of the rights of the single class, and therefore all creditors must be taken in except those whose securities are not to be disturbed, as in a case of reorganization plans, which do not deal with certain classes of underlying bonds.

The bill does state that the petition may propose to modify or alter the rights of creditors generally or of any class of them; but it is evident that if applied to a single class it would affect the rights of other classes and stockholders, except in the case of a very simple capital structure.

It is difficult to see how Congress can "modify or alter the rights of creditors," which is the expression used in many places in the bill.

In the first Legal Tender case, which held the act unconstitutional, it was said that a law which necessarily and in direct operation impairs the obligation of contracts is unconstitutional. This decision was overruled a number of times, first on the ground that it was exercise of war power, and later on the ground of the exercise of the right to coin money, and so forth, and in another case arising under the bankruptcy act, in all of which specific grants of power were given to Congress. While the provision of the Constitution forbidding States to impair the obligation of contracts is not directly binding on Congress, the "due process" provision has been construed to mean almost the same thing. The most extreme case was Wilson *v.* New, Two hundred and forty-third United States Reports, page 332, upholding the Adamson Act; but this decision was based on the fact that it did not violate any contracts, and further that it was an emergency act.

In the case of Wolff Co. *v.* Industrial Court, Two hundred and sixty-second United States Reports, page 522, the court said of this decision that—

> It is not too much to say that the ruling in Wilson *v.* New went to the border line, although it concerned an interstate common carrier in the presence of a nation-wide emergency and the possibility of great disaster.

It is hardly possible that the Supreme Court would sustain an act altering or modifying contract rights. Further, as it appears in the case of Wilson against New, and many other cases, the power to legislate as to interstate commerce extends only to those matters which directly affect it, and does not include things which can not have any direct bearing. An argument can be made that the reduction of the fixed charges of carriers is a thing necessary for the continuance of their operation, and, therefore, within the power of Congress; but it is hardly possible that the court would sustain such an argument. If carriers can not bear their present fixed charges, the law provides a method by which they can be reduced, namely, foreclosure and reorganization, which is the method adopted now to accomplish this purpose; but to say that the Interstate Commerce Commission can provide a plan and take away the rights of nonassenting creditors, except by "due process" of enforcing legal rights, can hardly be maintained.

It must also be remembered that "due process" applies not merely to forms of procedure but applies to substantive rights and it is held that a law, although conforming to "due process" but taking away substantive rights, is unconstitutional.

The right attempted to be given by this bill to "alter or modify" contractual rights would go far beyond any power that has ever been yet upheld.

Whether the plan is equitable and does not unfairly discriminate between security holders depends upon the legal rights of the various classes of security holders. Examination of these rights involves the passing upon complicated, legal questions of an essentially judicial character.

Furthermore, the question of private right, to be distinguished from questions of public interest—such as the financial soundness or desirability of the plan, or, more specifically, whether the plan is equitable—depends on whether the securities provided for in the plan, which is financially sound and compatible with the public interest, are distributed among the several classes of security holders in accordance with their respective legal positions.

Should questions of private right be confused with questions of public interest, should not the former be passed upon by the court rather than by the administrative commission charged with passing upon the latter character of questions?

In providing that the plan which was to be submitted to the security holders for acceptance or rejection shall be the plan proposed by the commission, with no regard to plans which may be proposed by security holders, this bill goes far beyond regulation.

This grant of power to the commission to initiate a plan to the exclusion of the desire of the interested creditors vests in the commission the management of security holders' property. Assuming that the commission is given power to deal with questions of private right, is it wise to extend this power beyond the regulation of what the security holders propose to do with their own property?

The provision that creditors and stockholders can not be asked to accept any plan until after a public hearing before the commission means that the present practice of getting securities deposited under a plan, wherever possible, must be abandoned and committees must seek deposit of securities which they propose to represent without having a plan in advance. Practice has shown this to be most difficult. Accordingly, the bill imposes a serious obstacle in securing a responsible representation of securities.

The provision that creditors and stockholders can not be asked to accept any plan before hearing by the commission would seem inconsistent with the provision that at the hearing a plan may be presented by the creditors, being not less than 25 per cent of any class. Almost never would it happen that 25 per cent of a class, other than in the case of small, divisional mortgages, would agree on a plan. Accordingly, it is difficult to see how any plan could be presented at the hearing other than such a plan as the commission might itself propose.

Secondly, it is not intended that a group of fiduciary holders of a bond issue can not get together and work out a plan to which they all agree. A prohibition upon security holders discussing among themselves their own property rights, without first having a public hearing before the Interstate Commerce Commission, is, at least, of doubtful constitutionality.

The grant of power to the commission to initiate a plan submitted to the security holders and then to recall it and propose other plans would seem to make for delay.

Under the provisions of the bill, declaring a policy against compensation to officers of the corporation who act as managers or in any capacity in connection with the reorganization, when such corporation has an interest in the matter, means that the institutions, represented on committees by securities of which such institutions hold large amounts, must donate all the time of their officers for the benefit of other security holders of the same class, while self-appointed committees, wholly without financial interest in

the situation, which are gotten up with such frequency at the present time, under the guise of independent committees, remain free to receive compensation.

The court's action upon the plan, as well as other provisions, raises serious questions as to the constitutionality of the bill.

Mr. SUMNERS of Texas. Mr. Speaker, I yield five minutes to the gentleman from Georgia [Mr. TARVER].

Mr. TARVER. Mr. Speaker, in the brief time allotted to me I desire to draw the attention of the House to subsection (e), subdivision 2, on page 5 of the bill.

This, in my judgment, is the portion of the bill which, together with other paragraphs related to it, carries with it some prospect of relief to a class of people in this country for whose welfare the membership of this House has long been expressing a great deal of concern, and that class embraces the owners of mortgaged farms and the owners of homes who are losing their property by foreclosures. Members of this House have shed many crocodile tears over the fate of many hundreds of thousands of our farmers who are now being deprived of their property under mortgage-foreclosure proceedings who, could they be given a short time in the nature of a moratorium or otherwise, might be enabled to pay off the mortgages and save their homes.

When you vote against this bill you will vote against the sole proposal which will be presented to the Congress at this session by which any character of relief might be afforded to this class of debtors. This subparagraph provides in connection with related provisions that such a debtor may come into a Federal court and file his petition for an extension, together with his plan by which he may eventually, in his opinion, get out of his financial difficulties, and may without the approval of a majority in number and amount of his creditors, secure the approval of the court of an extension of the due dates of his indebtedness and may thereby be enabled for a period of time which in the judgment of the court is reasonable, whether 1 year, 2 years, or 3 years, to avoid the sacrifice of his home by foreclosure. He could not do it under the first portion of that subsection because that part requires the approval of a majority in number and amount of his creditors. We all know that in the great majority of instances, particularly in the cases of farmers whose farms are mortgaged, the majority of their indebtedness is represented by one mortgage. So, if we required that they secure a majority in number and amount of their creditors, the holder of that one instrument would represent a majority in amount and could prevent the successful presentation and consideration of a petition for an extension of time; but with this provision in the bill there is no reason why under the jurisdiction of a sympathetic court willing to consider the troubles of this class of our people and to afford them relief if it can reasonably, they might not be granted an extension of perhaps 1, 2, or 3 years. This might put it within the power of the farmer of the country to secure means to prevent the sacrifice of his home. This provision will also furnish him a club to fend off unreasonable creditors. He can say to them, "Unless you give me reasonable time, I can probably obtain it through the court. Do not foreclose, I will pay you what such a proceeding would cost, and we will both be better off."

As far as I am concerned, I believe the bill should have gone farther, and I intended to offer on the floor an amendment which would have, in substance, provided for a 2-year moratorium without the necessity of going through these proceedings in the case of farm and home owners whose farms and homes were about to be taken away from them by foreclosure proceedings, but under the methods which have been followed in the presentation of this bill to the House it will not be possible to offer this amendment. In my judgment it would be as nearly constitutional, or at least as free from doubt as to its constitutionality, as the provision in subdivision 2 of subparagraph (e) which I have just been discussing.

Under the decision in Isaacs *v.* Hobbs (282 U. S. 734) I am hopeful that the constitutionality of this provision will be sustained. Certainly the Supreme Court will hardly be able to decide it for a couple of years, and in the meantime the distressed debtors will have some relief. But surely, if we can vest courts with authority to extend time, it would seem that we can ourselves provide an extension of time in certain classes of debts by legislative act. It is unreasonable to say that we can give more power than we ourselves, as the Congress, have. The creature can not be greater than the creator. The effect of this amendment, which I do not have the opportunity to offer under suspension of the rules, but which I hope may in substance be added to the bill in the Senate, would be to enable the farm or home mortgagor, when proceedings are filed to foreclose the mortgage, to obtain a stay of proceedings for two years upon application to a Federal court pending his filing an application for extension. The amendment reads:

After section 2, add a new section to be numbered section 3, numbering the succeeding section accordingly:

"SEC. 3. A national emergency in respect to agriculture and home ownership existing, the filing or pendency of a petition or proceeding for the foreclosure of a mortgage or other lien on a farm or home personally occupied by the mortgagor or lienor, or by the family of the mortgagor or lienor, shall, if such filing or pendency occur or exist within two years subsequent to the approval of this act, immediately vest in the court of bankruptcy having territorial jurisdiction the exclusive jurisdiction provided in subdivision (m) of section 74 of the act entitled 'An act to establish a uniform system of bankruptcy throughout the United States,' approved July 1, 1898, as herein enacted by amendment to said act, provided such mortgagor or lienor is insolvent or unable to meet his debts as they mature. The exercise of jurisdiction shall be stayed pending the filing of a petition or answer by the debtor, as provided in subdivision (a) of said section 74, except that it shall be the duty of the court, upon proper preliminary petition by the debtor (which petition shall include an allegation that he thereafter intends to file a petition or answer under such subdivision (a) of said section 74), and after reasonable notice to the mortgagee or lienee and hearing, by proper order to restrain the further prosecution of such mortgage or lien foreclosure proceeding until such petition or answer, as provided for in subdivision (a) of section 74, shall be filed and adjudicated, which said filing must occur within two years after the approval of this act, or such restraining order shall become void and of no effect. Said restraining order shall make proper provision for the protection of the mortgaged property, but the mortgagor shall not be removed from custody thereof. The term 'home' as herein used shall refer to a dwelling occupied by not more than three families and the lot upon which it is located."

Mr. DYER. Mr. Speaker, I yield five minutes to the gentleman from Virginia [Mr. MONTAGUE].

Mr. MONTAGUE. Mr. Speaker, it is not my purpose to discuss this bill. It is impossible to do so under the procedure which we have adopted. It is useless to discuss without the power of amendment, and the power of amendment in this instance is negligible.

A bill of this importance ought not to be sacrificed to a procedure of this character. This bill involves a subject of immeasurable magnitude and, perhaps, consequences, and yet it is put in this particular measure with no special demand for it, and with no opportunity to debate or amend. It had no hearing in the Judiciary Committee. I beg the House to remember it has not been considered in that committee so far as this bill is concerned, but it is thrust before us to-day under suspension of the rules, to be disposed of in the very arbitrary manner which that procedure provides.

I can not agree with the gentleman from Georgia [Mr. TARVER]. I do not think this bill affords the relief which he indicates. This is the only comment I wish to make upon that phase of the matter, and in view of the inability to have a discussion, although a member of the committee, I shall not now trespass upon the House any further.

I yield back the residue of my time, Mr. Speaker.

Mr. DYER. Mr. Speaker, I yield three minutes to the gentleman from Colorado [Mr. EATON].

Mr. EATON of Colorado. Mr. Speaker, I asked for this time merely to draw your attention to the unfair manner, in my opinion, in which this bill is presented to you.

On page 22 I read section 2, which says that the provisions of this amendatory act shall not apply to proceedings in bankruptcy cases pending when it takes effect.

Mr. LAGUARDIA. That has been stricken out.

Mr. EATON of Colorado. I know it has been stricken out, but who said so and how did we find it out? You read the printed bill, and you find it is not going into effect in so far as pending cases are concerned, and then, after the Clerk reads for 15 minutes, amendments which it has taken the reporter 40 minutes to copy, you hear the words:

> Proceedings may be taken under sections 74 and 75 pending when this act goes into effect.

When I mentioned this, those who are in the know said, "Stricken out, stricken out." Sure, it was stricken out. The entire bill is changed. It is just like leaving out the word "not."

For the measure to be presented here for debate at this time, without any opportunity to consider the amendments that have been put in here that took 15 minutes to read, I say is unfair to every man in the House. The least you should do is to have the amendments printed in the RECORD and give us at least until to-morrow to read what was read so plainly by the Clerk, but which most of us can not remember at this minute. [Applause.]

Under the general permission to extend my remarks, I want to draw your attention to another amendment in the first sentence of section 75. As it appears in the printed bill, the words are:

> Any corporation, including drainage, irrigation, levee, sewer, and paving improving district * * * may file a petition—

And so forth. As I understood the amendment, it was substantially to insert after the word "corporation" the words "which could become a bankrupt under section 4 of the act." Section 4 of the bankruptcy act provides that—

> Any person, except a municipal, railroad, insurance, or banking corporation, shall be entitled to the benefits of this title as a voluntary bankrupt.

In the printed bill is a new section 75 providing for the filing of a petition by railroad corporations which are insolvent or unable to meet their debts as they mature. No other section of the bill refers to municipal, insurance, or banking corporations. I submit that it therefore follows that no drainage, irrigation, levee, sewer, or paving improving district, which may be classified as a municipal corporation, is entitled to any benefits under section 75, and by this amendment has been deleted from the bill.

[Here the gavel fell.]

Mr. SUMNERS of Texas. Mr. Speaker, I yield five minutes to the gentleman from Rhode Island [Mr. CONDON].

Mr. CONDON. Mr. Speaker, it is easy to criticize this bill and it is not easy to answer those criticisms in the few minutes allotted to me; in fact, it is impossible.

This is a sincere attempt upon the part of the majority of the Committee on the Judiciary to do something that will relieve debtors from the present condition in which they find themselves. It is not, as some of those who oppose the bill say, tearing the bankruptcy act to pieces and sprawling the act all over with amendments. It is nothing more, Mr. Speaker, than an extension of the present composition feature of our bankruptcy law, and when that composition provision was, in 1874, put into the act of 1867, the same criticisms and the same fears were expressed upon that occasion that the bill was unconstitutional; that it was violating the rights of creditors, and that it was contrary to what was permitted under the grant of power to Congress under the Constitution to pass uniform laws on the subject of bankruptcies; but within the very year that it was enacted the courts passed upon the provision and declared it constitutional.

Examine this bill, you Members of the House of Representatives who are lawyers, you Members of the House who have had some experience in bankruptcy practice, and you will agree that in so far as the individual section is concerned, and in so far as the private corporation section is concerned, there is nothing revolutionary, there is nothing radical in the provisions of the bill.

It is true that in section 76 the railroad corporations are included in the bill, whereas under the present law they are not so included; but it is carefully provided that if the plan with reference to the railroads does not succeed there will be no adjudication of bankruptcy of the railroad.

Mr. Speaker, this bill can be of real benefit to those farm-mortgage debtors who are now suffering the loss of their farms because of defaulted mortgages, and I say to the men and women of this House that should the Robinson-Steagall agricultural refinancing bill pass at this session of the Congress, you will need this provision of the bankruptcy law, not only to give effect to it and protect the agricultural debtor, but you will need it to supplement the provisions of existing law in order to protect the funds of the United States Treasury that may be advanced to these agricultural debtors to continue them in business.

Mr. Speaker, I do not believe the criticism that has been directed at the substance of the bill is justified. I do agree with my distinguished colleague on the committee, Governor MONTAGUE, of Virginia, that this is a very bad way to bring this bill before the House and seek to pass it under suspension of the rules. An amendment of the bankruptcy law that has to cover so many sections, may well be considered with a great deal of concern, particularly by the lawyers of the House, who are deprived of an opportunity to offer what, in their judgment may be legitimate amendments; but aside from this criticism, it seems to me, Mr. Speaker, this bill does something that ought to be done and that ought to be done at this time; and I am satisfied if the bill is enacted into law, the fears that have been expressed outside this Chamber and that will be expressed on the floor of this House to-day will be dispelled by the events that come after it, and it will be pointed to as a real forward-looking amendment of the bankruptcy act, in exactly the same way that the composition provision turned out to be in 1874.

I confess myself to a feeling that the bill might have been drawn in such a manner as to give it more system in the arrangement of its parts and thus produce a readier understanding of its numerous subdivisions and the purpose and effect of them. In this respect it may be that it does not measure up to the standard of legislative draftsmanship of the present bankruptcy act. When it is considered, however, that the bill is a breaking of new ground in this field of the law and that the authors of the original bills and the committee were laboring under pressure of time to report the measure without delay, in order to cope somewhat with the present emergency, captious criticism of its form is quite out of place, especially if its substance affords a measure of relief that will ease the crushing burden of debts now grinding millions of our people into hopeless default and breeding the spirit of revolution.

I believe, Mr. Speaker, that this bill will afford such relief. It will not save from ultimate bankruptcy the unfortunate cases where the debtor is hopelessly involved and can not present to his creditors any plan of adjustment of his debts or any reasonable proposal for a further extension of time to enable him to refinance his obligations and effect payment.

For such cases the bankruptcy act as it exists to-day is the proper remedy and it will be better for the debtor and for the state of business credit in the country that he take advantage of its present provisions and free himself from further legal obligations to his creditors. For the individual or corporation, however, that is possessed of assets which in ordinary times would be sufficient assurance to its creditors of its financial ability to meet its obligations and who needs more than anything else time and perhaps a reasonable concession by way of readjustment in the amount of his debts by his creditors, this bill, if enacted into law, will be a lifeline of succor.

It will afford an opportunity under the supervision of the court for all creditors to gather around the table and con-

sult with the debtor without fear of some recalcitrant and perhaps minor creditor or creditors taking unfair advantage while attempts at readjustment are in progress to realize satisfaction of his or their claims out of the prostrate debtor's effects. The court will stay every proceeding of whatever kind that might be the means of subjecting any portion of the debtor's estate to the satisfaction of any debt until a reasonable time is afforded for all classes of creditors to meet with the debtor and work out a solution of his problem, if such a solution is possible.

In the case of private corporations that are not actually insolvent, but are unable to pay their debts as they mature, this measure ought to be of inestimable benefit, not only to the debtor corporation itself but to the creditors also, because it will effectually prevent minority groups of creditors from embarrassing honest and sincere attempts at amicable settlement of the debtor's difficulties and the holding up by them of such proceedings for their own financial benefit and reward.

As for railroad corporations, it will not only prove of some benefit to the corporation and its creditors, but as far as the public interest is concerned it will introduce into the reorganization of these corporations and the readjustment of their capital structures the supervisory approval of the Interstate Commerce Commission in a manner that ought to prove far more effective than it is possible for it to be through court receiverships under existing law.

It has been said that the bill can not and will not help the farmers whose farms are subject to foreclosure sales on defaulted farm mortgages, and this is certainly true if the farmer can not offer any satisfactory plan of readjustment and obtain assistance in refinancing himself. At the present time this is probably the unfortunate condition of the agricultural debtor in a great section of our country, and if there were not to be any hope held out to them of some assistance in refinancing their mortgages this bill would be without interest or importance to them whatsoever. But it is seriously planned to help these farmers by affording them the assistance of the resources of the Federal Government in refinancing their mortgages.

The recently introduced Robinson-Steagall bills in the Senate and in the House have, as I understand it, this very object and purpose in view. Without asserting at this time any intention to support such a measure, it is my belief, forcasting the future by the experience of the recent past, that the Congress will enact such a bill as the Robinson-Steagall measure or something similar to it into law. The bill before us, under such circumstances, will supplement, and I might say implement, the provisions of such a refinancing act by providing a safe and orderly course of procedure under the control of the United States courts exclusively, for arranging the readjustment of the debtor's difficulties by and with funds advanced out of the Treasury of the United States under certain specified terms and conditions, so that, assuming the agricultural refinancing bill becomes a law, this bill will be of actual benefit to all classes of debtors under sections 74, 75, and 76 thereof, and will in addition be a protection to the United States in some degree for such of the public funds as may be advanced by it through the Reconstruction Finance Corporation to assist railroads under these proceedings and through the proposed agricultural refinance corporation to assist agricultural debtors, and it may conceivably be the means of making possible actual relief to home mortgage debtors through the home-loan bank if Congress is persuaded to endow that institution with a like plenitude of power proposed for the agricultural refinance corporation.

It has been objected that this bill is unconstitutional in that it exceeds the grant of power to Congress to pass uniform laws on the subject of bankruptcy. The argument to support this contention, briefly stated, is that inasmuch as this bill does not contemplate the ultimate bankruptcy of the petitioner and the liquidation of his estate and the distribution of its proceeds to his creditors, it is not a bankruptcy proceeding.

It is further argued that the end proposed by a bankruptcy law is the discharge of the debtor as a bankrupt and the liquidation of his estate and not its preservation. This argument would come with more force and cogency were it not for the fact that the existing bankruptcy act contains in section 12 the provision for compositions, which does not contemplate the discharging of the debtor as a bankrupt, but on the contrary affords a method whereby, if coming in or being petitioned into the bankruptcy court, he may avoid adjudication as a bankrupt and preserve his estate by a settlement with his creditors upon the confirmation of which by the court the proceedings in bankruptcy are dismissed.

The constitutionality of this provision was early disposed of in the case of In re Reiman (7 Ben. 455), and this decision was later cited with approval by the Supreme Court in the case of Hanover National Bank *v.* Moyses (186 U. S. 181), wherein the entire bankruptcy act was held constitutional by a unanimous opinion delivered by Mr. Chief Justice Fuller. In the Reiman case Mr. Justice Blatchford, afterwards a member of the Supreme Court, wrote the opinion sustaining the constitutionality of the amendment of 1874 providing for compositions, and quoted this expression from Story's Commentaries, discussing the scope of the bankrupt law as follows:

> Perhaps as satisfactory a description of a bankrupt law as can be framed is that it is a law for the benefit and relief of creditors and their debtors in cases in which the latter are unable or unwilling to pay their debts. And a law on the subject of bankruptcies, in the sense of the Constitution, is a law making provisions for cases of persons failing to pay their debts.

And in answering the question propounded in his opinion, "What is the subject of bankruptcies?" Mr. Justice Blatchford himself made the following sweeping assertion by way of response:

> It is not properly anything less than the subject of the relations between an insolvent or nonpaying or fraudulent debtor and his creditors, extending to his and their relief.

In other words, it can not be doubted that the power of Congress over bankruptcies contemplates all the relations between the debtor and his creditor under the broadest signification and interpretation of the term "bankruptcies."

The bill before us to-day seeks only to do that and nothing more. It is merely a further amplification of the power exercised by Congress in 1874 when it passed the amendment to the act of 1867 providing for compositions. And in this connection it is interesting and instructive to observe that this innovation in the bankruptcy law to which such prompt and vigorous objection was made in the Reiman case in that very year—1874—was enacted during a period of our economic and financial history not unlike that in which we find ourselves to-day. The disastrous panic of 1873 was then running its ruinous course, leaving in its wake closed banks, prostrate industries, with millions of unemployed wage earners and bankrupt business men and farmers.

Then, as now, there was increasing criticism of our currency system and our banking laws. Then, as now, were heard threats of wholesale repudiation of private debts on the part of sorely pressed debtors in the agricultural States of the Union, and this dissatisfaction and unrest gave rise to political movements that did not run their course finally until the opening of the present century.

Congress sought at that time to do something that would allay this spirit of economic revolt on the part of the debtor class of our population as this Congress seeks to do now by the passage of this bill. There is no more reason to suppose that the passage of this act will alarm the creditor classes of the country than did the passage of the Composition Amendment of 1874. There is no reason to believe that the creditor classes will suffer in any way by the liberalization of the composition provision intended by this bill and the extension of it to include within its sphere of operation the reorganization of financially embarrassed private corporations and railroad corporations.

On the contrary, it is fair to assume that the enactment of this bill by Congress will, in the last analysis, be in the

true interest of the creditor as well as the debtor and will do much to allay the rapidly spreading discontent and dissatisfaction among thousands of hard-pressed debtors who view with discouragement and dismay the loss of their homes and their farms, in the acquisition of which they have spent a lifetime of labor. It is far better for the creditor as well as the debtor that these forced sales of property to satisfy debts, impossible of payment at this time, be stayed by the authorized action of our courts of law under a mandate of Congress rather than by revolutionary actions of the debtors themselves acting in open defiance of the law and its duly chosen ministers. In other words, Mr. Speaker, we are presented here to-day with a choice between doing something that will restore a respect for the law on the part of the debtor, by encouraging him to believe and to hope that the legislative department of the Government is sincerely and honestly seeking to assist him in his difficulties, or refusing to do anything at all and thus serving notice to these desperate debtors that their pitiful plight is of no concern to us and that we do not propose to bother ourselves about it.

When called upon to make this choice, regardless of my opinion of the defects of draftsmanship in the bill, or its failure to do all that I would like to see done by it, I choose to support the measure and vote for it even though deprived of an opportunity, under suspension of the rules, to offer amendments. The present situation is too grave, the need for such legislation as this is too imperative, and the welfare of my country and millions of its law-abiding citizens is too much at stake to justify me in opposing this measure. Reasons such as these prompted me to support it in committee and I shall welcome the opportunity to vote for it here to-day.

Mr. DYER. Mr. Speaker, I yield five minutes to the gentleman from New York [Mr. OLIVER].

Mr. OLIVER of New York. Mr. Speaker, I rise to enter a protest by the mayor of the city of New York, Hon. John P. O'Brien, against certain features of this bill. He says he is not opposed to the entire bill or to the purpose of those who uphold it, but he opposes it on the ground that he fears that under the terms of the bill the taxes levied by cities in this country might be postponed indefinitely, to the ruin and destruction of municipal government.

He sent a telegram to the distinguished and able leader of the New York delegation, Congressman CULLEN, asking him to have some one voice that opinion in this House.

The telegram is as follows:

Hon. THOMAS H. CULLEN,
House Office Building, Washington, D. C.:

In answer to your telegram I direct your attention to section 104, title 11, United States Code, providing that all taxes legally due and owing by the bankrupt to the United States, State, county, District, or municipality shall be paid in the order of priority here stated, and, further, that no order shall be made for the payment of a tax assessed against real estate of a bankrupt in excess of the value of the interest of the bankrupt estate therein as determined by the bankruptcy court, and upon filing the receipts of the proper public officers for such payments the trustee shall be credited with the amounts thereof, and in case any question arises as to the amount or legality of any such tax the same shall be heard and determined by the bankruptcy court. In re Bradley (16 Fed. (2d) 301), holds that the statute authorized bankruptcy court to determine amount and legality of taxes against bankrupts' estate, and ordinary rules governing collection of taxes do not apply to trustee in bankruptcy. In re Sheinman (14 Fed. (2d) 323). And the Supreme Court in Van Huffel *v.* Harkelrode (284 U. S. 285) held that bankruptcy courts have power to sell real estate of bankrupts free from liens of State taxes, transferring the liens from the property to the proceeds of sale. And at page 229 the court emphasizes that no case has been found in which the power to sell free from the lien of State taxes was denied. Section 104 and the Van Huffel decision prejudicial to the best interests of city. Page 17 of House bill 14359, lines 4 to 14, reads that a plan for reorganization must provide with respect to creditors not acceding to the plan adequate protection for the realization by them of the value of their liens on or claims against the property of the debtor dealt with by the plan either by the sale of such property subject to such liens or claims or by the sale free of such liens or claims at not less than a fair upset price and the transfer of such liens or claims to the proceeds of such sale or by appraisement and payment in cash of the value of such liens and claims or, at the objecting creditor's election, of the securities allotted to such liens and claims under the plan. Under this scheme city's liens in jeopardy. Furthermore, the filing of the petition stays any and all proceedings and city may not enforce its liens until proceedings closed, which may be protracted for years.

JOHN P. O'BRIEN.

He calls to our attention that under the right of petition to postpone the payment of debts the taxes of the municipality or the State, as well as of the Nation, may be postponed in the discretion of the court. We do not know for how long, we can not tell. The wisdom of the postponement is entirely in the mind of the judge. We do not know as a practical proposition how many will file petitions for delay. If this measure is availed of by the vast numbers it seems will take advantage of it, the collection of taxes will be postponed on a large scale for a long time.

Mr. ARNOLD. Will the gentleman yield?

Mr. OLIVER of New York. Yes.

Mr. ARNOLD. The manner of the collection of taxes is in the power of the court under existing law. A party can file a suit to enjoin the payment of taxes, and that is in the hands of the court. This does not do any more.

Mr. OLIVER of New York. I will answer the gentleman. It does not do any more than in a bankruptcy case, but we must realize that when a petition for extension of time is asked for, if the petition complies colorably with the conditions provided in the bill, that entitles the petitioner to an extension of time to pay taxes.

Under the provisions of the bill there will be hundreds of thousands come in, individuals and corporations, and if they get extensions, wholly within the discretion of the court, municipal government will have no certain foundation upon which to base its financial arrangements.

Mr. CULLEN. Will the gentleman yield?

Mr. OLIVER of New York. With pleasure.

Mr. CULLEN. On page 10, subdivision (b), it provides—

A plan of reorganization within the meaning of this section shall include a proposal to modify or alter the rights of creditors generally or any class of them, secured or unsecured, either through the issuance of new securities of any character or otherwise.

In the judgment of my distinguished colleague, whom I consider as good a lawyer as there is on the floor of this House, can that not apply to municipalities and States in so far as it relates to taxes, as pointed out by the mayor?

Mr. OLIVER of New York. There is no question about it.

Mr. CULLEN. Then, Mr. Speaker, we have gone far afield when we attempt to pass a bill of this character with only two hours of debate, without having an opportunity to offer amendments which would correct the inconsistencies and cost municipalities and States millions of dollars loss.

Mr. OLIVER of New York. The gentleman is right. Under the Constitution the bankruptcy power given Congress is tremendous. We have the power to shoot the debtor, and I think we have the power to shoot the creditor. It gives us omnipotent power. In this case we are going to be lenient with the debtor, but we may shoot down municipal government if we go too far. [Applause.]

Had the committee held hearings, perhaps the protests of his honor the mayor could have been met by amendment or his fears might have been explained away. This bill affects every dollar invested in the United States. It is not to be wondered at that the public at large have little confidence in its provisions when they have been denied the right to be heard before it was reported to the House.

The protest of the distinguished mayor of New York is the protest of a man whose voice has been dedicated to the public interest for 30 years. He stands in the front rank of the bar of New York. Therefore, what he says is entitled to solemn consideration.

His problems are intricate and delicate. If this bill postpones the payment of taxes in a wholesale way as he claims, his problems are magnified and his difficulties increased.

He sent to Mr. CULLEN the following amendments, which, under the rule that binds us to-day, can not be offered for the consideration of the House:

On page 3, line 14, after the word "character," insert the following: "other than claims for taxes legally due and owing to a State, county, district, or municipality."

On page 11, line 22, after the word "character," insert the following: "other than claims for taxes legally due and owing to a State, county, district, or municipality."

On page 12, line 22, after the word "obligations," insert the following: "other than obligations for the payment of taxes legally due and owing to a State, county, district, or municipality."

On page 15, line 4, after the word "holding," strike out the words "two-thirds in amount" and insert the following: "a majority in number."

On page 15, line 6, after the word "plan," insert the following: "which number must represent a majority in amount of such claims of each class."

On page 16, line 15, after the word "all," insert the following: "taxes legally due and owing to a State, county, district, or municipality."

On page 17, line 9, after the word "claims," insert the following: "other than liens or claims for taxes legally due and owing to a State, county, district, or municipality."

On page 17, line 12, after the word "claims," insert the following: "other than liens or claims for taxes legally due and owing to a State, county, district, or municipality."

On page 18, line 15, after the word "debts," insert the following: "other than those for taxes legally due and owing to a State, county, district, or municipality."

On page 18, line 21, after the word "except," insert the following: "claims for taxes legally due and owing to a State, county, district, or municipality."

On page 18, line 25, at the end of the sentence, insert the following: "The confirmation of a plan of reorganization which includes the transfer of all or any part of the property of the debtor to another corporation or to other corporations, or the consolidation of the properties of the debtor with those of another corporation, shall not be deemed an adjudication to the effect that the plan and the resulting reorganization are not violative of the provisions of Title 15 of the United States Code."

On page 20, line 12, after the word lien, insert the following: "other than liens for taxes legally due and owing to a State, county, district, or municipality."

On page 21, line 11, after the figure "64," insert the following: "except that taxes legally due and owing by the debtor to a State, county, district, or municipality shall not be released, diminished, abated, postponed, or otherwise affected in any proceeding under this section, notwithstanding any provision to the contrary contained in this or any other section of this act; and the amount of such tax claims as duly fixed in the State, county, district, or municipal tribunals of appropriate jurisdiction shall be conclusive and binding upon the Federal courts acting under and pursuant to this section."

Mr. SUMNERS of Texas. Mr. Speaker, I yield myself half a minute, to make this statement, that if we do not do something of this sort as is provided in the bill to help these distressed debtors, the municipalities and States will be owning all of the homes in this country under the foreclosure of their tax liens.

I yield five minutes to the gentleman from Kentucky [Mr. GREGORY].

Mr. GREGORY. Mr. Speaker, ladies and gentlemen of the House, when the passage of this bill was first suggested some months ago I heartily approved it. Nevertheless I must confess that I entertained grave doubts about the constitutionality of the measure and had some misgivings as to the power and authority of Congress to enact such legislation. However, having made a careful study of the history of bankruptcy legislation in this country and the decisions of the courts in relation thereto, I am thoroughly convinced that the bill we are considering this afternoon comes clearly within the purview of the powers conferred on Congress by the bankruptcy clause of the Constitution.

With the limitation placed upon debate, I shall, of course, be unable to go into the merits of the various provisions of the bill. I shall be compelled to review only in a general way the reasons which I entertain for supporting the bill as it is reported by the committee.

Reference has been made by the gentleman from Georgia to the vast number of farmers who are losing their homes. I have seen in my own district farmers driven from their homes by foreclosure, going out with grief and despair, like a specter at the funeral of hope, written on their faces, in an endeavor to get a new start in life. You gentlemen who come from the cities have witnessed the same thing among the laboring class who are home owners in the cities. Something like 700,000 foreclosures of this kind have been made within the last three years, and the time has arrived when we find ourselves faced with the necessity of making some provision whereby this tragedy may be stopped, or the financial life of the Nation will sustain such a shock that it will be unable to withstand it.

I heard in this Chamber last week accusations and censure of snoopers and stool pigeons in the enforcement of certain of our criminal laws. I have been engaged in the practice of law since the days of my early manhood. I have a high regard for the profession to which I belong; but, as in every avenue of human endeavor, we find certain groups of lawyers in practically every city of the country who are snooping around hunting for a sufficient number of accounts, and a sufficient amount, to throw persons into bankruptcy, without regard to the rights or to the benefits that will accrue either to the creditor or to the debtor. Under the provisions of this bill I believe a brake will be placed upon these human vultures whom we find in the cities.

The story of the railroad reorganization in the United States is a very sordid one, as we find it, to the advantage and power of certain financial groups in this country. I am for this bill because of the reorganization plan that is incorporated within it. Regardless of the rights of stockholders, of creditors, and of the public welfare, we have seen great railroad corporations wrecked in order to satisfy the greed of certain financial interests in this country. Under the provisions of this bill a safe and sane way is provided for the reorganization of these great railroad corporations.

I am for this bill, Mr. Speaker, because the exigencies of the times demand it. I am for it because reason approves it. I am for it because simple justice requires it, and I am for it because every generous impulse of the heart urges it upon me. [Applause.]

Mr. DYER. Mr. Speaker, I yield three minutes to the gentleman from Michigan [Mr. MAPES].

Mr. MAPES. Mr. Speaker, I have asked for this time merely for the purpose of raising a question or expressing a doubt as to the wisdom of passing this bill with the information, or lack of information, which the membership of the House as a whole has about it.

The bill, as far as the railroad title or section of it is concerned is a radical departure from existing law. As stated in the report of the committee, railroads can not now come under the bankruptcy law. Reference was made this afternoon by the gentleman from Oklahoma [Mr. HASTINGS] to an article in yesterday's New York Times. In that article it was stated that of the 138 legally solvent Class I railroads of the country 100 of them last year failed to earn operating expenses and fixed charges, and 45 per cent of that 100 failed to earn even operating expenses, to say nothing of fixed charges.

This bill provides that a railroad corporation, subject to first being able to obtain the permission of the Interstate Commerce Commission, if it is unable to meet its debts as they mature, may file a petition with the court and take advantage of its provisions. The language is broad enough so that the 100 of the 138 legally solvent Class I railroads of the country may come under it if they choose to do so, and if they can get the approval of the Interstate Commerce Commission for that purpose. Upon filing a petition with the court, subject to the approval of the Interstate Commerce Commission, they may transfer their stock from one corporation to another or merge or consolidate with other railroad corporations. Who can tell what the set-up of the railroads of the country would be in the end if all of them who are able to do so should elect to take advantage of this legislation if it is enacted into law? For one I do not care to vote for a bill of this importance without knowing more about it than I have been able to learn. It certainly should not be passed under suspension of the rules, with no opportunity to amend it or to discuss it section by section under the 5-minute rule.

The Committee on Interstate and Foreign Commerce, which has jurisdiction over railroad legislation generally, has never considered the bill except very informally. It did not report it; it knew practically nothing about it until after it was reported by the Committee on the Judiciary one week ago.

The SPEAKER. The time of the gentleman from Michigan [Mr. MAPES] has expired.

Mr. SUMNERS of Texas. Mr. Speaker, I yield five minutes to the gentleman from Texas [Mr. RAYBURN].

Mr. RAYBURN. Mr. Speaker, I do not think I can be accused of being one of those Members of the House who is easily swept off his feet, who becomes easily excited, and who desires to do radical and ill-considered things. I have been living with the railroad question, as a member of the Committee on Interstate and Foreign Commerce, for many years. At this time I have the honor to be chairman of that committee. Because of that position, everybody who has railroad trouble comes to me. Only last Saturday I had the privilege of sitting for an hour and a half with a group of men appointed by savings banks and insurance companies.

Last year 122 railroads in the United States failed to earn their fixed charges. The condition is no better. It is inevitable that under the old law or under the new law, these railroads must pass through the mill. They must go through the wringer. There is not a question in the world about it. I believe therefore that in order to save confidence, in order to protect stockholders, in order to protect bondholders, in order to protect everyone who is a creditor of a railroad, and the public as well, we should pass this or some other legislation at the earliest possible hour, to put an end to these long-drawn-out, these expensive, these unnecessary, and in many instances these disgraceful receiverships that have happened in the past.

Mr. McCORMACK. Will the gentleman yield?

Mr. RAYBURN. I yield for a question.

Mr. McCORMACK. There is only one feature of this bill that I am disturbed about voting for under suspension of the rules, and that is the railroad provision. I have every confidence in the gentleman from Texas, who is chairman of the committee before which railroad legislation comes. Will the gentleman from Texas state that in his opinion the stockholder, the small creditor, the average person will be protected under the provisions of this bill, so far as it relates to reorganization or liquidation of railroads?

Mr. RAYBURN. To a greater, a larger extent than at the present time.

Mr. McCORMACK. I put it to my friend from Texas because I have such great confidence in him.

Mr. RAYBURN. I answer that, to a much larger extent than he is now.

Let me say one other thing, that the fees of these receiverships can not be allowed by a court until they are approved by the Interstate Commerce Commission. No financial setup, no reorganization to squeeze out stockholders or do an injustice to the public can come about until the Interstate Commerce Commission, the arm of Congress, the representative of the public in this country, has placed its stamp of approval upon any plan of reorganization. I am convinced that the seriousness of the situation that faces us at this hour demands, in the public interest, that the Congress of the United States pass favorably upon legislation of this character at the earliest possible moment.

Mr. DYER. Will the gentleman yield?

Mr. RAYBURN. I yield.

Mr. DYER. The gentleman says the courts would pass upon it. They will pass upon the plan that is submitted by the Interstate Commerce Commission, but they can not amend that plan or change it. Is that not correct, under this bill?

Mr. RAYBURN. That is correct; and that is exactly what I think the power ought to be. I do not believe there is a judge of a court in this land or that there is a single referee who is appointed by any judge in this country who is as capable as the Interstate Commerce Commission of passing on a set-up for reorganization of a vast railroad corporation. [Applause.]

The proposed section 76 of this bill has been drawn to meet what, in my judgment, is an emergency. I am informed that several important railroad companies and a number of smaller ones face inevitable receivership within the next few months. Legislation of this character was recommended by the Interstate Commerce Commission in its last annual report. The President of the United States and the President elect both recommend such legislation.

This bill provides for reorganization of railroad corporations in advance of receivership, with the consent of interested creditors. Railroad companies are in this situation through the operation of forces they did not foresee. For several years after the railroads were turned back to their owners in 1920, they got along very well. Traffic rapidly increased, and the increased earnings of railroads attracted capital for what appeared to be desirable expansion of their facilities. Since 1929, the railroads have faced a surprising decrease in their business: First, because of business depression; second, because of the astonishing development of new, economical, and competing forms of transportation. With readjustment of their fixed charges, satisfactory to two-thirds of the creditors affected, a number of companies can continue to operate, which might otherwise be thrown into expensive receiverships to the great inconvenience of the public.

This bill provides that the proposed reorganization of railroad companies shall be worked out under the jurisdiction of the courts and that the actual plans shall be formulated under the watchful eye and supervision of the Interstate Commerce Commission. Some object that this bill substitutes the commission, an agent of the Congress, for the courts. As I understand it, it does nothing of the sort. All the proceeding is under the jurisdiction of the court and must have the court's approval before it becomes effective. This bill proposes to place the expert services of the Interstate Commerce Commission at the disposal of the court. Instead of having to rely upon some master who would have to set up his own staff and who would have no, or but little, experience in these matters, the court would rely upon the commission, which would act very much as a master would be required to do. The bill provides that the commission shall take off of the court all of the burden of holding hearings on the proposed plans of reorganization, of recommending a plan to creditors and stockholders who would be affected, of authorizing the issuance of securities and making orders conforming to the interstate commerce act, and of submitting to the court a complete record on which it could determine whether or not, in fairness and justice to all concerned, a plan of reorganization acceptable to two-thirds of the creditors in amount for each class should be approved. If the court does not find that the plan acceptable to the creditors and to the commission is equitable, the court will disapprove it. All of this looks toward prompt, equitable, and economical proceedings.

Further, in the interest of economy and efficiency, the bill provides for six special referees, or more if necessary. These referees are to be appointed by the President of the United States and approved by the Senate. That is in recognition of the great importance of the work that they shall do in serving the judges who may from time to time select them. These special referees merely constitute a panel from which a judge may select one or more to perform for him the same duties which are imposed on a referee in bankruptcy under our present bankruptcy laws. That is to say, instead of having a miscellaneous collection of referees called at the discretion of the courts the courts will look to this panel of at least six men set apart by the President of the United States, with the approval of the Senate, and from this group each judge will select whatever referee or referees may be needed.

Again, in the interest of economy, the fees of trustees, of organization managers, of referees, of attorneys, and of investment bankers are to be recommended to the court by the Interstate Commerce Commission. This is done so that the mind of the court may be enlightened by the findings of a group expert in appraising the value of such services.

Fear has been expressed that with the enactment of this bill the powers of the Interstate Commerce Commission and the courts over consolidations and mergers would be expanded. It is my firm conviction that this proposal in specific pro-

visions safeguards the present consolidation and merger provisions of the interstate commerce act and gives no additional authority to the commission or the courts in these matters.

This bill, if it becomes a law, I believe will better protect bondholders and other preferred claimants in their rights than has been customary in receiverships. I believe that it will result in fair reorganization of the financial structure of many railroad companies, with the consequence that the fixed charges will be greatly reduced and the various classes of creditors will realize much more fully upon their expectancies than would be possible through receiverships. Moreover, it is my opinion, that the expenses of these reorganizations will be much less than of receiverships. Finally, I believe that this is an amendment to the bankruptcy act such as is contemplated by clause 4 of section 8 of Article I of the Constitution of the United States. For these reasons I think this House should promptly pass this bill.

The SPEAKER pro tempore. The time of the gentleman from Texas [Mr. RAYBURN] has expired.

Mr. DYER. Mr. Speaker, I yield four minutes to the gentleman from Texas [Mr. DIES].

Mr. DIES. Mr. Speaker, I am opposed to this bill in its present form. It contains many dangerous provisions that will enable a little group of insiders to engineer through the Federal courts reorganization plans that will completely wipe out individual stockholders who are unable to protect themselves through the employment of attorneys and attendance upon the Federal courts in New York and other great cities where the corporations involved have their principal place of business.

I am opposed to it because it does not offer adequate relief to farmers and individual debtors. The inclusion in the bill of the sections relating to individual debtors was evidently done for the purpose of persuading us to swallow the indefensible provisions of the bill relating to corporations and railroads. The provision in reference to farmers is merely a sop to deceive the unwary into believing that this is a farm relief measure. It is a bait to conceal the hook, and to render the bill enticing to those who do not have the time and opportunity to carefully investigate the legal effects of this bill. It is unfortunate that a measure of such vital importance should be considered under the suspension of the rules which only permits a few minutes for debate and which makes it impossible for Members to offer amendments to safeguard and protect the rights of our people. But let us not deceive ourselves. The real effect of this bill will be to permit a little group of protected insiders to reorganize corporations and railroads at the expense of thousands of scattered and defenseless stockholders and creditors of corporations and railroads.

In order for a farmer or individual debtor to secure a composition of his debts or an extension, there are a number of difficult requirements that he will have to meet. Those who are able to satisfy these requirements do not need the aid of the bankruptcy courts under the provisions of this bill. First, the farmer or individual debtor will have to employ an attorney to file his petition and to prosecute his case through the bankruptcy courts. This will require money, and few farmers or individual debtors are able under the present circumstances to raise money for the purpose of paying attorney's fees. Second, the farmer or individual debtor may be required, as a condition to any extension, to furnish his creditors indemnity against loss. This indemnity would probably consist of a good bond which few individual debtors could furnish under the terrible conditions that prevail throughout our country. Third, the individual debtor, before filing an application for confirmation of a composition or extension proposal would have to secure the consent in writing of a majority in number and amount of his creditors. This, of course, would be very difficult and would involve considerable time and expense to the debtor. Fourth, before the debtor could secure a composition of his debts he would have to furnish the money or security necessary to pay all debts which have priority and the costs of the proceeding and the consideration to be paid to his creditors. There are few, if any, individual debtors who could secure the money or security to deposit with the court, as a condition to any composition. Before the court is permitted to confirm the composition or extension proposal, the court must be satisfied that—

(1) It includes an equitable and feasible method of liquidation for secured creditors whose claims are affected and for financial rehabilitation for the debtor; (2) it is for the best interests of all creditors; (3) the debtor has not been guilty of any of the acts or failed to perform any of the duties which would be a ground for denying his discharge; and (4) the offer and its acceptance are in good faith and have not been made or procured except as herein provided, or by any means, promises, or acts herein forbidden.

I submit, Mr. Speaker, that few, if any, debtors can comply with these difficult requirements. If a farmer had an equitable and feasible method of liquidation, he would not need the aid of the court in dealing with his creditors. With 5-cent cotton, and with high taxes, high interest, and scarce money no farmer can present any feasible method of liquidation. How can anyone under the present conditions show a feasible method of his financial rehabilitation when he can not secure for the products of his labor and investment sufficient returns to pay the expenses of operation, and when the Government itself has been unable to devise any such plan?

Subdivision 4 of section 1 provides that—

> The courts shall in addition adjudge the debtor a bankrupt if satisfied that he commenced or prolonged the proceeding for the purpose of delaying creditors and avoiding an adjudication in bankruptcy.

What other purpose could any debtor have for filing a petition under the provisions of this act except to delay his creditors and keep from becoming a bankrupt? But under this bill, if it could be shown that the individual debtor was seeking to delay his creditors, the court would immediately adjudicate him a bankrupt and his property would be sold at public auction.

Under the provisions of this bill an extension or composition "shall not impair the lien of any secured creditor but shall affect only the time and method of its liquidation." In other words, under this proposed bill no mortgage debts can be scaled down or reduced in amount even though the indebtedness is greater than the reasonable market value of the property. Everyone knows that debts have increased tremendously on account of the increased purchasing power of the dollar. Our debts, with interest and with taxes and other fixed charges, have to be paid in dollars which have suddenly increased in value—in a dollar which now requires 6 bushels of corn instead of 1, 3 bushels of wheat instead of 1, 5 pounds of cotton instead of 1, and 10 shares of United States Steel stock instead of 1.

Many of the debts under which our farmers and individual citizens are staggering have, therefore, doubled and trebled in amount, and yet under this bill no method is provided whereby these debts can be scaled down and whereby the debtor can return to his creditor a dollar worth no more than when he borrowed it. But when the bill comes to deal with corporations, it provides that any reorganization plan can modify or alter the rights of creditors generally, or of any class of them, secured or unsecured, either through the issuance of new securities of any character or otherwise. In other words, corporations can scale down secured and unsecured debts and impair the validity of liens, but a farmer or individual debtor is not given this right. Can anyone explain why the individual debtor is discriminated against in the matter of scaling down secured debts? The farmer has to secure the consent of the majority in number and amount of his creditors, whereas a corporation only has to secure two-thirds of the amount of the claims of each class whose claims or interests have not been allowed and would be affected by the plan. Why this discrimination against the individual debtor in favor of corporations?

Twenty-five per cent in amount of any class of creditors and not less than 10 per cent in amount of all the creditors

of the debtor may propose a reorganization plan in a court located in a judicial district where the principal place of business is situated. It is generally known that the principal place of business of most corporations is in New York City. Therefore, a small group in New York can propose a reorganization plan in the courts of New York, and in order for the multitude of secured and individual stockholders and creditors of the corporation to defend and protect their rights, they would have to go to New York and employ attorneys there to represent them. Since many of these stockholders and creditors have small holdings, they would be unable to defend their rights, and the result would be that they would be wiped out. The reorganization would be accomplished at their expense. The little group of insiders who sold them their stock would regain the title to the corporation.

The bill also provides that in order to carry out the reorganization plan, the proposal may—

Include the transfer of all or any part of the property of the debtor to another corporation or to other corporations, or the consolidation of the properties of the debtor with those of another corporation and the issuance of securities of either the debtor of any such corporation or corporations, for cash, or in exchange for existing securities, or in satisfaction of claims or rights, or for other appropriate purposes.

This provision nullifies the Sherman antitrust law and the Clayton Act. During the past decade we have had more than 1,267 mergers in the United States. This is one of the principal causes for the economic crisis that threatens the very life of this Republic. Many of these mergers were brought about for the purpose of issuing worthless stocks and securities and unloading them on the investing public. Thousands of our citizens have been the victims of these illegal mergers that were formed in violation of the Sherman antitrust law, but with the tacit consent of a sympathetic administration. These mergers not only violated the law and not only dumped upon the market millions of dollars of worthless securities and stocks, but they produced great concentration of wealth in the hands of a few and resulted in enabling the operators of the merged concerns to eliminate competition and fix the prices of their commodities on a plane much higher than agricultural commodities produced through competition. This produced inequality of price levels between agricultural and nonagricultural commodities, threw the economic system out of balance, produced maldistribution of wealth, and contributed materially to the economic collapse that threatens us. Yet in spite of this experience, this Congress proposes by its solemn act to permit wholesale consolidations, mergers, and combinations in violation of the law and to the complete destruction of independence and individual initiative in our economic life.

Paragraph (C) of section 75 empowers the judge to appoint trustees of the corporation with power to operate the business of the corporation and to issue certificates for cash, with security and priority in payments over existing obligations, secured or unsecured. As the law now stands, the court is not permitted to issue receivers' certificates in the case of private corporations unless those creditors whose liens are displaced by such receivers' certificates consent to their issuance. Under this provision thousands of preferred stockholders who purchased in good faith upon the assurance that they would have prior claims against the assets of the corporation would be completely displaced and new creditors would step in and have the first right to the assets of the corporation. This would place the public who subscribed to bonds and to the preferred and common stock of corporations at the mercy of a group of creditors usually representing the large banking interests who will use the process of the court to salvage their private investment and who will eventually bid in the property for a nominal sum in utter disregard of the rights of their creditors and stockholders.

Under this bill an individual debtor is required to file schedules showing all his assets and liabilities, whereas corporations are merely required to submit such schedules "as may be necessary to disclose the conduct of the debtor's affairs and the fairness of any proposed claim." Why this discrimination against individual debtors?

Under this bill, if the corporation is small, a statement must be filed showing "what, if any, claims and shares of stock have been purchased or transferred by those accepting the plan after the commencement or in contemplation of the proceeding and the circumstances of such purchase or transfer. But this statement may be dispensed with if the judge is satisfied that by reason of the number of securities outstanding and the extent of the public dealing therein the preparation of such a statement would be impractical. In other words, in the case of great corporations with imposing groups the court may keep the transactions in the dark and the public will remain in ignorance as to what has gone on behind closed doors. It certainly seems to me that the experience of the past few years shows the necessity for requiring greater publicity as to the financial condition of corporations and the conduct of their business by those in charge. Had the public known more about the conduct of certain corporations during the past 10 years untold suffering and losses could have been avoided.

This bill provides that the term "creditors" shall include for the purposes of a reorganization proceeding under this section all holders of claims of whatever character against the debtor or his property, whether or not such claims would otherwise constitute provable claims under this act. In other words, a suit or judgment for damages against a corporation would constitute a claim under the terms of the act. The claim or judgment of a widow or orphan for damages against a corporation on account of the killing of a husband or father would constitute a claim which could be wiped out by the small group in New York who were engineering the reorganization plan. A suit involving the title to land would constitute a claim that could be disposed of in the courts of New York. When the petition is filed under this proposed bill, the State court is ousted of jurisdiction and the matter is handled by the Federal court, in many instances situated thousands of miles from the home of the creditor or claimant.

We who have practiced law in small towns and whose business consisted of representing poor clients on contingent fees know that it is very difficult to prosecute a claim in the Federal courts against powerful corporations. Litigation in a Federal court is so expensive that few poor claimants can afford to prosecute their claims. The requirement that the litigant shall deposit cash and iron-clad bonds to secure payment of court costs and to have the statement of facts printed, the ability of the judge to comment upon the weight of the evidence, and the enormous other obstacles that stand in the way of a poor litigant give the corporation every advantage. It can encumber the record with a mass of documentary evidence and render the appeal so expensive as to be prohibitive. It can adopt dilatory practices of all kind and character until the poor litigant and his attorney are compelled to accept any proposal made by the corporation. No one knows better than I do. For more than 10 years my practice consisted of representing individual claimants and litigants against corporations. In most instances my firm worked on a contingent fee. If we won, we were paid; if we lost, we received nothing. The corporation had every advantage in the Federal courts, and wherever possible it always removed its cases from the State to the Federal courts. Therefore I am not willing to stand idly by while this monstrous and unfair bill is written into the law of our land. I do not believe that this House would consider this bill for a moment if it had an opportunity to study its outrageous contents and dangerous provisions. I do not believe that the Senate will ever permit it to become the law of the land in its present form.

In the name of the poor litigants who are unable to finance the prosecution of expensive litigation in Federal courts, in the name of hundreds of independent and fearless attorneys who protect the interests of poor litigants throughout this country, in the name of the multitude of individual debtors who can not protect themselves in the

courts of New York and who will be literally wiped out under the monstrous provisions of this bill, in the name of thousands of farmers who will not be deceived by the sop which is offered them as a blind to deceive the real purposes of this bill, I appeal to you to defeat this iniquitous and indefensible measure.

Mr. SUMMERS of Washington. Mr. Speaker, I yield five minutes to the gentleman from Pennsylvania [Mr. KURTZ].

Mr. KURTZ. Mr. Speaker, I have great respect for those persons on the committee and those who are not on the committee, who oppose this bill. When I think of the gentleman from Virginia [Mr. MONTAGUE], the gentleman from New York [Mr. OLIVER], and the gentleman from Missouri [Mr. DYER], I know they are men of ability and, so far as the legal profession is concerned, are among the master craftsmen of this House. I may say, however, that this is quite an extraordinary bill and under ordinary circumstances possibly I would not support it; but there is an extraordinary condition confronting the American people at the present time. When you realize that in one county of Pennsylvania out of a population of 86,000, 44,000 people have received aid within the last year it is time for the Congress of the United States to do something extraordinary.

If it is necessary in time of war that we do things that are extraordinary because war affects all of the people, then it is necessary now to do something extraordinary, because the stress and trial of this depression affect the American people to-day also, affect the woman in the home, the child in the cradle, vigorous manhood, and decrepit old age; every person is affected. Therefore, I, for one, am ready to vote for this particular bill even though it be extraordinary.

It seems to me we can liken the present times to the condition of a man who, in a measure, is ill. A man who has a crushed finger, a man who has a crushed toe, or a man with an aching tooth knows these conditions are local and can be treated locally, and that in the very near future he will be able to enjoy his usual normal health. But when his body is afflicted by some constitutional disease or some terrific fever and he is on the very brink of the grave—then he is not going to get well in a day. All that can be done is something which will alleviate his condition. At the present time not only America, but the whole world, is sick, and whatever we do here will only be a measure of alleviation; it is not going to be a cure because we find that this panic is not confined to the shores of America. It is world wide. We find six nations in South America have overthrown their governments by force and revolution in the last three years, one of them four times, and another three times; and if we can give credence to what people in authority say, all of these governments are worse than their predecessors. Such things are happening all over the world. Almost all of the nations that owe America are asking for moratoria. We are not asking for a moratorium; what we are asking for is a breathing spell for the American debtor. If we can give him that we will cause the American creditor to hesitate in this time of peril, and when he does that he is not only aiding the debtor but likewise himself. This is why I am going to vote for this bill even though it has extraordinary characteristics. [Applause.]

[Here the gavel fell.]

Mr. DYER. Mr. Speaker, I yield five minutes to the gentleman from Nebraska [Mr. BALDRIGE].

Mr. BALDRIGE. Mr. Speaker, there are three main purposes of our bankruptcy law. The first is to bring in under the court's jurisdiction all the assets of the debtor; the second is to distribute those assets in a fair and equitable way; and the third is to give the debtor, who has carried on his business honestly, a clean slate and a chance to start over again.

Our bankruptcy law has failed, mainly because it has not brought in the assets of the estates in proper time to save anything for creditors. The reason it has failed is because there has never been any inducement held out to the debtor to come in and talk over the table with his creditors. As soon as the average debtor sees the situation starting to slip away from him he endeavors to cover up; he can not let his creditors know trouble is coming, because as soon as he does they immediately pounce upon him, and the result is that there has never been any inducement for any debtor to come in and talk with his creditors. Whenever we can provide that inducement for a debtor who realizes that things are getting a little bad, to sit down and talk with his creditors, then the bankruptcy law will be a success, and not until then.

This is exactly what this bill does: It gives the debtor an inducement to come in and talk with his creditor to obtain an extension of time or a compromise. That is a tremendous step in favor of the bankruptcy law. In 65 per cent of the cases in bankruptcy last year no money was paid to the creditors. In the remaining bankruptcy cases only 5 per cent of the general claims were paid. Why? Because creditors could not talk over with the debtor his problem. The debtor usually held off for one or two or three years until everything slipped away from under him. This legislation gives him an inducement to come in and talk to his creditors and say, "I am in trouble; I want an extension of time," and he realizes he might go before the courts and get it, even though his creditors do not consent.

Up to this time whenever anybody started proceedings for an extension, three creditors with claims aggregating $500 could come in and upset the entire negotiation, after weeks and weeks of time and effort by creditors trying to bring the situation around. Under the proposed plan here, this can not be done.

This is a great step in favor of the bankruptcy law and I do not think, when the gentleman from Texas [Mr. DIES] stands up here and shakes the old bugaboo of Wall Street and New York, and tells what an awful thing it is to have to go there, he is going to particularly impress the group of men here, although that might be all right at home when we are campaigning.

Mr. DIES and Mr. WOOD of Indiana rose.

Mr. BALDRIGE. No; I can not yield because I have only five minutes.

Under this bill what can the debtor do? No one has particularly talked about this important part of the bill. Briefly, here is what happens. He first asks his creditors if he can get an extension of time or some sort of compromise. If they say "No, we will not give it to you," then he goes before the judge and states, "Here are all my assets, I will pay so much next year, I will pay so much six months from now, and I will carry on in a certain way. This is a fair and reasonable proposition. Now, will you give me a chance?" If the man has been honest, if the man has carried on his business in the past without any fraud, if he has a fair chance to pay out, nine times out of ten the court is going to say, "We will allow an extension of time and we will allow this man to try to work out of his present situation, and we will see how he makes out. During the interim, if he does not carry out his promise, under the law, the court has the right to stop it and put the man in bankruptcy." I am sorry my time is so short that I can not discuss the reorganization part of this bill that is so important to our railroads. I urge every member to vote for this legislation. [Applause.]

Mr. SUMNERS of Texas. Mr. Speaker, I yield five minutes to the gentleman from New York [Mr. CELLER].

Mr. CELLER. Mr. Speaker, I not only believe this bill has color of constitutionality, but actually is constitutional.

Mr. WOOD of Indiana. Will the gentleman yield for a question?

Mr. CELLER. Briefly.

Mr. WOOD of Indiana. What does the gentleman say with reference to the provision of the Constitution that provides that there shall not be any legislation impairing a contract?

Mr. CELLER. I may say to the gentleman that there is no express prohibition in the Constitution about the Federal Government impairing the obligation of a contract. There is, however, the express prohibition against the States

impairing the obligations of a contract. Let me call attention to the dissenting opinion—Mr. Justice Miller, with whom Swayne and Davis, JJ., concurred—in Hepburn *v.* Griswold (75 U. S. 627), which involved the proposition that no prohibition is placed upon the power of Congress to impair the obligation of contracts. This case was the first of the Legal Tender cases. This minority view became the majority view of the Supreme Court in Legal Tender cases (79 U. S. 549, 550), where we have this language:

> * * * Nor can it be truly asserted that Congress may not, by its action, indirectly impair the obligation of contracts, if by the expression be meant rendering contracts fruitless, or partially fruitless. Directly it may, confessedly, by passing a bankrupt act, embracing past as well as future transactions.

This is obliterating contracts entirely. So it may relieve parties from their apparent obligations indirectly in a multitude of ways. It may declare war, or, even in peace, pass nonintercourse acts, or direct an embargo. All such measures may, and must operate seriously upon existing contracts, and may not merely hinder, but relieve the parties to such contracts entirely from performance. It is, then, clear that the powers of Congress may be exerted, though the effect of such exertion may be in one case to annul, and in other cases to impair the obligation of contracts.

If there is any doubt on our right to pass this bill, I would ask the gentleman to read the Hanover National Bank case, One hundred and eighty-eighth United States Reports, page 181), where the court in sustaining the constitutionality of the present bankruptcy act (act of 1898) said that the powers of Congress were so plenary and so complete as even to go to the extent of inflicting the death penalty upon a bankrupt.

The court in the Hanover case considered the intent of the framers of the Constitution. I quote from the opinion:

> The framers of the Constitution were familiar with Blackstone's Commentaries and with the bankrupt laws of England, yet they granted plenary power to Congress over the whole subject of "bankruptcies" and did not limit it by the language used. This is illustrated by Mr. Sherman's observations in the convention, that "bankruptcies were in some cases punishable with death by the laws of England, and he did not choose to grant a power by which that might be done here"; and the rejoinder of Gouverneur Morris that "this was an extensive and delicate subject. He would agree to it because he saw no danger of abuse of the power by the Legislature of the United States." (Madison Papers, 5 Elliot, 504; 2 Bancroft, 204.) * * *

I repeat that the Supreme Court is in apparent accordance with the proposition that the power of Congress is so broad as to include even the death penalty. If the powers are so complete and so plenary, we certainly have the right to rearrange the rights of creditors, secured or unsecured, or rearrange the rights of bondholders and lienors in any insolvency or bankruptcy proceedings.

Mr. DIES. Will the gentleman yield?

Mr. CELLER. I can not yield, as I have only a few minutes.

I believe this bill is one that provides the greatest good for the greatest number. It is not a perfect bill. It certainly has its flaws. No bill that comes out of any committee or passes this House or the other Chamber is perfect. Such bills always contain some imperfections and we must consider the pending bill in this light.

However, I believe the debtor class of this Nation needs some blood transfusion. It is time we cease drifting. We must apply heroic measures, otherwise you will reduce your farming class to a tenant class; and, goodness knows, you do not want a farmer tenancy in this country.

As for the small tradesmen and merchants, they yearn for something of this sort which will enable them to go to their creditors with a plan of liquidation if given time. If their creditors refuse, this bill will enable them to go to the court and say, "We want to settle; we want to be given a chance to pay our debts; we can not be hurried, we want time; if given time, and not pressed, we can satisfy creditors." Under the present law there can be no composition or extension unless or until a petition in bankruptcy is filed by or against the debtor. In order to get time, the debtor must accept the stigma of bankruptcy. Under this bill that stigma is avoided. Practically the provisions for a moratorium for individual debtors become in this bill applicable to corporation debtors, and ample and liberal provisions are made for fair and equitable reorganizations of private corporations, with appropriate safeguards to creditors, secured and unsecured, to stockholders of all classes, and to those who have claims entitled to priority.

Much has been said about interfering with the priority of liens of municipalities. I have been considerably worried about this situation, and have fine-combed the bill with an eye single to detecting any provision that would militate against the priority of liens against properties for unpaid taxation. I confess I find nothing that would interfere unduly or unreasonably with the rights of municipalities with reference to their liens.

However, Surrogate O'Brien, the present mayor of New York City, has taken certain exceptions to the bill in this regard. I have great respect for his wisdom and opinions. I have known him for many years as a conscientious public servant. His views are entitled to the greatest respect. The parliamentary situation, of course, precludes the offering of any amendments that would meet the objections of Mayor O'Brien. These objections will be taken care of undoubtedly in the Senate or in conference. I assure my friend the mayor that I shall help in this regard.

However, I must direct attention to the evident intention of the framers of the bill to protect municipal liens. On page 21, line 10, subsection 5, we have the general provision:

> Debts shall be entitled to priority as provided in section 64.

Section 64 means section 64 of the present bankruptcy act. Said section 64 is the direction to the trustee to pay all taxes legally due and owing by the bankrupt, first to the United States, then to the State, then to the county, then to the district, and finally to the municipality. These payments are made before payments to creditors, and so forth. Furthermore, on page 5, commencing at line 10, we find that there can be no confirmation of the composition or extension proposal unless—

> The money or security necessary to pay all debts which have priority * * * shall have been deposited in such place as shall be designated by the court.

In addition to these safeguards, on page 6, line 10, it is provided that—

> The terms of an extension proposal * * * may provide for priority of payments.

Under the present act the courts have gone far in construing the right to interfere with liens for State or municipal taxes. Permit me to direct attention to the case of Van Huffel *v.* Harkelrode, Treasurer (284 U. S. 225). The court, Mr. Justice Brandeis delivering the opinion, held that—

> The bankruptcy courts have power to sell real estate of bankrupts free from liens of State taxes, and to transfer liens from the property to the proceeds of sale.

The court held that—

> Like power had long been exercised by Federal courts sitting in equity when ordering sales by receivers or on foreclosure.

Section 75, subdivision (m), provides as follows:

> (m) Whenever in this act the words "receiver" or "trustee" are used, same shall mean a natural person, except, however, upon good cause affirmatively shown by any interested party or parties that it is for the best interests of the debtor or the plan generally, the court may appoint a corporation, but such corporation shall not be appointed in a multiplicity of cases.

This is aimed, specifically, at the practice which has developed in the United States District Court of the Southern District of New York, whereby the Irving Trust Co., of New York, has been made the sole receiver in all bankruptcy cases and in most of the equity receivership cases. This practice must stop. If it does not, it will spread to other jurisdictions.

It has been proven that the Irving Trust Co. is no more efficient, and does not save any more of the creditors' money, than the receivers who acted before the Irving Trust Co. was appointed.

The district judges in New York have made grievous error in disregarding the members of the legal profession in the appointment of receivers. They probably have forgotten that they themselves at one time practiced law.

To avoid the scandals of a few years ago, some of the causes of which were traceable to one of their own members, Judge Winslow, they have set up the Irving Trust Co. as a huge monopoly. Nowhere else in this country does such a condition obtain. It should not exist in New York.

Relative to the difficulties that arose a few years ago, I believe the judges are not blameless. Why did they appoint incompetent and dishonest officials?

There are still honest and efficient lawyers left for appointment as receivers. The qualities of integrity and ability have not entirely departed from the legal profession to reside solely in the Irving Trust Co. These judges have set up a veritable Frankenstein to which they have surrendered all power to appoint not only the receivers but the appraisers, custodians, auctioneers, accountants, trustees, attorneys for trustees, and attorneys for receivers. The Irving Trust Co. now does all the appointing.

There often arises conflict of interests. As the Irving Trust Co. is receiver and trustee in all cases, it finds itself making claims against itself. A bankrupt estate has claims against another bankrupt estate. Thus, the trust company claims against the trust company. Such a situation is intolerable.

Lawyers are not permitted to solicit claims to elect a trustee, but the referee, a judicial officer, under a local court rule is required to send out with his notice for the first meeting of the creditors a printed blank of proof of debt and power of attorney to be executed by the creditors, authorizing the referee to vote for the Irving Trust Co. Thus, in the southern district, the referees have practically a proxy vote for the Irving Trust Co. as trustee. It has always been deemed unethical for a receiver to solicit the appointment of himself as a trustee. Evidently there is a double standard.

One of the principal justifications advanced by local judges for granting a monopoly of receiverships in equity and bankruptcy to the Irving Trust Co. is the argument that it relieves the judges of solicitation by attorneys seeking their own appointment in these cases. I have a great respect for these judges, but their position in this regard is untenable. The bankruptcy law was not enacted for the convenience of these judges nor for their peace of mind. They should have been able to steel themselves against such importunities of friends and lawyers and have rendered themselves impervious to these demands. The bankruptcy statute as written does not permit the action taken by these judges. The present statute provides for creditor control over bankrupt estates, but no creditors can elect their own trustee. They must accept the Irving Trust Co. The referee, with his proxy, sees to that.

The judges have complained that they were tired of political patronage in these appointments, but note what has happened now! There has been set up another kind of patronage—that of the Irving Trust Co. It is now receiver in over 5,000 cases. Under the instant act it becomes receiver, or trustee, in 5,000 more cases. It controls the appointment of thousands and thousands of employees. A trust company in these days might well "stick to its knitting." It is certainly not the business of a trust company to operate railways, manufacture shoes, run retail cigar stores or haberdasheries, or fabricate matches. This company now concerns itself as receiver in practically all lines of industry, most of which are quite unrelated to sound banking and the management of trusts.

It is only human, too, that the officers of the Irving Trust Co. in charge of these matters should favor in their appointments those lawyers who directly or indirectly encourage deposits or trust business with the bank. This is certain, appointments are not made exclusively upon merit or efficiency.

The practice which results in the Irving Trust Co. being appointed as sole receiver has been condemned in no uncertain terms by the New York State Bar Association, the Brooklyn Bar Association, the Westchester County Bar Association, the Richmond Bar Association, the Nassau County Bar, the New York County Lawyers' Association, the Federal Bar Associations of New York, New Jersey, and Connecticut as well as other bar associations.

Hon. Martin T. Manton, presiding judge of the United States circuit court of appeals, recently expressed dissatisfaction with the current practice of appointing the Irving Trust Co. in all bankruptcy cases. He said:

> All integrity, honesty, and understanding have not left the bar just because of the so-called bankruptcy scandal. Lawyers give to bankruptcy cases their individual, personal attention—their humane consideration. They are efficient and competent and, I believe, can handle the exigencies of bankruptcy situations more satisfactorily than a banking corporation.

Judge Manton is a painstaking jurist and speaks out of a richness of experience and knowledge.

I herewith submit a copy of a resolution of the New York County Lawyers' Association, one of the largest bar associations in the country:

> Whereas the judges of the United States District Court for the Southern District of New York in January, 1929, inaugurated the practice of appointing a banking corporation, namely, the Irving Trust Co., as receiver in bankruptcy cases and equity proceedings, and subsequently adopted rules designating that corporation as the standing receiver in bankruptcy; and
>
> Whereas the New York County Lawyers' Association believes that a corporation, which is an inanimate, artificial, and fictitious entity, without soul or conscience, is not an appropriate medium as the arm and conscience of the court for such appointment or to act in any capacity as an "officer of the court"; and
>
> Whereas this association believes that only natural persons, such as business men, lawyers, and other properly qualified individuals, should be intrusted with such functions; and
>
> Whereas this association believes that there are numerous honest, competent, and conscientious business men, lawyers, and other persons who will be willing, ready, and able to act honestly and efficiently as receiver under appropriate bond, if appointed by the said United States district court judges; and
>
> Whereas a careful examination and analysis of the report filed by the Irving Trust Co., dated November 30, 1932, shows this bank to be of no practical advantage to creditors over the administration by the creditors themselves under the bankruptcy law and no improvement for the public interest; and
>
> Whereas this association believes that the practice of appointing one corporation (or any corporation in the place of natural persons) as receiver and trustee in equity and in bankruptcy is unfortunate and results in monopolistic power and in direct control over the bar by a corporation, as well as over business, and should once and for all be wiped out and abolished; and
>
> Whereas this association believes that a monopoly of any nature or character is wholly contrary to the best interests of this community and is abhorrent to the spirit of Anglo-Saxon institutions as well as intolerant to the genius and intent of the common law: Now be it
>
> *Resolved*, That the New York County Lawyers' Association, in this special meeting assembled, disapproves the practice and rules adopted by the judges of the United States District Court for the Southern District of New York under which Irving Trust Co., a corporation, has been designated as standing receiver in bankruptcy and urges the abolition of said rules and practice as well as the practice of appointing corporations as receivers and trustees in United States courts.

Mr. BACHMANN. Mr. Speaker, I yield five minutes to the gentleman from Virginia [Mr. LANKFORD].

Mr. LANKFORD of Virginia. Mr. Speaker, I want to say that I have great respect for the chairman of the committee. I know that he is sincerely trying to help the debtor class, but I do not believe that he has given the consideration to this bill that he ordinarily does to most important measures of this kind.

When I came into the Chamber this morning, I had a conversation with one of the most distinguished lawyers in the country, and he said, "As I read this bill, my mind is one dark spot."

That is the case with me—that is the way it impresses me. I do not know all that is in the bill, but I do know that it breaks down the rules of bankruptcy established after many years and perfected by judicial decisions. If I vote for the bill, I do not know what effect it will have.

If you want to declare a moratorium, let us be fair and honest—let us declare a moratorium. I am prepared to vote for that to give temporary relief to all oppressed debtors, but I do not want to give them what is provided for here; I do not want to break down the precedents of the bankrupt law established for many years.

I believe the bill is unconstitutional.

Take the provision for debtors going into court, who have not secured the consent of the requisite number of creditors. You will have one court in Virginia giving relief under a certain state of facts and a court in West Virginia denying relief under the same state of facts. You might have the same court decide one way to-day and another way tomorrow. You would have no uniformity.

Mr. LAGUARDIA. Is not that true with the administration or enforcement of any law when you go to district judges? It is the uniformity of the law that we want.

Mr. LANKFORD of Virginia. There is no uniformity when you allow a judge presiding to decide the rights of creditors one way and on the same state of facts another judge decides the rights of other creditors another way. Section 8 of the Constitution only gives Congress the right to pass "uniform laws on the subject of bankruptcies." There is no gauge or yardstick to guide the judiciary in uniform decisions.

I think the bill has not been given sufficient consideration. It provides that a referee shall be appointed for every county. In Virginia we have a hundred counties, and if the judge appoints a referee in every county you will have an army of referees, many of them unprepared and not qualified to act. We have referees in most sections at the nearest town and it is a convenience for the farmers to go to these towns or cities where they transact their business; although it may not be in the farmer's own county, most of his creditors are located there. The bill limits the referee to a $10 fee. Do you think you could get competent referees to travel from place to place, take several days, perhaps, to hear these composition cases, and then make his report to the judge, for $10. This bill will break down the efficient referee system which is generally satisfactory in most sections of the country.

Mr. Speaker, I want to say that as much as I would like to go along with the committee, I can not get the consent of my mind to vote blindly for this bill, as indefinite, as uncertain, as destructive to the credit and finance of our country as this bill is. [Applause.]

It no doubt has some merit, especially the railroad portion of it, and if allowed to consider it maturely, and to offer certain essential amendments, I could possibly go along with the committee, but not in its present shape.

Mr. SUMNERS of Texas. Mr. Speaker, I yield 10 minutes to the gentleman from New York [Mr. LAGUARDIA].

Mr. LAGUARDIA. Mr. Speaker, I shall limit myself to a statement of the railroad organization provisions of the bill.

In the first place, railroads are now exempted from the provisions of the bankruptcy law. When a railroad now gets into financial difficulty a creditor applies for an equity receivership. We have had very sad experience with equity receiverships of railroads. If my colleagues will recall the history of railroad finance in this country, they will remember that there is not a railroad in this country to-day that provides a sinking fund for its bonded indebtedness. From the very beginning of railroads there had been no provisions made for depreciation and obsolescence up to the time that the interstate commerce act was enacted by Congress. The whole history of railroad financing is the most sordid, disgraceful page in the history of American industry.

If our railroad magnates were as anxious to move trains as they were to move the stock ticker the railroads would not find themselves in their present plight. From the day Daniel Drew, the drover, sold Jacob Astor, the butcher, a herd of bloated cattle, the peddling of "watered stock" has never ceased. It is strange that both the herder and the butcher were shortly thereafter to become financiers and both active in the manipulation of railroad securities. From that day the unsuspecting public looking for railroad investment has been duped. From that time the friendship and aid of political bosses have been sought and found useful to railroad financiers. That era is about to end. Railroads have been bled white. Shippers have been exploited and equipment run down and become obsolete. A new deal is absolutely necessary. This bill is but one of the preliminary steps to a complete change in railroad financing, management, and control.

The purpose of this bill is to provide, first, that railroads may avail themselves of the provisions of the bankruptcy act, for the purpose of reorganization. So that the first fundamental change is that the railroad itself can petition the court for a reorganization. The reason that we must provide for a reorganization rather than treat the railroads as an ordinary bankrupt is that a railroad is vested with a public duty, a public necessity. Railroads can not be permitted to liquidate according to the fundamental principle involved in bankruptcy. So that as I have stated the railroad itself may go in and petition for reorganization. If the railroad fails to do it and is insolvent or financially embarrassed, then, rather than that a favored creditor or a committee controlled by a bank come in and seek to control the reorganization of that railroad, 25 per cent of any class of creditors may petition the court and submit a reorganization plan.

There has been some confusion in the minds of Members who have spoken to me in not distinguishing between bondholders and stockholders and between unsecured creditors and bondholders. When we talk about secured creditors of railroads, we refer principally to bondholders, because as you all know, supplies and material and labor necessary for the operation of the railroad have priority for a period of six months.

The next thing we did in this bill which is innovation is to bring complete control or, as the Solicitor General says, "giving broad powers to the Interstate Commerce Commission in the initiation, formulation, and approval of the reorganization plan." We do just that. I do not mean to say that such broad powers to the commission meets with the personal approval of the present Solicitor General. It does not. Gentlemen will recall the message of the President of the United States only a few days ago, on January 11, in which he said that the provisions dealing with corporate reorganization should be applicable to railroads, and in such cases the "plan of reorganization should not become effective until it has been approved by the Interstate Commerce Commission." The purpose of this bill is to make that approval effective. It is to make that approval what it is intended it should be, a complete supervision and control of every detail and factor of a reorganization plan. It would be futile to give perfunctory power of approval to the Interstate Commerce Commission if the power were to be left in the court to start hearings de novo and pass upon an entirely different plan. Gentlemen, from the experience of the past we find that legislation of this kind is necessary and at this particular time urgent. An illustration of a case typical of the present unsatisfactory condition of railroad reorganizations may be found in the case of the United States v. Chicago, Milwaukee, St. Paul & Pacific Railroad (282 U. S. 311). In that case the Interstate Commerce Commission, acting under section 20 (a) of the interstate commerce act, sought to prevent the company and stockholders being saddled with exorbitant and unreasonable expenses in the shape of fees and compensation and commissions and charges.

Briefly, out of the assessment, a sum of $4 on each share of stock was set aside to create a reorganization fund. The $4 fund set apart for expenses approximated $9,330,000, of which another fund of $1.50 a share was a part, aggregating about $3,500,000, out of which were to be paid the reorganization managers, various protective committees, counsel, and depositaries. The estimated expenses to be paid from this fund ranged from $2,636,000 to $3,381,000, of which the compensation to be paid to the reorganization managers was $1,044,000.

The commission did not approve of this plan. It found the charges unreasonable and modified the plan to the extent of disapproving of the $1.50 fund and the exorbitant fees and compensation to be paid therefrom. An appeal was taken from the findings and order of the Interstate Commerce Commission and the court set aside the commission's findings and enjoined its enforcement. An appeal was taken to the Supreme Court which affirmed the court below. There is a strong dissenting opinion in this case by Mr. Jus-

tice Stone, in which Mr. Justice Holmes and Mr. Justice Brandeis concur. I shall quote from the dissenting opinion in the course of my remarks. To be perfectly frank, this bill now writes into the statute the law as construed by the dissenting opinion in this case.

The Interstate Commerce Commission at that time acted under authority of section 20 (a) of the transportation act. The majority opinion in the Chicago, Milwaukee, St. Paul & Pacific case emasculates, distorts, and weakens the expressed and clear intent of section 20 (a) of the transportation act. This bill corrects that error and not only restates the original intent and reconfers the originally intended powers, latitude, and discretion, but also adds to the scope, powers, and discretion in repeated provisions that no court, no matter how partial or prejudiced, can honestly escape the duty of properly construing and interpreting the intent of Congress.

The majority opinion in that case simply favored the money mongers; it placed private commissions and fees above public interest.

What do we find? We find that, although section 20 (a) of the transportation act gave the power, and the commission exercised it, the court nullified the commission's action and substituted a plan in full which the commission had disapproved, as stated by Mr. Justice Stone:

> The judgment below, as interpreted by this court, not only makes effective an order different from any the commission has granted but precludes any future action by the commission in the performance of its statutory duty. In this respect the case differs from those in which this court has set aside an unconstitutional condition imposed by State legislation on a foreign corporation seeking to do business within a State. In those cases the judgment of this court in no way restricts the further exercise of the legislative power of the State in any constitutional manner. Here the commission is ousted from the exercise of power which Congress has given it, and an order is sanctioned authorizing an issue of securities which it can not be said the commission has approved, and which this court does not purport to say is appropriate under the statute.

It is to overcome such a condition that we have written into this bill, as I said before, the powers of initiation, formulation, and approval of the plan, and outlined the procedure in such way as to make clear that the judgment and the decision of the Interstate Commerce Commission must prevail. Such powers in no way exceed the power that may properly be given to the Interstate Commerce Commission, as laid down in the case of Interstate Commerce Commission *v.* Union Pacific R. R. (222 U. S. 541). The court there held:

> There has been no attempt to make an exhaustive statement of the principle involved, but in cases thus far decided, it has been settled that the orders of the commission are final unless (1) beyond the power which it would constitutionally exercise; or (2) beyond its statutory power; or (3) based upon a mistake of law.

Naturally, we could not give the commission powers which it could not constitutionally exercise. It is not intended that mistakes of law should not be rectified. But the purpose of the bill is to convey such broad statutory powers to the commission as to give it from the very beginning to the end, complete supervision and control and decision of railroad reorganization.

The next thing the bill does is to take away from bankers the complete power of reorganization. Minority security holders and junior lienors and often stockholders have absolutely no say in the reorganization when it is under the control of these railroad bankers. The equities of all are protected in this bill. Of course, if there is no equity left in a class of security we can not provide it by legislation. Under this bill 25 per cent of the stockholders may present a petition. If the railroad is found to be insolvent, and that is a judicial function, then stockholders are wiped out, and that can not be prevented. If there is nothing back of the stock, naturally there is nothing that we can do in the way of giving value to such worthless stock.

The commission after the petition is approved by the court then holds a hearing under subdivision (d) of this bill, and the plan of reorganization of the railroad may be considered, the plan of reorganization of the creditors may be considered, and after the commission approves of a plan, which may be either of the plans submitted or which may be a modification of any of the plans submitted or which may be an entirely new plan of the commission, then it is submitted back to the creditors for their acceptance. If two-thirds of any class of creditors accept it, it becomes binding upon that class of creditors.

Minority creditors of any class are fully protected in that three alternative methods in the case of stockholders and four alternative methods in the case of other creditors (bondholders) fixing and protecting their equities are provided.

After the plan is accepted it comes back to the commission for its final approval. It is right here where the conflict between the two methods of reorganization comes in, and it is from this point on that there is opposition to this bill. I predict that the opposition will be greatly intensified before this bill finally passes both Houses of Congress. The purpose of leaving the acceptance of a plan until after a plan has been formulated by the commission is to prevent bondholders, creditors, stockholders, from being bound before they know just what the plan will be or what it may do to their interests. It takes from these bank organizers the whip hand and makes their absolute control of railroad reorganization impossible. Then when the accepted plan is before the commission it gives it its final approval and grants the authority necessary for the issuance of new securities under section 20 (a) of the transportation act. The plan now goes to the court for final approval, but this approval is on the record of the case as submitted by the commission to the court. The court can not commence hearings de novo, it can not modify the plan, it can not substitute its plan for the one approved by the commission. If the court disapproves the plan it must file its reasons for so doing. It will be seen that in this way the rights of all concerned are fully protected, as an appeal may be taken from such an order as is now possible under existing law. In this way the bill fully corrects all of the evils created by the decision in the Chicago, Milwaukee, St. Paul & Pacific Railroad case.

Perhaps it will be easier to understand the purpose of the bill and the procedure if I recite each successive step to be taken in the course of a railroad reorganization:

I. Filing of petition:
- a. Who may file petition?
  - 1. Corporation, with approval of commission.
  - 2. Creditors holding 25 per cent in amount of any class and 10 per cent in amount of all creditors, with approval of commission.
- b. What must petition state?
  - 1. Corporation is insolvent; or
  - 2. Corporation is unable to meet debts as they mature.
- c. Where must petition be filed?
  - 1. Federal courts after obtaining the approval of the Interstate Commerce Commission.
    - (a) District courts
    - (b) Supreme Court of the District of Columbia.
    - (c) United States court of Alaska.
  - 2. In district where corporation has had its principal executive or operating office for preceding six months, or greater portion thereof.

II. First step after filing of petition:
- a. Petition filed by corporation—
  - 1. Court approves petition as properly filed—
    - (a) If it complies with act.
    - (b) If filed in good faith.
  - 2. Otherwise court may dismiss petition.
  - 3. If approved, court takes jurisdiction of all property.

II. First step after filing of petition—Continued.
- b. Petition filed by creditors—
  - 1. Serve copy immediately upon corporation.
  - 2. Corporation must answer within 10 days; admit or deny—
    - (a) Jurisdiction of court;
    - (b) Claims of creditors entitle them to file;
    - (c) Insolvency; or
    - (d) Inability to meet debts as mature.
  - 3. If admit these, court approves petition as properly filed.
  - 4. If deny these, court shall immediately try issues and approve or dismiss.
- c. Court temporarily appoints trustee or trustees but can only appoint such persons recommended by the Interstate Commerce Commission.
- d. Court makes permanent appointment of trustee or trustees but only such persons as are recommended by the Interstate Commerce Commission—
  - 1. Stockholders and creditors to be heard on appointment.
- e. Powers of court—
  - 1. With approval of Interstate Commerce Commission authorize trustee to issue certificates for cash—
    - (a) Which might in an equity receivership proceeding be lawful.
  - 2. Require debtor to file schedules and submit information—
    - (a) To disclose conduct of debtor's affairs and fairness of any proposed plan.
  - 3. Determine reasonable time for filing, manner of evidencing, and division into classes of claims and interest—
    - (a) Of stockholders and creditors.
    - (b) After time limit no claim or interest may participate.
  - 4. Give reasonable notice (by publication or otherwise)—
    - (a) Of such determination.
    - (b) Of dismissal of proceedings.
    - (c) Of allowance of fees or expenses (but first approved by Interstate Commerce Commission).
  - 5. Determine reasonable time for proposing and confirming plan—
    - (a) May dismiss proceeding if plan not proposed or confirmed within such time.
  - 6. May refer matters to one or more of six special referees—
    - (a) Referees to be appointed by President, with advice and consent of Senate.
    - (b) Referees to sit in Washington unless otherwise directed by court.
    - (c) Referees to receive compensation allowed by court, with approval of Interstate Commerce Commission, and expenses.
  - 7. May permit intervention by creditors or stockholders on questions other than appointment of trustee and confirmation of plan.
  - 8. Shall hear creditors and stockholders on question of approval of plan.

II. First step after filing of petition—Continued.
- f. Duties of trustee—
  - 1. Prepare list of all known bondholders, creditors of and claimants against debtor, showing—
    - (a) Amounts of debts or claims.
    - (b) Character of debts or claims.
    - (c) Last known address of creditor or claimant.
  - 2. Prepare list of stockholders with last known address.

III. Proposal of plan of reorganization:
- a. Proposals to be filed with Interstate Commerce Commission.
- b. Who may propose plans—
  - 1. Debtor.
  - 2. Creditors (25 per cent of any class and 10 per cent of all).
- c. Interstate Commerce Commission to hold hearings on plans proposed.
- d. Interstate Commerce Commission to issue report approving a plan—
  - 1. Approved plan may be one of those proposed by debtor or creditors.
  - 2. May be different from any of such proposals.
- e. Interstate Commerce Commission report to find, respecting plan approved, with reasons—
  - 1. That plan will be equitable.
  - 2. Will not discriminate in favor of any class of creditors or stockholders.
  - 3. Will be financially advisable.
  - 4. Will be compatible with public interest.
- f. Interstate Commerce Commission report may be modified by it for good cause shown.
- g. Interstate Commerce Commission plan to be submitted to stockholders and creditors for acceptance or rejection.

IV. Acceptance of plan by stockholders and creditors:
- a. Acceptance to be filed in writing in proceeding before Interstate Commerce Commission.
- b. Who must accept before plan can be confirmed?
  - 1. Creditors holding two-thirds in amount of claims of each class whose claims or interests have been allowed and would be affected by the plan.
  - 2. Stockholders (unless judge finds debtor insolvent) holding two-thirds of the stock of each class.
- c. Stockholders and creditors not required to accept plan—
  - 1. Stockholders (less than two-thirds) who dissent, provided—
    - (a) Plan provides adequate protection for the realization by them of the value of their equity, if any, in the property—
      - (1) By sale of property at not less than fair upset price.
      - (2) By appraisal and payment in cash of value of stock held.
      - (3) (At stockholder's election.) By appraisal and payment in cash of value of securities allotted to such stock under plan.
  - 2. Creditors not accepting plan, provided—
    - (a) Plan provided adequate protection for the realization by them of the value of their liens on or claims against the property—

IV. Acceptance of plan by stockholders and creditors—Con.

c. Stockholders and creditors not required to accept plan—Continued.

2. Creditors not accepting plan, provided—Continued.

(1) By the sale of property subject to such liens or claims;

(2) By sale of property free of such liens or claims at not less than fair upset price and transfer of such liens or claims to proceeds of sale;

(3) By appraisal and payment in cash of value of such liens and claims; or

(4) (At creditor's election.) Appraisal and payment in cash of value of securities allotted by plan to such liens and claims.

V. After acceptance of plan:

a. Interstate Commerce Commission reopens its proceeding to consider accepted plan.

b. Interstate Commerce Commission transmits accepted and approved plan, findings, and record to the court if it finds—

1. The plan is equitable and does not discriminate unfairly in favor of any class of creditors or stockholders.
2. All amounts to be paid by debtor or its successor for services or expenses incident to reorganization have been fully disclosed and are reasonable.
3. Offer of plan and its acceptance are in good faith and have not been procured by illegal means.
4. Plan provides for payment of all costs of administration and other allowances made by court.
5. Plan provides reasonable and adequate protection to creditors and stockholders not accepting it.
6. Debtor or successor is authorized by charter and should be granted authority to issue necessary securities; and
7. In respect of financial advisability and otherwise the plan is compatible with public interest.

c. Interstate Commerce Commission grants to debtor authority—

1. To issue securities or assume obligations under plan.
2. To transfer property in accordance with plan.
3. To merge debtor property if contemplated by plan.

d. Interstate Commerce Commission fixes compensation to be paid for service and reimbursement for actual expenses incurred in proceeding and plan—

1. To reorganization managers.
2. To special referees.
3. Trustees.
4. Officers.
5. Parties in interest.
6. Committees of stockholders and creditors.
7. Representatives of stockholders and creditors.

e. Court approves plan for record.

VI. After confirmation:

a. Plan is to be binding upon—

1. The corporation.
2. All stockholders thereof.
3. All creditors whose claims are payable in cash thereunder.
4. All creditors who would be entitled to priority if a petition for a Federal receiver instead of a petition under this act had been filed, whose claims are not payable in cash, provided two-thirds in amount have accepted the plan.
5. All unsecured creditors, provided two-thirds in amount have accepted the plan.
6. All secured creditors of each class of which two-thirds in amount have accepted the plan.

b. Confirmation shall discharge debtor from debts, except as otherwise provided by plan.

c. Property to be transferred by trustee to debtor or new corporation free of debts, except as to those reserved.

d. Certified copy of order approving plan shall be evidence—

1. Of the jurisdiction of the court.
2. The regularity of the proceedings.
3. The fact that the order was made.

e. Certified copy of order directing transfer of property shall be evidence—

1. Of the transfer of the title.
2. If recorded, shall impart same notice as recorded deed.

It will now be seen that every creditor has the opportunity of a hearing and can withhold his acceptance until such time as a complete plan is submitted for his decision. Every creditor has the opportunity of joining with any of the various plans that may be submitted for consideration. Heretofore all of this planning and reorganization was under the control of bankers. What little authority might have been vested in the Interstate Commerce Commission was practically removed by the decision in the Chicago, Milwaukee, St. Paul & Pacific Railroad case. Lest it may be said that I am unduly stressing what a good thing the present system of railroad reorganization has been for the bankers and what a bad thing for the creditors and the public, I shall in a moment quote from the dissenting opinion in this case. There is no reason why existing practices should not be changed. As a matter of public policy, Congress must act and take from a small group of bankers the power they now have over railroads and railroad reorganization, save whatever may be salvaged from the railroads, protect the remaining equities of investors, and protect the public interest.

We do not in any way violate any of the fundamental provisions as to property rights; but we do correct the evil which was created in the case laid down in the Chicago, Milwaukee, St. Paul & Pacific Railroad. We do that in keeping with the best thought in this country as to railroad securities. The savings banks of this country who own a large amount of railroad bonds are in favor of this bill. Of course, there is opposition. There are some interests opposed to the bill. Kuhn-Loeb & Co. are against it. J. P. Morgan & Co. are against this bill. Why? Because, as I have stated, they have practically had a monopoly on railroad reorganizations. Some of the provisions contained in the suggestions of the Solicitor General are known as the Swaine plan; the same Mr. Robert S. Swaine who appeared as counsel for the reorganization committee in the Chicago, Milwaukee, St. Paul & Pacific case. In the Chicago, Milwaukee, St. Paul & Pacific case, who benefited? Not the bondholders, not the stockholders, not the public, not the railroads, but some money mongers and some financial procurers and some lawyers in my city, to the tune of several million dollars.

What we have done is to provide an efficient, economical, and expeditious manner of reorganization. Ancillary receiverships are abolished. The bill provides for a trustee; not a political trustee, not a golf trustee of the judge, but a trustee recommended by the Interstate Commerce Commission. It provides for special referees; not local referees but six or more referees to be appointed by the President of the United States and confirmed by the United States Senate.

That is the reason that the bill provides complete supervision and control by the Interstate Commerce Commission of all expenses in connection with the reorganization of a railroad. It will be seen that even the fees and allowances of temporary trustees and permanent trustees are subject to the approval of the Interstate Commerce Commission. The compensation, commissions, and fees of reorganization committees and fees for lawyers and attorneys are all made part of the reorganization expense and subject to the approval of the Interstate Commerce Commission. In this way we have carried out, I believe in every detail, the enlightened, sound, and constructive suggestions contained in the dissenting opinion of Mr. Justice Stone in the Chicago, Milwaukee case from which I read:

The preservation of the transportation system and the stability of its credit essential to its preservation depend not alone upon the ability of individual carriers to meet their obligations, but upon the ability of all to attract the investment of funds in their securities. If such investments are impaired by receiverships of the carriers, followed by reorganizations of excessive cost, and if railroad shareholders, compelled by the necessities of their situation, must contribute to the rehabilitation of their properties excessive amounts upon which the reorganized carrier may not earn an adequate return, railroad credit in a broad sense is affected, the permanency and stability of the transportation system as a whole is impaired, and the public interest suffers. No one familiar with the financial and corporate history of this country could say, I think, that railroad credit and the marketability of railroad securities have not been profoundly affected, for long periods of time, if not continuously, by the numerous railroad reorganizations, in the course of which junior security holders have found it impossible to save more than a remnant of their investment, and that only by the assumption of a heavy burden of expense, too often the result of wasteful and extravagant methods of reorganization.

The public likewise has an interest in the costs of reorganization in so far as they may affect rates and the application of the recapture provision of the transportation act. Such costs may play an important part in the going-concern value of the new company, which is an element of value for rate-making purposes. See Des Moines Gas Co. *v.* Des Moines (238 U. S. 153, 165); Denver *v.* Denver Union Water Co. (246 U. S. 178, 184, 192); Bluefield Co. *v.* Public Service Commission (262 U. S. 679, 686); McCardle *v.* Indianapolis Water Co. (272 U. S. 400, 414). In United Railways *v.* West (280 U. S. 234), a substantial amount was included in the rate base to cover "cost of financing." The mere fact that going-concern value is supplied from sources other than the treasury of the carrier, here the stockholders of the old company who became stockholders of the new, is not material. See United Railways *v.* West, supra. The commission is specially charged with public duties with respect to rates, valuation, and the administration of the recapture provisions. In all these respects the public interest may be adversely affected if railroad securities may be issued to effect, either directly or indirectly, the payment of excessive costs of reorganization.

The financing of a railroad—the issuance of securities by it; the cost of financing and refinancing the cost; expenses, commissions, underwriting of organization of railroads—are all part of that railroad; they are just as essential as roadbeds or car tracks. They are all part of the railroad and so inseparably related and so interwoven as not to be susceptible of separation under the constitutional grant of authority to regulate interstate commerce.

Congress intended and now intends in giving the Interstate Commerce Commission authority to authorize or forbid the issuance of railroad securities real, actual, and effective supervision and jurisdiction of such securities; that authority naturally means not a perfunctory administrative duty, not a supervision of the designs and print of the paper certificates, but complete, thorough, and real supervision and control of all such securities in every financial detail.

Persons investing their money in railroads do so with the full knowledge of the nature of the enterprise—that it is a public necessity and under complete regulation of governmental agencies. The restrictions, limitations, and regulations placed on such enterprises can not and never have been detrimental to the bona fide investor. The trouble is that it is not the investor, but the promoters, money mongers, bankers, shysters, and stock speculators who seek to break down proper supervision of railroads and their securities. It is these gentry that profited by the decision in the Chicago, Milwaukee, St. Paul & Pacific Railroad case (supra), not the investor or the railroads.

Lest there be the slightest doubt as to the wide power and control the new section 76 intends to grant to the Interstate Commerce Commission over railroad reorganization, I will say that it is the intent of the drafters of this section—which was taken from my bills H. R. 13958 and H. R. 14110—and I know the intent of the majority of the Committee on the Judiciary and the House to give the Interstate Commerce Commission broad and complete powers in the initiation, formulation, and approval of any plan for the reorganization of a railroad engaged in interstate commerce—this in addition to correcting the law established in the Chicago, Milwaukee, St. Paul & Pacific Railroad case, as I have repeatedly stated. In other words, we sought and intended to reestablish the law as stated by Justice Stone in the dissenting opinion of that case as concurred in by Justices Holmes and Brandeis.

Labor is fully protected by the specific provision that nothing in the bill shall be construed as in any way amending or altering the provisions of the railway labor act. It was thought necessary to put this provision in because in some instances equity receivers have disregarded the provisions of the railway labor act and have arbitrarily reduced the wage scale. The provision to which I have just referred makes it clear that this can not be done in the future. Even though a railroad is under a trustee, all provisions of the railway labor act are not only applicable to the trustee operating the road temporarily but are binding on the court and the Interstate Commerce Commission.

Here is a constructive bill. It does not go as far as I would like to go. It does not go as far as some of my progressive friends would like to go, but it is the best bill we could get out of the committee at this time. Personally, I agree that the Interstate Commerce Commission should have as full and complete control over insolvent railroads as the Comptroller of the Currency has over insolvent national banks. At the present time the Interstate Commerce Commission is not equipped with the personnel that would be required to take over such duties. I believe that competent and experienced men could be found, but that would necessitate the creation of a new division in the commission and authority from Congress to employ the necessary personnel. Congress is in no temper at this time to create any new departments or divisions and certainly not to create any new jobs. That was a situation I could not ignore. Eventually it will have to be done. The cost of such a division could well be taxed as part of the operating costs of a railroad under such control and operation. But even so, money would have to be appropriated for the current pay and expense of these additional officials. I must say that some of the critics of the bill overlook the fact that it provides fundamental changes and that it takes the initiation and formulation of reorganization plans away—or at least it takes complete control away—from bankers' reorganization committees.

The statement was made that the Committee on Interstate and Foreign Commerce knew nothing about this. I was in constant conference with the distinguished gentleman from Texas [Mr. RAYBURN], chairman of that committee. The Committee on Interstate and Foreign Commerce held an informal hearing. The matter was before the Committee on the Judiciary, because it comes under the jurisdiction of that committee, as it is an amendment to the bankruptcy law. It is easy for any lawyer to take his pencil and write an amendment in a bill of this kind, but to take a bill as technical as a railroad reorganization bill, with its ramifications and far-reaching effects, and seek to amend it by 300 lawyers on the floor of this House, I say, is trying to repair a watch with a sledge hammer. We have worked hard on this bill. We have conferred with the Interstate Commerce

Commission constantly. We have conferred with the president and officials of the Reconstruction Finance Corporation. We have spent hours and hours in the Committee on the Judiciary, and we present what we believe in our judgment to be the best available bill to meet the situation at this time. [Applause.]

Mr. DYER. Mr. Speaker, I yield five minutes to the gentleman from Michigan [Mr. MICHENER].

Mr. MICHENER. Mr. Speaker, this bill is in no sense a general revision of the bankruptcy law. It does repeal sections 12 and 13 of the bankruptcy law, which deal exclusively with compositions under existing law, but at that no rights under existing law are taken away, but are amplified.

In short, a new chapter is added to the bankruptcy law liberalizing the law in behalf of debtors. If this bill becomes a law it will materially affect the creditor class, and especially the secured creditor. The prime purpose is to compel the creditor who refuses to compromise his claim, to accept the judgment of a majority of the creditors in numbers and amount as to that which is feasible under all the circumstances so far as the debtor's assets and his ability to pay are concerned. Thus far little objection can be raised to the bill. However, subsection (e), clause (2) goes farther than anything heretofore contemplated in the law, and permits the court to control compromises or extensions, regardless of the contractual rights of secured creditors. Provided only, that the court finds the action decided upon to be equitable and feasible for the financial rehabilitation of the debtor and for the best interests of the creditors, and that the extension or composition shall not impair the lien of any secured creditor but shall affect only the time and method of its liquidation. There are those among us who doubt the power of the court, under the Constitution, to take away from the secured creditor his right to enforce his lien in accordance with the stipulated contract. Of course, under this proposal the lien is not destroyed, but in many cases the only value of the lien is the right vested in the secured creditor to enforce the lien according to the terms of the contract. A delay may possibly, and in many cases will, impair the contract which the parties have solemnly entered into.

I realize that the courts have already gone a long way in permitting the Federal court to take jurisdiction over all of the property of the debtor, even to delaying the enforcement of liens in forums other than the bankruptcy court having jurisdiction, but it must be remembered that in those cases which have been cited to-day the court acted upon the principle that it was engaged in the orderly liquidation of the debtor's property, with the right to enforce the rights of the secured creditors. The very purpose of the contemplated procedure is to avoid liquidation, and it is at least very doubtful, if the court will ever go so far, under the bankruptcy clause of the Constitution, as to hold at bay indefinitely the right of a secured creditor to take advantage of his contract, in the presumption that the debtor might, if given an extension, some way, somehow, at some time in the future, be able to make the lien as valuable to the creditor as it was when the extension was granted. This is substituting the guess of the court for the written agreement of the parties. I realize that there is a distinction between destroying a lien and modifying the procedure by which a lien is made effective.

Time prevents further discussion of this matter. Suffice it to say that, in my opinion, this subdivision should be stricken from the bill, if constitutional barriers are to be avoided.

The Constitution provides that the Congress shall have power to establish uniform laws on the subject of bankruptcy throughout the United States, and inasmuch as the very purpose of this legislation is not liquidation, but the reverse, there are many who doubt the authority of Congress to pass legislation of this nature. The courts in the past have gone a long way in using the terms "bankruptcy" and "insolvency" interchangeably, and only a modern decision of the Supreme Court can settle this question, and in view of the present status of the law in this respect, and the exigencies of the times, it would seem advisable that an opportunity be given to the court to clarify the law in this regard.

This bill will add a new chapter to the present bankruptcy law entitled "Provisions for the Relief of Debtors." The extensions consist of section 74, dealing with individual debtors; section 75, dealing with corporate reorganization; and section 76, providing for the reorganization of railroads engaged in interstate commerce.

The gentleman from New York [Mr. LAGUARDIA], who has just preceded me, has discussed only the railroad section of the bill. He is the only man on the committee who is entirely familiar with this section. It expresses in general his economic views in reference to railroad reorganization. In fact I think he would go much farther than the bill under consideration, and lodge more authority, if possible, in the Interstate Commerce Commission, thus taking away from the courts the equity power which has heretofore been exercised by the courts and which, in the view of many, is judicial and therefore inherent in the court.

The bill utilizes the Interstate Commerce Commission to the limit in the reorganization of the railroads, and I believe that this should be done, yet I am not in harmony with all of the provisions of the railroad section, and hope that amendments will be made to the bill before it becomes a law.

There has been much discussion among the members as to the genesis of this bill. In the last session a bill providing for a general revision of the bankruptcy law was introduced in the House and in the Senate. Senator HASTINGS introduced the bill in the Senate and I introduced the same bill in the House. The bill was prepared in the Department of Justice. In that bill was a provision providing for corporate reorganization. It was found that the general subject was so controversial that it would be impossible of consideration in the House in the immediate future, and the Department of Justice extracted the section providing for corporate reorganization and prepared a bill which was introduced by Senator HASTINGS. Extensive hearings were held by a joint committee of the House and Senate on the general revision of the bankruptcy law, including the corporate reorganization section. The gentleman from New York [Mr. LAGUARDIA], then took the corporate reorganization bill as introduced by Senator HASTINGS and superimposed upon it his bill. The gentleman from Oklahoma [Mr. MCKEOWN], took the same bill and superimposed upon it his views with reference to insolvent debtors and insolvent corporations other than railroads.

It will be observed that section 75, providing for corporate reorganization, and section 76, providing for reorganization of railroads engaged in interstate commerce, follow the same general lines. After consideration in executive session by the Judiciary Committee, the McKeown bill and the LaGuardia bill were included in one bill and reintroduced by Chairman SUMNERS. Right here permit me to say that section 74 would not be a part of this bill were it not for the insistence and tenacity of the gentleman from Oklahoma [Mr. MCKEOWN], who had definite ideas in reference to extensions to be given to individual debtors.

As I said earlier in the day, this is possibly the most important bill that will come before this Congress. If it becomes a law, it will undoubtedly bring into the Federal courts thousands of cases, for as a practical matter most debtors unable for the moment to meet their obligations will seek the aid of the bankruptcy court, in the hope that some plan of rehabilitation might be worked out by the court and thus bankruptcy and liquidation of assets avoided. Reorganization of the railroads and corporations will involve not only millions but billions of dollars. Revaluation of securities and properties will be dealt with, and the whole financial structure of many industries and institutions will be affected, and it therefore seems unthinkable that this important bill should be brought before the Congress by those in control of the organization of the House, with only the privilege on the part of the House to discuss the matter for two hours. Then to be compelled to vote "yes" or "no" without any possibility of amendment, especially so inas-

much as the parties who will be affected were not permitted to be heard before the Judiciary Committee of the House reporting the bill. We, however, who are opposed to this procedure are confronted with the condition that an emergency confronts the country. Something, if possible, must be done to relieve the debtor generally and to provide a more equitable and less expensive method of reorganization of the railroads.

On Saturday last I presented to the House and inserted in the CONGRESSIONAL RECORD the views of the Solicitor General of the United States on this particular bill including desirable amendments. To-day no opportunity will be given for amendment on any of these proposals. It has been difficult for me under all of these conditions to arrive at a conclusion as to my duty in the premises. I wish that I had time to discuss this bill section by section, with the power to amend, and that others more familiar with the details would explain the bill more fully. This is a hope, however, which can not be realized under this procedure.

This bill is not the handiwork of a majority of the Judiciary Committee, and was not reported in all its details as the deliberate judgment of that committee; but if legislation along this line is to be given consideration at this session, this is the only avenue open. Because of the general necessity of some legislation along this line and in view of the fact that if passed here to-day this bill will go to the Senate where an opportunity to amend can not be prevented, and in view of the further fact that the bill as perfected by the Senate must go to conference and be returned to the House for further consideration, I shall vote for the bill.

Personally I can not assume the responsibility of delaying anything in these strenuous times that might help. It is a start in the right direction, and I am confident that the gentleman from Oklahoma [Mr. MCKEOWN] and the chairman of the committee [Mr. SUMNERS] will realize the necessity of changes and modifications, so let us approach the subject in a spirit of helpfulness and not in a technical spirit.

If I were thoroughly convinced that the bill is clearly unconstitutional, I should not vote for it, but in view of the doubt and the known fact that the Senate will give more consideration than is permitted in the House, I shall support the measure. This is no time for technicalities or niceties, and the necessities of the hour demand heroic treatment.

[Here the gavel fell.]

Mr. DYER. Mr. Speaker, I yield five minutes to the gentleman from Texas [Mr. PATMAN].

Mr. PATMAN. Mr. Speaker, if this bill is constitutional, a bill to grant a moratorium would be constitutional. If there is necessity for this bill, and there is necessity for legislation along this line, we should have a moratorium instead of this bill. Our people have two courses to pursue. One is expansion of the currency and the other is bankruptcy. Bankruptcy will help a few large creditors. Expansion of the currency will help everybody.

OBSTACLE IN WAY OF RELIEF

I believe this proposal if enacted into law will be an obstacle in the way of a real relief measure. There is only one way to get a relief measure discussed on the floor of this House and that is by refusing to suspend the rules and pass the bill. Then the Rules Committee can bring in a rule and we can have fair discussion of the bill and the amendments some of us desire to offer on the floor. Ordinarily a bill of this nature would not be brought up under suspension of the rules. Ordinarily there would be hearings and you could send for the printed testimony, read it, and make up your own mind as to whether you wanted to vote for or against this legislation, but this bill has not been considered in committee and they have no printed testimony. There is nothing for you to examine. The bill is hurriedly prepared as evidenced by the fact that several amendments have already been suggested by the chairman of the committee; and other meritorious proposals have already been presented. A bill of this nature should not be hurried through. Under suspension no one can offer amendments to the bill. It will not be read for amendments. We must either take it as it is or vote against it.

SAME OLD BATTLE CRY

We hear the same old battle cry we always hear about helping the farmers, helping the owners of the railroads, the small stockholders, helping the policyholders of the insurance companies, and helping the small banks and small depositors. This is the same old argument that has been made on the floor of this House for the last three years. It is the same argument that was made for the enactment of the Reconstruction Finance Corporation act. Since the enactment of that law it has been discovered that the railroads have been borrowing money from the Government in order to pay themselves, owners of those railroads, dividends on the stocks and bonds they hold; but that bill was passed on the theory that it would help the farmer, that it would help the small man.

NO BENEFIT FOR FARMERS IN THIS BILL

There is no real benefit in this bill for the farmer. There is nothing here that will help the farmer. I venture to say that there is not a Member of this House who has received one letter from one farmer asking him to vote for this bill. This is not a farmer's bill and will not help the farmer. If he had money enough to comply with the requirements of this bill, he would not want to go into bankruptcy; he would feed and clothe himself and his family; he would provide the necessaries of life for them that he is not now able to provide because he has not the money that would be necessary for him to comply with the terms of this bill.

Let me say with reference to the case of a railroad receivership, it is true that the Interstate Commerce Commission will be permitted to look over the plans of consolidation and merger, but when the plans are submitted to the court the court will be under gag rule just as we are. Under the railroad section of this bill local school districts may be deprived of the taxes due from the railroads and the schools may be forced to close in some sections. We are under gag rule to-day. The railroads have borrowed hundreds of millions of dollars from the Government through the Reconstruction Finance Corporation. This bill will enable that debt to be canceled. We are voting to put the courts under gag rule. Now, if you want this double gag-rule system invoked in this House and in this country, vote for this bill. I am not going to be swept off my feet by this argument that it will help the small man. Congress passed the Esch-Cummins railroad law to help the farmer and it ruined him. We passed the Reconstruction Finance Corporation act to help the farmer. Large bonuses have been given to a few powerful bankers to help the farmer. All the bad legislation of the past decade was presented with the argument that it would help the farmer, the wage earner, the small business man, and the home owner.

BONUS FOR BANKERS

The Glass-Borah amendment to the home loan bill provides a way that a few large banks may get a Government bonus of $30,000,000 a year. The Glass-Steagall bill permits a Government bonus of hundreds of millions of dollars to a few bankers. The Reconstruction Finance Corporation measure was a billion dollar Government bonus bill. The word "home" contains lots of sentiment. The home loan bank bill was another measure to finance the financiers. I voted against all these measures, although it was claimed for them that the plain citizen, the farmer, the wage earner, the home owner, the depositors in small banks, and the policyholders would be the beneficiaries. Much is said about the distress of these classes; but when a measure is passed by Congress, it seems that little relief is afforded to them.

Mr. DYER. Mr. Speaker, I yield four minutes to the gentleman from Arkansas [Mr. MILLER].

Mr. MILLER. Mr. Speaker, I am as loath as anyone here to cast a vote that might be construed as denying to any class of people, and particularly the farmers of this coun-

try, a chance to obtain relief from the indebtedness under which they are staggering at present.

During the last session of Congress we passed various legislation that was designed to benefit the wage earner and the farmer. We have poured into the railroad companies and into other corporations in this country millions and millions of dollars in the hope it would filter down to the wage earner and to the farmer, but such has not happened.

Now, this bill comes in here composed of three sections—the corporation section, the railroad section, and the section that it is claimed will benefit the farmers.

I do not want any man in this House to cast a vote for this bill upon the assumption that we are granting any relief to the farmers of this country. I say to you very frankly that it is an empty gesture.

The gentleman from Nebraska said, "Oh, this will provide a means whereby the creditors and the debtor may get around a table." This is true, but on page 3 of the bill it is provided that the creditors are the ones who will dictate the terms of the settlement, and in the absence of adoption of such terms the man goes into bankruptcy.

On the 29th day of February, 1932, the President sent a message to this Congress containing a report of the Attorney General, consisting of 211 pages, in which he pointed out certain facts, and in this message, on the last page, the President said it was necessary to so amend the bankruptcy law that provision may be made to require debtors of this country to pay their creditors out of after-acquired property. This bill is a child of that message; and whenever you think that the little man or the farmer or that the wage earner is to be benefited one iota by this bill, I am of the opinion that you have not read and studied the first section of the bill.

This section was incorporated in the bill for the purpose of obtaining the votes of the representatives from the agricultural States, and the argument is made that it provides a method whereby he may work out a plan with his creditors such as will enable him to pay his debts and thus prevent a foreclosure and sale of his property. I know that this argument is made in good faith by the proponents of the bill, but on page 3 of the bill it is provided—

> That in any other proceeding under this section the court may, as the creditors at the first meeting may direct, impose similar terms as a condition of delaying the appointment of a trustee and the liquidation of the estate.

The words "similar terms" refer to the terms that the court must direct to preserve the estate for the benefit of the creditors. Paragraph (m) on page 8 of the bill provides that the debtor and his property, wherever situated, shall be subject to the exclusive jurisdiction of the court. Nowhere in the bill is any provision made which will assist the farmer or wage earner in obtaining the money with which to refinance himself. On page 5 of the bill it is provided that the court may grant an extension of time, provided—

> The money or security necessary to pay all debts which have priority unless waived, and the costs of the proceedings * * * have been deposited in such place as shall be designated by and subject to the order of the court.

If the debtor had the money or security to pay his debt there would be nothing gained by his being in court. He would not be there. The bill will not stand analysis, and I do not want any of my constituents to obtain the idea that they will be benefited by the bill and I want them to stay out of the court just as long as possible, for one time they go into the court they may be assured that they will not escape therefrom with any of their property unless their property is readily salable for more than enough to pay their debts, and in that case the bill will not apply.

I hope the House will not be misled by this bill and by the arguments of able gentlemen because those who argue that it will save embarrassed debtors are not, in my opinion, familiar with the provisions of the bill. If this bill is passed, I fear that it may be impossible to pass a bill for the purpose of refinancing the indebtedness of the farmers. Under the rules that we are proceeding under such an amendment can not be offered. If it could be offered, I should offer it and insist upon its adoption. In this way we might provide some relief, but without such a provision no relief can be expected. I regret that the other sections pertaining to the reorganization of corporations and railroads should have been placed in this bill, because we can not give relief to the farmers of this country in the same bill in which relief is given to the oppressors of the farmers and wage earners, the railroads and corporations. It seems strange to me that this Congress will not recognize that if we are to aid in rehabilitating agriculture we must give to those engaged in that business the same consideration and the same amount of money that we have provided for the aid of the railroads and other corporations of this country. Instead of this bill being a bill for the relief of the farmer it is a bill to relieve him of what little he has if he is ever taken into court, and since we are prevented from offering amendments to the bill, I find myself unable to support it as I shall not be a party to legislation that will not help but hinder the farmer and wage earner and further impoverish agriculture.

Mr. DYER. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. CHINDBLOM].

Mr. CHINDBLOM. Mr. Speaker, I am sure there is not a Member of this House who would not go to the utmost extent, even in exercising as liberally as possible his best judgment, in order to pass legislation for the benefit of the debtors of the Nation; but there is a homely old saying about killing the goose that lays the golden egg. We can pass laws which make it so easy for debtors that there will hereafter be no creditors. We can enact legislation which makes it so easy for people to avoid their debts that nobody will lend them any money, and I am inclined to think we are in danger of going that far in this bill. Certainly, we should not pass legislation which may endanger the credit system of the country, under the pressure and lash of a suspension of the rules.

Secondly, this bill has been made the vehicle for a particular viewpoint with reference to the management and control of the railroads of this country. This does not belong in a debtors' bill. This bill comes from the Judiciary Committee and should concern itself with bankruptcy questions.

Mr. Speaker, under leave to extend my remarks, I will add that it is universally admitted that railroads are not included in existing bankruptcy legislation, and that this bill does not seek so to include them. Section 76 is entitled and relates entirely to "reorganization of railroads engaged in interstate commerce." It is true that this reorganization is based upon insolvency or inability on the part of a railroad to "meet its debts," but both the railroad company, in filing a voluntary petition, and creditors of a railroad, filing an involuntary petition, must set up that the purpose of the proceeding is to "effect a plan of reorganization." This is plainly legislation relating to interstate commerce and should have been considered and reported by the committee having that jurisdiction. The late James R. Mann, who built up the wide jurisdiction of the committee on interstate and foreign commerce, would certainly not have tolerated this usurpation of its authority. More than that, the members of the Committee on the Judiciary have frankly told us that section 76, relating to the reorganization of railroads, was written by the gentleman from New York [Mr. LAGUARDIA] while sections 74 and 75, relating to the "relief" of individual debtors and the reorganization of corporations, other than railroads, were prepared by the gentleman from Oklahoma [Mr. MCKEOWN]. Both or these gentlemen deserve great credit for their energy and industry, but their devotion and labor do not relieve the balance of the membership of the House from their responsibility. We are thus relieved, however, by the present procedure to pass the pending bill under suspension of the rules, without adequate debate and without opportunity for amendment.

Even for the purposes intended, the bill before us needs considerable amendment. One matter has been brought to my personal attention. The bill provides in paragraph (b) of section 75 that—

The term "creditors" shall include for the purposes of a reorganization proceeding [of a corporation, other than a railroad] under this section, all holders of claims of whatever character against the debtor or its property, whether or not such claims would otherwise constitute provable claims under this act.

I am advised that it was the intention to include under "claims," any liability for damages under executory contracts. Of course, it would have been better, and very easy, indeed, to make this intention perfectly clear. The omission simply furnishes one of many proofs of the mistaken policy in passing important technical legislation of this kind without opportunity for proper consideration in the House. It is no answer that the proposal may be perfected elsewhere. We should perform our full part, both now and later, if necessary.

Mr. SUMNERS of Texas. Mr. Speaker, I yield the remainder of my time to the gentlemen from Oklahoma [Mr. McKEOWN].

Mr. McKEOWN. Mr. Speaker, no matter what different Members may conclude in their own minds as a justification to oppose this bill, I say to you that when you vote against this bill you are voting against a bill that will give the poor debtors of this country an opportunity to protect themselves, and all this talk about not helping the farmers is wrong.

I know my good friend from Arkansas is just as sincere as I am, and he need not have any worry about this measure not helping the farmer. The bill will help the farmer. We have fixed it so it will do that very thing, and I have had to stand up and fight all summer contending for the right of the individuals to have the same extensions and compositions as the corporations.

Mr. Speaker, I know that gentlemen on the other side of the aisle are not going to vote against this bill. It has the indorsement of your President and also of your Solicitor General.

Mr. DYER. Will the gentleman yield?

Mr. McKEOWN. I will say now that you are not going to vote against this bill.

Mr. DYER. The President does not support this bill and neither does the Solicitor General.

Mr. McKEOWN. I can say to you that I have a little communication right here in my pocket from the Solicitor General.

Mr. DYER. Read it.

Mr. EATON of Colorado. Will the gentleman yield?

Mr. McKEOWN. No; I shall not yield now.

Mr. STAFFORD. Whom is the communication from?

Mr. McKEOWN. From the Solicitor General and it says—

I am convinced that if this bill becomes a law it will be one of the most important measures of the depression period.

Mr. CHINDBLOM. Which bill?

Mr. McKEOWN. This bill here.

Mr. EATON of Colorado. The bill as printed or as amended?

Mr. McKEOWN. This letter is from your Solicitor General.

Mr. BACHMANN. What is the date of the letter?

Mr. McKEOWN. It is dated January 28.

Mr. DYER. The Solicitor General sent amendments down here that the gentleman from Michigan [Mr. MICHENER] has called attention to and said they were very important amendments and should be added to the bill.

Mr. McKEOWN. That is correct. There are several, no doubt, that should be made, but that is no reason to oppose the passage of the bill.

Mr. EATON of Colorado. Will the gentleman yield to me for a question?

Mr. McKEOWN. I can not yield; I have but 10 minutes. This bill makes provision for the poor farmer, because, when he can not get an extension from his creditors, by their consent he can go into court, make application, and then show that it is not only for his benefit but for the benefit of the creditors; he can get the extension on the grounds that it will rehabilitate the debtor and be fair to the creditors as well.

What is the situation in the country to-day? People are being put out of their homes right and left, and this bill applies to bankruptcy cases now pending.

After this bill is passed a judge may arrest the ouster proceedings, although the judgment is of record. When the property comes within the jurisdiction of the court he can stay the proceedings.

The President of our country wants this legislation. Mortgagees will welcome this bill, because under the present situation they are having to foreclose their mortgages at a time when there is no market. When the mortgage is foreclosed and the property is put upon the market there are no buyers. The mortgagee does not want that. The merchant wants it so that he can get a respite from small nagging creditors who hold bankruptcy like the sword of Damocles over his head. The wage earner wants the law so as to readjust his lowered income, due to wage cuts, to his installment payments, and save his home. All classes of our citizens will welcome the act to save them from forced liquidation when there is no money with which to buy.

Gentlemen oppose the bill because it may interfere with some legislation. The bill is not intended to take the place of inflation or the coinage of silver or any other remedial measure. This bill is intended to stay the sheriff's hammer and stop the voice of the auctioneer and give us a chance to get a breathing spell, so we can get an opportunity to come out of this depression.

Let me tell you something. You have paving districts and sewer districts in your cities, you have improvement districts; you have levee improvement districts; you have reclamation improvement districts; and all of these are included in this bill, and they can get relief if it is passed.

Gentlemen of the House, I want to say to you who have criticized the Speaker in putting the bill through in this fashion, that you could not get it through in any other way. How else can you put it through? You could not get 12 lawyers to agree to a single amendment or to a single clause. Not a single thing could be agreed on. Why waste time? Let the bill be passed. Put it through the House and start it on its way to final enactment. Let the people of the country have a chance to breathe, and get from under the high tension now burdening the backs of the American debtors. We will never get the depression turned around unless we have something of this kind. Let us give the American people a chance to think and get down to business, and if we pass this bill you will do that very thing. [Applause.]

The SPEAKER. All time has expired, and the question is on suspending the rules and passing the bill.

The question was taken; and on a division (demanded by Mr. DYER) there were 201 ayes and 43 noes.

So, two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

Mr. DYER. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days in which to extend their remarks on this bill.

The SPEAKER. The gentleman from Missouri asks unanimous consent that all Members may have five legislative days to extend their remarks on the bill. Is there objection?

There was no objection.

THE BANKRUPTCY BILL—EXTENSION OF REMARKS

Mr. LANKFORD of Georgia. Mr. Speaker, this is another measure seeking enactment in the name of the farmer. These bills could be more appropriately named by the farmers after they have been tried out on the farmers. This bill has at least a semblance of temporary relief for the farmer, and I favor this feature of the measure, knowing full well that no real lasting relief is afforded and that the bill has many very objectionable features. At best this bill would only secure for the distressed farmer-debtor additional time in which to pay, provided the farmer could raise enough money to pay lawyer fees and court costs. Many farmers and other distressed debtors can not get up enough money to pay a lawyer to handle this matter for them.

I am begging both Congress and the legislature of my State to enact laws giving the farmers and others extensions of their debts as an automatic matter of law without the payment of any attorney's fees or court cost. Then again, we must not forget that real relief can not come from the extension of credit alone but must come from the reduction of the principal and interest due by those who owe and from the placing of the buying power of the dollar on a parity with the buying power of cotton, tobacco, and other products of the farm. The purchasing power of the dollar—the dollar of the banker, farmer, and everybody else—is too high as compared with the purchasing power of what the farmer has to sell. The market value of the dollar must come down or the market value of farm products must go up before the farmer will be able to get any effective permanent relief. To my mind, this can only be brought about by the monetization of farm lands and products so as to reduce the farmers' debts at least half and extend the balance due for a long term of years without interest—all in connection with a contract system of controlling production, marketing, and prices, with proper tax-relief legislation.

No permanent relief can come until Congress quits issuing Government bonds backed up only by the Government's promise to pay, paying interest on these bonds, letting the big banking interest issue tax-free and interest-free money on these bonds and control, as suits the big interest, the inflation, deflation, issuance, and circulation of all our money.

The Government ought not to sell bonds, pay interest on them and thus pay the international bankers to strangle unto death the monetary system of our Nation. As I see it Congress should not authorize the issuance of interest-bearing bonds but, when necessary, issue Government, interest free, notes or money. This would save to the taxpayers millions and billions of money now unnecessarily paid out as interest, and actually reduce the public debt the amount of the annual interest thereon. This is the fundamental trouble with our Nation. Bills may come and bills may go rendering slight or temporary relief but our economic ills will never be permanently cured, while this cancerous monetary growth remains undisturbed.

Again referring to the provision of the pending bill which enables the farmer and others to get extensions of their debts by going into court, paying cost and hiring counsel, let me say that I very much regret that this bill was brought up in the House in such a way as to prevent its amendment; that I hope it will be amended later—if it becomes law—so that this slight relief will go to the farmers without the payment of court cost and attorney's fees. And I here and now promise the farmers living in and near my district that if this bill passes without this amendment I will, upon request, represent any and all distressed farmer debtors to the best of my ability and without the payment of any attorney fees whatever. Let them call on me, and I will be truly glad to do my best for them without charge.

This is no time to exploit our people. It is no time to make attorneys fees, advertising fees, and other charges out of the distress of our people. It is time to help our farmers and all distressed debtors just as they would aid us, without charge, if we were stricken ill at their homes. I regret that this bill can not be amended in the House so that bona fide attempts may be made to perfect the portions that are worth saving and to strike out its dangerous provisions.

Mr. GUYER. Mr. Speaker, the home is the basis of American civilization. It is the strongest link in its chain of destiny. Without it we would have progressed little beyond the culture of the aboriginal races we supplanted. It constitutes the object of all our best endeavors and will be the last and best product of the triumph of public virtue, and even of the tragedy of civic ruin, if that be our fate. First and last, it is the characteristic American institution, peculiar to this country, where womanhood is revered and respected, where her virtues have their finest field of devotion and the noblest opportunity for development. Whatever promotes the sanctity and security of the home strengthens her sovereignty in the circle of the family. No nation ever rises higher than its womanhood. No womanhood ever rose higher than Anglo-Saxon-Celtic womanhood. The American home is the American woman's throne and the Nation's citadel.

At the base of American devotion to the home is the Teutonic love of the soil, the thirst for land; for, whether English, German, or Scandinavian, we are, as a Nation, predominantly and fundamentally Teutonic in origin, however mixed with Celtic blood. This American home at this time as at no other period in our history is imperiled. It is assailed on many fronts. Even its physical existence is menaced. By reason of unprecedented calamities and unparalleled misfortunes the farm home in particular is threatened, and this farm home is the very foundation of our civic structure.

Several economic conditions menace the farmer and the farm home. First, low prices of farm products; secondly, high taxes; thirdly, the mortgage, interest, and other debt problems; and, last, depreciation of foreign currencies which makes ineffective present tariff rates, thus militating against the farmer the same as it does against industry involved in manufacture.

I do not here wish to discuss the price problem, which has made it impossible for the farmer to realize the cost of production, except to state that the House, to meet a great emergency, has passed the allotment-plan measure with the purpose of raising the price of farm products to give the farmer at least a small profit on his crops and that we are endeavoring to reduce the cost of Government and so reduce to a degree the burden of taxes.

I do, however, want to discuss briefly the mortgage and debt problem. By reason of the low prices of farm products the farmer has been caught in the jaws of this depression and is unable to meet payments of interest and taxes, to say nothing of the principal of his mortgaged indebtedness. Even if he were not in debt, which can be said of but few farmers, he would still have a very difficult task to meet current expenses in the operation of his farm. The farmer, like most other business men, reached out in prosperous times, incurring debts which in the usual course of ordinary business conditions he could without difficulty have met when due. But added to adverse business conditions were the ever-increasing tax burdens. The farmer with a mortgage on his farm finds himself utterly unable to meet payments of either interest or principal and delinquent in his taxes, and consequently facing financial ruin and the loss of the farm home which has grown to be a part of his very life and existence. Is it any wonder that he is desperate in this predicament, faced as he is with bankruptcy and the loss of all that he gained in long years of toil from early morning until late at night?

Every Member of Congress from the agricultural districts has been searching for months for a solution that will relieve this critical situation, so that the hard-working, industrious farmer may have a breathing spell during this storm of adversity. Congress has wisely come to the rescue of business, and with its strong arm has buttressed the foundations of our commercial life. This, while indirectly aiding the farmer to a degree, has been of course wholly inadequate to meet his dire need.

In this extremity Members of Congress have worked out this amendment to our bankruptcy law, hoping to rescue the farmer from his desperate condition. While it has been hastily formed and passed under suspension of the rules, it is confidently hoped that after consideration by the other branch of Congress its faults or weaknesses will be eliminated, so that creditor and debtor may mutually work out their problems for the benefit of both. In short, it is devoutly hoped that this measure will provide a moratorium for the farmer until he enjoys more prosperous times.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. SUTPHIN, on account of illness.

To Mr. STEWART, indefinitely, on account of the death of Mrs. Stewart.

FRANKLIN D. ROOSEVELT

Mr. LUDLOW. Mr. Speaker, I ask unanimous consent to address the House for three minutes.

The SPEAKER. Is there objection?

There was no objection.

Mr. LUDLOW. Mr. Speaker, on January 30, 1882, there was born in this country a baby boy who was destined to write his name high on the tablets of history and to become a leader of men in most troublesome times. When he grew to effulgent manhood all nations in the circle of civilization came to know him and to appreciate his worth, and to-day this man is the hope of the world.

Like Washington and Jefferson, he was born to the purple, but like Lincoln he is singularly blessed with the common touch.

A patrician by birth, he possesses in marked degree that love of humanity on which alone is founded true nobility of character.

Thirty-three days hence, standing yonder in front of this Capitol where Lincoln stood, this man will be inaugurated President of the United States. He will take his office at the climax of a depression whose devastating effects are visible everywhere. As he crosses the threshold of the Presidency, he will envision a picture of industrial and agricultural stagnation and unemployment, with attendant hunger and want—a brood of national ills that will test the stoutness of his heart and the strength of his soul.

With humility that befits a sincere patriot who has been called to exalted service, chastened by tremendous responsibility, he will assume a task of economic reconstruction even greater than Lincoln faced 68 years ago when the immortal commoner pledged himself humbly in the sight of his God, "with malice toward none and charity toward all," to bind the Nation's wounds and to rescue the social order from the economic disorganization caused by four frightful years of civil war.

When our chosen servant takes the oath of office the prayers and heart throbs of 120,000,000 people will bear mute testimony to a sorely stricken Nation's trust and confidence, and on this anniversary of his natal day, while he makes ready to shoulder the staggering load the faith of his countrymen has placed upon him, let us all join in wishing good luck and Godspeed to the next president of the United States, Franklin D. Roosevelt, who is 51 years old to-day. [Applause.]

ELECTION OF PRESIDENT AND VICE PRESIDENT, ETC.

The SPEAKER laid before the House a communication from the Governor of Idaho, C. Ben Ross, announcing that the Legislature of the State of Idaho had ratified the proposed amendment to the Constitution of the United States relating to the terms of President and Vice President and Members of Congress and fixing the time of the assembling of the Congress.

RELIEF OF AGRICULTURE

Mr. GLOVER. Mr. Speaker, I ask unanimous consent to extend my own remarks.

The SPEAKER. Is there objection?

There was no objection.

Mr. GLOVER. Mr. Speaker, ladies and gentlemen of the House, everyone who has given the subject careful consideration, knows that no Government can succeed that will suffer agriculture to be depressed as it is now in the United States, and we should give consideration to this subject first of all and correctly solve it.

I do not believe that all the trouble with agriculture can be cured by legislation, but it can be helped, and it is my purpose in this address to give you my idea of how it can be helped.

If Congress had given consideration to the farmers' problems first, it would have solved the other business problems of the business world. If our agricultural crops could be raised to a pre-war level, it would start the wheels of industry, the railroads would have plenty to do, it would give work to the 12,000,000 men now out of work, it would enable everyone to pay debts and the banks would have plenty of money without borrowing as many are doing now, merchants could again do business in a normal way, and confidence would be restored.

You will naturally ask yourself this question, What caused all this depression in prices? Next you will ask yourself, Is there any remedy, and if so, what is it? I shall try as best I can to answer these two questions, taking them in their order, and the first one is, What caused all this depression in prices? Some argue that it is overproduction. Let us reason that out and see if it is really overproduction or underconsumption. We have recently had, I think, a clear demonstration of the fact by an experience of the Red Cross. The Committee on Agriculture, of which I have the honor to be a member, prepared and passed a bill through this Congress giving 500,000 bales of cotton, which had been taken over by the Government in trying to stabilize the price of cotton, to the Red Cross to have it made into cloth or exchanged for clothing to give to those who were in need, and which had been brought on them by no fault of their own. It was soon distributed to those in dire need and had only partially relieved them, or a part of them, and then another bill was introduced by this committee to give the Red Cross 350,000 bales additional. In the hearings on this last bill Mr. John Barton Payne, who is at the head of the Red Cross, said it would probably take 2,000,000 bales to relieve all persons in dire need in the United States now. At that rate, if the needs of our people for clothing had been met for the last five years, it would take our 10,000,000-bale surplus off our hands. The same argument is true in the case of any of our agricultural crops. Then the real cause, if this be true, and it is true, is underconsumption and not overproduction.

Underconsumption is brought about by having no medium of exchange, as I will discuss further on in my address. If those in need now had the money with which to buy, the surplus in our food products would soon be reduced to a normal supply in this country.

There are some things that we must produce more of than what is needed for our own consumption, such as cotton, wheat, rice, and other crops in order that the world market may be supplied. And, we must have a world market for them. In my opinion the things that have brought on this condition that agriculture finds itself in is the Smoot-Hawley tariff bill, which has built a wall around the United States so that other nations can not get in here to trade with us. As soon as this legislation was passed by Congress, and I am glad to say I voted against it and fought it, the other nations immediately passed retaliatory legislation against us and we now have our foreign trade, which we once had, going to other countries.

This barrier must be removed and we must establish reciprocal trade relations with them by tearing down this tariff wall and gain back their markets for our surplus crops.

Another cause of the present depressed condition of agriculture and all business as to that matter is the sale in this country of practically worthless foreign securities. It is estimated that between thirty and forty billion dollars of this paper of foreign countries has been sold in this country, and the country drained of that much of its medium of exchange, and this helped to start a money panic which is now on. At least 75 per cent of the money of the United States is now securely hidden away in banks and lock boxes; and so far as the good it is doing, it might as well never have been coined or issued. Confidence must be restored, and nothing can bring it about more quickly than the restoration of agriculture to its normal conditions.

Another thing that is hurting agriculture is the fact that about four-fifths of the nations of the world have gone off the gold standard of money and are now on a silver standard, and their money, measured by our gold standard, is only worth about 25 cents on the dollar.

Let us see how it affects agriculture. Let us take China and India as an example. We are on a single gold standard, and they are on a silver standard. They have each in the

past years been our best customers in buying our surplus cotton. When they come here now to buy our cotton, they pay in their money about four times what our farmer gets when he sells it under our gold standard. Then if cotton is selling under the gold standard for 6 cents per pound, the buyer from India or China pays 24 cents per pound.

As a result of this condition, these and other countries have been forced to go to growing the short-lint cotton, which is the only kind they can grow; and they buy just enough of our cotton to mix with their short-lint cotton so that it will make clothing for their people. Prior to the last war they only grew a little over 6,000,000 bales of cotton, and now they are growing twelve and a half million bales per year, and that is the only reason you ever have a surplus of cotton.

If we had a bimetallic standard of money, as we should have, we would have no surplus of cotton in two years, because they would quit raising this short-lint cotton and buy our cotton. The same argument is true with other agricultural commodities.

We would not have to change our gold standard at all; just go back to the money of our Constitution, which is gold and silver.

Under a single standard of money it is easy to concentrate wealth as it is now concentrated, and it is the ruin of our Nation to-day.

My answer to the first question which is, What caused all this depression in prices is:

First. It is not overproduction. It is underconsumption.

Second. It was partly caused by draining the country of money by purchase of foreign securities.

Third. It was partly caused by the tariff bill.

Fourth. It was partly caused by the single gold standard.

Fifth. It is partly caused by concentration of wealth and cornering and hiding away money.

The second question was, Is there any remedy; and if so, what is it?

My answer is, Yes; there is a sure remedy and that is to reverse our action and correct the laws and causes that brought it on.

Agriculture would be helped more by providing a way to extend mortgage loans, for a long period of time, at a low rate of interest, than by any one act that Congress could pass. I have a bill pending before the Ways and Means Committee that will relieve this condition if I could get it reported out and passed. I have twice asked for a hearing on this bill, and I hope it or some bill of like kind will be passed.

My bill provides for the carrying of these loans for 10 years at a rate of interest not exceeding 3 per cent. We must save our farm lands and keep them in the hands of farmers who know how to farm them.

THE SHORTER WORKDAY

Mr. MEAD. Mr. Speaker, I ask unanimous consent to extend my remarks upon the shorter workday.

The SPEAKER. Is there objection?

There was no objection.

Mr. MEAD. Mr. Speaker, with our country in the midst of an unprecedented economic crisis, or as Justices Brandeis and Stone declared in a recent opinion "an emergency more serious than war," our motives must be prompted by a true spirit of patriotic devotion and guided by the light of reason and experience, in order that we may contribute in a large way to the future well-being of our great country.

These are truly times that try men's souls and require the same courage and leadership as those earlier days when Washington and his followers, in the midst of their dark and disheartening period, laid the foundations of our present self-governing institutions. It is the verdict of the most conservative and enlightened opinion of to-day that our present deplorable conditions presage the end of one economic and political era and the beginning of another. Old panaceas, remedies, and measures are obsolete and ineffective in this day. They are gone and belong to a day that is past. Our present remedies must be sound, and our future policies must be forward looking and constructive. Organized labor must be self-reliant, self-confident in its service to our country and our people in this the time of their great need.

Before we suggest remedies we must of necessity review the past which brought about our present calamity. Following the World War an industrial and financial "breakdown" brought on a depression which continued through 1920 until the end of 1922. At that time a "return to normalcy" was the cry and slogan of our economic and political leadership, with wage deflation and a general reduction in costs as the methods whereby trade and industry were to be stimulated and prosperity restored to a stricken country. But this policy proved to be unsound and fallacious and collapsed because of its own basic errors.

A new policy was then inaugurated by a group of public officials and leading industrialists, who held that to return to pre-war wages and standards of living as well as volume of business was both unthinkable and impossible. To them normalcy was a higher and better standard than the standard of 1913. They advocated the increased use of the machines to extend mass production, and to reduce labor costs and other costs of production, the elimination of waste and the standardization of output. It was pointed out that under these new conditions wage and salary rates could be increased while labor and other costs, including prices to consumers, could be reduced, and that a generous margin of profit would accrue to business.

These were considered revolutionary suggestions, but their application resulted in a period of an unprecedented prosperity. This new enlightened and far-seeing policy was accepted by industrial and financial leaders as well as by our labor organizations, and all went well with the country from 1923 until the collapse of the so-called "New Era," in 1929.

This new industrial order outrivaled the eighteenth century industrial revolution in Great Britain when steam power was for the first time applied and the foundation of our present factory system was laid. During this period from 1923 to 1929 improved machinery as well as new processes in our mills, factories, and mines increased to a very large degree the productivity of our workers.

These new American policies and practices astounded other countries, who were quick to send special investigators, students, and even official commissions here to study and to observe our changed systems.

If the sound principles and theories pronounced by the conference of 1923 had been adhered to, the gains of capital would have continued and at the same time the welfare of the masses would have reached to record heights; but the selfish appetite for immediate and unreasonable profits threw the machine out of balance and blasted the hopes of those who believed in the permanency of the new industrial revolution. Failure to stabilize industry, forgetting the need of proper planning, and without any thought of coordinating the activity of all industries were mistakes which doomed the new program. Prices were by no means reduced to the extent to which they might have been. Wages and salaries were not increased in proportion to lower costs and certainly not in keeping with the increased productivity of our workers; and, above all, the hours of service were not shortened to offset reduced employment resulting from mechanical displacements; and, finally, too large a share of output was reserved for profits, thereby diminishing the mass purchasing and consuming power so necessary for a continued and successful operation of the economic machine we were building.

A tremendous crop of share corporation, investment trust, holding companies, and other financial set-ups, all concerned with immediate profits, blossomed forth to condemn the new order to failure even before it got a fair start.

Permanent prosperity under existing conditions was impossible, and we were doomed to disaster by the short-sighted policy of those financially responsible for the control and administration of industry. They refused to apply the principles of the program. In the fall of 1927 disturbing elements began to appear which, in the judgment of far-

sighted leaders, presaged the approaching disaster. Large numbers of our workers were unemployed during the winter of 1927–28, and acute conditions were found in many industrial and commercial centers. The situation was recognized in the United States Senate where a resolution was adopted to investigate this alarming condition.

During that winter it was estimated that 4,000,000 were without gainful employment. Pay rolls were declining, profits were diminishing, and technological unemployment was increasing. The diminishing consuming power of the masses was proportionately reflected in decreasing industrial and commercial activities. The diversion of too large a share of the profits of this new industrial revolution into corporation income instead of increasing consumer demand by the payment of higher wages and salaries doomed the program and destroyed the prosperity we were told should be permanent. Industry continued to slow down throughout the spring and summer of 1929 in proportion to decreased employment opportunities and to diminishing consumer purchasing power, with the result that highly capitalized security values could no longer be maintained and in October of 1929 the world was rocked by the most tremendous stock-market collapse of all times. Following the stock-market crash there came an avalanche of general deflation which passed beyond the control of our financial leadership and now threatens the very existence of our political institutions as well as our economic system. While it was proper to deflate fictitious security and real-estate values, it was a mistake to deflate the earnings of our workers, because it only resulted in a diminishing demand for goods. Unemployment was increased, and the very serious situation that exists to-day developed. Had the avowed principles of the program of 1923 been carried out, if a fair share of the income of that "Golden Age" had gone to wage and salary workers, if a reduction had been made in the work period in direct proportion to displacements made by the machine, if our financial leadership had not been bent on securing immense and disproportionate profits, humanity and industry would have continued to enjoy the new program with its alluring future.

The situation to-day is most serious and only governmental action can rescue the country. So far we have expanded the credit structure of the Nation, lent aid to the railroads and banks, and appropriated for the relief of destitution. All of these measures have proved beneficial to a limited degree, but they have not increased consumer demand. They failed to lessen the ranks of the unemployed. Therefore, the effects of these measures have been but palliative and conserving. We have simonized the surface. While it is true the Congress of the United States has clothed the President with tremendous power and authorized the Reconstruction Finance Corporation to make loans that would actually stem the progress of the depression, they have been slow to act, and in the meantime we are informed that the volume of unemployed will reach its maximum during the coming winter. Human suffering will increase, and unrest bordering on desperation will continue a national menace. A more liberal policy must be adopted by the Federal Government if we are to mitigate the indescribable suffering of millions of our fellow men. The Reconstruction Finance Corporation has assumed a "hard-boiled" attitude with regard to loans to the States for the relief of destitution as well as with regard to the approval of projects and undertakings which would create employment opportunities for large numbers of our people.

Unless the Reconstruction Finance Corporation expedites and accelerates its activities and is guided by the intention and direction of Congress, a period of want and misery of unprecedented proportions is approaching to grip the Nation. Recognizing the unemployment resulting from mechanical displacements, labor-saving processes, and modern system, it is the duty of the Government not only to set an example for others to follow by diminishing the work period of its own employees, but by requiring the adoption of a 6-hour day and a 5-day week on all contracts for public works as well as on all enterprises of a public or private character, authorized by the Reconstruction Finance Corporation and in all fields where Federal authority has the right of authority, a 6-hour day must be mandatory by act of Congress. This was accomplished during the administration of the late lamented Woodrow Wilson when the work schedules on all railroads were reduced from 10 hours to 8, and a further reduction should be approved now from 8 to 6 hours per day.

This policy will not only extend the field of employment but will enable industry to absorb those technologically displaced in recent years. A real 5-day week with fair wages is the only safe basis on which to build for the future. A shorter period with adequate returns for service rendered is both socially and economically sound. It will result in more general employment for all our wage earners. It will increase the efficiency of those on the job and it will increase the leisure of our workers, enabling them to enjoy more of the cultural, spiritual, and family life than was heretofore their privilege.

Adding to the leisure time of our people will increase their demands, accelerate purchasing power, and stimulate the production of certain goods. The shorter workday and the shorter work week make for a constantly growing, higher, and better standard of productivity, health, longevity, morals, and citizenship. During the past century both the workday and the work week have been steadily reduced. The "sunup to sundown" or from "daylight to darkness" work period is over with. The 12-hour day, the 10-hour day, the 7-day week are memories of the past. The Saturday half-holiday, the 5-day week, the 8-hour day—yes, even the 6-hour day—are recent attainments credited to the labor movement of America. Labor now sets itself for a new goal, the universal 5-day week, and on the railroads, where men are paid by the mile, the 6-hour day instead of the 8-hour schedule now in operation, is the object to be achieved, and so the slogan of labor to-day is the "5-day week, the 6-hour day."

In this campaign we expect the same opposition that opposed the shorter workday in the past, for there are those who will not learn even from the terrible human sufferings of the depression. The increasing number of the unemployed during the past several years constitutes the most convincing argument in favor of reducing the work period. It is a forceful appeal for the adoption of the 5-day week and the 6-hour day. We will control the machine or the machine will control us.

OPPOSITION TO INCREASED TARIFF TO OFFSET DEPRECIATED FOREIGN CURRENCY

Mr. McGUGIN. Mr. Speaker, I ask unanimous consent to extend my own remarks.

The SPEAKER. Is there objection?

There was no objection.

Mr. McGUGIN. Mr. Speaker, under leave to extend my remarks, I insert the following, which is a statement I placed before the Ways and Means Committee, in opposition to increased tariff rates:

Gentlemen of the committee, your committee is now considering a proposal automatically to increase tariffs in keeping with the depreciation of foreign currencies. Since the enactment of the last tariff bill the British pound has depreciated from $4.86 to $3.30. This is a depreciation of slightly over 32 per cent. If the Congress should accept this proposal automatically to increase tariff rates in proportion to the depreciation of foreign currencies, it would, therefore, mean that the tariff rates would be increased slightly over 32 per cent on every British product imported into the United States. This legislation would mean an increase in the tariff on every commodity of each and every country imported into this country equal to the percentage of depreciation of the particular country's currency since the tariff act of 1930.

Depreciated foreign currencies are causing the United States and the world much economic trouble. Depreciated foreign currencies are either forcing all United States industry—agricultural, mining, and manufacturing—out of the world market or forcing it to take a terrific loss when its products are sold abroad for depreciated currencies, which when returned to the United States is exchanged for American money at a discount of 30 to 40 per cent under the basis of exchange of three years ago. As a general proposition, the manufacturing industry of the United States is simply withdrawing from the world market. This means that the American manufacturing industry is gradually restricting its production and thereby casting more men into unemployment.

The American agricultural industry can not restrict its production. As a result, it is simply going on, producing its products and shipping them abroad. It sells them for depreciated currencies and takes the loss of 30 to 40 per cent on exchange.

In addition to losing our foreign markets or taking a terrific loss on our exports, depreciated currencies are unquestionably giving an advantage to foreign products in the American market over the position of these foreign products at the time of the enactment of the last tariff law.

This proposed legislation can cure only one of the evils growing out of depreciated foreign currencies from which America is suffering. It can save for American industry a monopoly on the American market. That will not give us any reasonable measure of relief. While it will save the American market for American industry, yet, day by day, the American market will vanish. The greatest home market for the American manufacturing industry is agriculture. As long as agriculture must continue to suffer from depreciated foreign currencies, just that long American agriculture will become more and more unable to buy the products of the American manufacturing industry.

Any movement to meet the question of depreciated foreign currencies must meet it in its entirety. It must be such a movement as will permit American industry, agricultural, mining, and manufacturing, to enter the world markets on the old basis with foreign competition. The evil of depreciated foreign currencies presents a money problem. If this problem is to be met by any American legislation, it must be met by monetary legislation. Tariff legislation can not possibly meet it. If I were a doctor, I should try to have more than one kind of pills in my kit for the treatment of various diseases. I should at least have more than one color of pills. While I am a protectionist and believe in protecting the American market for American products against the normal condition of lower wage standards and cheaper living standards abroad, yet I do not believe in trying to meet every economic evil with more tariff.

Tariff can only be a treatment for economic ills growing out of normal foreign competition. Foreign competition is nothing more than merely a secondary cause for the loss of American markets for manufactured products. The principal cause is the economic discrimination which has been going on in this country since the war against agriculture and in favor of highly organized, centralized, and monopolized industry and finance. This has gone on until the 27,000,000 farm people have become impoverished and can no longer buy the products of industry any more than can any other peasantry. This discrimination has virtually reduced the once proud and free American farmer to the economic level of a peasant. In the first instance, the farmer suffered from this discrimination. Now industry and finance are on their knees. The manufacturing industry can not deliver itself from its present dilemma by coming to Congress and obtaining a further right and privilege to pick the pockets of American agriculture. Such a privilege has no value when the pockets of American agriculture are empty.

The principal offender in this discrimination against American agriculture is the steel industry. Following the steel industry and in conjunction with the steel industry, manufacturing industries making products from steel, which are used on the American farm, have done much to aid in bringing about this bankruptcy of the American farmer and destruction of the American market for American industry. Transportation has played its part in this discrimination against agriculture, yet transportation can truthfully say that the steel monopoly is largely responsible for the situation of transportation taking this unfair advantage of agriculture.

The statistics of the Labor Department pertaining to commodity prices prove conclusively the statements which I have here made that the manufacturing industry, and particularly the steel industry, has set up a monopolistic discrimination against agriculture. The Bureau of Labor Statistics, Department of Labor, on January 27, 1933, supplied me with the following wholesale price indices for the years of 1930 and 1932, based upon the 1926 commodities price index of 100:

Commodity	1926 commodities price index	1930	1932	Per cent reduction from 1926
Steel	100.0	87.3	80.9	19.1
Nails and wire	100.0	79.7	74.5	25.5
Steel rails	100.0	100.0	98.6	1.4
Agricultural implements	100.0	95.0	84.9	15.1
Lumber	100.0	85.8	58.5	41.5
All farm products	100.0	88.3	48.2	51.8
Grains	100.0	78.3	39.4	60.6
Livestock and poultry	100.0	89.2	48.2	51.8
Other farm products	100.0	91.1	51.4	48.6
Cotton	100.0	77.1	36.6	63.4
Wheat	100.0	66.0	33.8	66.2

These statistics disclose the following percentage reductions for the year of 1932 compared to the year 1926:

	Per cent
Steel	19.1
Nails and wire	25.5
Steel rails	1.4
Agricultural implements	15.1
Lumber	41.5
All farm products	51.8
Grains	60.6
Livestock and poultry	51.8
Other farm products	48.6
Cotton	63.4
Wheat	66.2

These figures show that everything the farmer buys to carry on his business has taken only a minor part of the reduction since 1926 that he has suffered in the reduction in price for the commodities which he sells. These figures disclose that the two principal commodities which are produced by the American farmer, cotton and wheat, have taken reductions of 63.4 per cent and 66.2 per cent, respectively. We hear it said that the farmer should diversify and shift from cotton and wheat to some other product. These figures disclose that there is no other product to which he can shift for which he will receive a price which is not reduced far more than the prices of the things he buys have been reduced. These figures show that all farm products as a whole have taken a reduction of 51.8 per cent, while the principal things which the farmer buys have taken the following reductions:

	Per cent
Nails	25.5
Agricultural implements	15.1
Lumber	41.5

In addition to this, the farmer is still robbed by transportation and one of the reasons for this is that the steel rails which the railroads buy have depreciated only 1.4 per cent since 1926.

These figures do not tell half the story. This is because even in 1926 and before that time, the farmer was suffering from a tremendous discrimination in those things which he buys made from steel.

There can not be any restoration of the American market for the manufacturing industry until there is a parity between the price of the things which the farmer sells and the things which he buys. We should be able to bring about this parity in a civilized manner. We have failed to do it during the last 13 years. As harsh as this depression may be, it is gradually bringing about this parity. We have reached that point where there is going to be a parity and agricultural prices and manufacturing prices are going to come to a common level, else there will be more and more unemployment and there will never be a profitable condition for American industry. Depreciated currencies are presenting competition in the United States which is doing to the American steel monopoly what the American Government either could not or would not do. The steel monopoly is still doggedly holding on to its prices. As its business has vanished, it has laid more men out of work, and has continued to sit back and take the arrogant attitude, "This is our price, and sooner or later the people will have to pay it." The people will have to do nothing of the kind. In the first place, they can not do it and are not going to do it. In the second place, before they will do it, they will buy foreign steel.

While I believe in protection for honest American industry, yet I do not believe in protection for any American industry which has a monopolistic control on its market and can dominate prices. The steel industry is such an industry. If I had my way about it, I would give the steel industry about six months to get its prices down in keeping with other commodities or I would put steel and all products made from steel on the free list. The price of steel is forcing every American factory engaged in the business of making its products from steel to keep up an abnormal price. In this great machine age the price of every product, manufactured, mineral, or agricultural, must take into consideration the price paid for machinery used to make such a product. This applies to the farmer producing his products with farm machinery, the textile factory making its clothes, and the newspaper plant setting up its type with a linotype machine and printing its paper on a printing press. This abnormal price of steel is holding up a price structure for manufactured products which is making it impossible for those products to be purchased by the people who produce the raw products of the farm and the mine.

We are not coming out of this depression until the 27,000,000 farm people can buy the products of industry and pay transportation charges. They can not buy until there is a parity between the prices of the things which the farmer buys and the things which he sells. The price of farm products is below the 1913 level. Wheat and cotton are selling for approximately one-third the 1913 level. We shall probably be lucky if we can bring farm products up to the 1913 level and industrial prices down to the 1913 level. It would be preferred to bring farm prices up to the industrial level. If I thought this could be done by government, I would be most enthusiastic in my support of such a program. We must not and can not go out of the world markets with our farm products. As long as our two principal farm products are sold on the world market, I do not see how government can bring farm prices up to a point many times the world market. Therefore, I do not know how and do not believe that we can reach a parity of farm prices and industrial prices by bringing farm prices up to the level of manufactured products. I do know how we can reach a price level by bringing manufactured prices down toward the level of agricultural prices. As this is done, I think the farm prices will gradually come up. It may be that we can reach the 1913 level. I should like for us to reach the 1926 level, but my honest judgment tells me that reaching the 1926 level is a dream rather than a reality. The only way that it could possibly

be done would be by drastic monetary inflation and then being able to hold industrial prices at their present level, while agricultural prices come up. That probably can not be done.

While this industrial discrimination has been primarily against agriculture, yet, in the broader sense, this discriminaton has been against the raw products of both the mine and the farm. Oil, copper, and lead are suffering distressingly low prices and are at the same time being forced to pay exorbitant prices for pipe, tools, and operating machinery, all of which is made from steel. The steel industry is bleeding the impoverished oil, coal, lead, and copper industries as it is bleeding agriculture, only to a somewhat lesser degree. The automobile industry is likewise suffering staggering losses and is trying to hold up its production by constantly making better products at a lower price, yet it too is receiving no reasonable cooperation from the steel industry.

This bill is only an effort on the part of the Government arbitrarily to maintain the exorbitant prices of certain manufactured articles. If this bill were to be passed, it should exclude from its benefits any manufactured commodity which is selling at a price above 10 per cent below the 1913 level. It should particularly exclude steel and every manufactured article made from steel. Steel is to-day the pirate in American economic life. This is not only the statement of a western Congressman. It was the statement of the conservative Alexander Hamilton Institute in one of its regular reports issued in the spring of 1932. This report pointed out that during the last two years the price of steel had been pegged and that the price of steel had depreciated 13½ per cent since the peak of 1929, as compared with 31½ per cent depreciation for all other commodities. This report of the Alexander Hamilton Institute further pointed out that the depression of 1921 was broken by a reduction in the price of steel, and that this depression can not be broken until there is at least a 31 per cent decrease in the price of steel from the peak of 1929. If this statement of the institute were true last spring, a greater reduction is now required in the price of steel in order to break this depression.

While the crying need of the country is a reduction in the price of steel, what do we find? We find the president of the United States Steel Co. standing before the Ways and Means Committee of the House of Representatives seeking an increase in tariff, which would only be a governmental guaranty to the steel industry that it may arrogantly keep up its prices, free from any outside competition. Considering the welfare of the Government and the country, I think Mr. Farrell was before the wrong governmental institution when he was before the Ways and Means Committee of the House of Representatives seeking greater tariff protection. I can think of a more proper governmental tribunal before which he and his company might appear.

If the Congress accepts this bill and permits steel to come under its protection, then the Congress becomes a party to the steel conspiracy in restraint of trade, a conspiracy which is standing in the way of economic and social recovery in this country.

If this bill should carry the provision that no manufactured article should receive the benefits of the bill, the current price of which article should be more than a price 10 per cent below the 1913 price level for that commodity, the manufacturing industry would still have an advantage over agriculture. It must be remembered that the very purpose of this legislation is to try to make the American farmer, who is the principal consumer of these articles, pay an arbitrary price for them, which price is above the world level. The truth is, there is no way you can make the farmer pay it. He can not pay it. He must pay transportation charges on his products from the Middle West to the Atlantic coast, ocean transportation charges to Europe, and then sell his articles on an open market for depreciated currency. He simply can not take the proceeds from such a transaction and buy the products of industry, if they are going to be sold at an arbitrarily sustained price. He can no more do it than a man can take 50 cents and buy a dollar's worth of merchandise. Any effort to make the farmer do this only means further stagnation of American industry. This in turn means more unemployment. This bill will make more unemployment instead of less unemployment. This will leave American industry in a position where it will have but one market, the American market. The American farmer, its principal customer, will be wholly unable to buy the products of industry. The enactment of this bill means that by man-made law industry will have only one market, the American market, and that by economic law the American market will vanish more and more.

In pleading against this bill, I am pleading for justice for agriculture and for the true welfare of the manufacturing industry itself. He who follows a course which will make it possible for the American manufacturing industry to have a home market for its products is, after all, the best friend of the American manufacturing industry. A while ago I said that denying the benefits of this act to any manufactured commodity selling at a price which is above a price of 10 per cent below the 1913 level price would still be giving industry an advantage over agriculture. The statistics which I have obtained from the Labor Department bear out this statement.

On the basis of the 1926 commodities price index of 100, the 1932 prices of the following commodities are here compared with the 1913 level:

	Per cent
Steel	+3.8
Nails and wire	+8.4
Steel rails	+28.8
Farm implements	+12.0
Lumber	+4.5
All farm products	—23.3
Livestock	—25.2
Wheat	—29.8
Cotton	—36.4

These figures show that all farm products were selling in 1932 for a price which is 23.3 per cent below the 1913 price, with both prices based upon a 1926 index of 100. If the present price of steel, nails, and farm implements were 10 per cent below the 1913 price, based upon a 1926 index of 100, these articles would still have an advantage over agriculture of 13.3 per cent. Such a condition would make it possible for agriculture to buy some of these products. Under present conditions, with agricultural products 23.3 per cent under the 1913 level, based upon the 1926 price index of 100, it is utterly impossible for agriculture to buy these manufactured products while they have a present price ranging from 3.8 to 28.8 per cent above the 1913 price, based upon their 1926 index of 100.

Mr. McGUGIN. As an illustration of the way in which this legislation is going to be received in the great middle western agricultural section, I wish to cite a recent editorial from the Kansas City Star, and a letter which I received to-day from Mr. R. J. Laubengayer, of Salina, Kans., editor of the Salina Journal. It must be remembered that Salina is in the heart of the Wheat Belt.

[From the Kansas City Star, January 25, 1933]

SHALL WE STOP FOREIGN TRADE?

While there has been some dumping of goods in the United States from countries with depreciated currencies, the situation is apt to be greatly exaggerated by manufacturers who are anxious to shut out every vestige of foreign competition.

Great Britain went off the gold standard in September, 1931. In the next year the value of British exports to this country was 44 per cent lower than in the preceding year. (These are Department of Commerce figures.) The value of imports from France, which remained on gold, declined 40 per cent.

Apparently, France was able to dump more from a gold-standard basis than England was able to dump from an off-gold basis.

Japan made a slightly better showing in exports to the United States after she went off gold. In 11 months her exports to this country declined 35 per cent, while the value of all imports to the United States declined 37 per cent. But the Japanese advantage was exceedingly small, although the yen fell in value almost 60 per cent.

Representative HAROLD McGUGIN of Kansas was right in telling his Republican colleagues in the House that the question of depreciated currencies abroad can not be met by higher tariffs in the United States. This country has an immense stake in world recovery. If it tries to stop every trickle of foreign trade it impedes the recovery of our customers abroad and prevents them from buying wheat, cotton, and other American products that require an export market.

One reason why the world is in its present plight is that every country has tried to protect itself at the expense of its neighbors; and every country eventually has hurt itself by doing so because the policy has resulted in cutting off the markets for its surplus products.

SALINA JOURNAL,
Salina, Kans., January 27, 1933.

Congressman HAROLD McGUGIN,
Washington, D. C.

DEAR SIR: I certainly was impressed by the sound position you took on the depreciated currency bill. Your warning to the Republican Party that if they tried to make a tariff question out of a money question they are doomed to failure is not an exaggeration. When you think of the advantages that the special interests have had and compare them with what agriculture has to contend with it makes you boil to think the Republican group would be so damn foolish as to want to involve the party still more along protection lines.

Up until the time agriculture is put on a parity with protected business it is extremly unfair to think of any more tinkering with the tariff, unless it be lowered.

I want to congratulate you upon your courageous stand. I also agree with you that if foreign currency does not advance we may as well recognize the fact that we will have to deflate ours. The moss-back East just does not seem to give a darn what becomes of the Middle West. The northwestern United States, with the advantage the Panama Canal has given it, is in league with the Allegheny East in wanting to improve its condition still further at the expense of the agriculture and central West.

With kindest regards.

Yours very truly,

R. J. LAUBENGAYER,
Publisher The Salina Journal.

FEDERAL GASOLINE TAX

Mr. FULMER. Mr. Speaker, I ask unanimous consent to extend my own remarks.

The SPEAKER. Is there objection?

There was no objection.

Mr. FULMER. Mr. Speaker, on account of the very unfair practice in considering important pieces of legislation under the suspension of rules, the average Member has no opportunity to express himself for or against legislation so considered. For instance, there is only 40 minutes for debate, to be equally divided among those for and against the bill, which makes it rather hard for Members who would like to express themselves, because they are unable to obtain the necessary time.

I voted against the taxation of gasoline when this item was up for consideration in connection with the revenue bill during the last Congress, and I am voting against this bill to-day, which proposes to extend the collecting of these taxes by the Federal Government for another year.

I am opposed to the taxing of gasoline by the Federal Government for several reasons: First, I think there ought to be something left for the States to tax; and, second, most of the States have already taxed gasoline to the extent that a great many people are unable to purchase the same, especially farmers. My State, South Carolina, has a tax on gasoline amounting to 6 cents per gallon. Most of this tax is being used to pay off a very heavy bonded indebtedness, bonds having been issued to build roads in the State. Even at this time, on account of the extra high price of gasoline in the first instance, to say nothing about the 6-cent tax to be added thereon, on account of the serious economic situation existing, especially in South Carolina, the State being largely an agricultural State, it may be possible that the sales of gasoline will be so diminished that even this extremely large amount of gasoline tax will not be sufficient to take care of the bonded indebtedness as planned.

During the debate on this bill something was said about a general sales tax. I voted against the sales tax during the last session of Congress, and I am strongly opposed to a Federal sales tax at this time. I am hoping that we will not be called upon to pass upon a sales tax bill. If we are, I want it understood that I expect to do everything possible to bring about its defeat. This is another tax that can well be left to the States, especially at this time, when most of the States are unable to raise revenue to provide for the proper functioning of the State government.

WAR DEPARTMENT APPROPRIATION BILL

Mr. GIBSON. Mr. Speaker, I ask unanimous consent to extend my own remarks.

The SPEAKER. Is there objection?

There was no objection.

Mr. GIBSON. Mr. Speaker, H. R. 14199, the War Department appropriation bill passed by the House of Representatives on January 24, 1933, contains on page 61, lines 1 to 9, the following proviso:

None of the funds appropriated in this act shall be used for the purpose of paying any commissioned officer, active or retired, for his salary in computing which any service has been counted other than active commissioned service under a Federal appointment and commissioned service in any of the military or naval forces of the United States, including the National Guard or the Organized Militia while in the service of the Government of the United States.

The effect of this proviso on graduates of the Military Academy is essentially as follows:

Present rank	Year graduated	Per annum reduction in compensation	Additional approximate percentage cut
Colonel	Prior to 1902	None.	
Lieutenant colonel	Prior to 1905	$211.08	3.1
Major	Prior to 1909	320.88	5.0
Do	Prior to 1912	1,132.56	17.8
Do	Prior to 1916	137.52	2.6
Captain	Prior to 1917	None.	

The effects of this provision on officers in the regular service with prior enlisted or National Guard service is very serious, amounting in some cases to over 30 per cent reduction in compensation.

The proviso will also reduce the pay of National Guard and reserve officers who are called into active service annually for training.

Appended hereto is a table covering the pay status of the different classes from 1900 to 1916, inclusive. This table has been worked out with such data as were at hand. There may be some minor corrections, but I think they are substantially correct.

Pay status of Military Academy classes as of July 1, 1933 (including allowances with dependents), under economy act and present allowances

Class	Present grade	Commutation service	Total service	Monthly pay and allowances		Monthly loss	Per cent
				Present	Taber amendment		
1916	Major	16	20	$434.72	$423.26	$11.46	2.6
1915	do	17	21	446.17	423.26	22.91	5.1
1914	do	18	22	446.17	434.72	11.45	2.6
1913	do	19	23	515.74	434.72	81.02	15.7
1912	do	20	24	529.10	434.72	94.38	17.8
1911	do	21	25	529.10	446.17	82.93	15.7
1910	do	22	26	529.10	446.17	82.93	15.7
1909	do	23	27	542.48	515.74	26.74	5.0
1908	Lieutenant colonel	24	28	542.48	529.10	13.38	2.5
1907	do	25	29	542.48	529.10	13.38	2.5
1906	do	26	30	560.07	529.10	30.97	5.3
1905	do	27	31	560.07	542.48	17.59	3.1
1904	do	28	32	560.07	542.48	17.59	3.1
1903	do	29	33	560.07	542.48	17.59	3.1
1902	do	30	34	560.07	560.07		
1901	Colonel	31	35	558.33	558.33		
1900	do	32	36	558.33	558.33		

It will be noted that the percentage of pay losses varies widely with the different classes. Can there be any justification for the imposition of a pay status that works such inequalities?

Mr. HOGG of West Virginia. Mr. Speaker, I ask unanimous consent to extend my own remarks.

The SPEAKER. Is there objection?

There was no objection.

BANKRUPTCY BILL

Mr. HOGG of West Virginia. Mr. Speaker, personally, I am willing to accept the conclusion of the Judiciary Committee with reference to the constitutionality of this measure, although prior to an examination of the report of the chairman and the opinion of the Solicitor General of the United States I entertained grave doubt as to the constitutionality of this proposal. An examination of the authorities obtained from those sources, supplemented by an independent study of the measure since its introduction, has served to overcome some previous doubt. Yet I am not thoroughly convinced as to its validity.

Further, I am receiving communications from people in whose judgment I have great confidence expressing doubt as to the legality of this bill. It is not my intention to burden the membership with the recital of a long list of decisions supporting well-recognized principles. However, I do wish to call attention to the fact that the decisions in both this country and England defining "bankruptcy," as used in the Constitution of the United States, say that these proceedings are for a twofold purpose. First, the liberation of the debtor; and, second, the distribution of his property. Our own courts passing upon this subject have consistently held that insolvency is not a necessary ingredient of bankruptcy. As a matter of fact, under our own bankruptcy act there need not be even an adjudication in order to confer jurisdiction.

REAL PURPOSE OF BILL

The purpose of this bill is to bring relief to individuals and corporations along the same general lines.

Section 74 relates to individuals. Section 75 deals with corporations, including certain political subdivisions of the State. Section 76 deals with railroad corporations, the latter having been expressly excepted from the original bankruptcy act as well as from the subsequent amendments.

Section 74, dealing with individuals, very plainly provides that the petitioner referred to as a "debtor" may be given

"an extension of time" in which to pay his debts, and as to corporations, the bankruptcy court under certain conditions is given the right to alter the obligations of creditors, secured or unsecured.

Section 76 provides, in so far as it relates to railroads, the approval of plans of reorganization which in effect call upon the creditors to accept certain new obligations in lieu of the ones which they now hold. It is therefore apparent that in all of these instances, dealing with these various types of debtors, the underlying idea and plan are to afford to them additional time within which to pay their obligations.

It is quite apparent that in carrying into effect the provisions with reference to corporations, especially those engaged in transportation, the most complicated types of corporate organization and financing are involved. My sympathy is primarily involved in that portion of the bill extending aid to individuals all over the country threatened with loss of farms and loss of homes. These difficulties have reached shocking proportions and are of such serious nature as to warrant my support of this measure regardless of the complications involved in the sections dealing with corporations.

Incidentally, most of the communications which I have received with reference to this measure have dealt with the corporate sections. Complaint has been lodged on the ground of potential fraud that may be perpetrated in programs or reorganization. This may be true. We can only assume that courts will interpret this amendment the same as they are enjoined to enforce the existing act—upon equitable principles. The most serious question that arises in my mind is as to the ability of the courts to handle such an enormous amount of business that will evidently be thrown upon them. As to the amount, no one knows. That likewise is a question for future solution. We are not to lose sight that this measure is purely one of an emergency nature. Certainly, no one can feel that this country will remain in such depths as we now find ourselves, and for this reason we are justified in taking steps and adopting measures for recovery that might not be countenanced were we dealing with normal problems in normal times.

MINOR AMENDMENTS

I appreciate the care with which the committee has drafted this bill. At the same time there are some few details which I believe should be clarified. Under the bankruptcy act an order of reference is never made until after adjudication. Section 74 of this bill provides that before adjudication is made a debtor in an involuntary proceeding may file his petition seeking either a composition of an extension of time within which to pay his debts. It will be observed that this petition must be filed with the judge who in the event the petition complies with the act under paragraphs B and C after notice may appoint a receiver or custodian. Further, the judge calls the first meeting of the creditors. Paragraph G provides for the confirmation of the proposal of composition or extension. Then we find paragraph O providing for the payment to the referee of a minimum fee of $10 "upon the entry of order of confirmation." I specifically desire to call attention to the fact that the petition is filed with the judge, and paragraph O apparently places confirmation in his control. In the fact of this situation paragraph C provides for the payment of a confirmation fee to the referee. The bill is therefore indefinite as to when the case reaches the jurisdiction of the referee. It is quite apparent that the act contemplates action by the referee because provision is made for the appointment of one such referee in each county.

On pages 22 and 23 wrong numbers are assigned to the last two separate sections. They should be carried as separate paragraphs under section 75.

Reference is also made to page 29, dealing with railroad corporations. Provision is made for the appointment of six—

> Special referees who may also perform all the functions and exercise all the powers of referees in bankruptcy, who shall be appointed by the President of the United States. * * * Authority is herewith granted for the appointment of such special referees and such additional special referees as may be required.

This raises two questions: First, the provision is ambiguous as to the number; second, is this not an undue interference between two distinct branches of government? The general bankruptcy law makes provision for the appointment of referees by the respective judges of the district courts. This bill creates a special class of referees independent of the appointments made by judges of district courts, but at the same time clothed with all the powers and duties of the referees provided for in the original act. While I have not personally examined this question in the limited time available since the introduction of the measure, at the same time I feel the manner of these appointments merits some consideration.

Under the present act even before adjudication a person can file with the court an offer of composition. If it appears that a majority of the creditors have assented to this composition, the court can approve it in spite of objection from the minority. In this specific instance we have a full and complete exercise of jurisdiction by the bankruptcy court, even in the absence of adjudication. It would therefore seem, as provided in the present bill, that the court has jurisdiction to hear the petition or answer of the debtor without reference to adjudication. Further, the filing of a petition for an extension of time, by way of precedent, is perfectly proper even in the absence of insolvency.

As I have previously stated, the writers upon the subject as well as all the authorities say that the purpose of a bankruptcy proceeding is to liberate the debtor and also to distribute his property. On this fundamental principle, therefore, we are confronted with a more serious aspect as to the soundness of the present measure. When a debtor merely requests an extension of time, he fulfills neither of these requirements and seeks to obtain neither of these ends. In the absence of precedent in this country and in England, we would hesitate to say that an application or petition for a mere extension of time within which to pay could be considered within the realm of bankruptcy. On principle it could not be classed as bankruptcy, because it did not provide for a distribution of property.

The case of Canada So. R. Co. v. Gebhardt ((1883), 109 U. S. 527), referred to in the committee report by way of dictum from the Supreme Court of the United States, throws considerable light upon this subject. In that case the company had been incorporated under the laws of Canada for the purpose of building and operating a railroad between the Detroit and the Niagara Rivers. In 1871, as part of the program of financing, the company issued bonds totaling $8,703,000 secured by a mortgage on its property. In 1873, apparently unable to meet its obligations on these bonds, the company requested the holders to refund their interest coupons falling due on January 1, 1874, by converting them into new bonds falling due in 1877, and by so doing in effect extend the time of payment. This was assented to by some. In 1875 a bond issue of $2,044,000 was made upon security of a second mortgage. Subsequently the company again found itself unable to meet its obligations and submitted to the bondholders and the stockholders of "a scheme of arrangement" contemplating the issuance for $14,000,000 in bonds payable in 33 years with the interest guaranteed for 20 years by the New York Central and Hudson River Railroad Co. The 1871 bonds were to be exchanged dollar for dollar. The scheme was approved by 108,132 of the 150,000 outstanding shares of stock, by the holders of $7,332,000 of the $8,703,000 of the bonds of 1871; by $1,598,000 of the $2,029,000 of the outstanding second-mortgage bonds.

Upon the presentation of these facts the Canadian Parliament passed the "Canada Southern arrangement act of 1878," declaring the new bonds be a first charge on the property, and that the scheme be deemed to have been assented to by all the holders of the original first-mortgage bonds.

The plaintiff, who as an American citizen holding certain of the 1871 bonds and not assenting to the arrangement, brought suit in the United States against the company upon the past-due coupons and on certain unpaid extension bonds. The defendant pleaded the enactment of the Canada Southern arrangement act of 1878.

In reality the only point before the court was the availability of this act as a defense to the action in this country. The Supreme Court of the United States held that since the act was valid in Canada, under whose law the corporation was chartered and doing business, it should be recognized in this country under the principle of comity. However, by way of dictum, the court made some very pertinent observations of material importance on the constitutionality of the bill now under consideration. On page 532 of the opinion Mr. Chief Justice Waite observed that there was—

No constitutional provision in Canada against the passage of laws impairing the obligations of contracts, and the Parliament of Canada had, in 1878, the legislative authority over the corporation and the general subjects of bankruptcy and insolvency in that jurisdiction.

The court further says on page 535:

In the absence of statutory authority or some provision of the instrument which establishes the trust, nothing can be done by a majority, however large, which will bind a minority without their consent. Hence it seems to be eminently proper that where the legislative power exists some statutory power should be made for binding a minority in a reasonable way by the will of the majority; and unless, as is the case in the States of the United States, the passage of the laws impairing obligation of contracts is forbidden, we see no good reason why such provision may not be made in respect to existing as well as prospective obligations.

The nature of securities of this class are such that the right of the legislative supervision for the good of all, unless restrained by some constitutional provision, seems almost necessarily to form one of their ingredients; and when the insolvency is threatened and the interests of the public, as well as creditors, are embroiled by the financial embarrassments of the corporation, a reasonable "scheme of arrangement" may, in our opinion, as well be legalized as are original "composition in bankruptcy." In fact, such "arrangement acts" are a species of bankruptcy acts.

Nor do such Government regulations deprive a person of his property without due process of law. They simply require each individual to so conduct himself for the general good as not unnecessarily to injure another.

MEASURE ENTITLED TO LIBERAL CONSTRUCTION

Again without burdening the membership with the citation of authorities further than to refer to the recent edition of Cooley on Constitutional Limitations, I wish to call attention to a principle of constitutional interpretation. It has always been said that the courts in interpreting the Constitution will constantly bear in mind changed conditions. A shifting idea and comprehensiveness of commerce is a striking illustration. Little did the framers of the Constitution conceive that a century after its adoption Congress would proceed to use the commerce clause as a basis of jurisdiction for the enactment of such a measure as the Mann Act. The courts to-day in interpreting the laws of bankruptcy will take into consideration the changed economic conditions with a world-wide depression and its attendant chaos. They will take judicial notice of the unprecedented commercial failures and the purpose of the present measure to stop distressing and enforced liquidation.

Congress in dealing with the subject of bankruptcy has the inherent right to do any and all incidental things to completely carry into effect the purposes of the act and to seek the end contemplated in this constitutional provision. As has been pointed out in the report of the committee as well also as the opinion of the Solicitor General, the power of Congress in the field of bankruptcy legislation is almost unlimited and in this broad field can legislate in almost any manner with reference to people "who are unable to pay their debts." Certainly there is little difference between people who are unable to pay their debts and those who are unable to meet their obligations as they mature. The two classes are identical, and it seems to me that the description of the people to be benefited by the present amendment is such as to clearly embrace them within the provisions of the Constitution relating to "bankruptcies."

It might be asserted that relief could come from other sources. Some might advocate the expansion of credits. Others, inflation of the currency; remonetization of silver; increase in the tariff. All of these are earnestly advanced as a solution for the present economic ills, yet no one can guarantee that the adoption of any one of these policies will stop the disastrous course of liquidation. It is a matter of speculation and will require time to prove. We can not wait for the testing of theories. We must act affirmatively, and it is my opinion that the passage of this bill furnishes one of the speediest possible methods to stop the continued downward trend of economic conditions. It is a program worthy of trial and one which in no possibility could be attended by any pronounced danger.

For the purposes of comparing the present bill with similar English legislation we here set forth a portion of the English railway companies act, passed August 20, 1867, and found in volume 2, English Statutes, 1867, at page 1332.

ARRANGEMENTS

6. Where a company are unable to meet their engagements with their creditors the directors may prepare a scheme of arrangement between the company and their creditors (with or without provisions for settling and defining any rights of shareholders of the company as among themselves, and for raising, if necessary, additional share and loan capital, or either of them), and may file the same in the court of chancery in England or in Ireland, according to the situation of the principal office of the company, with a declaration in writing under the common seal of the company to the effect that the company are unable to meet their engagements with their creditors, and with an affidavit of the truth of such declaration made by the chairman of the board of directors and by the other directors, or the major part in number of them, to the best of their respective judgment and belief.

7. After the filing of the scheme, the court may, on the application of the company on summons or motion in a summary way, restrain any action against the company on such terms as the court thinks fit.

8. Notice of the filing of the scheme shall be published in the Gazette.

9. After such publication of notice no execution, attachment, or other process against the property of the company shall be available without leave of the court to be obtained on summons or motion in a summary way.

10. The scheme shall be deemed to be assented to by the holders of mortgages or bonds issued under the authority of the company's special acts when it is assented to in writing by three-fourths in value of the holders of such mortgages or bonds, and shall be deemed to be assented to by the holders of debenture stock of the company when it is assented to in writing by three-fourths in value of the holders of such stock.

11. Where any rent charge or other payment is charged on receipts of or is payable by the company in consideration of the purchase of the undertaking of another company, the scheme shall be deemed to be assented to by the holders of such rent charge or other payment when it is assented to in writing by three-fourths in value of such holders.

12. The scheme shall be deemed to be assented to by the guaranteed or preference shareholders of the company when it is assented to in writing as follows: If there is only one class of guaranteed or preference shareholders, then by three-fourths in value of that class, and if there are more classes of guaranteed or preference shareholders than one, then by three-fourths in value of each such class.

13. The scheme shall be deemed to be assented to by the ordinary shareholders of the company when it is assented to at an extraordinary general meeting of the company specially called for that purpose.

14. Where the company are lessees of a railway the scheme shall be deemed to be assented to by the leasing company when it is assented to as follows:

In writing by three-fourths in value of the holders of mortgages, bonds, and debenture stock of the leasing company.

If there is only one class of guaranteed or preference shareholders of the leasing company, then in writing by three-fourths in value of that class, and if there are more classes of guaranteed or preference shareholders in the leasing company than one, then in writing by three-fourths in value of each such class.

By the ordinary shareholders of the leasing company at an extraordinary general meeting of that company specially called for that purpose.

15. Provided that the assent to the scheme of any class of holders of mortgages, bonds, or debenture stock, or of any class of holders of a rent charge or other payment as aforesaid, or of any class of guaranteed or preference shareholders, or of a leasing company, shall not be requisite in case the scheme does not prejudicially affect any right or interest of such class or company.

16. If at any time within three months after the filing of the scheme or within such extended time as the court from time to time thinks fit to allow, the directors of the company consider the scheme to be assented to as by this act required, they may apply to the court by petition in a summary way for confirmation of the scheme.

Notice of any such application, when intended, shall be published in the Gazette.

17. After hearing the directors and any creditors, shareholders, or other parties whom the court thinks entitled to be heard on the application, the court, if satisfied that the scheme has been within three months after the filing of it, or such extended time, if any, as the court has allowed, assented to as required by this act, and that no sufficient objection to the scheme has been established, may confirm the scheme.

18. The scheme when confirmed shall be enrolled in the court, and thenceforth the same shall be binding and effectual to all intents, and the provisions thereof shall, against and in favor of the company and all parties assenting thereto or bound thereby, have the like effect as if they had been enacted by Parliament.

19. Notice of the confirmation and enrollment of the scheme shall be published in the Gazette.

20. The company shall at all times keep at their principal office printed copies of the scheme, when confirmed and enrolled, and shall sell such copies to all persons desiring to buy the same at a reasonable price, not exceeding sixpence for each copy.

If the company fail to comply with the provision, they shall be liable to a penalty not exceeding 20 pounds, and to a further penalty not exceeding 5 pounds for every day during which such failure continues after the first penalty is incurred, which penalties shall be recovered and applied as penalties under the railways clauses consolidation act, 1845, are recoverable and applicable.

Mr. Chief Justice Waite in the Canada Southern case specifically cites a number of instances in England where the effect of these "schemes of arrangement" were nothing more than a compulsory extension of time allotted to debtors within which to meet their obligations. The organic law of England and the United States in this matter can be considered as identical. Although the expression of the Supreme Court of this country on this point is mere dictum, nevertheless, fortified as it is by English precedent, there is no reason to doubt but that this rule would be followed in any concrete case. Upon this basis I am content to consider this dictum as of binding force in this country. The ultimate effect of that decision was to compel creditors to grant to debtors an extension of time within which to meet their obligations without reference to any contractual relations upon which these obligations were founded.

We can use this principle of law as a precedent for the validity of three sections involved in the present bill. If it is proper to accord to railroad organization both in this country and in England extensions of time within which to meet their obligations, on the same principle we can give the same right to individuals and other corporations. It is true that in England they have mentioned a distinction between securities and stocks of quasi-public corporations and those of another character. This distinction was briefly referred to in the Canada Southern case. It is scarcely felt, however, that this is a sufficient reason for discrimination in the operation of the present act. Relying upon the expressions in that case I think it perfectly proper to consider that Congress in legislating upon the subject of bankruptcy is empowered from every standpoint to accept the principle and to compel creditors to grant to debtors extension of time within which "to meet obligations." In communications I have received there has existed some sort of hazy idea that Congress was without power to pass any legislation which would impair vested rights. It is true that Congress can not violate the "due process of law" clause of the fourteenth amendment, but consideration of this measure does not involve the "due process" clause. Again some sort of hazy idea has been advanced that Congress can not interfere with the obligation of a contract. Again this is unfounded because there is no such inhibition upon Congress impairing the obligation of a contract.

This is a restriction placed only upon the several States selling property free from encumbrances, done in almost all bankruptcy cases, although impairing the obligation of a contract, is permissible. Nor is such a procedure the taking of property without due process of law or in violation of other constitutional rights. In this connection see In re National Grain Corporation (1926—C. C. A. 2 Cir., 9 Fed. 2 ed. 802).

As indicating the attitude of the Supreme Court of the United States on this point of restrictions we quote the following from the case of Mitchell *v.* Clark (1884—110 U. S. 633, 29 L. ed. 279).

It is unnecessary to say that it interferes with the validity of contracts, for no provision of the Constitution prohibits Congress from doing this, as it does the States; and where the question of the power of Congress arises, as in the Legal Tender cases, and in bankruptcy cases, it does not depend upon the incidental effect of this exercise on contracts, but on the exercise of the power itself.

The Circuit Court of Appeals, Second Circuit, In re Franklin Brewing Co. in 1918 (249 Fed. 333) very aptly observes that bankruptcy courts have long been possessed with authority to impair the obligation of contracts. On this point the court says:

Congress, in the exercise of its constitutional right to establish systems of bankruptcy, may, and indeed always does, impair the obligation of contracts.

There are countless other expressions to the same effect. No one has ever seriously questioned the right of a bankruptcy court to sell property free and clear of existing liens. In every such case the court by its act impairs the obligations of a contract.

MAY HAMPER FUTURE FINANCING

In our zeal to protect the borrower from the evil effects of enforced liquidation and in our efforts to obtain for him a further extension of time within which to meet his obligations, we must not lose sight of the effect of this legislation upon his future efforts to obtain additional financing. We must consider the effect that this legislation will have upon those from whom the present debtor may subsequently endeavor to obtain funds. The effect of the present measure is to enable the debtor to override his original financing contract. If he has in the past obtained money upon a promise to repay within a definite period and now by virtue of this statute is able to extend that contract period, will that same creditor in the future be inclined to invest his money in this type of security? What will be his inclination to lend his money to a type of creditor who by a petition to court can override the original contract of repayment? The creditor with this type of security will never know the exact date of repayment. His attempt to enforce collection through orderly process of court is faced with not only the possibility but a very pronounced probability of his debtor, through the intervening agency of the Federal court, overriding this original contract of repayment. I mention this feature because of its possible future effect on personal financing especially with reference to loans secured by real estate.

In spite of the huge sums of money which are loaned upon farm property through Government agencies, at the same time we can not overlook the other staggering sums which are loaned by individuals. Will not these individuals in the future under such a proposed change in the bankruptcy act withhold their money from this type of loan and further invest in types of tax-free securities which have already exerted such an influence in drying up ordinary sources of commercial investment?

I do not make this observation as an objection or reason for opposition to the bill. This is a matter that can be subsequently adjusted. The real and vital question for solution to-day is immediate relief from many foreclosures and enforced liquidations. I believe this bill will help to accomplish that purpose. It certainly is the groundwork upon which to rear some such program designed as beneficial not only for debtors but likewise for creditors. It will stop per force of law the continuance of the wholesale foreclosures and liquidations from which very little is realized for creditors and through which property values generally are further decreased. This legislative principle is startling but essential.

PROGRESS IN DEFLATION

Mr. AMLIE. Mr. Speaker, I ask unanimous consent to extend my remarks and to include therein a single newspaper clipping of one paragraph.

The SPEAKER. Is there objection?

There was no objection.

Mr. AMLIE. Mr. Speaker, since this depression began it has become a custom for all governmental agencies and public servants from the President down to report all symptoms that might indicate that we were making progress in working our way out of this depression by following a deflationary course—that is to say, by following a policy of laissez faire.

The goal which the economists who advocate this policy have set for us is a point of equilibrium near the bottom where wages, commodity prices and capitalization will be at a point of balance one with the other. When this point has been reached, they argue, business activity will be resumed and we will gradually move back to "normalcy." It is a goal that is theoretically possible of attainment, provided the human misery and suffering that are engendered by the process do not cause a major explosion.

The sponsors of this policy are proceeding upon the theory that the victims of unemployment are possessed of a capacity to endure hardship and starvation that is well-nigh inexhaustible. It is my desire to bring to these self-styled "sound economists" a word of encouragement and hope. Not only is the capacity of these poor wretches to endure punishment well-nigh inexhaustible, but in the process of suffering they tend to work out arrangements which serve to make life more endurable and their capacity to withstand suffering and distress even greater.

Former Chief of Police of the District of Columbia Gen. Pelham D. Glassford, who has been studying the plight of the hundreds of thousands of unemployed young men who are aimlessly drifting about the country, states that they are working out a code of mutual self-helpfulness which makes their plight far more endurable than might otherwise be the case.

Last fall I spent several days in certain parts of the city of Chicago where the unemployed tend to congregate. These men, if they can still be called men, are merely shells of their former selves—mere human husks. They can be more accurately described in the words of Gorky as "creatures that once were men."

But despite this fact, they are developing a code of ethics which serves to make their life more endurable. They are very considerate of one another in the bread lines and do not crowd. Several times I noticed a passer-by throw a cigar butt in the gutter. A number of these men would immediately start walking in the direction of the discarded cigar butt, in the meanwhile looking about furtively to see who else might be bent on the same mission. They did not walk rapidly or rush. When it became apparent to these men moving in the direction of the discarded butt that one of their number was nearer than the others, they would withdraw in his favor and permit him to pick it up without further contesting his right. In this way it will be seen that the unemployed in scavenging for food are building a code of ethics similar in many respects to the code of ethics which governs the members of the legal and medical professions in dealing with each other.

I have been moved to make these remarks in view of the fact that others have observed the situation and been impressed in the same way that I have been. In an article by Edmund Wilson in the New Republic for February 1, 1933, there occurs the following account of life among the unemployed in Chicago:

> There is not a garbage dump in Chicago which is not diligently haunted by the hungry. Last summer, in the hot weather, when the smell was sickening and the flies were thick, there were a hundred people a day coming to one of the dumps, falling on the heap of refuse as soon as the truck had pulled out, and digging in it with sticks and hands.
>
> A private incinerator at Thirty-fifth and LaSalle Streets, which disposes of the garbage from restaurants and hotels, has been regularly visited by people in groups of as many as 20 at a time, who pounce upon anything that looks edible before it is thrown into the furnace. The women complained to investigators that the men took an unfair advantage by jumping on the truck before it was unloaded; but a code had finally been established by which the same people would always come at the same time of day, so as to give everybody a chance.
>
> One widow who used to do housework and laundry, but now had no work at all, fed herself and her 14-year-old son on garbage. Before she picked up the meat she would always take off her glasses so that she could not see the maggots; but it sometimes made the boy so sick to look at it and smell it that he couldn't bring himself to eat it. He weighed only 82 pounds and was badly undernourished.

SENATE BILLS REFERRED

A bill and joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 4412. An act to provide for the safer and more effective use of the assets of Federal reserve banks and of national banking assoications, to regulate interbank control, to prevent the undue diversion of funds into speculative operations, and for other purposes; to the Committee on Banking and Currency.

S. J. Res. 243. Joint resolution authorizing the President of the United States to extend a welcome to the Pan American Medical Association which holds its convention in the United States in March, 1933; to the Committee on Foreign Affairs.

BILL PRESENTED TO THE PRESIDENT

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H. R. 14436. An act making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1933, and prior fiscal years, to provide supplemental appropriations for the fiscal year ending June 30, 1933, and for other purposes.

ADJOURNMENT

Mr. SUMNERS of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 53 minutes p. m.) the House adjourned until to-morrow, Tuesday, January 31, 1933, at 12 o'clock noon.

COMMITTEE HEARINGS

Tentative list of committee hearings scheduled for Tuesday, January 31, 1933, as reported to the floor leader:

INTERSTATE AND FOREIGN COMMERCE

(10 a. m.)

H. R. 11675, Federal power act.

BANKING AND CURRENCY

(10.30 a. m.)

Hearing on Federal land bank bill (2-year moratorium).

FOREIGN AFFAIRS

(10.30 a. m.)

Hearing, expenses of International Air Conference.

DISTRICT OF COLUMBIA—SUBCOMMITTEE ON PUBLIC UTILITIES

(10.30 a. m.)

Hearings on H. R. 13753, merger of gas companies.

Hearings on H. R. 13349, to confer jurisdiction on Court of Claims to determine claim of Alexandria, Mount Vernon, Washington Railway Co.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

895. A letter from the chairman of the Joint Committee on Internal Revenue Taxation, transmitting a report by the Joint Committee on Internal Revenue Taxation covering refunds and credits of internal-revenue taxes for the calendar year 1931 (H. Doc. No. 535); to the Committee on Ways and Means and ordered to be printed.

896. A communication from the President of the United States, transmitting a draft of a proposed provision pertaining to an existing appropriation for the Department of State, making the unexpended balance of the appropriation for the International Radiotelegraphic Conference, Madrid, Spain, available for any North American radio conference or conferences growing out of the Madrid conference (H. Doc. No. 536); to the Committee on Appropriations and ordered to be printed.

897. A letter from the president of the Chesapeake & Potomac Telephone Co., transmitting a comparative general balance sheet of the Chesapeake & Potomac Telephone Co. for the year 1932; to the Committee on the District of Columbia.

898. A letter from the Chesapeake & Potomac Telephone Co., transmitting a report of the Chesapeake & Potomac

Telephone Co. to the Congress of the United States for the year 1932, as required by law; to the Committee on the District of Columbia.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. COLTON: Committee on the Public Lands. S. 3475. An act to amend section 5 of the act approved July 10, 1890 (28 Stat. 664), relating to the admission into the Union of the State of Wyoming; with an amendment (Rept. No. 1940). Referred to the Committee of the Whole House on the state of the Union.

Mr. STEVENSON: Committee on Banking and Currency. H. R. 13855. A bill to amend section 5219 of the Revised Statutes, as amended; without amendment (Rept. No. 1941). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. PITTENGER: Committee on Claims. H. R. 5457. A bill for the relief of M. R. Welty; with amendment (Rept. No. 1942). Referred to the Committee of the Whole House.

Mr. PITTENGER: Committee on Claims. H. R. 8402. A bill for the relief of certain disbursing officers of the Army of the United States and for the settlement of individual claims approved by the War Department; with amendment (Rept. No. 1943). Referred to the Committee of the Whole House.

Mr. BLACK: Committee on Claims. H. R. 8729. A bill for the relief of John Ball, of Walla Walla, Wash.; with amendment (Rept. No. 1944). Referred to the Committee of the Whole House.

Mr. MILLER: Committee on Claims. H. R. 9907. A bill for the relief of S. A. Rourke; with amendment (Rept. No. 1945). Referred to the Committee of the Whole House.

Mr. PITTENGER: Committee on Claims. H. R. 10166. A bill authorizing adjustment of the claim of Frank Spector; with amendment (Rept. No. 1946). Referred to the Committee of the Whole House.

Mr. PITTENGER: Committee on Claims. H. R. 14326. A bill for the relief of Eleanor Wright and William Wright, minor children of Donnie Wright, deceased; without amendment (Rept. No. 1947). Referred to the Committee of the Whole House.

Mr. MARTIN of Oregon: Committee on War Claims. S. J. Res. 197. Joint resolution conferring jurisdiction upon the Court of Claims to render findings of fact in the claim of P. F. Gormley Co.; with amendment (Rept. No. 1948). 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. SMITH of West Virginia: A bill (H. R. 14499) to amend section 113 of the Judicial Code, as amended (U. S. C., title 28, sec. 194); to the Committee on the Judiciary.

By Mr. GUYER: A bill (H. R. 14500) to extend the time for completing the construction of a bridge across the Missouri River at or near Kansas City, Kans.; to the Committee on Interstate and Foreign Commerce.

By Mr. RAYBURN: A bill (H. R. 14501) to establish the Federal communications and power commission, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mrs. NORTON: A bill (H. R. 14502) to regulate the practice of professional engineering; creating a registration board for professional engineers of the District of Columbia, defining its powers and duties; providing penalties, and for other purposes; to the Committee on the District of Columbia.

Also, a bill (H. R. 14503) to relieve destitution in the District of Columbia; to the Committee on Banking and Currency.

By Mr. KETCHAM: A bill (H. R. 14504) to meet the existing emergency in the agricultural industry, to provide for the reduction of the interest on certain existing farm mortgages, to amend and supplement the Federal farm loan act; to the Committee on Banking and Currency.

By Mr. BRITTEN: A bill (H. R. 14505) for the repeal of the drastic so-called Jones 5 and 10 law; to the Committee on the Judiciary.

By Mr. STEVENSON: Resolution (H. Res. 367) authorizing the printing of the Rules and Manual of the House of Representatives for the Seventy-third Congress; to the Committee on Printing.

By Mr. McREYNOLDS: Joint resolution (H. J. Res. 580) to prohibit the exportation of arms or munitions of war from the United States under certain conditions; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 3 of Rule XXII, memorials were presented and referred as follows:

Memorial of the Legislature of the State of Wisconsin, memorializing Congress to give protection to American producers of wood pulp against unfair competition resulting from the depreciation of foreign currencies; to the Committee on Ways and Means.

Memorial of the Legislature of the State of Nebraska, favoring sound inflation of currency, discontinuance of appropriation for the development of inland waterways, and favoring the speedy passage of a bill providing for the liquidation and refinancing of farm mortgages and farm indebtedness at a reduced rate of interest through the Federal farm loan system; to the Committee on Banking and Currency.

Memorial of the Legislature of the State of Utah, memorializing Congress to support or initiate a movement to stabilize the monetary and credit bases so as to improve world commodity prices; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. BUCKBEE: A bill (H. R. 14506) for the relief of Milton T. Cornish; to the Committee on Claims.

By Mr. COOPER of Ohio: A bill (H. R. 14507) for the relief of Charles Augustus McGarvey; to the Committee on Military Affairs.

By Mr. EATON of New Jersey: A bill (H. R. 14508) for the relief of William Sulem; to the Committee on Claims.

By Mr. MOBLEY: A bill (H. R. 14509) for the relief of Andrew Emmett Pope; to the Committee on Naval Affairs.

By Mr. REID of Illinois: A bill (H. R. 14510) for the relief of Arthur E. Mills; to the Committee on Claims.

By Mr. ROGERS: A bill (H. R. 14511) for the relief of Wilson G. Bingham; to the Committee on Military Affairs.

By Mr. WELCH: A bill (H. R. 14512) conferring upon the United States District Court for the Northern District of California, southern division, jurisdiction of the claim of Minnie C. de Back against the Alaska Railroad; to the Committee on Claims.

By Mr. YATES: A bill (H. R. 14513) granting a pension to Andrew J. J. Cornelius; to the Committee on Invalid Pensions.

Also, a bill (H. R. 14514) granting a pension to Sarah E. Linder; 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:

10026. By Mr. ALDRICH: Petition of Ralph H. Field, George E. Murray, Edward J. Hogan, and 20 other citizens of the State of Rhode Island, protesting the order of the Administrator of Veterans' Affairs for review of all disability-allowance awards; to the Committee on World War Veterans' Legislation.

10027. By Mr. BOHN: Petition of citizens of Detour, Mich., favoring the stop-alien-representation amendment to the United States Constitution; to the Committee on the Judiciary.

10028. By Mr. DAVENPORT: Petition of Rev. N. A. Darling and 110 other citizens of Oneida County, N. Y., favoring the so-called stop-alien-representation amendment; to the Committee on the Judiciary.

10029. By Mr. DELANEY: Memorial of the Senate and House of Representatives of the State of Oregon, urging that foreign goods be stopped from coming into the United States at the expense of the closing of our factories, and that the distress of our citizens be permanently relieved by returning them to work at suitable rates of pay; to the Committee on Ways and Means.

10030. Also, petition of the memorial and executive committee of the United Spanish War Veterans of Brooklyn, N. Y., urging the inclusion in the Navy Department appropriation bill of $600,000 to be used in the training of the Naval Militia; to the Committee on Appropriations.

10031. Also, petition of the Geo. E. Sherman Co. (Inc.), of Brooklyn, N. Y., protesting against the amendment relating to oils and fats in House bill 13991; to the Committee on Agriculture.

10032. By Mr. FITZPATRICK: Petition of the Bronx Chamber of Commerce, favoring the restoration of first-class postal rates to 2 cents an ounce; to the Committee on Ways and Means.

10033. By Mr. GARBER: Petition of the Oregon State Legislature, urging immediate legislative action to stop foreign goods coming into this country at the expense of the closing of our factories and the unemployment of our people, and that the distress of our citizens be permanently relieved by returning them to work at rates of pay and under working hours which will help bring about prosperity in the United States; to the Committee on Ways and Means.

10034. Also, petition of the Miami Beach Chamber of Commerce, Miami Beach, Fla., urging enactment of House bill 11642; to the Committee on Claims.

10035. Also, resolutions adopted at joint meeting of Foreign Trade Club of North Texas and foreign relations committee, Dallas Chamber of Commerce, vigorously protesting against any curtailment of the activity of the Dallas district office of the Bureau of Foreign and Domestic Commerce, and indorsing the Dallas office as an essential service organization to the exporters and shippers of this territory; to the Committee on Interstate and Foreign Commerce.

10036. Also, petition of J. P. Anderson, Logan, Okla., insisting upon the imperative necessity for enacting legislation to stop farm-mortgage foreclosures; to the Committee on Banking and Currency.

10037. Also, petition of the Senate of the State of Oregon, urging payment of the soldiers' bonus; to the Committee on Ways and Means.

10038. Also, petition of the Legislature of the State of California, urging enactment of legislation restoring the public lands within the external boundaries of naval petroleum reserve No. 2, as now constituted, to the public domain of the United States, and transferring the jurisdiction over and the administration thereof and of all leases thereof to the Secretary of the Interior, and revoking and repealing any and all Executive orders and acts of Congress creating or confirming the creation of said naval petroleum reserve No. 2; to the Committee on Expenditures in the Executive Departments.

10039. Also, petition of L. C. Fish, Helena, Okla., urging enactment of legislation to refinance the farm-mortgage indebtedness of the country; to the Committee on Banking and Currency.

10040. Also, petition of the Woman's Christian Temperance Union of Claremore, Okla., urging continued support of the dry cause; to the Committee on the Judiciary.

10041. Also, petition of the board of directors of the Enid Chamber of Commerce, indorsing Garber bill, H. R. 14343, to repeal the tax on bank checks, and H. R. 14344, to restore the 2-cent rate of postage on first-class mail matter, and letter from T. T. Eason, president, Eason Oil Co., Enid, Okla., indorsing H. R. 14343 and H. R. 14344; to the Committee on Ways and Means.

10042. Also, petition urging the enactment of railway pension bills, S. 4646 and H. R. 9891; to the Committee on Interstate and Foreign Commerce.

10043. By Mr. HANCOCK of New York: Petition of Alfred G. White and other residents of Onondaga County, N. Y., favoring the stop-alien-representation amendment to the Constitution; to the Committee on the Judiciary.

10044. By Mr. LAMBERTSON: Petition of the Topeka Central Woman's Christian Temperance Union, Topeka, Kans., signed by its president, Anna B. Fisher, and its secretary, Mrs. E. E. Wiede, favoring the improvement of the motion-picture industry; to the Committee on Interstate and Foreign Commerce.

10045. Also, petition of the Woman's Christian Temperance Union of Denison, signed by its president, Mrs. W. O. Fergerson, and its secretary, Mrs. S. C. Tharp, of Denison, Kans., favoring the improvement of the motion-picture industry; to the Committee on Interstate and Foreign Commerce.

10046. By Mr. LUDLOW: Petition of citizens of Indianapolis, Ind., urging opposition to the legalization of beer or modification or repeal of the eighteenth amendment; to the Committee on the Judiciary.

10047. By Mr. McFADDEN: Petition of the Thirty-seventh Legislative Assembly of the State of Oregon, Senate Joint Memorial No. 1, to stop foreign goods coming into the United States and thereby help the factories and unemployment situation in the United States; to the Committee on Ways and Means.

10048. Also, petition of the Thirty-seventh Legislative Assembly of the State of Oregon, Senate Memorial No. 1, favoring the immediate payment of the soldiers' bonus; to the Committee on Ways and Means.

10049. By Mr. RUDD: Memorial of the Legislature of the State of Oregon, favoring immediate payment of the soldiers' bonus; to the Committee on Ways and Means.

10050. Also, memorial of the Legislature of the State of Oregon, favoring certain legislation in connection with the antidumping act; to the Committee on Ways and Means.

10051. By Mr. SANDERS of New York: Petition of citizens of Monroe County, N. Y., opposing any reduction in the enlisted strength of the United States Marine Corps; to the Committee on Appropriations.

10052. By Mr. SPENCE: Petition of William Cummings and others, of Covington; Nell McInerney, of Ludlow; Jack J. Flesch, of Latonia; Alice Chappius, of Cold Springs; August T. Schiffen, jr., of Fort Mitchell; Joseph Moran and others, of Bellevue; Lucille Palmer and others, of Newport; and B. E. Kettler, of Fort Thomas, all of the State of Kentucky, requesting the valuation of the gold ounce, etc.; to the Committee on Coinage, Weights, and Measures.

10053. By the SPEAKER: Petition of L. F. Harris, requesting an investigation of the official conduct of United States District Judge William Bondy; to the Committee on the Judiciary.

SENATE

TUESDAY, JANUARY 31, 1933

(Legislative day of Tuesday, January 10, 1933)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The VICE PRESIDENT. The Senate will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE

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

H. R. 14359. An act to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the