amendment which will be introduced by Fred Biermann to Senate bill 2476; to the Committee on Labor.

5216. Also, petition of the Conference of Mayors and Other Municipal Officials in behalf of the cities and villages of New York State, concerning the Senate amendment passed on May 17 to the Federal Highway Act; to the Committee on Roads.

5217. Also, petition of the Federation of Architects, Engineers, Chemists, and Technicians, New York City Chapter 32, urging enactment of the wage-hour bill; to the Committee on Labor.

5218. Also, petition of the Cleaners, Pressers, Drivers, and Allied Trades Union, Local 239, New York City, urging enactment of the wage-hour bill; to the Committee on Labor.

5219. Also, petition of the United Brotherhood of Carpenters and Joiners of America, Local Union 366, Bronx, New York City, urging enactment of the wage-hour bill; to the Committee on Labor.

5220. Also, petition of 2,500 members of the Bleachers, Dyers, Finishers, and Printers Local 1790, New York City, urging enactment of the wage-hour bill; to the Committee on Labor.

5221. By Mr. LAMNECK: Petition of Frank L. McKinney, secretary-treasurer, Ohio Independent Telephone Association, Columbus, Ohio, urging the passage of Senate bill 3456 and House bill 9459; to the Committee on the Judiciary.

5222. By the SPEAKER: Petition of the Board of County Commissioners of Skagit County, Wash., petitioning consideration of their resolution with reference to House bill 4199, known as the General Welfare Act; to the Committee on Ways and Means.

SENATE

TUESDAY, MAY 24, 1938

(Legislative day of Wednesday, April 20, 1938)

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

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Monday, May 23, 1938, was dispensed with, and the Journal was approved.

MESSAGE FROM THE HOUSE—ENROLLED JOINT RESOLUTION SIGNED

A message from the House of Representatives, by Mr. Calloway, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled joint resolution (H. J. Res. 678) making an additional appropriation for grants to States for unemployment compensation administration, Social Security Board, for the fiscal year ending June 30, 1938, and it was signed by the Vice President.

CALL OF THE ROLL

Mr. MINTON. 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:

Adams	Davis	Johnson, Colo.	Pope
Andrews	Dieterich	King	Radcliffe
Austin	Donahey	La Follette	Reynolds
Bailey	Duffy	Lee	Russell
Bankhead	Ellender	Lodge	Schwartz
Barkley	Frazier	Logan	Schwellenbach
Berry	George	Lonergan	Sheppard
Bilbo	Gerry	Lundeen	Shipstead
Bone	Gibson	McAdoo	Smathers
Borah	Gillette	McGill	Smith
Bridges	Glass	McKellar	Thomas, Utah
Brown, N. H.	Green	McNary	Townsend
Bulkley	Guffey	Maloney	Truman
Bulow	Hale	Miller	Tydings
Burke	Harrison	Minton	Vandenberg
Byrd	Hatch	Murray	Van Nuys
Byrnes	Hayden	Neely	Wagner
Capper	Herring	Norris	Walsh
Caraway	Hill	Nye	Wheeler
Chavez	Hitchcock	O'Mahoney	White
Clark	Holt	Overton	
Connally	Hughes	Pepper	
Copeland	Johnson, Calif.	Pittman	

Mr. MINTON. I announce that the Senator from Arizona [Mr. ASHURST] and the Senator from Oregon [Mr. REAMES] are detained from the Senate because of illness.

The Senator from Nevada [Mr. MCCARRAN] is absent because of a death in his family.

The Senator from Michigan [Mr. BROWN], the Senator from Illinois [Mr. LEWIS], the Senator from New Jersey [Mr. MILTON], and the Senator from Oklahoma [Mr. THOMAS] are detained on important public business.

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

LEGISLATION OF MUNICIPAL COUNCIL OF ST. THOMAS AND ST. JOHN

The VICE PRESIDENT laid before the Senate a letter from the Acting Secretary of the Interior, transmitting, pursuant to law, copies of legislation enacted by the Municipal Council of St. Thomas and St. John and approved by the Acting Governor of the Virgin Islands, which, with the accompanying papers, was referred to the Committee on Territories and Insular Affairs.

AMENDMENT OF ACT ESTABLISHING LOAD LINES FOR AMERICAN VESSELS

The VICE PRESIDENT laid before the Senate a letter from the Acting Secretary of Commerce, transmitting a draft of proposed legislation to amend the act of March 2, 1929, entitled "An act to establish load lines for American vessels, and for other purposes," which, with the accompanying papers, was referred to the Committee on Commerce.

APRIL REPORT OF RECONSTRUCTION FINANCE CORPORATION

The VICE PRESIDENT laid before the Senate a letter from the Chairman of the Reconstruction Finance Corporation reporting, pursuant to law, relative to the activities and expenditures for the Corporation for the month of April 1938, which, with the accompanying papers, was referred to the Committee on Banking and Currency.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate a resolution adopted by Sparks Lodge No. 726, Brotherhood of Railroad Trainmen, Sparks, Nev., favoring the allowance of $60,000 to the so-called Civil Liberties Subcommittee of the Committee on Education and Labor for its investigation relative to antiunion activities, which was ordered to lie on the table.

He also laid before the Senate a telegram in the nature of a memorial from G. Chace, of New York City, N. Y., remonstrating against the enactment of the President's proposed recovery program, which was ordered to lie on the table.

He also laid before the Senate a resolution adopted by Local Union No. 848, Brotherhood of Painters, Decorators, and Paperhangers of America, of New York City, N. Y., favoring amendment of the existing neutrality law so as to permit the shipment of munitions of war to Spain, which was referred to the Committee on Foreign Relations.

Mr. COPELAND presented a resolution adopted by the executive committee of the Middle Bronx Neighborhood Federation, New York City, N. Y., favoring the prompt enactment of legislation making an additional appropriation of $500,000,000 to the United States Housing Authority for the construction of low-cost housing projects, which was referred to the Committee on Appropriations.

He also presented a resolution adopted by Typographical Union No. 15, of Rochester, N. Y., favoring a congressional investigation of the newsprint industry, which was referred to the Committee on Education and Labor.

He also presented numerous petitions of sundry citizens of the State of New York, praying that the Works Progress Administration so amend its rules and regulations that all construction work shall be done on a competitive contract basis, which were referred to the Committee on Education and Labor.

REPORTS OF COMMITTEES

Mr. CHAVEZ, from the Committee on Indian Affairs, to which was referred the bill (S. 3921) for the relief of

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Remijio Ortiz, reported it without amendment and submitted a report (No. 1863) thereon.

Mr. WALSH, from the Committee on Naval Affairs, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

H. R. 6404. A bill for the relief of Martin Bevilacque (Rept. No. 1864); and

H. R. 6936. A bill for the relief of Joseph McDonnell (Rept. No. 1865).

Mr. MILLER, from the Committee on Military Affairs, to which was referred the bill (S. 3938) to authorize the transfer to the jurisdiction of the Secretary of the Treasury of portions of the property within the military reservation known as the Morehead City Target Range, North Carolina, for the construction of improvements thereon, and for other purposes, reported it without amendment and submitted a report (No. 1866) thereon.

Mr. GILLETTE (for himself and Mr. CAPPER), from the Committee on Agriculture and Forestry, to which was referred the bill (S. 2750) to amend the Packers and Stockyards Act, 1921, reported it with an amendment and submitted a report (No. 1867) thereon.

Mr. COPELAND, from the Committee on Commerce, to which was referred the bill (H. R. 10618) authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes, reported it with amendments and submitted a report (No. 1868) thereon.

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

H. R. 9975. A bill to extend the times for commencing and completing the construction of a bridge over Lake Sabine at or near Port Arthur, Tex. (Rept. No. 1869);

H. R. 9983. A bill authorizing the city of Greenville, Miss., and Washington County, Miss., singly or jointly, to construct, maintain, and operate a toll bridge across the Mississippi River from a point at or near the city of Greenville, Washington County, Miss., to a point at or near Lake Village, Chicot County, Ark. (Rept. No. 1870);

H. R. 10075. A bill to extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Brownville, Nebr. (Rept. No. 1871);

H. R. 10261. A bill authorizing the town of Friar Point, Miss., and Coahoma County, Miss., singly or jointly, to construct, maintain, and operate a toll bridge across the Mississippi River from a point at or near the town of Friar Point, Coahoma County, Miss., to a point at or near Helena, Phillips County, Ark. (Rept. No. 1872);

H. R. 10297. A bill to extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Rulo, Nebr. (Rept. No. 1873); and

H. R. 10611. A bill to extend the times for commencing and completing the construction of a bridge across the Coosa River at or near Gilberts Ferry in Etowah County, Ala. (Rept. No. 1874).

Mr. KING, from the Committee on the District of Columbia, to which was referred the bill (S. 4029) to amend the District of Columbia Alley Dwelling Act, approved June 12, 1934, and for other purposes, reported it with amendments and submitted a report (No. 1875) thereon.

He also, from the same committee, to which was referred the bill (S. 4024) authorizing advancements from the Federal Emergency Administration of Public Works for the construction of certain municipal buildings in the District of Columbia, and for other purposes, reported it without amendment and submitted a report (No. 1876) thereon.

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, to which was referred the bill (H. R. 3610) to adjust the salaries of rural letter carriers, reported it with an amendment and submitted a report (No. 1877) thereon.

BILLS INTRODUCED

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

By Mr. LODGE:

A bill (S. 4064) for the relief of George H. Pierce and Evelyn Pierce; to the Committee on Claims.

By Mr. WALSH (by request):

A bill (S. 4065) to provide for the award of certain contracts by the Secretary of the Navy; to the Committee on Naval Affairs.

By Mr. SCHWELLENBACH:

A bill (S. 4066) to amend the act of Congress entitled "An act to establish an Alaska Game Commission, to protect game animals, land fur-bearing animals, and birds in Alaska, and for other purposes", approved January 13, 1925, as amended; to the Committee on Territories and Insular Affairs.

By Mr. McGILL:

A bill (S. 4067) granting a pension to Minerva C. Tatum; to the Committee on Pensions.

By Mr. LUNDEEN:

A bill (S. 4068) to adjust the basis of compensation for overtime services of certain employees in the Postal Service, and for other purposes; to the Committee on Post Offices and Post Roads.

By Mr. SMITH:

A bill (S. 4069) to authorize the Secretary of War to lend certain property to the Reunion Committee of the United Confederate Veterans to be used at their annual encampment to be held at Columbia, S. C., from August 30 to September 2, 1938; to the Committee on Military Affairs.

A bill (S. 4070) to authorize the attendance of the Marine Band at the United Confederate Veterans' 1938 Reunion at Columbia, S. C., from August 30 to September 2, 1938, both dates inclusive; to the Committee on Naval Affairs.

By Mr. PEPPER:

A bill (S. 4071) 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 supplemental thereto; to the Committee on the Judiciary.

By Mr. SHEPPARD:

A bill (S. 4072) to authorize the Secretary of War to grant a right-of-way for highway purposes upon and across Kelly Field, a military reservation, in the State of Texas; to authorize an appropriation for construction of the road and necessary fence lines; to the Committee on Military Affairs.

By Mr. O'MAHONEY and Mr. SCHWARTZ:

A bill (S. 4073) to amend the act of May 16, 1930 (46 Stat. 367), entitled "An act to authorize the disposal of public land classified as temporarily or permanently unproductive on Federal irrigation projects"; to the Committee on Irrigation and Reclamation.

By Mr. WHEELER:

A bill (S. 4074) to amend an act entitled "The Communications Act of 1934 as amended"; and

A bill (S. 4075) relating to the payment of certain employee claims against railroad corporations in receivership; to the Committee on Interstate Commerce.

RELIEF AND WORK RELIEF APPROPRIATIONS—AMENDMENTS

Mr. BERRY, Mr. MINTON, Mr. NEELY, and Mr. RUSSELL each submitted an amendment intended to be proposed by them to the joint resolution (H. J. Res. 679) making appropriations for work relief, relief, and otherwise to increase employment by providing loans and grants for public-works projects, which were severally ordered to lie on the table and to be printed.

Mr. GILLETTE submitted an amendment intended to be proposed by him in lieu of the committee amendment, being title V, of the joint resolution (H. J. Res. 679) making appropriations for work relief, relief, and otherwise to increase employment by providing loans and grants for public-works projects, which was ordered to lie on the table and to be printed.

INTERVIEW WITH SENATOR KEY PITTMAN

[Mr. PITTMAN asked and obtained leave to have printed in the RECORD an interview published in the Washington Post of May 23, 1938, and an editorial from the New York Herald Tribune of May 24, 1938, both relating to the subject of a suggested nonaggression pact with Japan, which appear in the Appendix.]

ABRAHAM LINCOLN—ARTIST—ARTICLE BY DR. ROY P. BASLER

[Mr. HILL asked and obtained leave to have printed in the RECORD an article published in the North American Review for the spring of 1938, entitled "Abraham Lincoln—Artist," by Dr. Roy P. Basler, member of the faculty of Alabama State Teachers College, Florence, Ala., which appears in the Appendix.]

NEWSPAPER PROPAGANDA—ARTICLE FROM MADISON (WIS.) CAPITAL TIMES

[Mr. MINTON asked and obtained leave to have printed in the RECORD an article by William T. Evjue, editor of the Capital Times, of Madison, Wis., and published in that newspaper under date of May 17, 1938, which appears in the Appendix.]

PENNSYLVANIA PRIMARY ELECTION—EDITORIAL FROM PHILADELPHIA RECORD

[Mr. MINTON asked and obtained leave to have printed in the RECORD an editorial from the Philadelphia Record of May 20, 1938, relative to the Pennsylvania primary election, which appears in the Appendix.]

BUSINESS CONDITIONS—EDITORIAL FROM PHILADELPHIA RECORD

[Mr. MINTON asked and obtained leave to have printed in the RECORD an editorial from the Philadelphia Record of May 20, 1938, on the subject of business conditions in the United States, which appears in the Appendix.]

A MILLION DOLLAR PROPAGANDA—ARTICLE FROM JEFFERSON (MO.) CAPITAL NEWS

[Mr. TRUMAN asked and obtained leave to have printed in the RECORD an article from the Jefferson (Mo.) Capital News of May 10, 1938, entitled "A Million Dollar Propaganda," which appears in the Appendix.]

RELIEF AND WORK-RELIEF APPROPRIATIONS

The Senate resumed the consideration of the joint resolution (H. J. Res. 679) making appropriations for work relief, relief, and otherwise to increase employment by providing loans and grants for public-works projects.

Mr. BILBO and Mr. McKELLAR addressed the Chair.

The VICE PRESIDENT. The Chair has been told that the Senator from Tennessee [Mr. McKELLAR] has the floor, but, though he has examined the RECORD, he cannot find that statement in the RECORD. He does find, however, that the Senator from Mississippi [Mr. BILBO] submitted amendments to the pending bill and expressed the hope that he could secure recognition this morning immediately after the convening of the Senate; but there was no order made by the Senate to that effect. Now both the Senator from Mississippi and the Senator from Tennessee are on their feet.

Mr. BILBO. Mr. President——

The VICE PRESIDENT. The Senator from Mississippi.

Mr. BILBO. Mr. President, I have been informed that the Senator from Tennessee had started his address when the Senate adjourned yesterday afternoon. Therefore I am glad to yield to the Senator from Tennessee.

The VICE PRESIDENT. The Senator from Tennessee is recognized.

Mr. BILBO. I ask permission to follow when the Senator from Tennessee shall have concluded.

Mr. McKELLAR. I thank the Senator from Mississippi, and I appreciate his courtesy. I am not going to take very long.

Mr. President, in last Sunday's newspapers, which carried the Gallup poll, it was shown that our distinguished colleague from Michigan [Mr. VANDENBERG] was leading all competitors in the Republican race for the nomination for President. Naturally, under those circumstances, the utterances of the distinguished Senator from Michigan at this time on relief, spending, and lending, as well as other issues before the people, are entitled to careful attention. He himself said in his speech yesterday that the five conclusions he submitted were not his own alone. I take it for granted, in view of the Gallup poll, which showed that our distinguished friend was far out in the lead among his Republican rivals for the next Republican nomination for President; that he was speaking, in part, at least, because he anticipated leadership of his party.

Mr. President, on the relief and spending and lending measure which is now before the Senate, the Senator from Michigan has taken a peculiar position. He adopts an old, worn-out, and threadbare proposition, as it seems to me, because it is nothing more than a suggestion of the Republican Party in 1932 and in 1936, which advocated a little more strongly that the relief money should be spent by the States. Assuming that the Senator from Michigan suggests an expenditure of $4,000,000,000 for relief—and I use those figures, because if we spend $3,000,000,000 for all kinds of relief and then, under the Senator's idea, the States spend one-fourth as much, that would make $4,000,000,000—it seems to be the Senator's idea that the Federal Government should simply allot $3,000,000,000 to the various State governments, that the various State governments should put up one-fourth as much, and that they should spend it for relief as they see fit.

It is true that in the Republican platform of 1932 the Republicans declared that relief was a problem of State and local responsibility; but they added that the Federal Government might, in a pinch, lend money to the States for these purposes.

In 1936, after more experience, the Republican platform provided as follows:

> The necessities of life must be provided for the needy, and hope must be restored pending recovery. * * * We pledge—
>
> 1. The return of responsibility for relief administration to nonpolitical local agencies familiar with community problems.
>
> 2. Federal grants-in-aid to the States and Territories while the need exists. * * *
>
> 3. Undertaking of Federal public works only on their merits and separate from the administration of relief.

So we find that the Republican Party has not declared against Federal relief. In 1936 it declared for Federal relief. Indeed, as I recall, practically every Federal relief bill which has been passed by the Democrats under the Roosevelt administration has received a very large number of Republican votes; and, inasmuch as that question was brought up yesterday, I have examined the RECORD to ascertain the facts.

I find that the Senate has passed five relief bills, the first one on March 30, 1933. On that vote there were 13 Republican yeas and 15 nays, a pretty close vote.

On June 9, 1933, there were 11 Republican yeas and 20 nays.

On March 23, 1935, there were 13 Republican yeas and 10 nays.

On June 1, 1936, just before the election, the Republicans were very evenly divided. There were 11 yeas and 11 nays.

On February 23, 1938, however, the vote was a little different. There were 16 Republican yeas and no nays. So it looks to me as if the Republican Party, as a party, has pretty nearly come over to the same way of thinking about relief that the Democrats have.

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

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

Mr. McKELLAR. I yield.

Mr. VANDENBERG. I know the Senator is anxious fairly to interpret the figures he has presented.

Mr. McKELLAR. I desire to do so.

Mr. VANDENBERG. I suggest to the Senator that the last vote, on the $250,000,000 appropriation a few weeks ago, did not involve the determination of relief policies. It was merely an appropriation to carry out the existing policy for the remainder of the year. Am I not correct?

Mr. McKELLAR. That is true.

Mr. VANDENBERG. That is the theory, at any rate, on which I voted for the bill. I assumed that for the remainder of the year we had to proceed as we had started. I think the Senator will agree that there is some logic in that position and that it did not necessarily involve decision as to policies.

Mr. McKELLAR. Thinking that the question might perhaps arise, I have obtained the figures as to how the Republican Senators voted on all these several bills; and I

ask unanimous consent that they may be placed in the RECORD at this point, so that there may be no question about the matter.

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

The matter referred to is as follows:

Relief bill, March 30, 1933 (13 for and 15 against): For—Borah, Capper, Couzens, Frazier, Johnson of California, La Follette, Norris, Nye, Robinson of Indiana, Schall, Shipstead, Steiwer, Vandenberg; against—Austin, Carey, Dickinson, Fess, Goldsborough, Hale, Hatfield, Hebert, Kean, Keyes, McNary, Metcalf, Paterson, Walcott, White.

Public Works bill, June 9, 1933 (industrial recovery bill) (11 for and 20 against): For—Capper, Cutting, Frazier, Johnson of California, La Follette, McNary, Norris, Nye, Robinson of Indiana, Shipstead, Steiwer; against—Austin, Barbour, Borah, Carey, Dickinson, Fess, Goldsborough, Hale, Hastings, Hatfield, Hebert, Kean, Keyes, Metcalf, Paterson, Reed of Pennsylvania, Townsend, Vandenberg, Walcott, White.

Public Works bill, March 23, 1935 (13 for and 10 against): For—Austin, Borah, Capper, Couzens, Frazier, Gibson, Johnson of California, La Follette, McNary, Norbeck, Norris, Nye, Shipstead; against—Barbour, Dickinson, Hale, Hastings, Keyes, Schall, Steiwer, Townsend, Vandenberg, White.

Work-relief bill, June 1, 1936 (11 for and 11 against): For—Benson, Borah, Capper, Carey, Davis, Frazier, Johnson of California, La Follette, McNary, Norris, Shipstead; against—Austin, Barbour, Couzens, Gibson, Hale, Hastings, Keyes, Steiwer, Townsend, Vandenberg, White.

Relief appropriation bill, February 23, 1938 (16 for and 0 against): For—Austin, Borah, Capper, Frazier, Gibson, Hale, Johnson of California, La Follette, Lodge, Lundeen, McNary, Norris, Nye, Shipstead, Townsend, Vandenberg; against—none.

Mr. McKELLAR. So I say, Mr. President, that instead of the Republican Party having declared against relief, it has not done anything of the kind so far as their platform and the Republicans in this body are concerned; and, unless I am more greatly mistaken than I have ever been about any political question in my life, when the vote is taken on this joint resolution quite a large number of Republican Senators will be found voting for it.

Returning, however, to the position of the distinguished Senator from Michigan that we ought to allot the relief money to the States and that the Federal Government should wash its hands of the matter, the fact is that on the issues of the 1936 platform Mr. Landon carried only two States—Maine and Vermont—and lost the country by more than 10,000,000 votes. The proposal of the Senator from Michigan is in the platform on which Mr. Landon ran. So we now find the leading candidate of the Republican Party rather backing and filling on relief itself by saying that whatever relief is granted ought to be distributed to the States, and then he gives five reasons for his contention. I desire very briefly to discuss those five reasons.

First. The Senator from Michigan would turn the relief money over to the States in a lump sum. Instead of the Federal administrator giving the people of his State some $100,000,000, as was done on one occasion, he would just send a check for $100,000,000 to the State authorities of Michigan; and he gives as his reasons for advocating that course the following:

First. It will eliminate costly duplications and wastes in Federal overhead, which represents relief money that never reaches our needy citizens. Thus automatically more actual relief can be bought for less money.

Mr. President, I do not think this follows at all. It is impossible for me, knowing my distinguished friend as I do, to conceive how he could be led into making such an assertion. If the Federal Government should turn over $3,000,000,000 to the States and the States should add another billion dollars, and the entire amount should be distributed by the States, how would the expense be less? Who knows whether it would be less? There would be 48 administrations of relief instead of 1. Instead of a united system of distribution of relief money, there would be 48 systems; nay, 49; for no doubt the District of Columbia would have a different administration. There would be 49 uncoordinated political organizations to distribute the bounty of the Federal Government. This would make the distribution infinitely more costly and more unequal and more discriminatory.

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

Mr. McKELLAR. I yield.

Mr. CONNALLY. The Senator says there would be 49 of these organizations?

Mr. McKELLAR. Yes.

Mr. CONNALLY. Would there not be a great many others? Would not the mayor of every big city in each of the different States demand of the Governor that he give the mayor his part of the "swag," so that he could take care of his people?

Mr. McKELLAR. That is what would naturally occur. I do not know what actually would occur. I do not know whether or not the Senator from Michigan wants the Governors of the several States to distribute the money. He says it must be turned over to the States. In a situation of that sort we do not know what would happen to the money. I suppose it would go to the State treasury. If the Senator is correct, it would go to the State treasury, and would be drawn out by warrant signed by the proper financial officers of the State; but evidently it was intended that the Governors of the various States should control this gigantic fund. What a financial log rolling it would bring about. What an array of political pie counters. Forty-nine feed troughs for the politically faithful.

Mr. CONNALLY. But if the Governor had the disposition of the money, to do what he pleased with it, would not his political satellites in the nature of things demand that he give them their quota?

Mr. McKELLAR. Of course they would. It would be a case of having 49 administrations in this country of the relief fund which is now administered by one head.

Mr. President, if the Federal Government were to allot money to the States on any such plan, without a suggestion of responsibility to the Government which furnishes the money or to anyone else, simply turning the money over with nobody to examine the accounts, nobody to see that the money was properly expended, nobody to determine how much was expended, or for what purposes, that would not be a plan of any kind. In my judgment, it would bring about untold scandals of every kind in connection with the distribution of the fund.

But the distinguished Senator from Michigan then said:

Second. It will eliminate divided responsibility for relief, part Federal and part State and local, which results in an insufferable, undemocratic discrimination as between citizens in equal need of relief.

Mr. President, it will do no such thing. There is no divided responsibility at this time. The responsibility for the money that we expend is placed upon an administrator. He not only controls the Federal money and its distribution, but he controls the State contributions to that money, amounting to nearly 25 percent, I believe, last year; in my State amounting, as I remember, to something like 45 percent of the entire amount. So we have not a divided responsibility. We have a duly constituted responsibility, with every safeguard, all manner of checks and balances thrown around the money to be expended.

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

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

Mr. VANDENBERG. How can the Senator say there is no divided responsibility for relief when the very program itself is predicated upon a divided responsibility which asserts a responsibility exclusively on the part of the State and local authorities to take care of unemployables? Is not that a divided responsibility?

Mr. McKELLAR. Mr. President, for the relief that is granted by this joint resolution, which is work relief, there is no divided responsibility. The whole fund is put in the hands of Mr. Hopkins and his aides, and the money that is contributed by the States and communities is put in his hands. Mr. Hopkins controls it from the beginning to the end, and he is responsible to the American people and to

the American Government for proper distribution of the money.

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

Mr. McKELLAR. I yield.

Mr. VANDENBERG. What has that to do with the statement I made that there is divided responsibility for relief as a problem in America, when obviously there is a divided responsibility, and the Federal program is predicated upon that division?

Mr. McKELLAR. What division?

Mr. VANDENBERG. Between employables and unemployables.

Mr. McKELLAR. The Senator is talking about an entirely different matter.

Mr. VANDENBERG. I am talking about the same thing I was talking about yesterday, namely, the relief problem.

Mr. McKELLAR. Let me ask the Senator a question. Would he want the Federal Government to take over control of the various orphan asylums, old-age asylums, children's homes, homes for incurables, and almshouses in the various counties and States? Would the Senator have the incurables of the country turned over to the Federal Government? I do not think the Senator would. Knowing him as I do, it is inconceivable to me that he would want to include the unemployables, a word which means men and women who are physically incapacitated for work. This measure is for men and women who can work, but have no work.

If all the men and women unemployables—some of them too old, some of them too young, some of them crippled or suffering from disease so that they cannot work—were put in with those who had to have work relief, it would mean a system of control which I do not think the Federal Government ought to adopt, except in the direst of circumstances. This joint resolution does not provide for direct relief. It applies only to work relief.

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

Mr. McKELLAR. I yield.

Mr. VANDENBERG. The Senator is leaving the question which brought me to my feet. I asserted yesterday that there is a divided responsibility for relief.

Mr. McKELLAR. And I think in that the Senator is mistaken.

Mr. VANDENBERG. The Senator said I was wrong.

Mr. McKELLAR. I think the Senator is wrong. This joint resolution does not attempt to provide for direct relief. The Senator may not have examined the measure carefully.

Mr. VANDENBERG. Does the Senator deny that the Federal policy specifically sends responsibility for caring for unemployables straight back to the State and local authorities?

Mr. McKELLAR. Not straight back. Not at all. It leaves it where it has always been—in the hands of the local authorities.

Mr. VANDENBERG. Or does it leave it there?

Mr. McKELLAR. It has always been there. We have left it there, except in a very few instances. It was taken out of the law last year or the year before. It was not in the law then, it is not in the measure before us, and it ought not to be in the law, because that class of unemployables, those in almshouses, those in old-age homes, those who are physically unable to look after themselves—the maimed, halt, and blind and deaf, and the incurables—certainly ought not to be included in a measure of the kind before us, which has been prepared for the purpose primarily of giving to those who can work a job. We care for them, it is true, in another way, in a matter of old-age pensions.

Mr. VANDENBERG. I did not rise to argue the merits of the proposition.

Mr. McKELLAR. I am arguing the merits. That is the reason for this debate.

Mr. VANDENBERG. I rose to ask the Senator if he is undertaking to assert that there is no divided responsibility for relief as a problem in the United States today under existing conditions.

Mr. McKELLAR. All this joint resolution applies to is work relief. There is no divided responsibility. It is a unified responsibility. The Federal Government is providing for relief for those who can work but who can get no work. It is a direct responsibility from Mr. Hopkins on down. The States and local communities have a unified responsibility for direct relief.

Mr. VANDENBERG. Certainly, it is a direct responsibility for 40 percent of the relief problem, and it leaves 60 percent of the relief problem under a different responsibility.

Mr. McKELLAR. That has always been under another responsibility, and will always continue to be under another responsibility; and in my judgment it should be.

Mr. VANDENBERG. At least we agree that it is a divided responsibility. That is something.

Mr. McKELLAR. No; I do not agree with the Senator about a divided responsibility, because we never undertake to divide it. There is not any divided responsibility, and there ought not to be any divided responsibility. When the Federal Government appropriates money, it should control the spending of it. The Federal Government's agents should spend the money, just exactly as is done in all other cases of Federal jurisdiction. We ought not to turn it over to people who have no responsibility to us, who are under no obligation to this Government, which furnishes the money. It seems to me that is an indefensible proposition.

It would be just as indefensible, in my judgment, to turn over this money in a lump sum to the States, as it would be for Congress to figure out just how many millions each department wanted and turn it over to the head of a department to spend as the head of the department felt was right. We never have favored such a policy. We have had that condition to some extent in the last few years, but, in my judgment, the principle is wrong. We ought to provide that every department should show exactly what it needs, and have appropriations made accordingly for items, and not made in lump sums.

I next come to the third reason given by the Senator from Michigan, and this is quite the most remarkable of them all. I read:

> It will assist hard-pressed citizens and local units of government—

I do not know whether the Senator means State governments or the United States Government—

> many of which are at the fiscal breaking point, to deal equitably and dependably with all phases of relief, instead of being forced to deal doubtfully and inequitably with that portion of the load, often a major portion, which the existing formula leaves on the local shoulders.

Exactly what the Senator means by that I do not know. In my judgment, it is a concatenation and a conglomeration of words which have precious little meaning.

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

Mr. McKELLAR. I yield.

Mr. SMATHERS. I should like to say to the Senator at that point that I received a telegram this morning from the mayor of my home city of Atlantic City, a Republican mayor, asking me to oppose the amendments proposed in the Senate and to vote for the bill as it passed the House.

Mr. McKELLAR. I hope the Senator will not do that. Mr. President, I should like to have the Senator from Michigan examine the methods of relief as administered by Mr. Hopkins. In the testimony taken before our committee concerning the method of dealing with relief funds it was shown that the Accounting Division of the Treasury Department is used for the purpose of making virtually a preaudit of every expenditure by the W. P. A. We appropriate in this joint resolution, as I recall, $8,000,000 to see that every item of expense and every item of expenditure is carefully looked after, and if a Senator reads the testimony he will see that it is carefully looked after by the Accounting Division of the Treasury Department, so that there will be no loss, there will be no leak, there will be no method of dealing with the money except in a proper and legitimate way. It seems to me that there is no better way of distributing this great

fund than by having such a preaudit, with proper accounting, to make sure that mistakes are not made by the Administrator.

I was very happy to notice that the Senator from Michigan yesterday paid a high tribute to Mr. Hopkins as Administrator. I commend him for that. I think Mr. Hopkins is one of the best Administrators who could possibly be found in this country. He has managed the relief matter admirably. There has been no scandal except in the headlines of the opposition newspapers. There have been no shortages except in the same headlines. When the charges have been examined, the accounts of the director of this great relief work have been found to be correct. Not a charge has been substantiated anywhere. We have had charges from every State of the Union, perhaps, occasionally, as would be natural, but when they are examined, it is found that they are not well founded, because of the systems of check and double check by the Treasury Department and by the General Accounting Office for these funds.

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

Mr. McKELLAR. In just a moment. The first step is that the Treasury Department, through its accounting office, checks every item of expenditure, and the second is that after that is done there is a postaudit by the General Accounting Office, and the General Accounting Office will catch anything that is wrong. That is why when these charges come in and are examined by the accountants of those two Departments of the Government, one the Treasury and the other the General Accounting Office, it is found that the charges are without foundation. I yield to the Senator from Vermont.

Mr. AUSTIN. I should like to ask the Senator whether he understands that there is any current control of expenditures of W. P. A. funds through the General Accounting Office.

Mr. McKELLAR. No; the General Accounting Office audits afterward, as it does in all other cases, and whatever mistakes are made they are called to the attention of the Administration and are corrected. But the Treasury accounting office makes a preaudit of the accounts, as shown in the testimony, and in that preaudit of the accounts they do not allow the expenditures unless they are authorized and unless they are proper.

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

Mr. McKELLAR. I yield.

Mr. AUSTIN. I should like to ask the Senator if he understands that the Comptroller General makes any examination of the payments to be made under the W. P. A.?

Mr. McKELLAR. No; he does not. I invite the Senator from Vermont to read in the Senate committee hearings the testimony of the head of the accounting office in the Treasury Department who does make a preaudit and sees that the expenditures are proper before they are made. A reading of that testimony will convince the Senator and the country that every precaution is taken to see that the expenditures are properly made under the law and that there has been no diversion of any funds.

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

Mr. McKELLAR. I yield.

Mr. AUSTIN. I should like to ask the Senator if he understands that there is any preaudit whatever or control over the expenditure of sponsors' contributions to this type of relief.

Mr. McKELLAR. I should have to examine the testimony further in respect to that matter. I do not recall just what the head of the accounting office in the Treasury Department testified about it; but, according to my understanding of the situation, the sponsors' contributions become a part of the Federal relief funds and are expended in the same manner as the remainder of the funds and must be accounted for.

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

Mr. McKELLAR. Yes.

Mr. AUSTIN. I call attention to the report of the Acting Comptroller General for the fiscal year 1937, pages 38 and following, which show that the contributions by sponsors are not even covered into the Treasury of the United States. They simply deposit them in special funds in banks wherever they want to, and check them out, according to this report, without any preaudit. I do not know about subsequent audits. Perhaps there may be a subsequent audit of the expenditures after they are made.

Mr. McKELLAR. Preaudits are made by the Treasury Department prior to the funds being expended, and audits are made by the General Accounting Office subsequent to the funds being expended, and therefore we have a check both before and after the expenditure of the funds, as we should have.

Mr. AUSTIN. The Comptroller General has tried to have this practice discontinued, or at least to have these huge sums of money covered into the Treasury so that we may have the ordinary method of tracing the expenditure of the funds in question, as well as the method that is employed in tracing expenditures of other funds.

Mr. McKELLAR. If such a provision is not contained in the law I will say to the Senator I shall be glad to vote for a provision or amendment requiring that what he suggests be done.

Mr. President, I wish to say that it is shown in the evidence given the Senate committee that Mr. Hopkins, as the administrator of these funds, takes every precaution to see that the funds are fairly and equitably distributed, and that they are honestly distributed, and that every dollar is accounted for.

I am happy to say that, in my judgment, Mr. Hopkins is a remarkable administrator, one of the most remarkable administrators we have ever had in our Government. Time and again he has been assaulted, but when the facts have been examined he has always been upheld. There have been no scandals in his administration except, as I have said, in the headlines of the newspapers, and whenever an examination has been made into charges leveled against him it has been found that the charges were without foundation.

I next come to the fourth proposal of the Senator from Michigan. I read:

> It will at least partially repel any sinister and empty notion that money from Washington is manna from heaven which need not be husbanded like money raised by real taxes in the community where the money is spent.

O Mr. President, we now have not only a check on every expenditure, but a double check on every expenditure. We have admittedly had a clean administration of these expenditures. What would the so-called plan or amendment to the present plan of the Senator from Michigan do? He would simply have the Government write a check for the amount that a State should get, and turn it over to the State for distribution, with no responsibility, no safeguards about accounting, no safeguards about auditing, either preauditing or postauditing, no responsibility to the United States Government which furnishes the money. To my mind such a proposal is without the slightest merit.

Talk about "manna from heaven"! I expect it does seem like manna from heaven to some of the poor people who are starving. The sinister idea comes not from those people but from those who are indirectly fighting the proposals now before us.

Listen, Senators, to what the Senator from Michigan says:

> It will standardize relief expenditures, so that we may frankly face the problem too long ignored of cutting our garment according to the cloth.

The Senator speaks of standardization. Would the giving out of 49 checks, 1 to the District of Columbia and 1 to each of the States, standardize these expenditures? Who would know how the expenditures were made? Where would we get the information as to whether the funds were being honestly, or properly, or fairly spent, or equitably distributed? Where would we get that information? What officers would control the expenditures? What accountants would

supervise them? Instead of standardizing, it would bring about "confusion worse confounded."

What would the State administrations in the various States think of receiving funds in a lump sum? Would not many of their officials regard it as "manna from heaven"? Who knows where it would go, or whether it would go to actual relief? The State officials would not be responsible for it. The States could not pay it back if they wanted to. The Federal officials would not be responsible for it, because under the law we would turn it over to the State officials. Again, I say, it would be "confusion worse confounded" instead of standardization.

No, Mr. President, the argument of the distinguished Senator from Michigan is the so-called issue that has been repudiated by the American people by one of the largest majorities ever given in a national election. It is a last year's bird nest. It has "gone with the wind," and will never receive the sanction of congressional approval on either side of the Capitol. It would be a political anachronism, and it is so confused that even my able and brilliant friend the Senator from Michigan, whom I esteem very highly, and whom I admire very greatly, in describing it has used the conglomeration of words to which I have heretofore referred.

His is not a plan. It is simply a political gesture, and a worn-out gesture at that, a gesture which was contained in the Republican platform in 1936, which was repudiated by a majority of more than 10,000,000 votes of the American people.

Mr. President, I undertake to say that there will not be many votes cast against the relief measure in this body. I do not know whether or not my friend the Senator from Michigan will vote for it. Personally, on his own account I should like to see him vote for it. Politically, I hope he will vote against it, because I am sure it is going to pass.

Mr. VANDENBERG. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Tennessee yield to the Senator from Michigan?

Mr. McKELLAR. I yield.

Mr. VANDENBERG. I should like to set the Senator's mind at rest. I shall vote against the bill in its present form. What happens to me politically is of no moment either to me or to the country, but what happens to the country is of great importance to us all.

Mr. McKELLAR. Of course, the Senator is the arbiter of his own fortunes, and he will have to follow his own judgment.

Mr. President, I wish to say that I feel deeply regretful that we have to furnish this relief. I had hoped that the economic conditions making it necessary would have passed before now. I am deeply regretful that the recession has come into our economic life which makes the pending legislation necessary. But I believe it is necessary. I believe the American Government is able to, and that it is the American Government's duty to furnish this relief.

Talk about the United States not being able to do it. Talk about our being in bankruptcy and unable to furnish this relief to our needy people at the present time. The idea seems to me to be puerile and unworthy. In this morning's newspaper I read that a vast sum of money was borrowed in the open market yesterday by our Treasury Department at twenty-five one-thousandths of 1 percent. And we hear talk about bankruptcy following the adoption of this measure.

Senators, the question before us is one of human relief. It is a practical question. It is not a political question. Unless I am tremendously mistaken, the votes will again show when the roll is called that Democrats and Republicans alike will join to vote Federal funds, to be accounted for by Federal agents, not in the way of gifts and doles but in the way of work for our people who are for the time being without work.

Not a great deal has been said up to date, Mr. President, about the public-works provision of the bill. With one exception, which I will explain at another time, I think that public-works projects are excellent and will do our country a great deal of good. I am going to digress at this point long enough to say that I think the work done under the public-works system, as carried on by Secretary Ickes, has been a grand job. There has been no scandal connected with it, not even in the newspaper headlines. Accounts were kept of expenditures. Vouchers were kept. Federal money was expended properly by this splendid Federal officer. I think Secretary Ickes, I repeat, has done a grand job, and I think the work that is provided for in the measure before us will be of enormous interest to our country.

Mr. President, the program prepared by the President and his advisers has been bitterly attacked and criticized by some of the President's political opponents, opponents who can see no good in anything he says or does. The chief attack, broadly stated, is that it is claimed the renewal of the relief spending and lending program, like all the President's preceding programs, is doomed to failure.

I desire to say that, in my judgment, the President's previous programs have not been failures but have been remarkable successes under the circumstances; and I believe the present program will be a success. If I did not believe it, I would not be for it.

Mr. President, let us take up for a few moments the contentions of our opponents and analyze them. I begin by saying that I believe the economic program of President Roosevelt has been a success in the past and has already done much to put us in a better economic position, and that this bill will continue our march back to prosperity.

To show the truth of this assertion I need only call the attention of sound-minded and unprejudiced persons first to the condition our country was in when Mr. Roosevelt became President on March 4, 1933, and then call attention to its present condition.

We Americans are such forgetful people. We have such short memories. Many of us disregard and forget all the past. We think only of the immediate present. We forget the good already accomplished and look only at the present difficulties. It is my purpose to remind my listeners of the good which many of them, perhaps, have forgotten.

For some 3 years prior to Mr. Roosevelt's administration more than half of all the banks in America had failed or had gone into bankruptcy and more than $4,000,000,000 of the people's money in such banks had been lost or tied up. No person, however well-to-do, knew one day whether he would be able to draw money out of his bank the next day, no matter what may have been the amount of his deposits therein. The prices of agricultural products had gone down so low that they were less than the cost of production, thus rendering it impossible for the farmer to buy the things which he needed, making his condition intolerable.

Cotton, a product which is so necessary to the southern section of the country, was selling for about 5 cents a pound; corn for 23 cents a bushel; wheat for 38 cents a bushel; hogs for 2½ cents a pound; cattle for 2½ cents a pound; and every other farm product was selling for less than the cost of production. Many of the railroads were in bankruptcy, and industries were shut down all over the country. Industries could not sell their products because the people had no money with which to buy, and many of the manufacturers could not obtain the money to carry on their business. Millions of Americans were on the verge of starvation. For years they had been supplied by private individuals, organizations, localities, cities, and States, until all the supplies had run out, and the poor were facing actual starvation.

Those were the essential facts of the situation at that time, as we all know. No honest person can deny that those were the conditions which confronted Mr. Roosevelt when he entered office on March 4, 1933. The claim that the country is no better off now than it was in 1932 shows either a total loss of memory or a total disregard of the plain truth.

Did Mr. Roosevelt, like his predecessor, merely allow things to take their course, hoping, Micawber-like, that something would turn up to restore sound conditions? Indeed he did not, Mr. President. Quite the contrary; without a moment's hesitation, he set about at once to formulate policies to change and improve the deplorable conditions.

The first thing he did was to close all the banks for a few days, and then open up all the good ones. Then, he recom-

mended to the Congress, over the protest of the bankers of the country, that it pass a law providing for the guaranty by the Government of the deposits in every bank, with certain limitations. That bill was speedily enacted by the Congress, signed by the President, and put into effect. Since that time bank failures have substantially disappeared, and no depositors have lost money in banks since Mr. Roosevelt has been in office. Banks are the mainspring of our economic system. They are the lifeblood of trade and commerce. Was the President's bank policy a failure? This policy, so vitally necessary to the prosperity of our people, was not a failure. Can even the most prejudiced claim that that policy was a failure? I assert that it was not only not a failure, but it was a success from the very beginning. It is still a success and a living monument to the sagacity and wisdom of our great President.

Then, the President took up the question of the restoration of agriculture; and within a short time, by judicious laws and wise administration of those laws, the prices of agricultural products went up and continued on the upgrade until about 6 months ago, doubling, and sometimes trebling the prices of the pre-Roosevelt period.

While the present may be called a period of recession in prosperity, let us see how the present prices of agricultural products compare with the prices when Mr. Roosevelt came into office 5 years ago. Cotton was then 5 or 6 cents a pound and is now about 9 cents. Corn was then 23 cents a bushel and is now 60; wheat was then 38 cents a bushel and is now 80 cents a bushel. Hogs were then selling for 2½ cents a pound and are now selling at 8.7 cents a pound. Cattle were then selling at 2½ cents a pound and are now selling at 9 cents a pound. The prices of all other agricultural products have increased in like manner. It is true that the prices of these products have been higher, but they are still more than double what they were when Mr. Roosevelt came into office. Is this policy a failure for agriculture? How many persons would want to go back to the pre-Roosevelt days, when the cotton was selling at 5 cents a pound, hogs at 2½ cents, cattle at 2½ cents, wheat at 38 cents a bushel, and corn at 23 cents a bushel? I wonder how many of us would want to go back to such prices.

Much is said about the recession—and it is a recession—but who wants to go back? Even in the present situation the prices of all these products so necessary to the welfare of the country are more than double what they were when Mr. Roosevelt came into office in 1933. In like manner, while there has been some recession in industry, yet industry is more than doubly as prosperous as it was when Mr. Roosevelt came into office. Stocks and bonds went up, and the whole country was gaining steadily until about 8 months ago, when, for some reason not accurately accounted for, a recession came. While many stocks have gone down in recent months, they are still much higher, taken as a whole, than they were when Mr. Roosevelt came into office. In addition, the year before Mr. Hoover went out of office, the national income was $38,000,000,000. That was the income of all our people taken together. What was it last year? It was $68,000,000,000, a tremendous increase. It is estimated that it will be about $60,000,000,000 this year. Is this a policy of failure? Is this a result for which the President should be criticized? I take it that every fair-minded man and woman in this country would say no.

In 1933 billions of dollars' worth of farms and homes under mortgages were under the threat of foreclosure. The Roosevelt administration has remedied that trouble and has substituted the Government as creditor for farm and home mortgages without substantial loss to the Government. Billions of dollars of Government funds have been invested in public buildings throughout the country, in public roads, airways, airports and landing fields, parks and parkways, transportation, navigation needs, drainage, in lending money to improve city water supplies, in building better streets and cities, in building bridges, in separating railroad grade crossings, and in the conservation of our natural resources, including the education of our youth. Every part of our common country has been improved and its people benefited.

So when it is stated, Mr. President, that Mr. Roosevelt's policies have been a failure, that statement is not true; and every intelligent man and woman must know it. Though there has been some small recession in the past few months, the cause of which I do not know—and I doubt if any of us know—we are still infinitely better off than we were when Mr. Roosevelt came into office. We have had a recession in business, it is true, and we must deal with it as such. President Roosevelt dealt with it successfully before, and, in my judgment, he will do so again. He dealt with it in a way which brought success to bankers, to farmers, to businessmen, to merchants, and to all our people.

I, for one, have not lost faith in him because of the present recession. He has done a wonderful job. He deserves the confidence of the American people, and I believe that he has the confidence of the overwhelming majority of the American people today. I say that I approve these new proposals of the President with an unshaken confidence in their efficacy.

I wish now to discuss very briefly several items of the joint resolution.

In the present situation the President proposes a continuation of relief for the first 8 months of the coming fiscal year to the extent of $1,425,000,000. This represents an increase in relief over the preceding years, but, in my judgment, the local communities, which have uniformly taken care of such relief work prior to 1932, are unable to take care of the relief in the coming year, and that is why it is necessary.

Who is opposing this measure of relief? I think the Senator from Michigan is the only one who has openly opposed it in this body; I do not know of any other. It may be that other votes will be cast against it, but, so far as I know, no other Senator has openly opposed it and no other man in public life today is openly opposing it. There may be some, but they have been exceedingly quiet about it. All thinking persons know that in the present situation it will be necessary to grant this relief in order to keep the people from starving. It is in line with what we have done before. It has been efficacious before and it will be efficacious this time. The President issued an order some time ago that relief should be granted upon the local communities putting up 25 percent of it, and we all know from experience that when the local communities put up 25 percent the money will be well expended and for the benefit of the people.

The President's next proposal is an appropriation of $175,000,000 for the Farm Security Administration. That Administration has admittedly done wonders for the American farmers and is largely responsible for the favorable situation of agriculture today, and, so far as I know, not a public man has held up his voice directly against this proposed appropriation.

The next proposal is that the sum of $75,000,000 be appropriated for the National Youth Administration. This, I think, is a wise expenditure, and I believe the country will so hold. The National Youth Administration has done a great work for our young men and young women, and it ought to be continued.

The President's next proposal is an additional sum of $50,000,000 for the Civilian Conservation Corps. What has done more for the young men of this country than this same Civilian Conservation Corps? What public man is there who objects to it? Who is there that is going to fight the boys of this country? Everybody knows what a successful and efficient work has been done by the boys in the Civilian Conservation Corps camps. This appropriation does not add to these camps; it merely keeps them where they are today. It does not subtract from them, and we are proceeding just as we have proceeded for a number of years in these C. C. C. camps that practically all agree perform a valuable function.

Not in this bill but in a bill which has already passed, the President recommended the lending by the Reconstruction Finance Corporation to business enterprises of $1,500,000,000.

This money is to be loaned on security. This money is to be returned to the Treasury of the United States, and, under the able and skillful management of Jesse Jones, I have no doubt that it will be done, and I believe it will greatly make for the return of prosperity. This bill almost unanimously passed the two Houses of Congress, and so far as I know, there is no criticism of it. It ought to aid business very greatly.

The next recommendation of the President which he has already put into effect was the desterilization of approximately $1,400,000,000 of Treasury gold. This has been recommended for some time, and I am delighted that the President has already put it into effect, and it necessarily means that much more capital with which to do the people's business. It is a splendid step in the direction of restoring business.

The next proposal of the President grows out of an order issued by the Federal Reserve Board last spring requiring banks to increase their reserves by approximately three-quarters of a billion dollars. This order had the effect, as many believe, of restricting credit. It has been rescinded, and as a result there is left in the hands of the various banks $750,000,000 more to lend to businessmen in aid of the restoration of business.

I next come to the recommendation of providing half a billion dollars to the Housing Authority to permit more houses to be built for the American people. This is a lending proposition. It is a safe business proposal. The money will come back to the Treasury. It is a perfectly proper proposal and one I believe the American people will overwhelmingly endorse and approve.

The last proposal made by the President is to continue the Public Works Administration to the extent of an outlay from the Treasury of perhaps $1,100,000,000 more. These public-works projects have been tried and have proved to be highly beneficial to the American people. Public works of all kinds have been carried on under them, and the Government will have restored to it $825,000,000. In other words, 45 percent will be grants and 55 percent loans. No better work has been done by the Government during the Roosevelt administration than that done by the Public Works Administration.

Another measure that will be of the greatest benefit to every form of business is the new tax law that has recently been signed by the President. This law is not in his latest proposal, but it will tend tremendously to help business and to restore sound economic conditions.

Mr. President, these measures recommended by the President at this time are safe and sane proposals. They are proposals that have been tried out and found to be good. The American people 5 years ago and a little more than 1 year ago had confidence in the present President of the United States, and their confidence has not been misplaced. This country is today infinitely better off than when he assumed office, and these proposals will bring about increased trade and commerce, increased manufacturing and business, increase in all banking operations, increase in our national income, increase in the building up of the American people, and an increase in the efficacy and efficiency of our national democratic government.

I am thoroughly in favor of all these proposals with one exception, to which I shall refer later.

The proposal to which I object is not the President's recommendation. It is one to which I think he objects just as strongly as I object to it. It is the so-called Power Trust amendment to which I object very strongly. However, I will come to that later. I have no doubt that the Congress will speedily enact this bill and that the American people will respond favorably to its enactment.

Mr. President, let us not be misled. The President did not bring about this recession. Any person ought to be able to see that he would be the last person on earth to have brought about or to have connived at any such recession. The banks did not bring about the recession. They likewise had every interest in having the country go forward. The laboring people of the country did not bring about this recession. They likewise had every reason for wanting things to continue to get better. The farmers did not bring about the recession, for their every interest, their living, is tied up in better prices. Businessmen generally in the country did not bring it about, for their every interest is against a recession in prices. New Deal policies did not bring about the recession, because it was those very policies which had brought us out of the economic mire of 1933.

Some say this recession is natural, others say it has been manufactured or manipulated for political purposes, and still others say that it was brought about by comparatively few men having almost limitless wealth, to teach the President a lesson not to interfere in their private economic control of this country. I do not know what the causes are, and I doubt if anyone else knows the causes.

However, whether it happened with or without cause, we all must recognize that there is a recession, and we should all join in the common effort to restore our common country.

Some still say—one Senator has so stated, I believe, on the floor—that they do not like the President's plan. Well, the President is the only one who has brought forward a plan. It is easy to criticize; but who has any other plan? If Senators do not like this plan, why do they not bring forth another one? Why is there not some concrete plan brought forward if this plan is not a wise and proper one? Why do not some of those wise ones who contend it is not right bring out a plan to take the place of the plan now proposed? Why do they not suggest a plan to restore the country? They have a wonderful opportunity. Why do they not bring forth a better plan?

Mr. CONNALLY. Mr. President——

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

Mr. CONNALLY. In all fairness, does the Senator from Tennessee overlook the marvelous plan of the Senator from Michigan?

Mr. McKELLAR. No; that was not a plan; that was a corollary, if I may so describe it; it was just a little change in the present plan. It is directed solely to the method of distribution. The Senator from Michigan is not against relief; he says he is going to vote against this bill, for certain reasons, but he talks favorably about relief. He recognizes that relief must be accorded. All the Senator from Michigan says is that he wants the States to distribute the money instead of the Federal Government distributing it. He wants the States to distribute it, without any let or hindrance, without any responsibility to anybody, without making an accounting to anybody. The idea of the Senator from Michigan is just to let the Government divide up the money, send it in lump sums to the treasurers of the States, let them take the responsibility and do what they please with it. That is not a plan to restore prosperity. That sounds like politics to me. That must be the "manna from heaven" which the Senator talks about.

Mr. CLARK. It sounds also like "pork barrel."

Mr. McKELLAR. The suggestion has been made, and I think it is a wise one, that the proposal of the Senator from Michigan is a "pork barrel" scheme. What greater "pork barrel" scheme has ever been suggested than the proposal of the Senator from Michigan? The words "pork barrel" correctly describe it; and I thank my friend the Senator from Missouri who suggested "pork barrel." Take the money to be provided, divide it up on a population or other basis, and send checks to the 48 States and to the District of Columbia. That is not a plan. It is the most fallacious suggestion that has ever been offered in this body. But what else has been offered? If the President's plan is not good, what else has been offered in its stead? Some doubt its efficacy, but they suggest nothing in its stead. Surely the American people are not going to give up; surely the American people are not going "to take it lying down"; surely the American people have more courage than that.

So, in closing, let me say, let us forget the politics in this situation; let us forget the "pork barrel" in this situation; let us forget even that some of us are Democrats and some of us

are Republicans. I have already obtained permission to have published in the RECORD the list of Republicans who voted for these bills in the past 13 years. Let me repeat the votes for a moment:

On the first bill, there were 13 Republican yeas to 15 nays.

On the second bill there were 11 Republican yeas to 20 nays.

On the third bill, there were 13 Republican yeas to 10 nays.

On the fourth bill, there were 11 Republican yeas to 11 nays.

On the fifth bill, there were 16 Republican yeas and not a single nay.

Is this a political question? No; it is not political. It is a question which deals with relief for human needs.

Let us forget our prejudices; and inasmuch as the President's plan has worked well before, let us all get behind him. We Democrats have twice made him our leader. Let us stand by him in the work that he is probably better qualified to take the lead in than any other man in this country. Let the bankers get behind the President's proposal and use their every effort to restore our country. Let labor make every concession and use every effort to make America again prosperous. Let the farmers, always the hard-working class of our people, work harder still and strive the more to bring about a return of real prosperity. Let the manufacturers, who are prosperous only when prices are rising, likewise make every concession and use every effort to do away with this recession. Let the misguided few of our transportation men and professional men, of our businessmen, or any other men in our country, quit criticizing, quit doubting, quit nagging, and let us all get behind our great President as our national leader, and let us restore our country to economic prosperity. There is strength in union. It is a time when Americans should get together and stay together until all economic danger is behind them. Work harder. Save more. Talk less. Put the President's proposals into law, and the victory will be ours.

Only eternal vigilance by our Government protects our liberties; only administration of our liberal laws guarantees freedom of action; and the assistance offered by our democratic government assures us our pursuit of human happiness.

Keep faith in America and confidence in your Government. American democracy is superior to all other forms of government. Look about you in the world; look about you in the world anywhere if you want contrast for your present contentment. Look at Europe, Asia, South America—anywhere else in the world. Do you not think we had better hold on to what we have? Do you not think we had better go along, and join together, and restore the leadership which has been ours for so long?

Our Government offers humanitarian cooperation, privileges for the underprivileged, assistance to the needy, opportunity for the ambitious, security for the aged, and protection for all. God bless our country and our people.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

S. 3526. An act to refund sums paid by the railroads and other carriers of the United States under the Railroad Retirement Act of 1934; and

S. 3949. An act to amend the Agricultural Adjustment Act of 1938.

RELIEF AND WORK-RELIEF APPROPRIATIONS

The Senate resumed the consideration of the joint resolution (H. J. Res. 679) making appropriations for work relief, relief, and otherwise to increase employment by providing loans and grants for public-works projects.

Mr. BILBO obtained the floor.

Mr. COPELAND. Mr. President——

Mr. BILBO. I yield to the Senator from New York.

Mr. COPELAND. I ask that there be printed in the body of the RECORD an amendment which I shall offer to the pending measure, which provides for specifying for river and harbor and flood-control projects $325,000,000 of the amount designated for the P. W. A. I offer the amendment by the authority and at the request of the Committee on Commerce.

This afternoon, or whenever I can obtain the floor, I shall attempt to explain in some detail the amendment I have just offered.

The amendment was ordered to lie on the table and be printed, and to be printed in the RECORD, as follows:

Amendment intended to be proposed by Mr. COPELAND, on behalf of the Committee on Commerce, to the joint resolution (H. J. Res. 679), making appropriations for work relief, relief, and otherwise to increase employment by providing loans and grants for public works projects, viz:

On page 20, line 21, after the word "agencies", to insert the following:

"That irrespective of any other provisions herein, the Administrator shall allot to the Secretary of War out of the funds provided in this title (Title II), the sum of $324,235,900 which shall be available and remain available until expended by the Secretary of War under the supervision of the Chief of Engineers of the United States Army in the construction of the river and harbor and flood-control projects hereinafter designated, provided that subsection (b) of section 201 shall not apply to the allocations and expenditures on said projects, to wit:

"MAINE

"FLOOD CONTROL

"Androscoggin River, $500,000.
"Saco River, $400,000.
"Kennebec River, $200,000.

"NEW HAMPSHIRE

"FLOOD CONTROL

"Franklin Falls (R), $2,000,000.
"Surry Mountain (R), $1,522,500.

"VERMONT

"FLOOD CONTROL

"Union Village (R), $1,878,600.

"MASSACHUSETTS

"RIVER AND HARBOR

"Boston Harbor, $500,000.
"Cape Cod Canal, $1,000,000.
"Lynn Harbor, $336,000.
"Fall River, $41,500.
"Taunton River, $540,000.
"Mystic River, $50,000.
"Scituate Harbor, $81,000.
"Plymouth Harbor, $190,000.
"Westport River, $56,000.

"FLOOD CONTROL

"Knightsville (R), $1,767,000.
"Tully (R), $529,000.
"West Springfield (L), $298,000.
"Springfield (L), $1,594,000.
"Holyoke (L), $1,388,000.
"Chicopee (L), $1,275,000.
"Northampton (L), $456,000.

"RHODE ISLAND

"RIVER AND HARBOR

"Providence River and Harbor, $500,000.

"CONNECTICUT

"RIVER AND HARBOR

"Thames River, $400,000.
"Connecticut River below Hartford, $50,000.
"Bridgeport Harbor, $41,000.

"FLOOD CONTROL

"Hartford (L), $2,350,000.
"East Hartford (L), $1,163,000.

"NEW YORK

"RIVER AND HARBOR

"Port Chester Harbor, $98,000.
"Fire Island Inlet, $659,000.
"New York Harbor, $500,000.
"Bay Ridge and Red Hook Channels, $460,000.
"Buttermilk Channel, $583,000.
"Newtown Creek, $135,000.
"Hudson River, $1,102,000.
"Great Kills Harbor, Staten Island, $114,500.
"Huntington Harbor, $51,000.
"Flushing Bay, $194,000.
"Hudson River Channel, $800,000.
"Great Lakes to Hudson River Waterway, $2,000,000.

"FLOOD CONTROL

"Susquehanna headwaters (R), $521,000.
"Waterford (L), $315,000.

"PENNSYLVANIA

"RIVER AND HARBOR

"Allegheny River, $500,000.
"Erie Harbor, $210,000.
"Ohio River, locks and dams, $50,000.
"Ohio River, open channel work, $50,000.
"Delaware River, Philadelphia to the sea, $500,000.

"FLOOD CONTROL

"Kingston-Edwardsville (L), $806,000.
"Wilkes-Barre (L), $1,445,000.
"Johnstown (C), $2,700,000.
"Tionesta, Crooked Creek, Red Bank, French Creek, and Mahoning (R), $5,500,000.
"Pittsburgh (L), $3,500,000.
"Kittanning (L), $120,000.
"McKees Rock (L), $902,000.
"West Bridgewater (L), $828,000.
"New Kensington and Parnassus (L), $1,104,000.
"Freeport (L), $1,163,000.
"Tarantum, Breckenridge, and Natrona (L), $1,368,000.
"Punxsutawney (L), $1,471,000.
"Coraopolis (L), $1,090,000.

"DELAWARE

"RIVER AND HARBOR

"Delaware River, Philadelphia to the sea, $750,000.
"Chesapeake and Delaware Canal, $1,500,000.

"NEW JERSEY

"RIVER AND HARBOR

"Mantua Creek, $54,000.
"Delaware River, Philadelphia to the sea, $1,000,000.

"DISTRICT OF COLUMBIA

"RIVER AND HARBOR

"Washington Harbor, $65,000.

"MARYLAND

"RIVER AND HARBOR

"Baltimore Harbor and channels, $50,000.
"Channel, Plain Dealing Creek to Oak Creek, $74,000.
"Twitch Cove and Big Thoroughfare River, $131,000.
"Herring Bay and Rockhold Creek, $43,000.
"Chesapeake and Delaware Canal, $500,000.

"FLOOD CONTROL

"Cumberland (L), $590,000.

"VIRGINIA

"RIVER AND HARBOR

"Mattaponi River, $19,250.
"James River, $337,000.
"Cape Charles City Harbor, $27,000.

"FLOOD CONTROL

"Haysi (R), $1,000,000.

"NORTH CAROLINA

"RIVER AND HARBOR

"Drum Inlet, $50,000.
"Intracoastal Waterway, Cape Fear River, N. C., to Winyah Bay, S. C. (Southport, N. C.), $23,500.
"Belhaven Harbor, $53,000.
"Roanoke River, $323,000.
"New River Inlet, $35,000.
"Inland Waterway, Cape Fear River, N. C., to Winyah Bay, S. C., $350,000.

"SOUTH CAROLINA

"RIVER AND HARBOR

"Inland Waterway, Cape Fear River, N. C., to Winyah Bay, S. C., $350,000.

"GEORGIA

"RIVER AND HARBOR

"Terrys Creek and Back River, $35,000.
"Intracoastal Waterway, Cape Fear River, N. C., to St. Johns River, Fla., $510,000.

"FLORIDA

"RIVER AND HARBOR

"Anclote River, $10,000.
"Lake Okeechobee, $1,000,000.
"Fernandina Harbor, $138,000.
"St. Augustine Harbor, $137,500.
"Courtenay Channel, $31,000.
"Eau Gallie Harbor, $11,100.
"Port Everglades, $459,000.
"Channel, Naples to Big Marco Pass, $50,000.
"Tampa Harbor, $221,500.
"Apalachicola River, $3,750.
"Palm Beach, $268,000.
"Intracoastal Waterway, Cape Fear River, N. C., to St. Johns River, Fla., $200,000.

"ALABAMA

"FLOOD CONTROL

"Brewton levees, $235,000.

"MISSISSIPPI

"RIVER AND HARBOR

"Pearl River, Miss. and La. (Miss.), $500,000.
"Biloxi Harbor, $20,000.

"FLOOD CONTROL

"Homochitto River (C), $100,000.
"Big Black River (C), $436,000.
"Lazoo River (R), (C), (L), $2,000,000.
"Levee roads, $1,500,000.
"Mississippi River levees (L), $2,000,000.

"LOUISIANA

"RIVER AND HARBOR

"Pearl River, Miss. and La. (La.), $500,000.
"Southwest Pass and South Pass, Mississippi River, $570,000.
"Calcasieu River and Pass, $1,000,000.
"Southwest Pass and South Pass, Mississippi River, $500,000.
"Mississippi River between Baton Rouge and New Orleans, $200,000.
"Grand Bayou Pass, $25,000.

"FLOOD CONTROL

"Colfax, Grant Parish (L), $50,000.
"Grant Parish below Colfax (L), $71,000.
"Wallace Lake (R), $512,000.
"Atchafalaya floodways (L), $5,000,000.
"Wax Lake outlet (L), $1,000,000.
"Levee roads, $1,500,000.
"Mississippi River levees (L), $1,000,000.

"TEXAS

"RIVER AND HARBOR

"Louisiana-Texas Intracoastal Waterway, $1,000,000.
"Houston Ship Channel, $550,000.
"Sabine-Neches Waterway, $1,000,000.
"Houston Ship Channel, $1,000,000.
"Dickinson Bayou, $35,000.
"Channel, Palacios to Intracoastal Waterway, $74,000.
"Port Aransas to Corpus Christi Waterway, $552,000.
"San Bernard River, $25,000.
"Rockport Channel, $13,500.
"Aransas Pass to Intracoastal Waterway, $37,000.
"Colorado River, $540,000.

"FLOOD CONTROL

"Denison Reservoir, Tex. and Okla, $2,000,000.

"ARKANSAS

"FLOOD CONTROL

"Water Valley Reservoir, Bell Foley Reservoir, Norfolk Reservoir, Lone Rock Reservoir, Greers Ferry Reservoir, Nimrod Reservoir, Blue Mountain Reservoir, $11,000,000.
"Main Mississippi River levees, $2,000,000.
"Hempstead County levees, $200,000.
"Ouachita River levees, $1,300,000.

"OKLAHOMA

"FLOOD CONTROL

"Fort Supply Reservoir, Great Salt Plains Reservoir, Canton Reservoir, Oologah Reservoir, Wister Reservoir, Mannford Reservoir, Ten Killers Ferry Reservoir, Fort Gibson Reservoir, Markham Ferry Reservoir, $11,000,000.

"MISSOURI

"RIVER AND HARBOR

"Mississippi River between Missouri River and Minneapolis, $600,000.
"Missouri River, mouth to Kansas City, $1,000,000.
"Missouri River, Kansas City to Sioux City, $1,000,000.

"FLOOD CONTROL

"Arlington Reservoir, Richland Reservoir, Chillicothe Reservoir, South Grande Reservoir, Pomme De Terre Reservoir, Osceola Reservoir, Missouri and Kansas, $8,000,000.
"Meramec Reservoir, Big River Reservoir, Joanna Reservoir, Clearwater Reservoir, $4,000,000.
"Wappapello Reservoir, $1,000,000.
"St. Genevieve Levee District, $40,000.
"St. Louis County Drainage and Levee District, $260,000.

"ILLINOIS

"RIVER AND HARBOR

"Illinois Waterway, $500,000.
"Mississippi River between Ohio and Missouri Rivers, $1,000,000.
"Mississippi River between Missouri River and Minneapolis, $700,000.
"Ohio River locks and dams, $200,000.
"Ohio River open channel work, $200,000.
"Calumet Harbor and River, Ill. and Ind., $220,000.

"FLOOD CONTROL

"Wolf Creek (R), $1,000,000.
"Russell and Allison Levee Unit (L), $1,000,000.
"Belknap (L), $90,000.
"Karnak (L), $190,000.
"Ullin (L), $45,000.
"Wabash River Levee Unit No. 6 (L), $323,000.
"Rocky Ford District (L), $48,000.

"East Cape Girardeau District (L), $200,000.
"Clear Creek District (L), $333,000.
"Mouth of Sangamon River (L), $122,000.
"Salt Creek near Middletown (L), $48,000.
"East of Hubley Bridge (L), $20,300.
"Donavon Levee (L), $28,000.
"Clear Lake Levee (L), $69,000.
"Panther Creek Levee (L), $96,000.
"Preston District (L), $244,000.
"Big Lake Drainage and Levee District (L), $52,000.
"Fort Chartres and Ivy Landing (L), $120,000.
"Sangamon River and Salt Creek (L), $13,000.
"Choteau Nameoki, Venice District (L), $132,000.
"Kelly Lake District (L), $100,000.
"Meredosia and Willow Creek (L), $285,000.
"Stringtown-Fort Chartres and Ivy Landing (L), $185,500.
"Miller Pond Levee (L), $28,000.
"Coal Creek Levee (L), $200,000.
"Big Lake Levee (L), $61,000.
"South Beardstown and Valley Levee (L), $260,000.
"Crane Creek Levee (L), $52,000.
"Grand Tower Levee (L), $320,000.
"Kaskaskia Island Levee (L), $320,000.
"Union Township Levee (L), $42,000.
"Wood River Levee (L), $750,000.
"Kaskaskia River Levee (L), $1,000,000.
"Sangamon River Levee (L), $128,000.
"Cairo Levees (L), $1,000,000.

"WISCONSIN

"RIVER AND HARBOR

"Sturgeon Bay and Lake Michigan Ship Canal, $750,000.
"Milwaukee Harbor, $25,000.
"Mississippi River between Missouri River and Minneapolis, $1,000,000.

"FLOOD CONTROL

"Black Reservoir, $1,300,000.

"IOWA

"RIVER AND HARBOR

"Mississippi River between Missouri River and Minneapolis, $1,200,000.
"Missouri River, Kansas City to Sioux City, $2,000,000.

"FLOOD CONTROL

"Dry Run Reservoir, Central City Reservoir, Caralville Reservoir, Rochester Reservoir, Hawell Reservoir, $6,000,000.

"MINNESOTA

"RIVER AND HARBOR

"Mississippi River between Missouri River and Minneapolis, $1,000,000.

"FLOOD CONTROL

"Lake Traverse (see South Dakota) (R).

"NORTH DAKOTA

"FLOOD CONTROL

"Yellowstone River, $1,000,000.
"Marmarth levees, $800,000.

"SOUTH DAKOTA

"FLOOD CONTROL

"Lake Traverse (S. Dak. and Minn.) (R), $866,000.

"NEBRASKA

"RIVER AND HARBOR

"Missouri River, Kansas City to Sioux City, $2,000,000.

"KANSAS

"RIVER AND HARBOR

"Missouri River, Kansas City to Sioux City, $1,000,000.

"FLOOD CONTROL

"Millford Reservoir, Tuttle Creek Reservoir, Kanopolis Reservoir, Osceola Reservoir, Kans. and Mo., $6,000,000.

"MONTANA

"RIVER AND HARBOR

"Fort Peck, $1,000,000.

"FLOOD CONTROL

"Livingston, Mont., Yellowstone River (R), $5,000,000.

"WYOMING

"FLOOD CONTROL

"Belle Fourche River, $400,000.
"North Platte River, $700,000.
"Powder River, $300,000.
"Big Horn River, $200,000.

"COLORADO

"FLOOD CONTROL

"Arkansas River (Caddoa) (R), $1,000,000.
"Rio Grande River above Del Norte (R), $1,500,000.
"Conejos River (R), $1,000,000.

"IDAHO

"FLOOD CONTROL

"Coeur d'Alene Lake (L), $132,000.
"St. Joe and St. Maries Rivers (L), $145,000.

"NEVADA

"FLOOD CONTROL

"Humboldt River and tributaries (surveys), $200,000.
"Owyhee River and tributaries (surveys), $50,000.
"Truckee River and tributaries (surveys), $150,000.

"UTAH

"FLOOD CONTROL

"Virgin River and tributaries (surveys), $100,000.
"Streams draining into Great Salt Lake (surveys), $150,000.

"NEW MEXICO

"FLOOD CONTROL

"Gila River, $400,000.

"ARIZONA

"FLOOD CONTROL

"Gila River, $1,500,000.

"TENNESSEE

"FLOOD CONTROL

"Mississippi River levees (L), $1,000,000.
"Dale Hollow (R), $1,500,000.
"Ross View (R), $1,000,000.
"Three Islands (R), $900,000.
"Memphis levees (L), $1,000,000.

"KENTUCKY

"RIVER AND HARBOR

"Ohio River locks and dams, $350,000.
"Ohio River open channel work, $350,000.

"FLOOD CONTROL

"Buckhorn (R), $1,200,000.
"Booneville (R), $1,500,000.
"Mining City (R), $2,500,000.
"Nolin (R), $1,500,000.
"No. 2, Green (R), $1,000,000.
"Wolf Creek (R), $2,500,000.
"Dewey (R), $1,200,000.
"Fishtrap (R), $1,000,000.
"Louisville (L), $1,100,000.
"Covington (L), $500,000.
"Ashland (L), $500,000.
"Frankford (L), $506,000.
"Wilder (L), $747,000.
"Augusta (L), $458,000.
"Ludlow (L), $954,000.
"Russell (L), $456,000.
"Maysville (L), $800,000.
"Vanceburg (L), $632,000.
"Lewisport (L), $137,000.
"Dayton (L), $748,000.
"Owensboro (L), $250,000.
"Bellevue (L), $589,000.
"Cloverport (L), $358,000.
"Carrollton (L), $889,000.
"Uniontown (L), $260,000.
"Sturgis (L), $180,000.

"INDIANA

"RIVER AND HARBOR

"Indiana Harbor, $100,000.
"Calumet Harbor, Illinois and Indiana, $220,000.
"Ohio River, locks and dams, $250,000.
"Ohio River, open channel work, $200,000.

"FLOOD CONTROL

"Cagles Mill (R), $500,000.
"Mansfield (R), $800,000.
"Sholls (R), $1,000,000.
"Spencer (R), $1,000,000.
"Brookville (R), $1,500,000.
"Metamora (R), $2,000,000.
"Lawrenceburg (L), $1,000,000.
"New Albany (L), $1,000,000.
"Clinton (L), $29,000.
"West Terre Haute (L), $137,000.
"Adams Levee units (L), $63,000.
"Honey Creek (L), $62,000.
"Deer Creek Prairie (L), $46,000.
"Sugar Creek Levee unit (L), $125,000.
"Aurora (L), $800,000.
"Grandview (L), $203,000.
"Vevay (L), $440,000.
"Patriot (L), $283,000.
"Mauckport (L), $165,000.
"Rockport (L), $145,000.
"Indianapolis (Warfleigh section), $311,000.
"Anderson (L), $127,000.
"Levee Unit No. 10 (L), $39,000.
"Levee Unit No. 8 (L), $334,000.

"OHIO

"RIVER AND HARBOR

"Huron Harbor, $122,000.
"Ohio River, locks and dams, $100,000.
"Ohio River, open channel work, $100,000.

"FLOOD CONTROL

"East Fork (R), $1,200,000.
"Frazeysburg (R), $500,000.
"Dillon (R), $800,000.
"Millersburg (R), $800,000.
"Delaware (R), $800,000.
"Paint Creek (R), $1,000,000.
"Deer Creek (R), $1,000,000.
"Shenango (R), $1,100,000.
"Mosquito Creek (R), $500,000.
"Eagle Creek (R), $1,000,000.
"Logan (R), $1,000,000.
"Portsmouth (L), $1,000,000.
"New Boston (L), $800,000.
"Logan (L), $1,000,000.
"Cincinnati (six units), (L), $1,000,000.
"Martins Ferry (L), $800,000.
"Bellaire (L), $800,000.
"Middleport (L), $800,000.
"Massillon (L), $600,000.
"Zanesville (L), $900,000.
"Roseville (L), $131,000.
"Newark (L), $263,000.
"Syracuse (L), $450,000.
"Coalgrove (L), $284,000.
"Proctorville (L), $926,000.
"Moscow (L), $440,000.
"Belpre (L), $800,000.
"Cleves (L), $190,000.
"Racine (L), $365,000.
"Follansbee (L), $943,000.
"Manchester (L), $505,000.
"New Richmond (L), $800,000.
"Brilliant (L), $800,000.
"Pomeroy (L), $800,000.
"Mingo Junction (L), $678,000.

"WEST VIRGINIA

"RIVER AND HARBOR

"Ohio River locks and dams, $50,000.
"Ohio River open channel work, $100,000.

"FLOOD CONTROL

"Bluestone (R), $4,000,000.
"Burnsville (R), $1,200,000.
"West Fork (R), $1,500,000.
"Poca (R), $1,000,000.
"Birch (R), $1,000,000.
"Mud River (R), $700,000.
"Wheeling (all sections) (L), $1,200,000.
"Huntington (L), $800,000.
"Parkersburg (L), $1,000,000.
"Warwood (L), $614,000.
"Buckhannon (L), $951,000.
"Wellsburg (L), $1,158,000.
"New Martinsville (L), $807,000.
"Elkins (L), $973,000.
"Benwood (L), $1,261,000.
"Point Pleasant (L), $934,000.
"St. Mary's (L), $560,000.
"Riverview (L), $327,000.
"New Cumberland (L), $976,000.
"Mason (L), $383,000.
"Moundsville (L), $886,000.

"MICHIGAN

"RIVER AND HARBOR

"Keweenaw Waterway, $500,000.
"St. Joseph Harbor, $75,000.
"Detroit River, $875,000.
"Charlevoix Harbor, $15,000.
"Saginaw River, $1,030,000.

"OREGON

"RIVER AND HARBOR

"Willamette River above Portland, Oreg., $15,000.
"Coos Bay, $650,000.
"Umpqua River, $273,000.
"Columbia River between Vancouver, Wash., and Bonneville, Oreg., $500,000.
"Columbia River at the mouth, jetties, $250,000.

"FLOOD CONTROL

"Sandy Drainage District (L), $92,000.
"Westport District (L), $28,000.
"John Day River dikes (L), $28,000.
"Walluski River dikes (L), $68,000.
"Peninsular Drainage District No. 1, Multnomah County (L), $134,000.
"Deer Island Areas (L), $282,000.
"Prescott area (L), $27,000.
"Cottage Grove (R), $949,000.
"Dorena (R), $887,000.
"Lookout Point (R), $3,031,000.
"Quartz Creek (R), $4,073,000.
"Fern Ridge (R), $986,000.
"Sweet Home (R), $5 336,000.
"Detroit (R), $2,665,000.
"Willamette River (C), $8,000,000.

"CALIFORNIA

"RIVER AND HARBOR

"San Diego Harbor, $1,000,000.
"San Francisco Harbor, $115,000.
"Richmond Harbor, $24,800.
"San Joaquin River, $435,000.
"Sacramento River, debris dams, $1,000,000.
"Richmond Harbor, $192,000.
"Pinole Shoal and Mare Island Strait, $162,000.
"Bodega Harbor, $565,000.

"FLOOD CONTROL

"Los Angeles County (L), (C), (R), $8,800,000.
"Santa Ana River (L), (C), (R), $3,000,000.

"WASHINGTON

"RIVER AND HARBOR

"Columbia River and tributaries, Celilo Falls to mouth of Snake River, $250,000.
"Columbia River, $25,000.
"Neah Bay, $500,000.
"Everett Harbor, $28,000.
"Columbia River between Vancouver, Wash., and Bonneville, Oreg., $500,000.
"Columbia River at the mouth, jetties, $250,000.

"FLOOD CONTROL

"Mud Mountain (R), $3,400,000.
"Skamokawa Creek area (L), $100,000.
"Deep River area (L), $47,000.
"Upper Grays area (L), $79,000.
"Pacific County diking district No. 1 (L), $23,000.
"Yakima River (L), $163,000.
"Mill Creek (Walla Walla) (R), $608,000.
"Spokane (L), $31,000.

"ALASKA

"RIVER AND HARBOR

"Unalaska Harbor, $60,000.
"Skagway Harbor, $105,000.
"Valdez Harbor, $68,500.

"FLOOD CONTROL

"Tanana River and Chena Slough (L), $565,000.

"PUERTO RICO

"RIVER AND HARBOR

"San Juan Harbor, $400,000.
"Arecibo Harbor, $468,000.
"Guayanes Harbor, $68,600.

"VIRGIN ISLANDS

"RIVER AND HARBOR

"St. Thomas Harbor, $630,000."

Mr. CLARK. Mr. President, will the Senator from Mississippi yield?

Mr. BILBO. I yield to the Senator from Missouri.

Mr. CLARK. I send to the desk an amendment which I intend to offer to the pending joint resolution, and ask to have it printed and lie on the table.

If the Senator will permit me for just one moment, I should like to say that the amendment provides for earmarking $25,000,000 of the funds proposed to be appropriated by the pending joint resolution for the construction, repair, and furtherance of veterans' hospital facilities.

I realize that this measure already contains a lump-sum authorization for earmarking $200,000,000 for Government buildings; but it seems to me that it is necessary specifically to earmark this money if it is to go into the construction and furtherance of Government hospital facilities for veterans, because unfortunately the situation has developed during the past few years that of all the vast billions of dollars appropriated for construction and reemployment, not one penny has been spent on rehabilitation of veterans' facilities.

The PRESIDENT pro tempore. The amendment will be received, printed, and lie on the table.

Mr. BAILEY. Mr. President——

Mr. BILBO. I yield to the Senator from North Carolina.

Mr. BAILEY. I send to the desk a very brief amendment to the pending joint resolution. If the Senator will allow me to do so, I shall read it.

Mr. BILBO. I yield for that purpose.

Mr. BAILEY. I propose to insert in the joint resolution a new subsection under section 202, as follows:

(j) In making allotments hereunder, preference shall be given to those projects, other than loans and grants for plants competitive with public power utilities, as listed in a document of the Federal Emergency Administration of Public Works, and entitled "List (by counties) of pending non-Federal applications for which no allotments have been made as of April 12, 1938. All examined and recommended by Examining Division on 45-percent grant basis." Said document bears the number 77.

I should like to have Senators become acquainted with the contents of the document. I have it here. Later, I may ask that it be printed for the information of the Senate.

Mr. LA FOLLETTE. Mr. President——

Mr. BILBO. I yield to the Senator from Wisconsin.

Mr. LA FOLLETTE. When the pending joint resolution passed the House, it contained language to be found on page 22, paragraph (e), of section 201, which, as I understand, was designed to make available to States and municipalities which had constitutional limitations an opportunity to participate in the P. W. A. program provided for in section 2. The Committee on Appropriations has recommended the elimination of that section.

This morning I was handed a memorandum entitled "The Law of Municipal Indebtedness Restrictions in Relation to Federal Loans and Grants for Public Works Purposes," submitted by the United States Conference of Mayors. It was prepared by Mr. John A. McIntire, executive director of the Institute of Municipal Law Officers, and Mr. Charles S. Rhyne, attorney for the Institute of Municipal Law Officers, on behalf of the United States Conference of Mayors, of which the institute is an affiliate. It reads:

House Joint Resolution 679, entitled "Joint resolution making appropriations for work relief, relief, and otherwise to increase employment by providing loans and grants for public-works projects," provides in section 201 (e), page 19, that—

And so forth. I ask that the entire memorandum may be printed in the RECORD as part of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The memorandum is as follows:

THE LAW OF MUNICIPAL INDEBTEDNESS RESTRICTIONS IN RELATION TO FEDERAL LOANS AND GRANTS FOR PUBLIC WORKS PURPOSES SUBMITTED BY UNITED STATES CONFERENCE OF MAYORS

This statement of the law of municipal indebtedness restrictions in relation to Federal loans and grants for public works projects has been prepared by Mr. John A. McIntire, executive director of the Institute of Municipal Law Officers, and Mr. Charles S. Rhyne, attorney for the Institute of Municipal Law Officers, on behalf of the United States Conference of Mayors, of which it is an affiliate.

House Joint Resolution 679, entitled "Joint resolution making appropriations for work relief, relief, and otherwise to increase employment by providing loans and grants for public-works projects," provides in section 201 (e), page 19, that:

"In the event that, due to constitutional limitations, any State, Territory, possession, political subdivision or other public body shall be unable to participate by way of loan and grant in the benefits of this title, the Administrator with the approval of the President, may advance moneys to any such public agency upon agreement by such public agency to pay back in annual installments, over a period of not to exceed 25 years, at least 55 percent of the amount so advanced with interest thereon for the period of amortization."

When this section speaks of constitutional limitations of political subdivisions of any State, it is our understanding that this refers to constitutional debt limitations imposed by the constitutions of 31 States upon municipalities and other political subdivisions of such States. These States are: Alabama, Arizona, California, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Michigan, Maryland, Montana, New York, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

We might, at this time, point out that, in addition to constitutional debt limitations, 20 States have statutory debt limitations for municipalities within their borders. These States are: Arkansas, California, Connecticut, Florida, Georgia, Massachusetts, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, Tennessee, and Vermont.

Seven of such statutory limitations have been imposed in addition to the constitutional debt limitations already imposed in those States. Those States imposing both constitutional and statutory debt limitations are California, Georgia, Montana, Nevada, New Mexico, North Carolina, and North Dakota.

To recapitulate, there are 44 States which have either constitutional or statutory debt limitations imposed upon municipal corporations. The constitutional and statutory citations of States having constitutional or statutory municipal indebtedness restrictions are attached hereto in the appendix.

Many cities have charter provisions restricting municipal indebtedness which require a vote of the people to change.

In recent years many cities have been forced to borrow to the maximum limits fixed for their city by constitutional, statutory, or charter mandate in order to meet relief burdens and ever-increasing municipal government expenses.

As we understand section 201 (e) of House Resolution 679, it is intended to provide a way for States and subdivisions thereof which shall be unable to participate by way of loan or grant in the benefits of this title, by securing moneys available under the act upon agreement by such public agency to pay back in annual installments over a period of not to exceed 25 years at least 55 percent of the amount obtained with interest thereon for the period of amortization.

The provision for an agreement to pay back in annual installments over a period of 25 years plus interest requires an agreement which, if signed by a city with constitutional or statutory indebtedness limitations, would, in most cases, be the incurring of a debt beyond the debt limit and the contract would be unenforceable.

In section 1273 of McQuillin on Municipal Corporation (2d ed.), the author states:

"Contracts creating debts in excess of the limitation prescribed by constitution or statute are not enforceable. Most municipalities are prohibited by constitution or statute or charter from becoming indebted in excess of a specified amount, and therefore a contract must not incur a liability which, when added to the already existing liabilities, would bring the indebtedness in excess of such sum. If a contract is invalid because creating a debt beyond the statutory limit, there can be no recovery thereon, nor on an implied contract for the reasonable value of the property or services."

Section 201 (e) of the bill attempts to provide a means whereby local public borrowers may participate in funds available under the act and avoid debt limitations. By providing for amortization of the obligation to return 55 percent of the funds advanced over a 25-year period, the bill ostensibly takes advantage of the United States Supreme Court ruling in *Walla Walla* v. *Walla Walla Water Works* (172 U. S. 1). It is expected that the debt under such an arrangement will be treated as the amount due in any one year and not the total sum due over the 25-year period. While this was the result in the Walla Walla case, an examination of the facts of that case and the true principle applied therein will show clearly its inapplicability to the above provision in the bill. The Walla Walla case involved a contract for water supply to be furnished a city for a 25-year period to be paid for by the city on an annual basis. It was contended that the indebtedness for debt-limitation purposes was the total amount due from the city over the 25-year period. The court held that each annual payment alone was to be counted.

It must be noted, however, that this was a service contract. The court, in reaching its conclusion, took care to point out that the city was not obligated at all events for the 25-year term. The liability was contingent and not absolute. It was conditioned upon the proper performance of the services during the year to be paid for that year. If the services were not rendered, no obligation was incurred.

Section 201 (e) clearly does not provide for a situation of this type. The obligation to repay the 55 percent may be divided into annual installments for 25 years but there is no contingency present. The payment may not be due except in annual installments but the total 25-year sum is due at all events. The duty to pay each installment is not conditioned on any return obligation which may or may not be performed. The duty is fixed at the time the contract to repay is completed. In such a situation the courts hold that the city is indebted for limitation purposes in the whole sum due over the total period regardless of installment provisions.

The court, in the Walla Walla case, said:

" * * * There is a distinction between a debt and a contract for a future indebtedness to be incurred, provided the contracting party perform the agreement out of which the debt may arise. There is also a distinction between the latter case and one where an absolute debt is created at once, as, by the issue of railways bonds or for the erection of a public improvement, though such debt be payable in the future by installments.

"In the one case the indebtedness is not created until the consideration has been furnished; in the other the debt is created at once, the time of payment being only postponed."

Cases adopting this interpretation of similar contracts are: (*Garrett* v. *Swanton*, 216 Cal. 220, 13 P. (2d) 725; *East St. Louis & Suburban Water Co.* v. *Belleville*, 360 Ill. 490, 196 N. E. 442;

Windsor v. *Des Moines*, 110 Iowa 175, 81 N. W. 476; *Jones* v. *Rutherford*, 225 Ky. 773, 10 S. W. (2d) 296; *Sager* v. *Stanberry*, 336 Mo. 213, 78 S. W. (2d) 431; *Foster* v. *Waco*, 113 Tex. 352, 255 S. W. 1104; *Levy* v. *McClellan*, 169 N. Y. 178, 89 N. E. 569).

See also McQuillin on Municipal Corporations (2d ed.) section 2392. In section 2391 that author states:

"* * * But in case of contracts calling for payments in monthly or annual installments, such as contracts for water, light, and the like, where the furnishing of the supply is a condition to the creation of liability, it is generally held that no debt is incurred until the time when the installment becomes due and payable, although it is otherwise where the contract is to erect water or light plants or for a public improvement, where an absolute debt is created at once, although it is payable in the future by installments."

The installment feature, therefore, of the present act does not provide a method for the creation of valid loans without regard to present municipal indebtedness restrictions. Section 201 (e) of the bill does not, therefore, provide a valid means whereby municipalities with debt limitations can avoid such limitations in securing funds available under the bill. Cities, therefore, will be forced to resort to methods of evading their debt limitations if they are to benefit at all under the act.

The term "indebtedness" or "debt" within the meaning of constitutional debt limitations has been construed to refer to an indebtedness to be met in the future by taxation (*Bank for Savings* v. *Grace*, 102 N. Y. 313, 318, 7 N. E. 162 (1886); *Reimer* v. *City of Holyoke*, 93 Colo. 571, 27 P. (2d) 1032; *Young* v. *City of Ann Arbor*, 267 Mich. 241, 255 N. W. 579 (1934); *Butler* v. *City of Ashland*, 232 Pac. 655 (Oreg. 1935); *Twichell* v. *City of Seattle*, 106 Wash. 32, 179 Pac. 127 (1919)).

The ways which have been tried in the past to avoid municipal-debt restrictions are: (a) Special obligations, such as special fund and income bonds; (b) special assessments; (c) lease agreements; (d) mortgage agreements; (e) conditional sales agreement; (f) current expense theory; (g) special authorities.

Under the old Federal Public Works Administration and N. I. R. A. programs cities faced the same problem of avoiding municipal-indebtedness restrictions. Several States, in order to aid cities and their other political subdivisions in this matter, passed special legislation with direct reference to the use of N. I. R. A. or P. W. A. money by such political subdivisions in such a way as to avoid municipal-indebtedness restrictions. Fourteen States authorized revenue or income bonds payable solely from income of public works financed by such bonds. These States are: Alabama, Idaho, Indiana, Iowa, Maine, Missouri, Nebraska, New Mexico, Oregon, South Carolina, Utah, Virginia, and West Virginia. In addition to States passing such laws, special legislation to enable their political subdivisions to participate in the Federal public-works program was passed by New York, Colorado, Ohio, Pennsylvania, and others. The New York act provides in part:

"All provisions of * * * any law which tend to prevent * * * municipalities * * * from taking advantage of the provisions of the National Industry Recovery Act shall be inoperative."

The Ohio act provides for bonds exempt from municipal-indebtedness limits if such bonds are approved at a special election. The Colorado act authorized cities and towns to borrow notwithstanding constitutional provisions limiting debt.

Pennsylvania provided for the creation of authorities in counties, etc., to enter into agreements with the United States, particularly as they relate to the National Industrial Recovery Act, to construct, maintain, and operate highways, bridges, and streets. The moneys borrowed by the authority were to be paid from tolls, rents, and fees from the use of the improvements it constructed. These statutes of the States of Colorado, New York, and Ohio are examples of the type of legislation passed by the States in order to enable their political subdivisions to participate in the Federal public-works program without regard to debt limitations. This is not, however, an exhaustive list of such statutes.

HOW COURTS HAVE TREATED THE VARIOUS METHODS OF EVADING CONSTITUTIONAL AND STATUTORY DEBT LIMITATIONS

A. Special obligations—such as special funds and income bonds

The special fund doctrine is used herein to describe a method of municipal financing whereby the city does not pledge its credit at all to pay for property or benefits acquired, but the income of a special earmarked fund already in existence is pledged or the income of the specific project is pledged to secure income bonds issued to defray the cost of the project. The stock example is a contract for the erection of a municipal waterworks system in which the city pledges the income from such system to the payment of the obligation incurred for the cost of constructing it. Such an obligation has been held by a majority of the courts not to be a municipal indebtedness within the meaning of constitutional or statutory limitations. (McQuillin, Municipal Corporations, 2d ed., sec. 2387, 2389.)

The following States have adopted the special-fund doctrine:

Alabama: *Oppenheim* v. *City of Florence* (155 So. 859 (Ala. 1934)).

Arizona: *Guthrie* v. *City of Mesa* (56 P. (2d) 655 (1936)).

Arkansas: *Snodgrass* v. *City of Pocahontas* (189 Ark. 819, 75 S. W. (2d) 223 (1934)).

California: *Garrett* v. *Swenton* (216 Cal. 220, 13 P. (2d) 655).

Colorado: *Reimer* v. *Town of Holyoke* (93 Colo. 571, 27 P. (2d) 1032 (1933)).

Florida: *State* v. *City of Miami* (113 Fla. 280, 152 So. 6 (1933)).

Georgia: *State* v. *Regents of University System of Georgia* (175 S. E. 567 (Ga. 1934)).

Illinois: *Ward* v. *City of Chicago* (342 Ill. 117, 173 N. E. 810 (1930)).

Indiana: *Underwood* v. *Fairbanks, Morse & Co.* (185 N. E. 118 (1933)).

Iowa: *Johnson* v. *City of Stuart* (226 N. W. 164 (1929)).

Kansas: *State, ex rel. Boynton* v. *Kansas City* (140 Kans. 471, 37 P. (2d) 18 (1934)).

Kentucky: *City of Bowling Green* v. *Kirby* (220 Ky. 839, 295 S. W. 1004 (1927)).

Michigan: *Young* v. *City of Ann Arbor* (267 Mich. 255, 255 N. W. 579 (1934)).

Minnesota: *Williams* v. *Village of Kenyon* (187 Minn. 161, 244 N. W. 558 (1932)).

Missouri: *Grossman* v. *Public Water Supply District No. 1* (96 S. W. (2d) 701 (1936)).

Montana: *Farmers State Bank of Conrad* v. *City of Conrad* (100 Mont. 415, 47 P. (2d) 853 (1935)).

Nebraska: *Carr* v. *Fenstermacher* (119 Nebr. 172, 228 N. W. 114 (1929)).

New Mexico: *Seward* v. *Bowers* (37 N. Mex. 385, 24 P. (2d) 253).

New York: *Kelly* v. *Merry* (262 N. Y. 151, 186 N. E. 425 (1933)).

North Dakota: *Lang* v. *City of Cavalier* (59 N. Dak. 75, 229 N. W. 105 (1930)).

Ohio: *Krash* v. *Miller* (194 Ohio St. 281, 135 N. E. 812 (1922)).

Oklahoma: *Baker* v. *Carter* (165 Okla. 166, 25 P. (2d) 747 (1930)).

Oregon: *Butler* v. *City of Ashland* (113 Oreg. 134, 232 Pac. 655 (1925)).

South Carolina: *Cathcart* v. *City of Columbia* (170 S. C. 362, 170 S. E. 435 (1933)).

Texas: *City of Houston* v. *Allred* (71 S. W. (2d) 251 (1934)).

Washington: *Winston* v. *City of Spokane* (12 Wash. 524, 41 Pac. 888 (1895)).

West Virginia: *Brewer* v. *City of Point Pleasant* (114 W. Va. 572, 172 S. E. 717 (1934)).

Wyoming: *Arnold* v. *Bond* (34 P. (2d) 28 (Wyo. 1934)).

The following States have rejected the special fund doctrine:

Georgia: *Byers* v. *City of Griffin* (968 Ga. 41, 147 S. E. 66 (1929)).

Idaho: *Feil* v. *City of Coer D'Alene* (23 Idaho 32, 129 Pac. 643 (1912)).

Maryland: *Mayor of Baltimore* v. *Gill* (31 Md. 375 (1869)).

Since the great weight of authority holds the special fund doctrine a valid means of evading municipal debt limitations, those States in which the courts have not yet considered the question can reasonably be expected to hold with the majority rule.

Briefs of cases illustrating special fund doctrine

The leading case is that of *Winston* v. *City of Spokane* (12 Wash. 524, 41 Pac. 888 (1895)). The city of Spokane entered into a contract by which the obligation to repay a loan to complete the city's waterworks was limited to receipts. The city was not otherwise liable. The court recognized that if the amount of the contract was, in fact, a debt, then the city had exceeded the constitutional limit. Relying on the special assessment doctrine, the court sustained the validity of the contract on the ground that the promise was conditional upon the existence of the fund; hence the promise did not give rise to municipal liability in personam for mere nonpayment.

Kelly v. *Merry* (262 N. Y. 151, 159, 186 N. E. 425, 428 (1933)), follows the Winston case in purchase of machinery for a lighting system. The price was payable out of revenue from the system only.

In *Department of Water and Power of Los Angeles* v. *Vroman* (218 Cal. 206, 22 P. (2d) 698), a proposed loan from R. F. C. for construction of transmission lines in connection with Boulder Canyon project, to be repaid from power revenue funds was held not to create indebtedness of the municipality.

Shinwald v. *City of Portland* (55 P. (2d) 1151 (Oreg.)), held self-liquidating bonds, plus the amount of money received as a gift from the Federal Government, not to be a debt of the city of Portland.

The following quotation from (1934) 3 George Washington Law Review 125, summarizes this proposition:

"* * * The majority of courts, deciding cases involving the National Industrial Recovery Act (48 Stat. L. 202 (1933), 40 U. S. C. Supp. VII, sec. 403 (1933)), have upheld the loans under the Special Fund Doctrine, especially where the property income only was pledged and the property itself could not be taken for the debt. *In Re Opinion of Justices* (152 So. 901 (Ala. 1934)); *Oppenheim* v. *City of Florence* (155 So. 859 (Ala. 1934)); *Smith* v. *Town of Guin* (155 So. 865 (Ala. 1934)); *California Toll Bridge Authority* v. *Kelly* (218 Cal. 7, 21 P. (2d) 425 (1933)); *State* v. *Regents of University System of Georgia* (175 S. E. 567 (Ga. 1934)); *Caldwell Bros.* v. *Board of Supervisors* (176 La. 825, 147 So. 5 (1933)); *Veeder* v. *State Board of Education* (33 P. (2d) 516 (Mont. 1934)); *State, ex rel., Blume* v. *State Board of Education* (34 P. (2d) 515 (Mont. 1934)); *State, ex rel., Hawkins* v. *State Board of Examiners* (35 P. (2d) 116 (Mont. 1934)); *Baker* v. *Carter* (165 Okla. 116, 25 P. (2d) 747 (1933)); *Arnold* v. *Bond* (34 P. (2d) 28 Wyo. 1934)).

"A few cases decided under the National Industrial Recovery Act, supra, where the property has been conveyed to the Federal Government as security for loans and the State must redeem it by annual payments from the income of the property, have held that, as the property can be retained until redeemed, a debt of the

State is created which exceeds the limitation of indebtedness. See *In Re Opinion of the Governor* (169 Atl. 748 (R. I. 1933), (hospital)); *cf. Sholtz* v. *McCord* (150 So. 234 (Fla. 1933) (prison and hospital for insane)); *Herbert* v. *Thursby* (151 So. 385 (Fla. 1933) (armory))."

As can readily be seen from the foregoing cases, the Special Fund Doctrine is limited to self-liquidating public-works projects. Use of this theory is not possible when a city wishes to erect a public improvement from which it is not possible to derive any income to pay off the cost thereof. The city can use this theory to construct municipal power, light, gas, and electric plants, toll bridges, water plants and systems, and similar revenue projects. Streets, city school buildings, and such nonrevenue-producing public improvements cannot be provided under this theory.

B. Special assessments

Contracts for improvements benefiting a limited area creating an obligation payable only from assessments upon the benefited property do not create a municipal indebtedness within constitutional or statutory limitations. McQuillin, Municipal Corporations (2d ed.), section 2388.

The usual type of work that can be done in this way is street, sidewalk, and sewerage improvement. The following authorities hold improvements to be paid for by such assessments are not part of municipal indebtedness within constitutional or statutory limitations.

United States: *Mankato* v. *Barber Asphalt Pav. Co.* (142 Fed. 329, 73 C. C. A. 439).

California. *Pasadena* v. *McAllaster* (204 Cal. 267, 267 Pac. 873).

Georgia. *Bainbridge* v. *Jester* (157 Ga. 505, 121 S. E. 798).

Idaho. *Byrnes* v. *Moscow* (21 Idaho 398, 121 Pac. 1034).

Illinois. *People, ex rel.* v. *Honeywell* (258 Ill. 319, 101 N. E. 571).

Indiana. *Quill* v. *Indianapolis* (124 Ind. 292, 23 N. E. 788, 7 L. R. A. 681).

Iowa. *Clinton* v. *Walliker* (98 Iowa 655, 68 N. W. 431).

Kentucky. *Adams* v. *Ashland* (26 Ky. Law Rep. 148, 80 S. W. 1105).

Minnesota. *Kelly* v. *Minneapolis* (63 Minn. 125, 65 N. W. 115, 30 L. R. A. 281).

Missouri. *Kansas City* v. *Ward* (134 Mo. 172, 35 S. W. 600).

New Mexico. *Gutierrez* v. *Midland Rio Grande Conservancy Dist.* (34 N. Mex. 346, 282 Pac. 1, 7, 8).

New York. *Baldwin* v. *Oswego* (2 Keyes (N. Y.) 132).

North Dakota. *Vallelly* v. *Grand Forks* (16 N. D. 25, 111 N. W. 615).

Oregon. *Little* v. *Portland* (26 Or. 235, 37 Pac. 911).

South Dakota. *Gross* v. *Bowdle* (44 S. D. 132, 182 N. W. 629).

Wyoming. *Henning* v. *Casper* (— Wyo. —, 57 Pac. (2d) 1264).

Kanawha Mfg. Co. v. *Charleston* (105 W. Va. 98, 141 S. E. 520), contra to the above authorities holds a contract between a city and a corporation providing for a loan to the municipality for street-improvement work to be repaid by special assessments of a bond issue is violative of the debt-limit provisions and hence not enforceable.

C. Lease agreements

Some cities seeking to evade indebtedness restrictions have resorted to a method of financing whereby some private corporation erects a public improvement and leases such improvement to the city at a specified rental for a period of time sufficient to allow the rental to return the cost of the public improvement. Upon payment of this amount the city may exercise its option to take title.

This type of financing has been used most often in purchasing municipal supplies, erection of schoolhouses, courthouses, city halls, etc.

While the authorities hold that a mere option to purchase property does not create any indebtedness (*Janes* v. *Racine*, 155 Wis. 1, 143 N. W. 707; McQuillin on Municipal Corporations (2d ed.) sec. 2380), yet where a lease agreement with an option to purchase is entered into which is in fact a purchase and a mere attempt to evade municipal indebtedness restrictions the courts hold such agreement invalid. McQuillin on Municipal Corporations (2d ed.) section 2394.

In Seventy-first American Law Reporter, page 1318, there is an annotation entitled, "Lease of property by municipality or other political subdivisions, with option to purchase same, as evasion of constitutional or statutory limitation of indebtedness." The editor of that annotation, after reviewing all of the authorities, concludes at page 1323:

"However, the weight of authority holds that such a scheme of financing creates an indebtedness, where the so-called rentals are sufficient to cover the entire purchase price and to enable the municipality to acquire the property without payment of any sum other than rentals."

In *Hively* v. *City of Nappanee* (169 N. E. 51 (Ind. 1929)) a contract was made by the city for the lease of a school building from a building corporation for a period of 25 years with an option to purchase at the end of the lease period. The rental payments were to aggregate the total cost of the building plus interest. In holding the contract one of purchase creating a present indebtedness the court said:

"The contract here read as a whole * * * leaves no doubt in the mind of the court that it was entered into for the purpose of evading the mandate of the Constitution and of doing indirectly, through the plan and through the corporation provided for by the act, that which could not be done directly. The law will look to the substance of the transaction regardless of its form or color * * * the contract provides for the payment of annual installments over a period which equals in length the usual life of a school building, the installments being sufficient, during the term of the lease, to pay off the principal invested in the school building, together with interest thereon, and the school is bound not only to pay all taxes, assessments, and so forth, levied on the improvements but to keep the building in repair, to pay for insurance on the same, and to pay rent, even though the building burns."

In *Brewster* v. *Deschutes County* (1 P. (2d) 607 (Oreg. 1931)) there was a contract to erect a building for a combination courthouse and city hall on land owned by the city. The building was to be erected by a private corporation and rented to the county and city for $750 per month, with an option to purchase, all rentals to apply on purchase price in case of exercise of the option. The court held that the aggregate sum due, not annual installments, should be counted in determining whether the debt limitations were exceeded.

In the case of *Emmons* v. *Board of Education of Lewis County* (73 S. W. (2d) 848 (Ky. 1935)) the court held valid a lease of a school building to the county from year to year by a private corporation. The county was given the option to lease the property at sufficient rental to pay the purchase price and interest. The construction corporation was to convey the property to the county when the bonds and all other expenses were paid. The court held that this created an obligation for 1 year only, so did not come within municipal-debt restrictions.

In *Davis* v. *Board of Education of the City of Newport* (83 S. W. (2d) 34 (Ky. 1935)) there was an action for a declaratory judgment as to the validity of a 30-year lease of a school building to the board of education at $15,000 per year, providing that upon payment of rentals for the full term the building would be conveyed to the board of education. The court held this lease invalid since it created a debt for the aggregate amount of rental for the entire 30-year term. Another lease providing for a lease from year to year was considered in the same case and held valid, although it provided for renewals each year.

There are cases holding lease agreements valid and also holding that they only create an indebtedness for the single year for which the rental is due. In *Cochran* v. *Middletown* (14 Del. Ch. 295; 125 Atl. 459 (1924)) such a contract between a city and a private corporation in installing lighting equipment and pumping equipment was held not to create a present indebtedness as there was no obligation on the part of the city to renew the lease each year, but a mere option.

Cases of similar character are *Stedman* v. *Berlin* (97 Wis. 505, 73 N. W. 57 (1897)); *Doland* v. *Clark* (143 Cal. 176; 76 Pac. 958 (1904)); *Giles* v. *Dennison* (15 Okla. 55; 78 Pac. 174 (1904)). See also *Kelly* v. *Earle* (182 Alt. 501 (Pa. 1936)); noted (1937) 5 George Washington Law Review 267.

D. Mortgage or pledge agreements

A mortgage or pledge of a municipal light or water plant to secure the payment thereof creates an indebtedness within constitutional or statutory limitations regardless of a provision against personal liability.

McQuillin on Municipal Corporations (2d ed.), section 2382; *Leonard* v. *Metropolis* (278 Ill. 287, 115 N. E. 813); *Lesser* v. *Warren Borough* (237 Pa. 501, 85 Atl. 839).

In *Conner* v. *City of Marshfield* (128 Wis. 280, 107 N. W. 639 (1906)), the court held that the bonds of a water company, the property of which is purchased by a municipality, do not become a debt of the municipality, where the legislature has provided that the municipality shall not be liable on the bonds, and the only remedy to enforce the bonds is to foreclose the mortgage.

The case of *State* v. *City of Portage*, (174 Wis. 588, 184 N. W. 376 (1921)), held invalid mortgage obligations secured by an entire utility issued to pay for an extension to it, saying that the fact that the city might be deprived of property already owned was the determining factor. This case is, of course, distinguished from the Conner case and indicates the limitation on the Wisconsin rule.

From the foregoing it can be seen that, except in the State of Wisconsin, the use of a mortgage or pledge even without personal liability, does create an indebtedness within constitutional or statutory debt limitations.

E. Conditional sales contracts

Some few cities have attempted to use the method of installment sales contracts to evade constitutional or statutory limitations. This type of purchase can, of course, only cover purchase of supplies such as equipment for a municipal electric lighting plant, etc. Such case was considered in *Lang* v. *City of Cavalier* (59 N. D. 75, 228 N. W. 819 (1930)), where equipment for an electric generating plant was sold to the city with a provision that the title was to remain in the equipment company with the right to repossess the property if any installment was not paid when due. It was expressly stipulated that the city should not be held liable other than for monthly payments to be made out of the net income from operation.

The court held that the contract did not create an indebtedness within the limitations fixed by the constitution of the State.

A similar holding was made by the Supreme Court of Minnesota in the case of *Williams* v. *Village of Kenyon* (187 Minn. 161, 244 N. W. 558 (1932), where the city purchased the same kind of equipment.

In the case of *Utica Gas & Electric Co.* v. *Merry* (263 N. Y. S. 277), the court, in a case involving similar facts, held a debt was

created although the revenue was payable solely from the net revenue of the lighting business.

This type of financing, however, can hardly be used in a practical manner in connection with a Federal municipal public-works program, because the Government would have to purchase the equipment from some manufacturer and resell it to the city on conditional sales contracts, and the equipment would have to be such that it would produce enough revenue from which the municipality could pay 55 percent of the cost to the Federal Government. There is also, as indicated above, a conflict in the authorities as to the legality of such a type of transaction. Since it is a new form of financing, many of the States might be inclined to follow the New York case rather than the decisions of the North Dakota and Minnesota supreme courts.

F. Current expenses

In McQuillin on Municipal Corporations (2d ed., sec. 2378), the author states as follows:

"The general rule is that the current expenses, such as the salaries of officers and the like, are not indebtedness within these provisions where the municipality has money on hand to pay such current expenses or such current expenses can be paid from the current revenues."

Some municipalities have attempted to use this rule to evade municipal-indebtedness restrictions by contracting for the construction of public improvements, which public improvements were to be paid for out of current revenues. Where such expenses include only the monthly rental or installment for water, lighting, and the like (*Shields* v. *Loveland*, 74 Colo. 27, 218 Pac. 913), or rent for suitable quarters for municipal officers (*South Bend* v. *Reynolds*, 155 Ind. 70, 57 N. E. 706), the municipal indebtedness restrictions have been held not to have been violated. But when the city installs a municipal water system (*Helena Waterworks Co.* v. *Helena*, 31 Mont. 243, 78 Pac. 220), a sewage system (*Herman* v. *Oconto*, 110 Wis. 660, 86 N. W. 681), or erects a city hall (*South Bend* v. *Reynolds*, supra), indebtedness incurred for such purposes has been held not to be properly classed as a current expense and to create an indebtedness to which municipal-indebtedness restrictions apply. The current-expense theory cannot be invoked in the case of the cost of permanent public improvements.

G. Special authorities

The obligation of a distinct authority created as a separate entity in spite of identical territory is not the obligation of the original subdivision administering the territory. This is true even though the new authority has been created for the express purpose of incurring the obligation so as not to increase the indebtedness of the local subdivision. The obligations incurred by the new authority are its own debts and create no liability of the older corporation. The funds and personality of the new entity create a distinct type of special fund. Practically speaking, however, the importance of this device as a means of avoiding debt limits rests with the State legislature and not the would-be local borrower. The creation of such an authority is a matter for State and not local action. Cases dealing with the obligations of special authorities are summarized in (1937) 5 George Washington Law Review, page 267 at page 270:

"Plans, otherwise within the debt limit, may be exempted by recognition that the obligations are those of a distinct legal entity, a separate body corporate and politic, whose debts are not those of the State or municipality. *State* v. *Cooney* (100 Mont. 391, 47 P. (2d) 637 (1935), State water board revenue bonds); *Tranter* v. *Allegheny County Authority*, supra (despite constitutional provision against special commissions, etc.); *Arnold* v. *Boyd* (47 Wyo. 236, 34 P. (2d) 28 (1934), university obligations not charge on taxpayers); see *Herbert* v. *Thursby* (112 Fla. 826, 151 So. 385 (1933), recognizing separate entity of State relief commission). Contra: *State Water Conservation Board* v. *Enking* (58 P. (2d) 779 (Idaho, 1936), separate entity not recognized); cf. *Voss* v. *Waterloo Water Co.* (163 Ind. 69, 71 N. E. 208 (1904), municipally owned holding company). The creation of State authorities and similar organizations is an application in the State sphere of the principle familiar in municipal law, that functionally or territorially distinct municipal corporations may each incur debt up to the constitutional limit (6 McQuillin, municipal corporations (2d ed. 1928) §§2372, 2373.) The separate corporation must not, directly or indirectly, obligate the general State or municipal revenues or property. *Scholz* v. *McCord* (112 Fla. 248, 150 So. 234 (1933), State board lease considered State obligation); *State* v. *Kansas City* (140 Kan. 471, 37 P. (2d) 18 (1934), city could not obligate self on lease but issue of bonds by authority permissible); see *Re Opinion to the Governor* (54 R. I. 45, 169 Atl. 748 (1933), Public Works Corporation may not pledge State property). But cf., *State, ex rel., Hawkins* v. *State Board* (97 Mont. 441, 35 P. (2d) 116 (1934), State sanitarium revenue bonds not State debt though source of revenue was largely State and counties); see Herbert against Thursby, supra (State relief corporation could build, then lease, projects to State and counties to acquire revenues to repay loans)."

CONCLUSION

In general almost all the States have constitutional or statutory limitations on indebtedness of local subdivisions. Most municipalities in need of Federal financing aid are faced with the problem of exceeding their debt limits. In order to make possible participation in the new P. W. A. program in spite of debt limits section 201 (e) has been incorporated in the bill.

This section is of little practical value as it now stands. First, it refers only to constitutional limitations and ignores the difficulties arising from statutory and charter limits. Second, with respect to constitutional limitations it proposes a means which as shown above does not actually avoid debt limits.

If this bill is amended to authorize such agreements by the Federal Government or in its present form can be so construed, there are several ways open to local subdivisions for participating and avoiding debt limits. The most widely recognized of these devices are the several phases of the special-fund doctrine, i. e., agreements to repay the sums borrowed solely from earmarked funds, from special assessments, from revenues of the project for which the obligation was incurred or the creation of a distinct authority as the obligor. Other devices such as installment-payment contracts, exclusive mortgages, pledges, conditional sales or lease arrangements have met with little or no success in the courts. In Wisconsin the purchase-money mortgage without personal liability is a possibility. There is sufficient doubt in a majority of States as to the status of a lease with options to renew and purchase to make it worthy of consideration.

This statement has been prepared as a matter of information for the purpose of analyzing the practical operation of this pending bill in view of the legal problems involved.

APPENDIX

A. CITATIONS OF CONSTITUTIONAL DEBT LIMITATION PROVISIONS REFERRED TO HEREIN

Ala. Const., secs. 225, 226.
Ariz. Const., art. IX, sec. 8; amend. No. 11.
Cal. Const., art. XI, sec. 18.
Colo. Const., art. XI, sec. 8.
Ga. Const., art. VII, sec. 7.
Idaho Const., art. 8, sec. 3.
Ill. Const., art. 9, sec. 12.
Ind. Const., art. 13, sec. 1.
Iowa Const., art. XI, sec. 3.
Ky. Const., secs. 157, 158.
La. Const., art. 14, sec. 24.
Maine Const., arts. 22, 34.
Mich. Const., art. VIII, sec. 24.
Mo. Const., art. 10, sec. 12.
Mont. Const., art. XIII, sec. 6.
Nev. Const., art. VIII, sec. 8.
N. Mex. Const., art. 9, sec. 13.
N. Y. Const., art. VIII, sec. 10.
N. C. Const., art. VII, sec. 7.
N. Dak. Const., art. 35, sec. 183.
Okla. Const., art. 10, sec. 26.
Pa. Const., art. 9, secs. 8, 15.
S. C. Const., art. 8, sec. 7.
S. Dak. Const., art. XIII, sec. 4.
Tex. Const., art. XI, secs. 5, 7.
Utah Const., art. XIV, secs. 3, 4.
Va. Const., art. 127.
Wash. Const., art. 8, sec. 6.
W. Va. Const., art. 10, sec. 8.
Wis. Const., art. XI, sec. 3.
Wyo. Const., art. XVI, secs. 4, 5.

B. CITATIONS OF STATUTORY LIMITS ON MUNICIPAL INDEBTEDNESS REFERRED TO HEREIN

Ark. Dig. Stat. (Crawford and Moses Supp. 1927), sec. 7588a.
Cal. Gen. Laws (Deering 1931), sec. 5178-4.
Conn. Gen. Stat. (1930), sec. 470.
Fla. Comp. Laws (1927), sec. 3011.
Ga. Code Ann. (Michie) (1926), sec. 6563.
Mass. Gen. Laws (1932), c. 44, sec. 10.
Minn. Stat. (Mason 1927), sec. 1938.
Miss. Code Ann. (1930), sec. 2484, Supp. 1933, secs. 5977-1-86.
Mont. Rev. Code (Choate 1921), secs. 5039-64.
Nebr. Comp. Stat. (1929), sec. 11-401-11.
Nev. Comp. Stat. (Supp. 1930), sec. 136-46001 (1)-(41).
N. Mex. Stat. Ann. (Courtright, 1929), secs. 90-402.
N. Y. Comp. Laws (Cahill, 1930), c. 11, sec. 13; c. 26, sec. 3.
N. C. Code Ann. (Michie, 1931), sec. 2693.
N. Dak. Comp. Laws Ann. (1913), secs. 2218, 4043, 4253.
Ohio Gen. Code (Page, 1932), sec. 2293-14-18.
Oreg. Code Ann. (1930), sec. 56-2301.
R. I. Gen. Laws (1923), sec. 673.
Tenn. Code (Michie, 1932), sec. 3705.
Vt. Gen. Laws (1917), sec. 4082.

APPENDIX C

The following amendment is suggested as one which might meet the existing objections to the bill as now drawn:

Section 201 (j): Notwithstanding the specific provisions and limitations of sections 201 (d), 201 (e), 201 (f), and 201 (h) above, in order to make possible the participation of States and subdivisions thereof in the public-works program authorized by this act for the purpose of relief and increase of employment, the administrator with the approval of the President, wherever constitutional, statutory, charter, or other legal limitations of any kind would make it impossible for a public agency to participate in funds available under this act, is hereby authorized to make available to such public agencies funds appropriated under this act for necessary and useful non-Federal public works and improvements in the public interest under such an agreement with the public agency as

will make possible the participation of such agencies in order to accomplish the purpose of this act.

Mr. BILBO. Mr. President, I shall address my remarks to an amendment which I have presented and which is to be offered to the pending joint resolution. I ask that the amendment be read from the desk, so that it may appear as a part of my address on this occasion.

The PRESIDENT pro tempore. The amendment will be read.

The legislative clerk read as follows:

At the end of the joint resolution insert the following new titles:

"TITLE VI—REPATRIATION COMMISSION

"SEC. 601. (a) For the purpose of carrying out the provisions of this title, the President is authorized to appoint a Repatriation Commission (composed of three members, one of whom shall be a Negro), all the powers of which shall be administered by such Repatriation Commission (hereinafter referred to as the 'Commission').

"(b) The Commission may, without regard to the civil-service laws or the Classification Act of 1923, as amended, appoint and fix the compensation of such experts and such other officers and employees as may be necessary to carry out the provisions of this title; and may make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere, for lawbooks and books of reference, and for paper, printing, and binding) as may be necessary to carry out the provisions of this title.

"SEC. 602. (a) The Commission, under the direction of the President, shall provide for the transportation from the United States to the Republic of Liberia, or to any territory acquired pursuant to the provisions of title VII of this act, of any citizen of the United States who desires to migrate to, and settle in, the Republic of Liberia or any such territory and who is found by the Commission to be qualified in accordance with the provisions of section 606 of this act to receive the benefits of this title.

"(b) The Commission, under the direction of the President, may also pay all or any part of the expenses of transporting any such person from any point in the United States to the point of departure of such person from the United States or from the point such person may be landed in the Republic of Liberia or in such territory to the point where such person desires to settle in the Republic of Liberia or in such territory.

"(c) The Commission, under the direction of the President, may also pay all or any part of the expenses of subsistence of any such person from the time such person leaves from any point in the United States for the purpose of migrating to the Republic of Liberia or to any such territory until the time such person arrives at the point where he desires to settle.

"(d) The Commission, under the direction of the President, may also make such grants-in-aid, either in cash or in supplies and equipment or in both cash and supplies and equipment, to any such person, as the Commission may deem advisable for the purpose of enabling such person to establish himself upon a self-sustaining basis in the place where he desires to settle, and may also make advances in cash to any such person to be used for the purchase of lands and making improvements thereon, such advances to be made upon such terms and conditions for repayment as the Commission may deem advisable.

"SEC. 603. (a) The President is authorized to enter into negotiations with the proper officials of the Government of the Republic of Liberia for the purpose of obtaining (1) an agreement by such Government immediately to confer citizenship upon all American citizens to whom the benefits of this title are extended, and (2) the consent of such Government to the construction by the United States in areas of such Republic where persons receiving the benefits of this title may settle of public roads, bridges, schools, sanitary facilities, river and harbor improvements, flood-control works, and other public buildings and works of a similar character; such public buildings and works to be constructed by the United States and such part of the cost of such construction as may be agreed upon by the President and the Government of the Republic of Liberia to be covered by bonds of the Republic of Liberia issued to the United States and bearing such interest and containing such provisions with respect to redemption as the President may deem adequate. If the President determines that such negotiations may be consummated in a manner satisfactory to him and if he further determines that the Government of the Republic of Liberia will give adequate assurances with respect to the operation and maintenance of such public buildings and works as may be constructed in such Republic by the United States, the President shall have all necessary authority to consummate such negotiations.

"(b) In the event the consent of the Government of the Republic of Liberia to the construction of such public buildings and works is obtained as provided in subsection (a) of this section, the Commission is authorized, subject to the approval of the President, to construct any such public buildings and works in areas of the Republic of Liberia where persons receiving the benefits of this title may have settled as it may deem advisable: *Provided*, That no such public building or work shall be constructed until the Government of the Republic of Liberia has agreed that upon completion of such public building or work the Government of such Republic will deliver to a person designated by the President of the United States bonds of such Republic covering the part of the cost of such public building or work which is to be borne by such Republic.

"SEC. 604. The Commission may, subject to the approval of the President, enter into any contracts with transportation agencies and others which it may deem desirable for the purpose of providing transportation and subsistence for such persons in accordance with the provisions of this title.

"SEC. 605. The President is authorized to use any of the property of the United States which may be useful in the transportation of persons and property for the purpose of transporting such persons, if in his judgment the public interest makes such use advisable. The President may require any of the departments and independent establishments of the Government to cooperate with the Commission in carrying out the provisions of this title.

"SEC. 606. No person shall be entitled to receive the benefits of this title unless the Commission finds that such person (1) may become eligible for citizenship in the Republic of Liberia, (2) is in good physical condition, and (3) has the necessary training, intelligence, and ambition to be successful in the place to which he desires to migrate.

"SEC. 607. Notwithstanding any other provisions of this act, the President is authorized to use any of the funds appropriated by this act for the purpose of carrying out the provisions of this title. Such funds may be allocated to the Commission or to any of the departments and independent establishments of the Government which may be directed by the President to cooperate with the Commission in carrying out the provisions of this title.

"TITLE VII—CORPORATION TO ASSIST IN REPATRIATION

"SEC. 701. (a) The President is authorized and requested to enter into negotiations, through the Department of State or otherwise as he may deem appropriate, with the Governments of the Republic of France and Great Britain for the purchase by the United States of such a number of square miles of the uninhabited or sparsely inhabited territory of either or both of such countries adjoining the Republic of Liberia as he may deem necessary for the settlement of all persons eligible to receive the benefits provided by title VI of this act.

"(b) If the President shall ascertain that such territory may be purchased from either or both of such countries at a price determined by him to be reasonable, he shall have all necessary authority to consummate negotiations for the purchase of such territory.

"(c) The purchase price of any such territory shall be paid by crediting the agreed purchase price against the war debts owing to the United States by the country from which such territory is purchased.

"SEC. 702. (a) All proprietary rights in any territory acquired by the United States in accordance with the provisions of section 701 of this act shall be conveyed by the President by quitclaim deed to a corporation to be organized by the Repatriation Commission, acting under the direction of the President. Such corporation shall, in accordance with its bylaws approved by the President, exercise sovereign rights over all of such territory and proprietary rights over such part of such territory as may not be subject to proprietary rights of others acquired in accordance with laws applicable to such territory prior to its acquisition by the United States.

"(b) Such corporation shall be so organized that it shall possess all such powers as may be necessary to enable it to do such acts, and to engage in such business activities, as may be necessary to enable it to develop such territory to the extent that immigrants thereto will by the exercise of reasonable industry be able to place themselves upon a self-sustaining basis, including, but not limited to, the following powers:

"(1) To sell any lands acquired by it to any person who receives the benefits provided by title VI of this act or his descendants upon such terms as it may deem advisable.

"(2) To sell not to exceed 160 acres of any lands acquired by it to any immigrant from the Republic of Liberia, if the settlement of such immigrant upon such lands would contribute to the development of such territory.

"(3) To sell stock in such corporation to immigrants to such territory and to receive such stock or any stock sold in accordance with paragraph (4) of this subsection in payment for not to exceed 160 acres of land purchased by such immigrant.

"(4) To sell stock in such corporation to any organization or to any citizen of the United States who does not desire to, or cannot qualify to, settle in such territory; such stock to be transferable by any such organization or any such citizen to any person who may settle in such territory, or if not so transferred to be redeemable upon liquidation of such corporation at a price per share equal to the price at which issued plus interest at 3 percent per annum from the date of issuance to the date of redemption.

"SEC. 703. (a) It is hereby declared to be the intent of Congress that such corporation shall not have perpetual existence but that its existence shall be limited to such period of time as may be necessary to enable it to perform its functions in accordance with section 702 of this act and for such additional time as may be necessary to enable the President to consummate the negotiations to be entered into in accordance with the provisions of subsection (b) of this section.

"(b) Whenever the President shall determine that such territory has been developed to the extent necessary to enable immigrants thereto to place themselves upon a self-sustaining basis, he shall

enter into negotiations with the proper Government officials of the Republic of Liberia with a view to having such territory incorporated into the Republic of Liberia and having the citizens of such territory granted citizenship in such Republic. If the President determines that such negotiations may be consummated in a manner satisfactory to him, he shall have all necessary authority to consummate such negotiations. If the President determines that such negotiations may not be consummated in a manner satisfactory to him, he shall formulate a plan whereby independence may be granted to the inhabitants of such territory and shall submit such plan to the Congress for its action.

"SEC. 704. Notwithstanding any other provisions of this act, the President is authorized to allocate from the funds appropriated by this act, for use by the Works Progress Administration and the Public Works Administration, such an amount as he may deem necessary for the purpose of providing capital for the corporation provided for by this title."

Mr. BILBO. Mr. President, in presenting this amendment, and proposing ways and means and methods for the transportation and settlement of America's 12,000,000 Negroes, I assure the country that I do not do it as an enemy of the Negro race. I am prompted to make this suggestion because I am convinced that it will be best not only for the black man in this country but for the white man as well.

There may be those in the Senate and elsewhere in the country who look upon such a proposal as wild, fantastic, visionary, impracticable, and not feasible. I assure those who may so think that in my proposal I am supported by the great leaders of this country since the birth of the Nation.

As to the immediate need of taking this step, a few months from now the country will be impressed with its great importance and with its imperative necessity. From 1910 to 1930 almost one-fourth of the Negro population of the South migrated to the North. There were three great streams of migration of the southern Negroes from the South to the North, one along the Atlantic seaboard, which made its way to Pittsburgh, Philadelphia, New York, and other cities. Another stream migrated from the States of Alabama, Mississippi, Georgia, and Louisiana and made its way directly north up the Mississippi Valley into the city of Chicago. Still another, a third stream, migrated from Texas through Arkansas and Oklahoma, its members stopping largely in St. Louis and Chicago.

This great influx of the Negro population from the South into the North at first seemed to be a success for the Negro, but as time moved on the Negro found out that the North was not as hospitable to him, and that its arms were not as widely outstretched as the Negro first dreamed they would be. At first the Negroes were given positions and enjoyed positions in the mechanical trades, in the manufactures, and industries of the North, but when the crash of 1929 hit the country the Negro was asked to step aside, and all the jobs that the Negroes had were given to the white men in practically all the great commercial centers of the North.

Mr. President, what do we find today? We find that 35 to 50 percent of the unemployed Negroes of the North today are on the relief rolls of the Federal Government. Take the city of Washington, for example. There are 10,000 persons on the relief rolls in the Capital City today, and 8,000 of them or more are of the Negro race.

In a few days Congress will pass the wage and hour bill. That measure proposes to level the wage between the North and the South. When Congress passes that measure practically every Negro in industry in the South will lose his job to the white man. The reason why the Negro has the job today is because the wage is so low that the white man cannot with his living standards work at the wage paid. But when Congress boosts the wages of the white men in the South the Negroes will have to give up their jobs to the white men. Then we are going to have the South, with its 8,000,000 Negroes, flooded with unemployed Negroes as never before, because the white man is going to take the Negro's job, just as the white man has taken the Negro's job in Pennsylvania and generally throughout the North.

What are we going to do with the Negro? Where is he going? How is he going to maintain himself? Oh, yes; the measure before us provides the method of supporting him on relief. For 6 years we have been supporting a great majority of the unemployed Negroes of the Nation on the relief rolls, until today generally throughout the North 35 to 40 percent of those on relief rolls are Negroes, and in the city of Washington 80 percent of those on relief rolls are Negroes. That is true in the North, where only about one-fourth or possibly one-third of the entire Negro population reside. But when the South's 8,000,000 Negroes are released from the jobs they now hold by reason of the fact that they are willing to work for a wage lower than the white man can work for, then what are we going to do with those Negroes?

Today one can work his way into any crowd of Negroes in the North, in any city in the North, and engage a Negro in conversation about his economic condition; and, as Mr. Stanley High wrote in the last issue of the Saturday Evening Post, that Negro will say that his lot is a hard one because he is always the last man to be hired and the first man to be fired. This is the white man's country.

Mr. President, I am offering my amendment at the suggestion of and with the permission and wish of 7,000,000 Negroes in America. They want the amendment adopted. They want to have done what is proposed to be done by the amendment. Already over 2,000,000 Negroes of America have signed the pledge that if the Government will provide the ways and means of transportation and resettlement for them in their fatherland they will catch the first boat out. If the Negro wants it done, then why not do it?

The American Negro has at last been convinced that from this time on he must face the discriminations of the white man against him in social life, in religious life, in economic and business life, and that he is not going to have an equal chance in this country. He has at last learned that fact, and he is willing of his own accord to move on to his fatherland, where he will have a chance to work out his own salvation and have a chance to make a place for himself "in the sun." Then why should not Congress give him that chance?

It is said, "It will cost too much." Will someone kindly figure up how much we have spent on the American Negro in the last 6 years? Congress is getting ready, in the appropriation measure before us, to dish out taxpayers' money every month to the unemployed Negroes of the country. Would it not be far better to take that money and use it for the purposes provided in the amendment I have offered? At the end of the next year, 1939, unless such action is taken, the same number of millions of Negroes will be on the relief rolls with no jobs. The white man is getting the Negro's job in the South. The white laboring man of the North has pushed the Negro out in the North. The United States will have the Negroes on its hands next year as it has now. Then why not take some of the money to be provided in the measure before us—take some of these billions of dollars that are being appropriated for relief and instead of dishing it out to the Negroes month after month, under which practice he will continue to be a charge on the Government, why not use it to pay the transportation and resettlement expense of the Negro in a land that is as rich in soil productivity as the United States? I speak of Liberia, Africa, and the territory that the amendment proposes to secure to be added to Liberia.

Of course, I know there are Negroes who do not want to go. There is nothing in my amendment making it mandatory or compulsory for any Negro to go. In fact, compulsion is not mentioned in my proposal. It is purely a voluntary proposal. The leading Negroes of this country inform me that within the next year or so they will have 7,000,000 of the 12,000,000 Negroes of this country pledged and ready to accept the opportunity to be resettled in the land of their fathers.

Mr. President, I appreciate that it will be rather tiresome, but I want briefly to give the Senate what the great leaders of this Republic and students of the race problem have said in the past about what we must do in the end if we are to settle right the race question.

Thomas Jefferson, the author of the Declaration of Independence and founder of the Democratic Party of this Republic, has been quoted by certain sophists to support their false theories that all men are created equal. Upon this

assumption they contend that the Negro should be recognized upon terms of perfect equality with the white man. The comprehensive and eternal principle of equal human rights was made by Mr. Jefferson the fundamental base of our political system. Advocates of Negro suffrage and of social rights for the Negro have cited the teachings of Mr. Jefferson, the highest authority upon questions of this character, as he applied them to our Democratic form of Government, intended for a white citizenship. It is my purpose to give Mr. Jefferson's views with specific reference to the Negro, immediately following the date on which the Declaration of Independence was written. I propose to show that the author of the Declaration of Independence, when giving expression, in that immortal document, to the principle of equal human rights, had no thought of the Negro and his rights. He was speaking exclusively of the rights and privileges of the British subjects of that time. He was giving form and expression to a broad and comprehensive principle that should constitute the fundamental base of a political system that was intended to apply to a particular race of people, namely, the Caucasian. Of all men in the world—of all men of all times who recognized and fully appreciated the inequalities of races, the inferiority of some and the superiority of others—none more clearly discerned and more forcefully wrote concerning these matters than did Thomas Jefferson, whose great intellect and commanding abilities have steadily grown through the passage of time.

In Mr. Jefferson's Works, volume 8, page 380, written in 1782, he makes this observation:

> Deep-rooted prejudices entertained by the whites; 10,000 recollections, by the blacks, of the injuries they have sustained; new provocation; the real distinction which nature has made; and many other circumstances will divide us into parties and produce convulsions, which will probably never end but in the extermination of the one or the other race.

He might have said "in the extermination of both races." That is the possibility.

> To these objections, which are political, may be added others which are physical and moral. Either the black of the Negro resides in the reticular membrane between the skin and the scarf skin or in the scarf skin itself; either it proceeds from the color of the blood, the color of the bile, or from that of some other secretion. The difference is fixed in Nature and is as real as if its seat and cause were better known to us. * * * Love seems with them (Negroes) to be more an eager desire than a tender, delicate mixture of sentiment and sensation. Their griefs are transient. Those numberless affections which render it doubtful whether Heaven has given life to us in mercy or in wrath are less felt and sooner forgotten with them. To this must be ascribed their disposition to sleep when abstracted from their diversions and unemployed in labor.

In this connection I am reminded of a reply attributed to a Negro who was asked why so few Negroes committed suicide. He said:

> When the white man gets in trouble he goes to his room and locks the door. He walks to the window and sorrowfully looks out on the world; he goes back to the fireplace and stands before the mantle and stares down into the fire; he paces the floor and finally walks to the dresser, pulls out a drawer, seizes a pistol, and suddenly blows his brains out. The Negro goes to his cabin, latches the door, and then begins to walk the floor; he pauses occasionally and scratches his head and mumbles broken sentences to himself. He presently grows tired of thinking and tramping, and tramping and thinking, and sits down in a chair before the fire and continues to think over his troubles. At last he becomes weary in both body and mind and suddenly drops off to sleep. When he wakes up he has forgotten all his worries.

That is why the Negro seldom, if ever, commits suicide. Watch the newspapers.

In 1801, on November 24, Mr. Jefferson wrote Governor Monroe as follows:

> The West Indies offer a more probable and practical retreat for the Negroes. Inhabited already by a people of their own race and color, climates congenial with their natural constitution, Nature seems to have formed these islands to become the receptacle of the blacks transplanted into this hemisphere. * * * Africa would offer a last and undoubted resort if all others more desirable should fail.

Again, Mr. Jefferson wrote John Lynch on January 21, 1811, as follows:

> You have asked my opinion on the proposition of Mrs. Mifflin to take measures for procuring on the coast of Africa an establishment to which the people of color from these States might from time to time be colonized under the auspices of different governments. Having long ago made up my mind on this subject, I have no hesitation in saying that I have always thought it the most desirable measure which could be adopted for gradually drawing off this part of our population most advantageously for themselves as well as for us—

Note the expression, "advantageously for themselves as well as for us"—

> going from a country possessing all the useful arts that might be the means of transplanting them among the inhabitants of Africa, and would thus carry back to the country of their origin the seeds of civilization, which might render their sojourn and sufferings here a blessing in the end to that country.

I was impressed with the contents of a letter I received a few days ago from a Negro in Chicago. This Negro said:

> I verily believe that the hand of God was instrumental in bringing the Negro to America from Africa as a slave, so that he might have imposed upon him the civilization and the religion of the white man, and after this training through a period of years, be transplanted back to his native fatherland, there to bring redemption and salvation, and inculcate the Christian religion in the natives of his homeland.

To substantiate his theory, he said the case of the Negro was similar to that of the chosen children of Israel. Only about 70 Israelites originally landed in Egypt, and over a period of 400 years they multiplied until they became several thousand strong, when Moses was given the order to lead the children of Israel out of bondage in Egypt into the promised land. It is an item of profane history that when the Israelites were carried into Egypt they lacked the civilization, culture, and arts which were then in the possession of the Egyptians, the most highly civilized nation on earth.

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

The PRESIDING OFFICER (Mr. HUGHES in the chair). Does the Senator from Mississippi yield to the Senator from Idaho?

Mr. BILBO. I yield.

Mr. BORAH. The Israelites relied upon divine power to get them out of Egypt. I do not think we could rely upon that assistance in this case.

Mr. BILBO. That may be true; but "God moves in a mysterious way His wonders to perform." That may be the reason why the Senator and I are here to do this very job.

On the same subject Mr. Jefferson addressed a letter February 8, 1817, to Dr. Thomas Humphries, in which he said:

> I concur entirely in your principle of gradual emancipation—

This was before the Civil War—

> of establishment on the coast of Africa and the patronage of our Nation until the immigrants should be able to protect themselves.

I provide specifically in my amendments for such procedure. I should never be a party to transporting the Negro to Africa for resettlement without following him and giving him direction and support until he was placed upon a living basis, able to stand by himself. Then, I should release him, just as we are trying to release the Filipinos today.

> * * * Personally, I am ready and desirous to make any sacrifice which will insure their gradual, but complete retirement from the States, and at the same time establish them elsewhere in freedom and safety. No symptoms inform me that it will take place in my day. I leave it therefore to time, and not at all without hope that the day will come, equally desirable and welcome to us and to them.

How prophetic do these words sound in this latter time, when more than 2,000,000 souls of the Negro race are petitioning this Government to assist and cooperate in a movement to transplant them to their fatherland?

The thing which I am suggesting by my amendment is not new. In fact, the same thing has been done in this administration. When we had a drought in the great Northwest, Mr. Rex Tugwell, the head of the Resettlement Administration, hired ships and loaded farmers on the ships and carried them to far-away Alaska. There he settled them in a new country. Mr. Tugwell took the farmers of the drought-ridden section and resettled them in Alaska, where,

I understand, they are happy and contented and are doing well. Others are following them there, for it is a wonderful country. If such a thing has been done in the past 3 or 4 years, then am I suggesting something which is violent, fantastic, and visionary when I suggest that the Negroes who want to go, who have petitioned to go, and who are begging to go to Africa, should be permitted to go? Why not take a part of the relief money and spend it to lead the Negroes to their fatherland, where they can be resettled?

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

Mr. BILBO. I shall be delighted to yield.

Mr. VANDENBERG. I think the Senator uses an unfortunate example for his own purposes when he refers to the Matanuska development in Alaska, because it has cost the Government $25,000 per 40-acre farm to establish the citizens who have been taken to Alaska and resettled upon the Government development at Matanuska. I trust the Senator's proposal does not contemplate any such gargantuan figures as that.

Mr. BILBO. I am not advised as to the cost of resettlement of American white citizens in Alaska. I do not know anything about the business judgment which was used in carrying out the project; but I think I can assure the Senator that with the proper management and proper business judgment, under the direction of the repatriation commission which is proposed to be established with the duty of resettling the Negroes in Alaska, the cost will not approach any such figure.

Africa has the most wonderful climate in the world. The part of Africa where I am suggesting that this resettlement be made has a range of temperature from 64 to 98 degrees, never lower and never higher. The territory I have in mind contains the most wonderful timber supply in the world, and the finest soil on earth. There are found oil, coal, gold, silver, and diamonds. Nature has done almost everything with a lavish hand for the well being of the people of that country. Pineapples grow wild and there are unlimited resources of every sort and kind. I am talking about building up a foreign trade for the United States. If we could transport these 12,000,000 unemployed, mostly Negroes, and let them develop a section of Africa, with the tie that would bind them to the United States, we would open up a market and a trade that within the years would repay the United States for all we put into the project.

The Firestone Co. have a rubber plantation in Liberia proper in which they have already invested over $90,000,000 in growing rubber trees. Of course, I appreciate that Liberia is not sufficiently large to take care of this project in its entirety. That is why I suggest that we give England and France a chance to pay part of their war debts by giving or selling to the United States their colonial possessions lying contiguous to or in juxtaposition to the Republic of Liberia.

In Jefferson's Works, volume 1, page 48, written in 1821, Mr. Jefferson further stated:

> Nothing is more certainly written in the book of fate than that these people are to be free; nor is it less certain that the two races, equally free, cannot live in the same Government. Nature, habit, and opinion have drawn indelible lines of distinction between them. It is still in our power to direct the process of emancipation and deportation peaceably and in such slow degree as that the evil will wear off insensibly and their place be filled up by free white laborers.

That is the very thing that I am prophesying. I wish later in this discussion to comment on the recent marriage in Boston between a socialite white woman and a negro lawyer in line with this observation made by Mr. Jefferson regarding the different characteristics of the two races.

Finally, with respect to Mr. Jefferson's observations on the subject of repatriating the Negro, I invite attention to a letter found on page 332, volume 7, addressed to Jared Sparks, February 4, 1824:

> The article on the African colonization of the people of color, to which you invite my attention, I have read with great consideration. It is indeed a fine one and will do much good. * * * In the disposition of this unfortunate people, there are two rational objects to be distinctly kept in view. First, the establishment of a colony on the coast of Africa, which may introduce among the aborigines the arts of cultivated life and the blessings of civilization and science.

That is what I propose to do.

> By doing this we may make to them some retribution for the long course of injuries we have been committing on their population. The second object, and the most interesting to us as coming home to our physical and moral character, to our happiness and safety, is to provide an asylum to which we can, by degrees, send the whole of that population from among us and establish them, under our protection, as a separate, free, and independent people. * * * And who could estimate its blessed effects? I leave this to those who will live to see their accomplishment and to enjoy a beatitude forbidden to my age. But I leave it with this admonition—to rise and be doing.

It strikes me that the great Christian churches of this country that are pouring out their millions in the hope of Christianizing the heathens in Africa would have a great opportunity if the plan suggested should be adopted. We have had the Negro here for several hundred years. The Negro race is very religious. There are a great many Negroes who are ministers of the Gospel. Here is a chance to move the Negro population and to let them carry the Christian religion back to their fellows and their kinsmen in Africa. Instead of the churches trying to send missionaries there and paying their expenses to stay there and do a little work, send the colored churches, the preachers, the deacons, and the whole outfit, and in that way the unfortunate heathens in Africa could be Christianized.

I have quoted at sufficient length from the writings of Mr. Jefferson to show unmistakably his views touching the Negro. In the Declaration of Independence he makes no specific reference or allusion to the Negro. It never occurred to Mr. Jefferson when writing the Declaration of Independence, or any time thereafter, to assume the false position of recognizing the Negro upon terms of perfect equality with the white man. The Declaration of Independence was written by a white man, the Constitution of the United States was framed by a white man, and both were conceived in the interest exclusively of the white man.

Further light upon the subject of the inequality of the two races and the inapplicability of the principle of equal human rights to inferior and superior races alike is shown in the correspondence of President John Adams with Mr. Jefferson.

I wish to say right here that no Negro in America can take exception to my attitude in denying him social and political rights in this country, for when 20,000 American Negroes were transplanted to Liberia and in 1847 they established the Republic of Liberia they took the Constitution of the United States as the basis of their own. The Negro, however, was smarter than the American white man, for the Negro in Liberia wrote into the constitution of Liberia that no white man could vote in Liberia; that no man could hold land in Liberia unless he had Negro blood in his veins. In other words, no white man can vote in Liberia; no white man can own land in Liberia. The Negro was smart enough to put that provision in his constitution. He did not want any white man monkeying with his republic, his government, and his country. Yet we attempt to give Negroes social and political equality. So I am sure that no Negro in this country can object if I take the position which I will develop later, that the Negro is not fitted to enjoy social and political equality under a white man's civilization and a white man's government, just as Mr. Jefferson says.

It appears that they had under discussion the advisability of giving to an inferior race under our political system equal social and political rights with the superior race. On repeated occasions Mr. Adams, in writing to Mr. Jefferson, commented upon the great diversity in the races of men. He said:

> I have never read reasoning more absurd; sophistry more gross than the subtle labors of Helvetius and Rousseau to demonstrate the natural equality of mankind. The Golden Rule, "Do as you would be done by," is all the equality that can be supported or defended by reason, or reconciled to common sense. * * *

Inequality of mind and body are so established by God Almighty in His construction of human nature that no art or policy can ever plane them down to a common level.

John Quincy Adams was also perturbed over some of the principles of equality enunciated by the Declaration of Independence, and in explanation said in a letter addressed to citizens of Bangor, Maine, July 4, 1843:

It is only as immortal beings that all mankind can, in any sense, be said to be born equal; and when the Declaration of Independence affirms, as a self-evident truth, that all men are born equal, it is precisely the same as if the affirmation had been that all men are born with immortal souls.

That was the conclusion of John Quincy Adams.

Daniel Webster has also given us his endorsement of a movement to repatriate the Negro. In Webster Works, volume 5, he makes the following observation:

If any gentleman from the South shall propose a scheme to be carried on by this Government upon a large scale for the transportation of the colored people to any colony or any place in the world, I should be quite disposed to incur almost any degree of expense to accomplish that object.

Mr. BORAH. The Senator, no doubt, is coming to Lincoln's position on the question.

Mr. BILBO. Yes, sir; I shall read in a minute what Mr. Lincoln said.

Henry Clay, the great pacificator, who was the first president of a colonization society in America, in a speech in the House of Representatives in 1827, said:

Of the utility of a total separation of the two incongruous portions of our population (supposedly to be practical), none have ever doubted. The mode of accomplishing that desired object has alone divided public opinion. * * * Colonization beyond the Stony Mountains has sometimes been proposed, but it would be attended by expense and difficulties far surpassing the African project. Whilst it would not unite the same animated motives.

Recently, in Chicago, there was organized a society to establish the forty-ninth State somewhere out West. I have never looked with favor upon that proposal.

William H. Seward said, in a speech delivered at Detroit on September 4, 1860:

The great fact is now fully realized that the African race here is a foreign and feeble element—like the Indians, incapable of assimilation—and that it is a pitiful and exotic race, and that it is unwisely and unnecessarily transplanted into our fields, and is too unprofitable to cultivate at the cost of the desolation of the native vineyard.

Possibly no man has been more pronounced in his views with respect to the repatriation of the Negro than has the Great Emancipator, Abraham Lincoln. I quote now from an address he made to a deputation of Negroes in the month of June, in the year 1862. I understand that Lincoln made this speech at the White House. He assembled all the freed Negroes of Washington at the White House at that time, during the Civil War, and made a speech to them, and this is what he said:

Why should not the people of your race be colonized? Why should they not leave this country? This is perhaps the first question for consideration. You and we are a different race; we have between us a broader difference than exists between almost any other two races. Whether it is right or wrong I need not discuss, but this physical difference is a great disadvantage to us both, as I think your race suffers greatly, many of them by living with us, while ours suffer from your presence. In a word, we suffer on each side. If this is admitted, it shows reason why we should be separated. You here are free men, I suppose. * * * But even when you cease to be slaves you are yet far removed from being placed on an equality with the white race. You are still cut off from many of the advantages which are enjoyed by the other race. The aspiration of man is to enjoy equality with the best when free, but on this broad continent not a single man of your race is made the equal of ours. Go where you are treated the best, and the ban is still upon you. I do not propose to discuss this, but present it as a fact with which you have to deal. I cannot alter it if I would. But for your race among us there could not be a war, although many men engaged on either side do not care for you one way or the other. * * * It is better for us both, therefore, to be separated. I suppose one of the principal difficulties in the way of colonization is that the free colored man cannot see that his comfort would be advanced by it. You may believe you can live in Washington or elsewhere in the United States the remainder of your lives, perhaps more comfortably than you could in a foreign country, hence you may come to the conclusion that you have nothing to do with the idea of going to a foreign country (this I speak in no unkind sense), which is an extremely selfish view of the case. You ought to do something to help those who are not so fortunate as yourself. * * * For the sake of your Nation you should be willing to sacrifice something of your present comfort for the purpose of being as grand in that respect as the white people. * * * General Washington himself endured greater physical hardships than if he had remained a British subject, yet he was a happy man because he was engaged in benefiting his race, and in doing something for the children of his neighbors—having none of his own.

Those are the words of Abraham Lincoln, speaking to the Negroes in 1862.

This is the message that President Lincoln delivered to a deputation of colored people during the trying days of the Civil War. That message, so admirably applicable to the situation then, is equally forceful and effective in its wise recommendation to the same race in these modern times. Nothing has transpired through the intervening years to make less applicable to the situation today and altogether befitting this masterful plea for colonization than it was when first delivered. How sublimely prophetic were his words when he said:

You are * * * far removed from being placed on an equality with the white race. You are still cut off from many * * * advantages which are enjoyed by the other race. * * * Go where you are treated the best, and the ban is still upon you.

There is not an intelligent Negro in this Nation who does not know that he is discriminated against. He may live in Boston; he may live in Pennsylvania; he may live in New Jersey, where Negroes have civil rights accorded them on paper, by act of the legislature, signed by the Governor; yet the Negro knows that he is discriminated against. So long as he is a Negro he will be discriminated against in a white man's country, where the Negroes number about 1 out of 10. Of course, if we do nothing about it, and let the two races continue to live here side by side, and day by day and hour by hour they interbreed and amalgamate, in the course of time we shall not have any white race. We shall not have any black race. We shall have a brown race. It is as sure to follow as that we are here this afternoon; yet, just because it will not happen in your time or my time, we are not willing to pay the price of doing something about it. In other words, we take the position that we do not give a rap about future generations.

The Negro, with all the millions that have been spent for his education, is no better advantaged today with respect to equality of rights with the white man than he was when he first became a free man. Furthermore, there is no reason to believe that that situation will ever be improved. The gulf which lies between two races, so widely separated by hereditary values, will forever make it impossible for the two to live together upon terms of social and political equality, until the amalgamation through miscegenation and interbreeding takes place. Then we shall all be equal; but there will not be any whites, and there will not be any blacks. They will all be together; and that process is taking place right now at a very rapid rate.

In the debates with Mr. Douglas in Illinois in 1858, Mr. Lincoln, in discussing the Negro question with respect to social and political equality, said:

I am not, and have never been, in favor of making voters or jurors of Negroes, or of qualifying them to hold office, nor to intermarry with the whites; and I will say further, in addition to this, that there is a physical difference between the black and white race which I believe will forever forbid the two races from living together on terms of social and political equality.

Mr. BORAH. Mr. President, Mr. Lincoln was being very hard pressed at that time by Mr. Douglas, who was contending that Mr. Lincoln was in favor of the Negro being on an equality with the white man in all respects; and Mr. Douglas even went so far as to indicate that Mr. Lincoln was in favor of marriages between colored and white persons. Mr. Lincoln was called upon to explain fully and completely.

Mr. BILBO. Does the Senator from Idaho mean to imply that Abraham Lincoln would prevaricate because he was hard pressed by his political opponents?

Mr. BORAH. I have no doubt at all that Abraham Lincoln, as he proved on many occasions, would make the best of a political situation.

Mr. BILBO. I have not entertained such an opinion of Mr. Lincoln.

This is what Lincoln said:

I have said that I do not understand the Declaration of Independence to mean that all men are created equal in all respects. Certainly the Negro is not our equal in color—perhaps not in any other respect. I did not, at any time, say I was in favor of Negro suffrage. Twice—once substantially and once expressly—I declared against it. I am not in favor of Negro citizenship.

Those are very positive and direct words. There is no quibbling about what Mr. Lincoln was saying in that speech. I presume he meant it, and I think he meant it because after he had won his spurs in the political world, had manipulated the convention in Chicago, and had been nominated President on the third ballot and had come to Washington in 1862, then in the throes of the great Civil War, he made practically the same statement in a speech at the White House to Negroes.

Mr. BORAH. Mr. President, I do not think it is any reflection on Mr. Lincoln to say that he later advocated citizenship for the Negro.

Mr. BILBO. No; he never did advocate it.

Mr. BORAH. Oh, yes. Mr. Lincoln advocated giving all Negroes who could read and write the right to vote and the rights of citizenship.

Mr. BILBO. I am not advised as to that. I know that he emancipated them, but he did that only as a war measure.

Mr. BORAH. While he was not in favor of giving the Negro universal suffrage, he was in favor of giving the Negro the right to vote when the Negro could read and write and had acquired capacity for discharging the duties of citizenship. In other words, he entertained the very sound view that men should earn their right to citizenship.

Mr. BILBO. I shall have to look up that matter.

In that same memorable series of debates, Stephen A. Douglas said:

I believe this Government was made by white men for the benefit of white men and their posterity forever; and I am in favor of confining citizenship to white men—men of European birth and descent—instead of conferring it upon Negroes, Indians, and other inferior races.

If the Senate will be patient with me, I propose to show that there is a profound scientific reason why the white man and the black man can never mix and can never be on a basis of equality.

Mr. BORAH. I am deeply interested in that subject, and I think I agree with the Senator before he makes his argument.

Mr. BILBO. Montgomery Blair, in a speech at Concord, N. H., June 17, 1863, reminded his audience as follows:

All the early patriots of the South, Washington, Jefferson, Madison, Monroe, Jackson, Clay, and other were the advocates of emancipation and colonization. The patriots of the North concurred in the design. The author of the Declaration of Independence and his associates declared equal rights impractical in society constituted of masses of different races. * * * Reason and experience show that one or the other race must be the dominant race and that Democracy is impossible. They, the Negroes, will, I believe, be contented to set up for themselves in some neighboring and congenial clime on the plan of Jefferson and Lincoln.

In a letter read at the Cooper Institute in New York, March 6, 1863, Montgomery Blair said further on this subject:

The problem before us is the practical one of dealing with the relations of masses of two different races in the same community. * * * It was by proclaiming to the laboring whites who filled the armies of rebellion that the election of Lincoln evolved emancipation, equality of the Negroes with them and consequently amalgamation, that their jealousy was stimulated to the fighting point. Nor is this jealousy the fruit of mere ignorance and bad passion as some suppose, or confined to the white people of the South. On the contrary it belongs to all races, and like all popular instincts proceeds from the highest wisdom. It is in fact the instinct of self-preservation which revolts at hybridism. Nor does this instinct militate against the natural law that all men are created equal if another law of nature equally obvious is obeyed.

In other words, if one objects to his daughter marrying a Negro, he does it as a matter of race pride, as a matter of race prejudice. White men have that prejudice; they possess it; it is in them. Whether they speak it or not, they feel it. They do not want their daughters to marry Negroes.

Mr. Blair continued:

We have but to restore the subject race to the same or to a region similar to that from which it was brought by violence, to make it operative; and such separation of races was the condition which the immortal author of the Declaration of Independence himself declared to be indispensable to give it practical effect. A theorist not living in a community where diverse races are brought in contact in masses may stifle the voice of nature in his own bosom, and from a determination to live up to a mistaken view of the doctrine, go so far as to extend social intercourse to individuals of the subject race. But few even of such persons would pursue their theories so far as amalgamation and other legitimate consequences of their logic.

In other words, if one lived in some sections of this country where there is no need to deal with the Negro—and there are a great many sections of the United States where that is true—he may accept the fallacious theories advanced by some religious and some wild-eyed dreamers about the eternal brotherhood of man, but when a man is brought face to face with the issue, there rises in him, because of the pride he has in his race, in his bloodstream, a prejudice which says, "No. I do not want my daughter to marry some Negro man, nor do I want my son to marry some Negro woman and give birth to a strain of mongrels and hybrids; certainly not." Yet that is exactly what is taking place all over this country now.

I know personally of a very sad case that happened in the State of Virginia. When the Spaniards settled Puerto Rico they found the Indian and the Negro there, and under the influence, and possibly the wish and will and dictation, of the Spanish Government, they attempted to control the natives by miscegenation, amalgamation, mixing of the races. I am told that today there are possibly not more than a score of pure-blooded white people in Puerto Rico.

Down in the State of Virginia, in one of the most aristocratic towns in the State, in one of the most aristocratic families, there was a beautiful girl. She met one of these Puerto Rican officers on some occasion, and fell in love with him and married him, never dreaming that that Puerto Rican had a drop or strain of Negro blood in him as a result of the amalgamation which had been going on in Puerto Rico for a hundred years. They married and went back to Puerto Rico and returned in a year or so, and the first birth was a pair of twins. A throwback was the result. These twins were as black as the ace of spades. So when the family returned to the aristocratic home in Virginia, lo and behold, the offspring were nothing in the world but a pair of pickaninnies, because of the presence of the Negro blood.

Mr. President, that is the reason why I am insisting that something be done about this question. I will show directly, and I mention it because it is pertinent at this point, that there are between fifteen and twenty thousand Negroes in the United States now who are crossing the color line every year. When I say crossing the color line, I mean a Negro girl who has white blood in her, who looks like a white girl, with no visible evidences of the Negro in her, looks into the mirror and sees that she is white, and she says, "Why should I spend my life with this race of people that is discriminated against and has not the advantages the white people have?" She gets on the train and goes to Chicago, New York, Detroit, or somewhere else in the North where she is not known, she passes off for a white girl, and marries a white man. A Negro boy somewhere in the country looks into the mirror and see that he looks like a white man, and he says, "I am not going to pass my life with the Negro race, which is discriminated against in this country and has not a chance. I am going where I can pass as a white man and marry a white woman." There are between 15,000

and 20,000 who are doing that every year in the United States, and the number is increasing. Do not tell me that amalgamation is not taking place in this country. I wish some people who are not in sympathy with protecting our blood stream could live long enough to see what is going to happen in the years to come.

Senator James R. Doolittle, of Wisconsin, in 1868, disclaiming against the possibility of the two races living together, said:

> I know it is said that the objection which is felt on the part of the white population of this country to living side by side in social and civil equality with the Negro race is all a mere prejudice of cast, but its foundations are laid deeper than mere prejudice. It is an instinct of our nature. Men may theorize upon the condition of the two races living together but the thing is impossible. The instincts of both races are against it.

The same Senator, in a speech at Hartford, Conn., on March 11, 1868, made one of the most eloquent pleas against political and social equality for the two races that has come down to us from the distinguished patriots and statesmen of his time. I cannot refrain from including his remarks among the testimonials I am undertaking to assemble.

> In the name of constitutional liberty, in the name of our great ancestors who laid the foundation of this Government to secure the liberty for themselves and for us; in the name of all who love that liberty, who are ready to struggle and if need be to die, rather than allow it to be overthrown; in the name of the coming generations and that race to which we belong; and which has given to the world all its civilization, I do arraign and impeach the radical policy of the present Congress of high crimes and misdemeanors. I impeach it first as a crime against the laws of Nature which God, the Almighty, has stamped upon the races of mankind because it attempts to force a political and social and unnatural equality between the African and the Caucasian—between an alien, inferior, and exotic race from the Tropics with the highest type of the human race in the home of the latter, in the temperate zone. Second, I impeach it as a crime against civilization because it would by force wrench the Government out of the hands of the civilized white race in 10 States of the Union to place it in the hands of the half-civilized African. * * * I impeach it as a crime against humanity, tending to produce a war of races to the utter destruction of one or both.

That was a speech made in the beginning of the reconstruction era following the Civil War. Had the plan which Sumner had in mind been carried out, 10 States of the American Union would have been placed in the control of the free Negro. But thanks to the eternal will power, and determination, and blood, and spirit of the Anglo-Saxons they would not suffer that control and domination for more than a day.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER (Mr. SMATHERS in the Chair). Does the Senator from Mississippi yield to the Senator from Idaho?

Mr. BILBO. I yield.

Mr. BORAH. What was Senator Doolittle of Wisconsin referring to as a particular act of Congress?

Mr. BILBO. The speech from which I am reading was made in 1868. That was the result of the action of Congress in bestowing citizenship on the Negro and giving him the right to vote, which turned the Southern States over to Negro domination wherever there was a Negro majority.

Mr. BORAH. Was the then Senator from Wisconsin referring to one of the proposed amendments to the Constitution?

Mr. BILBO. Yes; and the laws passed by Congress pursuant thereto.

The idea of political and social equality between the white and the black races of this country is the greatest delusion that has ever been followed by any appreciable part of the American people. In all political history there is not a single example of any form of political or social equality between two widely divergent races which has not resulted in injury to both, and in most cases, in destruction to both. It is unthinkable that the white race of America will ever submit to Negro domination.

Of course, we are not going to submit to that domination, but we are going to be swallowed up and amalgamated, and as a result we are not going to have a white race, but a Negro race. Nevertheless we have approached a situation in this country where Negro domination is beginning to assert itself by means of the Negro in certain sections holding the balance of political power. When the people wake up to a realization that the policies of Government are being influenced by this black balance of power, due to the right of suffrage being extended to the Negro, this proposal to repatriate the Negro will be seized as the only alternative for the safety and perpetuity of American institutions, and as the only guarantee of a white American civilization, and the sustained purity of the Caucasian blood.

Mr. President, that is going to take place. I dare say there are Senators now on the floor of the Senate who would be incensed at my suggested method of solving the unemployment question and of solving the eternally perplexing race question by providing ways and means to resettle the Negro, who wants to be resettled in Africa, in his homeland. They would be afraid to vote for such a measure because they do not yet know that the majority of the Negroes who hold the balance of power in their States would be favorable to it, and they must go back home and find out what the Negro really wants.

Senators, the Negroes are getting smart about it. They are organizing. There is more solidarity in the Negro race today than ever before in the history of this country. They are going to demand something for their support and if the Democratic Party will give them what they want they will be Democrats, if the Republican Party will give them what they want they will be Republicans, and they are going to set out to get the most they can get.

Mr. President, the Republicans on the other side of the Chamber have been saying that we Democrats want the W. P. A., because with the W. P. A. we have taken the Negroes away from the Republican Party and made them all Democrats, and so long as the manna falls from heaven and the W. P. A. is going strong the Negro will continue to be a Democrat. That is what the Republicans say.

The repatriation of the colored people of this Nation must be accomplished before we are overtaken by the untold evils that inevitably await us as the result of two inherently distinct and separate races undertaking to dwell together in the same country on terms of political and social equality. How much longer are we to turn a deaf ear to the warnings and admonitions of all the great and good who have wrought most nobly and most wisely in handing down to us the greatest system of government of the people, for the people, and by the people that the world has ever known?

Oh, yes, the good Democrats on this side of the Chamber will quote Jefferson, and they will stand by the sayings of Andrew Jackson, and they will stand by all the great Democrats of the past, and they will maintain their position on this and on that. The position of these good Democrats is that what was said by the leaders of the past is sacred; it is eternally right; it is right because Thomas Jefferson, the father of the Democratic Party said so.

On the other side the good Republicans—and I have learned to like Republicans since I came to Washington—will quote Abraham Lincoln, the father of their party. They will say that Lincoln said this, and Lincoln said that, and Lincoln said so-and-so, and, of course, he was right.

Yet, when we bring before the Senate the expressions of the leaders of the Democratic Party, and of the leaders of the Republican Party, and of the leaders of thought in the Nation of the past, who all agree that the only solution of the race problem is separation, colonization, repatriation, and that such a step must be taken in order to save our race, to save the purity of the bloodstream of our Nation, and to save our civilization—when all the leaders of the past together take that position, when they all agree on it, yet Senators will now stand back and say, "I do not know. I am not willing to undertake it."

Mr. President, we are ephemeral sometimes in our thoughts and actions; we are short-sighted; we are concerned and we are all disturbed about what is happening right now. We are interested in the election in Pennsylvania and interested in other elections. We do not stop long enough to think

of what is going to happen 100, or 200, or 500, or 1,000 years from now. If the founding fathers who gave us this country also gave to us the blessings of the greatest scheme of government on earth, the greatest ever conceived for the human race, then cannot we, as beneficiaries of that blessing, contribute our small bit in perpetuating that scheme of government and passing it on to other generations?

On pages 249 and 250 of Eight Years in Congress, Mr. S. S. Cox says:

I lay down the proposition that the white and black races thrive best apart; that a commingling of these races is a detriment to both, that it does not elevate the black and it only depresses the white; that the history of this continent, especially in Hispano-America, shows that stable, civil order and government are impossible with such a population. It is an absurdity to say that two races so dissimilar as black and white, of different origin, of unequal capacity, can succeed in the same society when placed in competition.

Congressman William Mungen made a speech in the House of Representatives, July 10, 1867, that carried with it a truth that is well worth reproducing at this time:

It is true in history and true in science that nations which allow their national stock to be adulterated, which tolerate amalgamation with other national types, will perish certainly and perish forever. This is a question of the utmost importance to the statesmen of America and I say now that if those statesmen, those gentlemen who are molding and shaping the policy and laws and regulations for our Government fail to be guided by experience and science and history in shaping a policy to prevent amalgamation, miscegenation, social and political equality of the different races, white, black, red, yellow, and brown, our Nation will be suffocated as it were, by these foolish and suicidal projects, these utopian schemes of equality of races.

From these sentiments so forcefully and effectively expressed by Congressman Mungen and others, it can be seen that statesmen of that early age were not unmindful of the inevitable results that would ensue from the adoption of a policy to encourage and promote social and political equality among the races. It was thought then, as the years thereafter have proven, that if two widely different races continue to live together upon terms of any semblance of social and political equality the inescapable result would be miscegenation and amalgamation. Both races will eventually bog down in the mire of mongrelism.

If patriotic Senators—and the Members of the Senate are patriotic—knew the circumstances, knew what was going to happen to our race, and believed that it would happen, I verily believe their position with respect to this problem would be stronger than the position I am taking in an effort to prevent what I see is bound to happen. Yet we are not doing anything about it. Senators hate to think about it; they hate to anticipate it; they hate to pay the price necessary to do the things they know they ought to do in a case of this kind.

The fatal effects of the admixture of blood as between a superior and an inferior race was graphically presented by Mr. James Brook in a speech before the House of Representatives when the question of conferring the right of suffrage upon the Negro was being considered by Congress. Mr. Brook said:

I need not cross the Atlantic to show the fatal step you are taking by this reconstruction bill in going into copartnership with Negroes. Our continent has been settled by two classes of men—the Anglo-Saxon, Celt, and Teuton in the north and the Spanish Latin race in the south. God never made a nobler race, I repeat, than these hidalgos of Spain, who, under Columbus, started on the trackless Atlantic in search of the then unknown America. They ran all along the Gulf of Mexico; they settled Mexico, Venezuela, Chile, and Peru, and coasting the North Pacific imprinted the holy classic names of old Spain upon the now golden mountains and vine-covered valleys of the State of California. They drove Montezuma from the halls of his Aztec ancestors, and under Cortez and Pizarro, Peruvian, Mexican, and semibarbarian civilization fell before the mighty prowess of their arms. Their heroic deeds, their lofty chivalry are the true records of history.

Our Anglo-Saxon fathers started later from the shores of England and landed on Plymouth Rock, or upon the flats of Jamestown. The Puritan, trembling over this rock for a while in terror of the tomahawk, ventured at last on what was then deemed gigantic heroism—he crossed Connecticut, and the Hudson, and slowly crept over the Mohawk, and halted for years and years on Lakes Erie, Ontario, and Huron. The cavaliers of Jamestown threaded their way up the James River, stealthily wound over the passages of the Alleghenies, and finally looked down with astonishment and fright upon the beautiful river of the Ohio. All this time these heroic hidalgos of Spain were spreading the name and fame of Castile and Aragon throughout the whole American Continent from Cape Horn to California, while our Anglo-Saxon race stood shivering upon the Ohio and Lake Erie without the courage to advance farther. What happened then? What has produced this difference between us and the lofty hidalgos? Why are they fallen, these men of the armada, so exalted among all the nations of the earth, who made our ancestors in the day of Queen Elizabeth tremble on the throne? Why was it that in the Mexican War one regiment of our Anglo-Saxon-Celtic-Teutonic blood again and again put whole regiments of these once noble hidalgos of Spain to flight at Chapultepec, at Garita, and elsewhere? I will tell you why, sir. The Latin, the Spanish race, freed from that instinct of ours, which abhors all hybrid amalgamation, reveled in a tempting admixture of blood—indulged in social and governmental partnership with Indians and Negroes, one and all. The pure blood, the azure blood of the old hidalgos of Spain, lost and drained, dishonored and degraded, has dwindled into nothing, while the pure blood of the Anglo-Saxon, the Celts, the Teutons, abhorring all such association and amalgamation with the Negro or the Indian, has leaped over Lake Erie, crossed the great Father of Waters, crowded the mountain passes of Colorado, rolled over the Rocky Mountains, and spread for hundreds of miles along the Pacific Ocean, carrying not only there but everywhere, triumphant, the glorious flag of our country, that emblem of a pure race.

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

Mr. BILBO. I yield.

Mr. BORAH. Is the Senator quoting Senator Brooks?

Mr. BILBO. Senator Brooks; yes.

In Mexico and in parts of Africa the pure Mexican or pure white strain has been preserved. It has not been amalgamated. It has not been corrupted or adulterated. However, a certain element of the race has been amalgamated, which proved the weakness of the Mexicans, as we found in our war against them in 1848.

The purity of the blood of the Anglo-Saxon, the Celt, and the Teuton in this America of ours is now being threatened. If the process of amalgamation continues, as it most surely will; if the white and the black races are forced to occupy the same territory and live under the same flag, then how may we hope to escape the degradation and blood despoliation that have become the unhappy fate of Latin American countries? The Negro race in this country has already produced sectional animosities and strife that have no remedy except in the repatriation of the Negro or the separation of the two races. In the Southland they have destroyed all industry but their own, and have made that section of our common country dependent upon foreign supplies for every article that human ingenuity has devised for the comfort and happiness of man.

In other words, being dependent upon Negro labor the South has not had a high industrial development. But when the wage and hour bill is passed, equalizing wages throughout the country, the laboring man from the North will be glad to live in the South, where living is so much cheaper.

In the South, society is protected from horrors unspeakable and worse than all the ravages of war only by maintaining an eternal sentinel upon every doorstep. The Negro in this country is gradually assuming control of our politics by virtue of his inherent weakness. In due time, if the present trend of thought and sentiment continues, the Nergo will become the undoubted master of our common country. By this statement I do not mean that he will ever dominate the white race of this Nation, but I do intend to convey the thought that the liberties already granted him, and those which he may yet attain through the perseverance of sympathetic whites, will lead to a condition where he will be given enlarged political recognition in our political system, and through this exercise of civic freedom gratuitously imposed, his social rights and liberties will be correspondingly increased, thereby laying the sure foundation for eventual and complete amalgamation and the hybridization of the two distinct and utterly dissimilar peoples. No argument should be necessary to prove that a nation can be happy, rich, and powerful, only where the people composing it are of one racial strain and where no portion of its population is degraded by the infusion of the blood of an inferior race. Just

in proportion to the number of a nation's inferior racial types is it lacking in all the elements that make for an exalted civilization; and just in that proportion also is it weak and liable to collapse from dangers both within and without. History is replete with examples of civilizations that have fallen never to rise again, from causes and conditions that lead first to the contamination of its blood just prior to self-disintegration from within or to the successful attack of a foreign foe.

America has been called the great melting-pot of the world. We have developed a wonderful race of people where we have not had amalgamation and miscegenation with the Negro. However, the races which have been coming to America from Denmark, from Holland, from the Scandinavian peninsula, from Germany, France, and other parts of Europe, are people of our own blood. They are white people. The melting together of such elements produces a great race. The Norwegian, the Dane, the Dutch, the German, the Irish, the French, and many others, all descend from the same parent stock, and a great race is produced by the blending and amalgamation of such elements. However, when two races so widely divergent as the white race and the black race are amalgamated, the result is a mongrel race, an inferior race, which is weaker than either of the two.

With the permission of the Senate, and in the interest of time, I ask that a portion of my address, which is prepared, be printed in the RECORD without my taking the time to read it. The part to which I refer is a compilation of facts and examples from history. I should like to deal with some other matters which are more pertinent. I desire to deal with some things which have happened in the city of Washington.

The PRESIDING OFFICER (Mr. HILL in the chair). Is there objection to the request of the Senator from Mississippi?

Mr. AUSTIN. Mr. President, let us understand what we are about to do.

The PRESIDING OFFICER. The Senator from Mississippi asks unanimous consent to insert in the RECORD, as a part of his speech, certain matters to which he has referred.

Mr. AUSTIN. Mr. President, as I understand the Senator, he refers to a part of the speech which he has prepared, and the effect of his request is to extend his remarks in the RECORD. Is that the parliamentary situation?

Mr. BILBO. In substance, that is what I am asking to do, rather than to take the time of the Senate to recite these matters which I have gathered together, and which are pertinent to this discussion. In order to save time, and to pass on to something which is more recent, inasmuch as my speech is written, I ask that a certain portion of it be inserted in the RECORD without reading it.

Mr. AUSTIN. Mr. President, a parliamentary inquiry.

Mr. BILBO. Does the Senator object? If he objects, I shall read on.

The PRESIDING OFFICER. Does the Senator from Mississippi yield for a parliamentary inquiry?

Mr. BILBO. Certainly.

The PRESIDING OFFICER. The Senator from Vermont will state the parliamentary inquiry.

Mr. AUSTIN. I should like to inquire whether the procedure suggested by the Senator is proper under the rules of the Senate.

The PRESIDING OFFICER. The Chair will say to the Senator from Vermont that there is no rule governing the particular procedure. Occasionally the purpose of asking unanimous consent is to set aside a rule. That is why things are done by unanimous consent. However, there is no rule governing the present question.

Mr. AUSTIN. I object, Mr. President.

The PRESIDING OFFICER. The Senator from Vermont objects to the request of the Senator from Mississippi.

Mr. BILBO. I am delighted to know that the Senator from Vermont——

Mr. AUSTIN. I have always understood that it is not the practice in the Senate for Senators to prepare addresses and to insert them or extend them in the RECORD. I understand such a practice exists in the House under the rules of the House. This is the first time I have had the matter brought to my attention. That is why I objected. My objection is not directed in any sense whatever at the Senator from Mississippi.

Mr. BILBO. I am glad to hear that explanation. I thought the Senator was so thoroughly absorbed in what I was saying that he did not want to miss any of it. I am glad to read on.

Mr. President, I wish now to bring to the attention of the Senate the words of Senator Thurman, of Ohio, in a speech at Mansfield, January 21, 1868:

> There is not one instance of political equality between the two races that has not proven injurious to both. It is impossible that the race to which we belong can submit to Negro domination. It is impossible that so inferior a race as the Negro can compete with the white man in the business, much less the politics of the country. The extermination of the Negro or his expulsion from the country must be the inevitable result of the radical policy (guaranteeing political and social equality) if persisted in. But before that happens (extermination or expulsion of the Negro) what untold evils may await us; what anarchy, what confusion, what impoverishment, what distress. Worse than Mexico, worse than the South American Republics, will be the condition of a large portion of this country if that policy prevails.

Those words of Senator Thurman may sound rather harsh to our colored friends, but he describes exactly what the Negroes did in Haiti. When they obtained control of the country, they proceeded to massacre and kill all the whites.

Thomas Dunn English, a widely known authority upon the hereditary values of races, said:

> Anatomy, physiology, and microscopy concur in proof that the Negro is of a distinct and inferior species to the Caucasian, and history confirms the evidence furnished by the investigation of the natural philosopher. No man who values himself, who has any regard for sound morality, or who feels any desire to see intellectual progress made certain, can join in the absurd attempt to raise the Negro to his own level. A movement for such ends is necessarily impotent and can only result, at the best from the Negro, in the degradation of the white.

Those who have voiced sentiments declaring for the repatriation of the Negro are not confined exclusively to the leading statesmen, scientists, ethnologists, and philanthropists of the white race. I now present the opinion on this subject of an outstanding Negro bishop of the African Methodist Episcopal Church, Henry M. Turner. Bishop Turner urged that opportunities should be offered to Negroes to settle in Africa, saying:

> This Nation, or its aggregated people will either have to open a highway to Africa for the discontented black man, or the Negro question will flinder this Government.

He insisted that by separation he did not mean that everyone should go or must go, but that there should be given or granted an opportunity for the departure of "such black men and women as are self-reliant."

One of the clearest thinkers and one of the most convincing on the Negro question was John Temple Graves, of Georgia. Perhaps no man south of the Mason and Dixon's line understood the Negro and the Negro problem better than he did. In one of his great lectures he expressed the opinion:

> The problem of the hour is not how to prevent lynching in the South, but the larger question: How shall we suppress the crime which always has, and always will, provoke lynching. The mob answers it with the rope, the bullet, and sometimes, God save us, with the torch. The lyncher does not exterminate the rapist, but he holds him in check. Expediting the processes of the law would not be adequate to eliminate lynching. There is no real remedy but one; no statute will permanently solve this problem. Religion does not solve it. Politics complicate it. The truth which lies beyond and above all these temporizing expedients is that separation is the only solution of this great problem of the races.

Following the delivery of the lecture by Mr. Graves from which I have quoted, Benjamin W. Hunt, of Eatonton, Ga., on September 18, 1903, addressed a letter to the editor of the New York Times, who had previously commented upon

the opinions of Mr. Graves with respect to the segregation and colonization of the Negro. The letter of Mr. Hunt, in part, reads as follows:

Your editorial of the 7th instant fails to do full justice to John Temple Graves, who proposed to segregate and colonize the Negro. I am a northern man and my viewpoint might have been like your own had I remained a thousand miles removed from the South. A residence of 27 years, however, in the Black Belt where the Negroes far outnumber the whites, has given me unexceptional opportunities for studying the race question, which is also a caste problem, most imperfectly understood. * * * Judging from the moral side of life, no thinking man could truthfully fail to agree with the school of John Temple Graves that the separation of the races would advance the ethical conditions of the white race. * * * It is a movement that should win the support of every altruist and when sufficiently agitated, it or some kindred measure will protect us from the error of our fathers in bringing the African to America.

Mr. R. W. Shuffeldt, a noted anthropologist and author of America's Greatest Problem, the Negro, says:

The mixing of a low and undesirable stock with a high and cultured one is sure to produce a mixed stock which is not as good as either of the ones that produce it. There is but one remedy available and that is thorough and complete separation. I am so loyal to anything that will sustain the purity of the best white blood in the United States, drain it of superstition of all kinds, purge it of crime and preserve its integrity, that I would see every Negro in America exported to the deserts of the Sudan rather than allow it, for any consideration whatever, to jeopardize by race mixture the race and civilization it has taken us centuries to establish.

Among the outstanding advocates of the repatriation of the Negro at the beginning of the present century, was Senator John J. Ingalls, of Kansas, who said, according to the Chicago Tribune May 28, 1903, referring to the Negro problem and the incurable evils obtaining where the white man and black man were compelled to live together, that:

If this condition is the inevitable consequence of the contact of the two races, separation, voluntary or compulsory at whatever cost, is the dictate of wisdom, morality and national safety. If reconciliation, upon the basis of justice and equal rights is impossible, then migration to Africa should be the policy of the future. To the fertile continent from whence they came they would return—not as aliens and strangers, but to the manner born; to savage kindred, who still swarm in its solitudes, they would bring the alphabet, the Declaration of Independence, and the Bible. Emancipated from the tradition of bondage, from the habit of obedience and imitation, from the knowledge of its vices which is the only instructions of a strong race to a weaker, the African might develop along the axis of growth and Ethiopia stretch out her hand to God.

The Negro might not want to go. He is a native. He is a citizen. He has the right to stay. He has the right to vote. He has the right to life, liberty, and the pursuit of happiness. He has been deprived of them all. Only the right of domicile remains. He could perhaps submit to the loss of this with the same resignation which has accompanied his surrender of the rest. There are vague indications of his cleavage. In some regions the inertia is being overcome.

What he means to say there is that, although the Negro might not want to go because he is a native, he is a citizen; he has a right to stay; he has a right to vote; he has a right to life, liberty, and the pursuit of happiness; yet he has been deprived of those rights because of discriminations where he tries in a civilization such as ours to live side by side with the white man. All these rights are written in the books, but when he comes to undertake to enjoy possession of them the Negro has been denied them. The Negro is becoming sensible enough now to know it. That is the reason for the demand of the Negro that the Government provide ways and means for him to go back to his native land.

I wish to again quote Hon. John Temple Graves. He delivered an address appearing in the New York Times, September 4, 1903, before the forty-eighth convocation of the University of Chicago on the subject of The Problems of the Races. Among other things equally as well worthy of reproduction, Mr. Graves said:

The experiment of political equality has had 38 years of trial backed by the power of the Federal Government and by the sympathy of the world. It has failed from the beginning to the hour that holds us—it has failed.

Thirty-five years have rolled by since this declaration was made by Mr. Graves, and the words I have quoted are as true today as they were then.

Quoting further from Mr. Graves:

Four decades after his emancipation the Negro in point of fact is less a free man and infinitely less a citizen than he was in 1868. The tumult of the times about us proclaims the continued existence of the unreconciled equations of the problem that he makes, and in the common judgment of mankind the legend "failure" is written large and lowering above the tottering fabric of his civil rights.

A Chinese wall of prejudice shuts out the South on this question from the sympathy of the American people; and although fraternal platitudes may cross it and political affiliations may scale it and commercial interchange may run its electric wires under and above it * * * this wall stands in the sight of God and of nations, hedging in the South as a separate and peculiar people hindered with misapprehensions, held aloof in prejudice, and fretted by a criticism which, if sometimes founded in philanthropy, is too often expressed in passion and answered in bitterness. * * * It is a problem of moral decay; it demoralizes politics. Everywhere a black supremacy is threatened through a black majority; the black ballot is strangled without reserve in the black hands that hold it against the safety of the future. This is wrong. It is illegal. It is monstrous, but it is true.

Never, never in a thousand years, will the Negro, North or South, be allowed to govern this Republic, even where his majorities are plain. We might as well fix that fact in our minds to stay. No statute can eradicate it. No public opinion can remove it; no armed force can overthrow the inherent, invincible, indestructible, and if you will, the unscrupulous capacity and determination of the Anglo-Saxon to rule.

Mr. Graves could very appropriately have added here: "To rule so long as the blood of the Anglo-Saxon is not mingled with the blood of the Negro race."

Quoting still further from Mr. Graves:

Here then issue—unity of the Republic, natural development, purity of politics, political independence, respect for the ballot, reverence for the Constitution, the safety of our homes, the sanctity of our women, the supremacy of law, the sacredness of justice, and the unity of the church.

There he stands, that helpless and unfortunate inferior; for his sake the one difference has widened between the sections of our common country. Over his black body we have shed rivers of blood and treasure to emphasize our separate conviction of his destiny.

And yet, as the crimson tide rolls away into the years, we realize that all this blood and treasure and travail was spent in vain and that the Negro, whom a million Americans died to free, is in present bond and future promise still a slave, which, by circumstance, is trodden underfoot by iron, and ineradicable prejudice; shut out forever from the opportunities which are the heritage of liberty, and holding in his black hand the hollow parchment of his franchise as a free man, and looks through a slave's eyes at the impassable barriers which imprison him forever within the progress and achievement of a dominant and all-conquering race.

That is just as true in the North as it is in the South.

Separation of the races is the way—the only way. Is the expense appalling? Is the cost prohibitive? England again offers an example. England, our Mother County; England, next to ourselves, the greatest and most enlightened Government under the sun; England has just put its hands into its pocket to expend $500,000,000 in order to buy out the Irish landlords and to heal the otherwise incurable, running sore of Irish discontent.

No reasonable or considerate plan would call for the wholesale or summary deportation of the Negro. With his consent, and with Government aid, the movement might proceed slowly and with consideration.

* * * * * * *

The superb inducement of the Negro would be found in the freedom, the individuality, and the opportunity of an independent Commonwealth, in which he would be free from the unequal competition of a superior race, given a chance to develop a character, and to demonstrate the merits of his leaders and the capacities of the race. Let no white man vote in the Negro state to harass the Negro councils, and let no Negro vote in any other State than his own.

For half a hundred years we have fought and wrangled and bled and died about this black man from Africa. Is the wrangle worth its fearful cost? I appeal for Caucasian unity; I appeal for the imperial destiny of our mighty race. This is our country. We made it; we control it, and we always will. We have done great things; we have mighty things yet to do. The Negro is an accident—an unwilling, a blameless, but an unwholesome, helpless element in our civilization. He is not made for our times; he is not framed to share in the duty and the destiny which he perplexes and beclouds. Let us put him kindly and humanely out of the way. Let us give him a better advantage than he has ever had in history, and let us have done with him.

So says John Temple Graves.

Prof. E. D. Cope made some very valuable contributions on the subject of the Negro problem through the columns of a journal published in Chicago entitled "The Open Court." I take pleasure in giving a few excerpts from Professor Cope's writings that have a special bearing upon the race problem as it exists in the United States, and upon the question of the removal of the Negro race to Africa:

The people of the United States have to show mankind how order may be conserved consistently with the greatest amount of personal liberty. This we think is accomplished under our form of government, but all races are not equally capable of sustaining this relationship between order and freedom. In fact, what we know as the inferior races—the Mongolians and Africans—have never made successful attempts to sustain republican forms of government. The Negro has conspicuously failed in all but absolute governments, whatever they may be in name.

Let me digress for a moment to quote from another author for the purpose of emphasizing the thought developed by Professor Cope, namely, that the Negro has failed in all but absolute governments; that he has never made successful attempts to sustain republican forms of government. In other words, Professor Cope believes that a democratic form of government cannot be successful if the necessity of the situation requires its administration by a superior and inferior race.

In 1906 Mr. Arthur M. Allen published in the Arena an article entitled "The Race Problem," in which he gives interesting observations on this subject. Mr. Allen first undertook to explode the theory that all men sprang from one race; that all men, being children of Adam, were brothers; and therefore he says in this connection:

The progress of science has put Adam among the allegories of the past and left us to solve the race problem by the scientific laws of natural history and zoology alone. Jefferson had such a horror of race equality that he considered it impossible, and lamented that there had at that time been no scientific examination of the Negro in the line of natural history.

There are in this country a great many persons who believe that we are all descended from Adam.

In 1850 Professor Agassiz, after long research, said that Caucasians and Negroes could never have been descended from the same stock, and, although men, could never have been brothers.

This is the new doctrine of diversity of race; and when glamor and emotional conditions produced by the one-race theory have subsided this will prevail and solve this and other race problems.

In 1901 Professor Magee, of the Smithsonian Institution of Washington, confirmed Professor Agassiz by saying that if there was any Garden of Eden there must have been many original colors, for no two of the present races could have been descended from the same stock.

Having cited these eminent authorities in support of the doctrine of diversity of race, Mr. Allen then goes on to explain why the English Tories, the Abolitionists, and all advocates of Negro equality insist upon the old idea of one race, and that all are children of Adam, and therefore equal. Permit me to give Mr. Allen's own words:

The same evil English Tory influences which originated and engineered the whole Negro equality movement, even though they succeeded so well that it is embodied in our constitutional amendments, have yet, ever since, now almost 40 years, in spite of every kind of failure of Negro freedom and unsupported by white proximity, constantly suppressed and destroyed all free thought, speech, and action on this subject, and the one-race theory is being burned into the people's minds as one of the unchangeable results of the Civil War. This is their object, for they know that if the race equality is a settled matter democracy is destroyed and monarchy justified. This is the bedrock of the whole matter. Under this new doctrine all mixed races are criminal and should be prevented by law, and the three Tory amendments to the Constitution (thirteenth, fourteenth, and fifteenth) should be at once repealed.

In this article Mr. Allen attributes the acceptance of the one-race theory among so large a part of the American people to the evil influence of the English Tory that originated the Negro equality movement, and succeeded eventually in the adoption of the thirteenth, fourteenth, and fifteenth amendments to our Constitution, for the sole purpose of destroying democracy in America and justifying monarchy.

To return to Professor Cope, this eminent authority, in further proof of his contention that a republic cannot long endure if administered by two widely distinct races, I quote as follows:

Whatever reasons may have existed or do exist for the removal of particular peoples, or the exclusion of particular races, from any country, they exist with tenfold force in the case of the Negroes of the United States. In no country having a republican form of government has the lowest race of mankind been found dwelling with the highest.

This is a question that demands our most serious consideration, if it be true from the records of the past that only a monarchy can exist where the lowest and the highest race of mankind dwell together, and that there has never existed a republican form of government except where it is administered by a people highly developed and representing one of the superior races of mankind, and no other.

Quoting further from Professor Cope, he says:

So-called human rights appear to come into conflict with questions of physical fact or law. The pure idealist will sustain the former in spite of the latter; but the wise man knows that he must bow to the latter, and acts accordingly. It seems hard to the idealist that inequalities between men exist and appear to work an injustice, but we cannot help it.

I do not believe that our country ought to incur the risk incident to the existence of a body (meaning Negro) of such a race in its midst. It is simply a question of self-preservation far more urgent than that presented by the Chinese question. The preference of the Negro's desires must be, in this case, disregarded. In fact, the only natural right they have in the matter is to demand to be returned to Africa, from which their ancestors were carried against their own consent. Let him work out his own salvation without risking the future of the indoors European. If he is so capable as some people believe, it will do him no harm. If he succeeds no better in the future than he has in the past he will not surprise some who think they know him better.

Quoting further from the Open Court, a magazine published in Chicago, to which Professor Cope was a contributor, I find an observation worthy of note, submitted by Elizabeth Oaks Smith, of Hollywood, N. C., which is as follows:

It may be utopian to think of removing 6,000,000 people to Africa; but once let immigration turn that way, and Africa will be remunerated for the wrong we have done her. We wrenched from her a sensual, ignorant, barbarous population, and we return thither a people with civilized instincts, and it is to be hoped, with aspirations that may help the Dark Continent to wipe out her old pagan barbarism, cruelty, and sensuality by creating the hope of culture and the intimation of empire.

Professor Cope, in closing his discussions to the Open Court, said:

I am not surprised to find that the objectors to the project of transferring the Negroes from this country to Africa have nothing but sentimental objections to urge against it. They call their objections ethical, and imagine they have the support of justice in their position. I suspect that their view chiefly results from ignorance of fundamental principles of biology and their failure to perceive the bearings of these on the problem.

In order to present a rational objection to the plan of separating the Ethiopian from the Indo-European race by 3,000 miles of water, its opponents should prove first that the Negroes and whites will not hybridize in the countries where they live together, or second, that the hybrid, if produced, possesses mental characteristics as good as those of the whites. Neither of my critics has done this, and, until they do so, their objections are absolutely worthless. As to the question of injustices, we have to decide, if injustices there be, as to who shall be the sufferer. Shall we subject the higher race to deterioration, or shall we subject the lower to transportation without material loss to it? To do the former is to injure the entire human species; to do the latter is to continue the process with the abolition of slavery inaugurated to teach the Negro to stand on his own legs, a process which can no more be called injustice than the exercise of the methods of education which the world has for us all from childhood.

The characteristics of the Negro's mind are of such a nature as to unfit him for citizenship of this country. He is superstitious and absolutely under the control of supernaturalism in some generally degrading form and the teacher of it. He is lacking in rationality and in morality. Without going further, these traits alone would exclude him from citizenship. Secondly, these peculiarities depend on an organic constitution which it will require ages to remove. Thirdly, if he remains in this country, he will mix with the whites until, in a half century or less, there will not be a

person of pure Negro blood in it. The deterioration thus resulting would tell disaster on our intellectual, moral, and consequently on our political prosperity.

We are rapidly approaching the time when hybridization has reached a point where it is seldom that one meets a person with pure Negro blood in his veins. If repatriation of the Negro is not effected within the next half century, we may not be surprised to find that amalgamation of the two races will have attained such progress as to prohibit all possibility of effecting then the repatriation of the Negro.

As reported in the Evening Star, of Washington, D. C., in its issue of October 16, 1913, Representative Frank Clarke, of the State of Florida, addressed a letter to the Governor of that State in regard to a proposed colonization of a tract of land in Florida by the Japanese. This letter, which appeared in the Evening Star, is in part as follows:

I was astonished when I learned that there was a real serious movement on foot to colonize Japanese in the State of Florida. The people of Florida are burdened now with the solution of a race problem that will tax the ingenuity, ability, and patriotism of generations to come to solve. I regard it as the most perplexing question which has ever challenged the attention of any people on the earth.

Here are two races of people living on the same soil under the same Government; one recognized as the most superior and advanced race in the world, the other as inferior. It is utterly impossible for these two races to inhabit the same territory upon terms of absolute equality, either social or political. * * * Stupendous as the task may seem, the only solution of this question, which will preserve the integrity of the white race, and at the same time, be fair to the Negro, is deportation of the Negro and settlement in a land of his own, under a government he shall control.

Movements to repatriate the Negro have been attempted and gained considerable momentum repeatedly since the issuance of the Emancipation Proclamation. Among those efforts in comparatively modern times to colonize the Negro outside of the United States, may be mentioned first an organization composed of 50 prominent Negroes of Kansas, Missouri, Arkansas, and Kentucky, entitled "Central and South American Immigration Association and Equal Rights League of the Western Continent." Col. J. M. Brown, of Kansas, was president of this association. The purpose of this organization was to organize the colored people of the United States into colonies and send them to South or Central America, there to found and develop an empire all their own. The further purpose of this organization was also to solve the race problem in this country by allowing the Anglo-Saxon to have unlimited sway in the development of a civilization best suited to the people of the Caucasian Race. This movement was started in Topeka, Kans., about 1885.

Another movement was inaugurated at Birmingham, Ala., in 1903. The organization sponsoring the Birmingham movement to colonize the Negro in Liberia was called the Liberian Colonization Society, Birmingham, Ala. Its president was Lee Cowart. In an appeal sent out to the American people for help in transporting colored people who desired to return to Liberia, Lee Cowart, the president, said:

It is true that the purses of the philanthropic people of this country have been, and are always, wide open when the real needs of the colored people are made apparent. Churches, schools, colleges, and many other institutions of much importance to the race, are prominent landmarks throughout the Southland. Speaking eloquently of the generosity of the Anglo-Saxon toward these people. * * * But with all this there has sprung up possibly a greater menace to the progress of these people. The colored people believe that they have been discriminated against, ostracized, disfranchised, and otherwise oppressed to such an extent that immigration to Africa appears to be the only means that will afford the relief. * * * Therefore, this appeal is made to the generous and philanthropic people of America to contribute at least a mite to assist these people for a short while after landing in Liberia. This appeal comes directly and indirectly from fully 4,000,000 souls who are crying out for relief from what they believe to be unjust oppression, and many hearts will be glad and prayers go up to an all-wise God for every favor contributed.

Here are these Negroes in recent months making an appeal in the names of 4,000,000, crying out for this relief.

Still another attempt was proposed by a delegation of colored lawyers from the South who met in Washington in 1893, for the purpose of putting into effect a resolution passed by the Afro-American convention held a short time prior thereto in Chattanooga, Tenn. They were in Washington to present to Congress a memorial asking for a billion dollars to be appropriated by Congress to colonize the Negro in some other country.

Later on Bishop Lucien Halsey, of the African Methodist Zion Church, advocated setting aside two or more States of the Union in which to segregate the Negroes. This movement seems never to have been taken seriously.

These citations covering a few of the efforts sponsored by the Negroes themselves to colonize the peoples of that race in other lands are given to show that all through the years there has been manifest a restless spirit among the Negro population, wherever distributed in these United States, a feeling and a conviction of his inability to fit into the framework of a Caucasian civilization. He has recognized more and more the futility of his endeavors to acquire equal social and political rights with the white man. So profoundly impressed with this fact have they become that it is not with difficulty they accept repatriation or colonization upon a foreign soil as the only means whereby they may enjoy all the rights, privileges, and blessings that would forever be denied them if compelled to live on the same soil and under the same flag of a superior race.

I have often thought that the Negro has a better understanding of the white man and his determination to dominate at all hazards than has ever been accredited to him. The Negro recognizes more readily than the white man that a man with black skin is not the equal of a man with white skin. For time immemorial it has been well-nigh impossible to get the truth over to the average white man or woman living in the United States that there can be no such thing in this country as social and political equality for the two races. Preachers, lawyers, businessmen, and school teachers have been slow to comprehend that the African is biologically unfit to associate with a race whose basic instincts are as far different from his own as the color of his skin is from that of the white man.

Nature has endowed the Negro with ethnic characteristics, ineffaceable by training or by education, and wholly and fundamentally incompatible with the ethnic values of the Caucasian. Unless the student of the Negro problem can get clearly and definitely in his mind the scientific fact that primal instincts, hereditary values cannot be eradicated either by education or social contact, he will forever be unable to understand why the Negro must be, and of right ought to be, socially segregated. The most outstanding authorities upon racial values are agreed that the primal instincts of the two races are widely different, and that these differences may be exaggerated or lessened, but to obliterate them, it will be necessary to have all the evolution over again on a new basis; that what was decided among the prehistoric Protozoa cannot be changed, even though it be attempted by an act of Congress.

With respect to the psychological factor, the hereditary mental characteristics that should be taken into account in the study of race problems, I desire at this time to present selected paragraphs from an article contributed to the Popular Science Monthly by Dr. Bardin. I regret that I cannot reproduce Dr. Bardin's article in full. The doctor says:

On conventional ethical grounds, the hypothesis of human equality cannot be asailed. The Christian world, particularly that part of it which really thinks, is essentially altruistic, and this altruism demands that all men be given the fullest and most equal opportunities to get the best out of life. But it is seldom realized that this is an ideal, not a working formula; that it is, further, an ethical ideal, not a scientific one. Out of this misconception of the ideal of human equality have sprung many grievous and oftentimes dangerous fallacies, chief among which are two: (1) That all men possess the same potentialities for culture; and (2) that a so-called "higher culture" may and ethically should be substituted for a so-called "lower culture" whenever opportunity presents itself.

As has been said, each of these ideas has a basis in ethical principles. But both are fallacious when scientifically considered. Each assumes too much, and each tries to make out of an ethical

ideal the scientific working formula for the uplifting of backward peoples. Neither takes into account that culture and civilization are as much the products of evolution as a white skin or a black skin.

Culture, in its broadest sense, is a phenomenon of race. Even in our more or less homogeneous western European and American culture racial differences are to be observed; if this were not true, why should we take the trouble to call some people Germans and others Spaniards, some Danes and others Italians? Yet, despite these evident differences, western European and American culture is a definite, characteristic thing, and underlying it we recognize a common stock of traditions and general ideas, which have come down through the ages "in the blood," so to speak. The white-skinned peoples of western Europe and America all have approximately the same origin, in that, through the remote mixing of a few strains of blood, the modern racial types were set; and since then the peoples of western Europe have given evidence of their biological kinship by displaying approximately similar reactions to similar environmental conditions and to the influence of general ideas and movements of thought. Whatever variations have appeared in the physical and psychical types among the various peoples are due to differences in the mixtures of the original strains of blood, with the accompanying differences in the contributions of hereditary mental predispositions received by the respective peoples, plus subsequent adaptations to environmental conditions. But behind all the differences lies a common kinship of blood and of tradition which has operated to produce the unit we call western European culture; and this racial kinship is the principal reason why it is not difficult for one group of western Europeans to adopt without revolutionizing it the culture of another group. Furthermore, as a powerful factor assisting in the formation and growth of this western European culture, and aiding constantly in keeping it homogeneous is the fact that several strains of blood, particularly in the higher levels of society, where most of the productive thinking is done, are incessantly mixing, and there are being interchanged incessantly, through heredity, the mental predispositions peculiar to the groups thus crossing. The people of western Europe and the white portion of American population, for the most part, are a sort of "blend" of similar racial stocks, presenting similar though not identical biological characteristics; and the varieties of this "blend," expressed in such terms as "English," "Dutch," etc., are due to differences in the numerical relationships of the contributing stocks forming these peoples. So, too, western European culture is a sort of "blend" of cultures, and the varieties of this "blend" parallel the varieties in the physical characteristics of the various peoples.

The same statements apply to any other group of people presenting a special, characteristic type of culture. The Chinese are an example; they differ among themselves in certain respects; they are a "blend" of races, and their present culture is a "blend" of cultures. Yet Chinese culture is definite, peculiar, and recognizable, and it is essentially Mongolian, just as our culture is essentially European. Behind the differences among the various groups in China lie their common Mongolian blood and their common store of traditions, the influences of which have molded them into what they are today. Exactly the same statements apply to the Negroes. They have, physically and mentally, definite and easily recognizable characteristics, indicative of a common origin different from our own and expressed in a similarity of Negro cultures throughout the world.

The fact of race as a physical and mental phenomenon is evident to everyone. The peoples of the world differ, and often differ fundamentally; and these differences are ineradicable as long as the strain of blood remains unimpaired. On the physical side this principle has long been an axiom. "Can the Ethiopian change his skin?" asks Jeremiah. We cannot, do what we will with environment, change to any appreciable extent our anatomical make-up. A Chinaman's skin will remain yellow, a Negro's skin will remain black, no matter what we may do to alter them, so long as the races remain pure. The only way we can modify the color of the skin or the facial angle or the texture of the hair in any great number of individuals is by crossing with another race. And the product of this crossing, should it become permanent, is a different race.

From the point of view of psychology, on the other hand, we have assumed that this principle is not true. We know that we cannot change a Negro's physical characteristics, so as to make him like ourselves, by bringing him to live among us. But we believe we can change his mental characteristics. In other words, while we are certain that we cannot change the Negro's facial angle, we are equally certain that we can change his mental angle and make it like our own; while we consider it absurd to think that we can do anything to make the Negro's physical skin become white, we believe firmly that we can make the physical analog of his skin exactly like our own.

But is this a fact? Racial psychology says "no." Mental characteristics are as distinctly and as organically a part of a race as its physical characteristics, and for the same reason both depend ultimately upon anatomical structure.

In other words, stand a white man and a Negro up alongside each other against a wall, and look at them, and that physical difference will be seen. If it were possible for one to take the brains of the two and throw pictures of them upon the screen, one would see just as much difference between the protoplasm of the two brains and the make-up of the brains, as one sees between the white man and the Negro as to color and as to physical make-up.

Racial mental-set, racial ways of thinking, racial reactions to the influence of ideas are as characteristic and as recognizable as racial skin color and racial skull conformation. This does not mean that mental characteristics and superficial anatomical characteristics necessarily bear any relationship to each other as has sometimes been assumed; that is to say, the shape of the head, the weight of the brain, the cranial capacity, the length of the arms, the arrangement of the muscles in the calf of the leg, do not determine mental characteristics; physical and mental characteristics are, however, parallel expressions of the particular evolutionary process which has resulted in the formation of a race; each set of characters is the specific result, in different structures, of the evolutionary process. Ultimately, mental differences must depend upon anatomical and physiological differences; but these differences are differences in the structure of the brain itself. If we are to assume any relationship whatsoever between brain and mind (and such a relationship, whatever it may be, certainly exists), we must assume some anatomical and physiological differences in the brains if we are to account for mental differences.

The more the races of men are studied, the more certain becomes the evidence to show that races have characteristic mental peculiarities, which would serve to distinguish species and varieties almost as well as physical characteristics. In practical life, in jurisprudence, in language itself, we empirically allow for these racial mental differences. But we have never taken the trouble to study them nor to understand their nature from a scientific point of view, and almost nothing is known about their potentialities.

Taking as a fact these mental differences, let us for a moment consider the possibility of their modification. It has been pointed out that mental differences must ultimately depend upon material anatomical differences in brain structure; if we deny this, we instantly remove racial psychology from the field of science to that of metaphysics, and controvert all the observed data of physiological psychology; there must be some structural differences between the brain of a Negro and that of a white man, though such differences are admittedly very hard to detect by present methods. We know that it is impossible for us to modify anatomical structures at will; we can undoubtedly change them (within narrow limits, by selection of characters already present and the accentuation of these), but we cannot make any two differing anatomical characters become exactly alike. Why, then, should we assume that we can modify at will the mental processes of a race, since these mental processes are expressions of a certain definite anatomical and physiological organization, which we know cannot be altered save by the crossing of bloods or by the laborious and infinitely slow processes of evolution?

Yet, north and south, we wish to do this very thing, and to do it in its extreme form. For we are not merely trying to change the direction of the Negro's peculiar mental characteristics, and to improve them by selection among the elements already present—we are trying, on the contrary, to deprive the Negro of his own racial mental characteristics, and to substitute our own in their place, at the same time keeping him anatomically a Negro. That this is an impossibility follows after the former argument.

It will undoubtedly be said, by way of refutation, that the Negroes of the Southern States have advanced and advanced considerably since they have been in this country. This is unreservedly true. But it is often forgotten that they have advanced as Negroes, not as anything else.

In other words, that is what Hitler said about the Jews. He said he did not dislike the Jews as Jews, but he preferred Germans because he was a German.

They have adopted the form of our civilization and to a certain extent (due principally to the influence of language), the mold of our thought. But however much the form of the civilization and the mold of the thought resemble our own, the substance of both is different. The Negro has received much from us, and has profited greatly therefrom; but all that he has received he has modified in accordance with his racial mental set, and his physical reactions to the influences of our civilization are entirely different from our own, and will necessarily remain so as long as the Negro is Negro. No matter how much we may educate him, no matter how much we better his position in society, he will remain a Negro psychically as long as he remains a Negro physically. We may cause him to absorb the full, rich store of our cultural elements, but by the time these elements have gone through the channels of his thought, they will be profoundly modified, and they will take on a different meaning in the Negro's consciousness from what they have in the white man's consciousness. Concomitantly, these cultural elements will modify the brain of the Negro; but this modification will not follow the same pathways, and will not give the same results as it would in the untutored brain, say, of a white child. The modifying forces acting upon the Negro's brain will have to start with an anatomical structure already formed and set by heredity, an anatomical structure different from that of the white race, which produced the modifying forces in question, and the final result in the Negro's brain will be determined and directed by this preexisting anatomical make-up. So that the brain and the consciousness resulting from the absorption of our culture by the Negroes will be a brain and a consciousness different

from our own to the same extent that the Negro differs from us in other respects, and both will be characteristically negroid in nature, not European.

It follows, therefore, that present ideals in regard to the "solution" of our Negro problem (ideals, as has been pointed out and which it is well to reiterate, resulting from the confusion of ethical and scientific principles) are biologically fallacious and impossible of attainment. We can never make the Negro like the white man mentally. We can never have a biracial state based upon identity of ideas and political philosophies in both races.

The Negroes will continue to progress, undoubtedly. But they will progress along the lines laid down by their evolutionary history. They will take our cultural elements and make them part of themselves; but they will modify these elements according to their nature, and when they have assimilated them, they will be our cultural elements no longer, but will be profoundly and permanently modified. The two races will continue to develop side by side, but the development can never be parallel—it must be divergent, even though its successive steps may perchance maintain approximately the same level, as long as the races remain pure. It will be like two men, thrown together by fortuitous circumstances, who start walking up the same slope toward the same hilltop; but because of differences in the nature of their interests, one goes east while the other goes northeast; each step will carry them closer to the top of the hill, but further and further apart.

This fact, rather than ethical theory, should form the foundation of American thought in regard to the Negroes and the Negro problem. The Negro as an intellectual being should be studied as a Negro—not as a potential white man; and if we wish to help him, we should at least try to be sure that he is allowed to develop as a Negro in the freest, broadest manner possible, and to the full extent of his racial potentialities.

On August 7, 1916, Senator James K. Vardaman, in a speech delivered in the Senate, took occasion to say, while discussing the negro problem:

We realize that nothing definite toward the solution of the race problem can be effected without national aid. * * * It is a problem which the Nation made and the Nation alone can solve.

Grover Cleveland is reported to have said:

It is the greatest problem of our civilization and constitutes the only problem beyond which we cannot see.

Possibly the views on the Negro question expressed by Senator James K. Vardaman, in a message to the legislature of Mississippi in 1908, when he was Governor of that State, represent his best contribution to the subject. No man of his time devoted more thought and more study to this great problem. His campaign for Governor was waged on an issue calling for the repeal of the fourteenth and fifteenth amendments to the Federal Constitution. A compilation giving a list of the outstanding statesmen, philanthropists, ethnologists, and biologists who have devoted years of research in tireless study of the race problem, as it exists in the United States, and who, as a result of extensive investigation, have reached the inescapable conclusion that the Negro race and the white race cannot live in the same territory and under the same Government upon terms of political and social equality, and that the only remedy to the situation is repatriation, would not be complete unless it included the name of Senator James K. Vardaman, and the famous message he delivered to the Mississippi State Legislature, setting forth his views on the Negro problem. In that message the Senator said:

I think that the greatest crime that was ever committed against any people was perpetrated against the white people of the South by the adoption of the fourteenth and fifteenth amendments to the Federal Constitution. These iniquitous messages were conceived in the spirit of hatred and ignorance and brought forth in a spasm of venom and revenge. They are known today throughout the length and breadth of this Republic by all white men who think honestly and correctly to be improper and out of joint with the better interests of the country.

To give the Negro the right of suffrage and place him on terms of absolute equality with the white man was the capital crime of the ages against the white man's civilization. The effect has proven disastrous and the evil effects of the error can only work harm to both races. You cannot adjust laws suited to the government of the white man—the heir of all the ages in the foremost files of time—to this low-browed, civilization-veneered savage. It is worse than a crime to undertake it. Indeed, it is a cultivation of crime and the encouragement of lawlessness to undertake it.

In 1856, in a speech delivered at Boston, Mass., Robert Toombs uttered these undying words: "I maintain that so long as the African and the Caucasian races coexist in the same society; the subordination of the African is its normal, necessary, and proper condition, and that such subordination is the condition best calculated to promote the highest interest and the greatest happiness of both races and consequently of the whole society; that the white is the superior and the black the inferior, and that subordination with, or without law, will be the status of the African in this mixed society. Therefore, it is to the interest of both, and especially of the black race, that this status should be fixed, controlled, and protected by law."

How well he described the condition of affairs in the South today, and how completely the condition in the South vindicates the wisdom of his utterances. Unless this status shall be fixed, controlled, and protected by law it will be fixed without the law, and in the process of the fixing a spirit of lawlessness will be generated, which will exterminate the Negro and well-nigh destroy the white man's civilization.

I wish further to quote from Senator Vardaman by including excerpts from a speech he delivered in the United States Senate, August 16, 1917, during the consideration of a resolution providing for the appointment of a commission to investigate the race riot which occurred a short while before at East St. Louis, Ill. The address is rather long, and I regret that it cannot be given in full.

Senator Vardaman said:

I want again to express the hope that in the consideration of this great question (the Negro problem), the magnanimous spirit of Thomas Jefferson and the lofty idealism of Abraham Lincoln shall be invoked. To the real earnest statesman with a vision, who desires to do right and serve his country best in the treatment of this greatest of twentieth century problems, I commend the teachings of Thomas Jefferson and Abraham Lincoln. It will be recalled that more than 100 years ago the Sage of Monticello announced the irrefragable truth that there is nothing truer written in the Book of Faith than that the Negro will one day be free. It is equally true that he cannot live with the white man on terms of social and political equality; he urged the colonists to emancipate their slaves and send them back to Africa whence they came, saying: "You can solve this problem now without the sacrifice of a human life and with the outlay of a comparatively small amount of money. White men will take their places as laborers and the current of affairs will move on without a ripple, but if you wait until it forces itself on, human nature will shudder at the prospects held up."

With the eye of the prophet and the soul of the seer he saw the war between the States, which cost billions of dollars and millions of men. He saw the blighted lives, the frustrated ambitions, the unhappy homes, and all the sadness and sorrow that followed in the wake of war. * * * A marvelous vision, inspired foresight, and divine advice, which was thrown aside as mere verbal chaff by the temporizing, sordid, self-centered politician of that day. The unhappy prototype of some of the gentlemen who are winning prominence by their loud, stupid, inprudent inanities.

A little more than a half century later, the immortal Lincoln came along, the central figure in the greatest of civil wars. Not possessed of the book learning and erudition of Jefferson, but gifted with the divine afflatus which enabled him to know things without being able to give the source of his information. A God-given quality, which permits one "to hear the ocean in one shell and see the whole world's winter in one leaf." Mr. Lincoln said: "I am not, and never have been, in favor of bringing about in any way the social and political equality of the white and black races, and in as much as they cannot so live while they do remain together, there must be the positions of superior and inferior and I, as much as any other man, am in favor of having the superior position assigned to the white race." A correct understanding of Mr. Lincoln's words is absolutely indispensable in the proper comprehension of the issue involved in this great question.

It was the dream of Jefferson and the hope of Lincoln, that physical segregation of the races might be brought about for the good of both races. * * * This great work, the present generation is called upon to do, not in a spirit of antagonism or racial hatred, but rather in a spirit of love for the salvation of the black man as well as for the preservation of the white man's civilization. The two races cannot live together on terms of social and political equality. For the good of all the races the white man must rule this Republic and he must rule it absolutely.

About the time that Senator Vardaman was devoting so much effort and thought to a careful and painstaking study of the race problem, and giving to the people of the Nation, through the press and by means of public addresses delivered at important popular centers on the subject of the race problem, the Honorable Tom Watson, of Atlanta, Ga., through his magazine, the Jeffersonian, was making valuable contributions to the cause so ably championed by Mississippi's United States Senator. In the February issue of 1909 of the Jeffersonian, Mr. Watson said:

The yellow man and the brown man cease to be savages; cease to be barbarians; evolve a civilization; erect temples; purify their religion; rear palaces; refine their manners; adopt systems of jurisprudence of Government of education and develop arts and

sciences; but the Negro in his native land sat squat in his degredation moved by no inner promptings to lift himself and improve his surroundings. Incapable of creative thought, cherishing no ideals, he remains, century after century, the neighbor of the gorilla and the chimpanzee, making no more effort at civilization than they make.

God knows I hold no malice in my heart against the Negro. Grandchildren of my grandfather's slaves are living on land of mine just as their fathers did. There is no black man who knows me that would hesitate to come to me for protection and be sure to get it. In his contracts, in his home and school and church, in his absolute rights as a human being, I would despise myself if I denied him the same treatment that is given the whites.

It is only when he claims to be our equal; wants to thrust himself into our social life; wants to claim equal and political privileges; wants to mingle the blood of his race with the blood of ours; wants to lower the standard of our civilization by mongrelizing the superior race—it is then that I meet him at the gate ready for battle.

To my mind the most dangerous doctrine that can be preached to the people of America is that social equality, mixed marriages, mixed schools, social and political equality offer the solution of the Negro question.

The triumph of the Southern whites in throwing off the yoke of Negro domination ought to forever settle two questions: First, local Government is, with the Indo-European peoples, a primitive instinct—an imperishable principle—an inconquerable ideal. Second, superiority of the Aryan will assert itself, no matter how great may be the odds against it.

A final word and I am done. The natural repugnance of our race to equality of social relations with the Negroes is the instinct of racial self-preservation. It is God given, and its purpose is the high and holy one of keeping pure the blood of our superior race. To do this is best for us, best for the Negro; best for our country, and best for mankind.

Then why not do something about it?

It is regrettable that further observations of Mr. Watson on this subject cannot be included because, like most everything that comes from his pen, his discussion of any question is invariably characterized by brillance and originality. His views, in the main, coincide with those entertained by the outstanding statesmen and philanthropists, who, since the laying of the foundations of this Government, have made invaluable contributions to the great store of knowledge and information that has been furnished the American people with respect to an issue that has grown to such proportions as that it manifestly overshadows all others. There is practical unanimity of agreement upon a three-way solution of the race problem among those who have devoted extensive research, deep and prolonged study to the question; namely, social and political equality, resulting in amalgamation; complete segregation in this country, extending somewhat remotely the time of effectual amalgamation; and repatriation, the absolute and only remedy to be adopted that will preserve the civilization of the Caucasian race and afford an opportunity for the Negro to develop a civilization of his own.

The time has arrived when this Government and those who make and execute its laws can no longer afford to ignore and turn a deaf ear to the accumulated wisdom of the past; to be oblivious of the teachings of history, the warnings and admonitions of the most illustrious and renowned patriots of the past, and the teachings and prophecies of its great and unselfish souls, who have steered successfully thus far the destinies of the Republic. What strange and inexplicable processes governing the workings of the human mind have we fallen upon in this age that we cannot accept without question the teachings and philosophies that have become our heritage as handed down to us by these illustrious leaders—our statesmen, our philanthropists, our scientists and great authorities on race culture and hereditary and social values. It is inconceivable that any of the foremost thinkers of our time should so willingly accept the fundamental principles of our Government the basic foundations upon which rest the superstructure of our political system and the western civilization it has developed, and at the same time refuse to give ear and heed to the warnings of the men—the founding fathers—who framed for us that selfsame Government, who originated its underlying basic and controlling principles, and, while doing so, clearly and unanimously laid down the dictum that nothing is more certainly written in the Book of Fate than that "the two races, equally free, cannot live in the same government," and that "there is a physical difference between the white and black races which will forever forbid the two races living together on terms of social and political equality."

Especially is this fact all the more inexplicable when the sentiments they so wisely and so well expressed, have been caught up and echoed and reechoed through all the succeeding years by others, no less capable, who, severally, in their turn, laid hand upon the helm of state and guided with prudence and wisdom its continuing and upward course. Nor were they alone, as if in the wilderness, in their cry for redemption and deliverance from the unspeakable horrors of impending blood pollution, amalgamation, and mongrelization. The bravest and the best from all sections of our common country have helped hold high the danger signal so that the car of human progress might proceed without Caucasian casualty or Ethiopian extermination to its destined goal.

INHERITANCE PRINCIPLES AND THEIR SIGNIFICANCE

It was Alexander Pope who said: "The proper study of mankind is man." That fact is as true today as it was at the time of its utterance. In practically all the countries of the world the study of man is progressing under scientific leadership. Man's achievements have seemingly outrun his capacity to properly utilize them. Discoveries are being made in electricity, radio, and along various other lines. The next great discovery will be brought about from the study of man himself, and will result in a more comprehensive knowledge of man, his hereditary capacities, and the limitations upon the capacities of different races as fixed by racial inheritances. Race consciousness is developing in all parts of the world.

For example, consider Italy; consider Germany. It is beginning to be recognized by the thoughtful minds of the age that the conservation of racial values is the only hope for future civilization. It will be recalled that Hitler, in his speech on April 9 at Vienna, gave as the basis of his program to unite Austria with Germany, "German blood ties." The Germans appreciate the importance of race values. They understand that racial improvement is the greatest asset that any country can have. The German people have produced more books on heredity, genetics, race culture, and the principles of inheritance and the science of biology than have almost any other people. They were among the first to give emphasis to the now universally accepted truth that the creative faculty, in its most highly developed form, is confined almost exclusively to some one of the many divisions of the Aryan race; that its highest accomplishment has been reached by the Nordic, Teutonic, and Anglo-Saxon branches. It is to the scientific inventiveness of the German people that their great leaders look in these troublous times for means to preserve their political future. They know, as few other nations have yet realized, that the impoverishment of race values contributes more to the impairment and destruction of civilization than any other agency. Hence it comes about that in every extremity with which they are faced they strive to stir up the feeling of race consciousness and race pride. One of the outstanding utterances of Hitler's memorable address before an applauding audience of 30,000 Austrians, principally German, was a warning to rival powers that any economic reprisals calculated to weaken the Austro-German fusion would confront "strong united Germany" capable of sustaining herself through her "scientific inventiveness"—still depending upon the brain.

It is only from the mixture of superior and inferior stocks that a depreciated race results. It is said by an eminent authority that from the viewpoint of racial values Germany is the most interesting of all the Aryan groups in Europe. That in the development of her racial inheritance she is full of possibilities.

It is significant to note that the development of human capacities, even among the branches of the Aryan family, where they have appeared always to be greatest, has been exceedingly slow and painful through the ages. Humanity proceeded practically on a dead level from the time of Moses to less than two centuries ago. Take, for example, transportation and communication. The American Colonies were no better equipped in that respect than were the ancient

peoples of Egypt. Nothing swifter than a horse was known either to Washington or the Ptolemies. The limitations and possibilities of human capacity were never dreamed of during that vast expanse of time. Today capacities are put to the test, and the testing differentiates men and relegates the less endowed to oblivion. The vital concern, therefore, of the day is not so much for further achievement as it should be for man himself, upon whom the burden of profiting by this achievement must rest. I therefore repeat: "The proper study of mankind is man."

It has been definitely established beyond any reasonable doubt that physical and mental inheritances follow the law of breeding that like tends to breed like. It has also been definitely established that improving the individual does not improve the inheritance of the race to which the individual belongs. The environments and the various experiences of life do not in any way become a part and parcel of the heritage of the offspring. In other words, traits of character acquired through mental impression are not transmitted from father to son. Training, education, discipline, and culture do not get into the blood. All inheritances come through and are transmitted through the germ plasm. This germ plasm is not affected by environment, by education, or by life experience; it is the same always and eternally. Education, experience, discipline, and culture make no impression on the germ plasm, which is the only vehicle by which inheritances are transmitted. It has been said that life's experience must be impressed anew upon every individual and upon every generation as it comes along, and that a thousand years of external impressions will not add or subtract or improve or corrupt one hereditary characteristic in the germ plasm.

Influences, on the other hand, which damage this germ plasm and interfere with its proper function do have a direct and disturbing effect on the heritage of the offspring. Among these disturbing agencies are alcohol in excess, certain opiates, venereal diseases, and the mixing of the hereditary values of an inferior race with those of a superior race. These are the only agencies that tend to destroy the germ plasm. It has been conclusively shown that the only influences that in any way affect inheritance or the germ plasm are destructive influences—something that impairs or in some way damages the normal heritage. It therefore follows that no man or woman can add any value to the heritage of his or her children by his education, by his environment, or because of his good behavior, but his misbehavior may seriously and permanently impair it.

A certain eminent authority on inheritance values has said:

> Every trait, as we view it in the individual, is really a more or less complex ensemble of simple or unit characters. Unit characters may be defined as the indivisible items which make up the character-building material. These combinations are of almost infinite variety, and some of them may have the appearance of new traits; but the novelty is merely one of combination, and environment has no more part in arranging these combinations than in creating the units which compose them.

Therefore, it follows that these unit characters, the inheritance of individuals, persist unchanged through countless generations. It may be seen from this fact of reproduction that the child inherits, not from the traits which his parents and grandparents chanced to develop in their lives, but from those traits, those unit characters which descended to them and through them in the essentially immortal germ plasm. The child, in its inheritance, reaches back for generations, and his equipment is burdened with no part of the veneers that education and environment may have put upon his parents. Therefore, we are brought to the conclusion that the only human qualities which endure are those which are bred in the race. All education, all training, all environmental effort, must be expended anew on each individual and each generation. You may seemingly change the character of a man, and at the same time produce no effect on his germ plasm. Inheritance, in its final analysis, represents nothing more nor less than the fixed capacity of an individual to respond to education, discipline, and environment. Upon this quality of inheritance depends the extent and quality of all human achievement and of civilization itself. Therefore, the first essential for stable progress is a race of human beings well bred.

In any discussion of the subject of inheritance, it must be noted that there is a clear distinction between impressed traits and hereditary traits. Impressed traits are those acquired through environment, education, and discipline. Hereditary traits are the material that environment and education use in the development of the finished product. The extent to which environment can go in developing the individual is always limited by the capacity of the inheritance to respond. So often have reformers and social-uplift enthusiasts attempted to take an individual with the outward appearance of virtue, and direct him in the straight and narrow way, without ever succeeding in making a real man of him. You cannot take an individual possessing a weak inheritance and develop him into a strong character. Any effort whatsoever to improve and make fit the individual does not carry him further than his inherent mental limitations. From the very outset of this discussion of inheritance values on down, it may be seen that the fundamental idea in the study of mankind is the inequality in inheritance values of races, or individuals within a race, within a community, and within a family.

The other day I picked up a copy of the Washington Herald and was struck with an item dated Chicago, May 21, by the International Service:

> Mankind is pretty stupid and the sad part of it is that nothing effective is being done about it, Prof. Ernest Albert Hooton, of Harvard University, told the Associated Harvard Clubs here today.
>
> The world-famed anthropologist declared that mere education is no solution because:
>
> "We must stop deluding ourselves with the fatuous notion that morality can be massaged into morons and intelligence into idiots. True intelligence is inbred."

That is the point I am trying to make.

Since we know that race values are bred, not made, and since we know that race values cannot be changed except for the worse, our principal concern should be to maintain the germ plasm in its normal condition of physical vigor. The survival of any race hinges upon the preservation of its hereditary values. The possession of the best human stock determines the rise and fall of civilization.

The desirable inheritance—

As described by a great ethnologist—

> is of that quality of brain—one might almost add quantity of brain—which leads to creative leadership in whatever activity it may select. It dominates environment and advances into new undertakings. It is the mark of the social migrator—the man of initiative who extricates himself from the mass and changes some bit of the world for better or for worse, by his contact with it.

Achievements in literature, in education, in statesmanship, in science and business, in everything that makes for a more exalted civilization, come to exceptionally desirable inheritances. Hence we are forced to admit that the importance of preserving the blood of exceptionally good inheritances, pure and untainted, and dedicated to the development of the highest humanity, transcends all of the questions involving the perpetuity of civilization. If we have living among us an inferior race, a race of limited hereditary capacities, it is vain for us to appeal to education, to discipline, and to environment as a means of uplifting, with any degree of permanency, the inferior race. Of course, education has its value; but it is a colossal error to expect actual race improvement, in the strictest sense of the term, by means of education.

As I have endeavored to show, education is not inherited; neither is it inheritable. It must be renewed over and over again with each individual as he comes along. Everyone must start at the same center of ignorance and beat out his long and arduous path. Race improvement is organic. The capacity for utilizing environment, education, and discipline is inherited. It is in the blood. It is a part of the germ plasm. It is a universally recognized fact that centuries of culture and training, centuries of sojourn in a cultural at-

mosphere and among cultured and highly civilized people, have never been known to improve the breed of an inferior stock or the inherent qualities of any race of men or animals. Education can do much, but its work is only for the present. It cannot stamp itself upon the future.

It is the height of folly to assume that environment, discipline, education, and all other external devices can affect the blood, smooth down the inequalities between individuals of the same breed, much less between different breeds, or transmute racial qualities. There is no hope of any organic improvement or any race betterment of the Negro from any or from all the external organic agencies of education, religion, or civilization. When all is said and done he is still a Negro. Cycles have swept by; empires have risen and fallen; races have appeared and disappeared; and through it all, for 6,000 years of recorded history, the Negro, in his essential character inheritances, has undergone no change. He is incapable of creative thought, and has failed, through all the years that have come and gone, to produce for himself a civilization beyond the limited capacities of his inheritance. If education, as some pretend to believe, could lift the Negro to the Caucasian level, pray tell me, to what heights, in the meantime, could the Caucasian be lifted? His achievements would always be in the ascendency.

The Negro race is more than 6,000 years behind the Caucasian. The Negro has to his credit no monuments of progress, although he has lived in the most favored climes, and has been advantaged at times by exemplary environment. He has constructed no cities of culture or navies of commerce. He has threaded the earth with no highways, and he has builded no harbors defying the wrath of the sea. He has constructed no mausoleum for his dead, and no pyramid or triumphal arch. He is destitute of initiative. His light, if he shines at all, is a borrowed light. He blazes no trails, and the only pathway he knows is one that was made by another. He has never been known to have a Bible; no Veda, no Saga, and no Koran; and all of this because he has no inheritance value and is destitute of those unit characters that furnish the building material for human characteristics.

I do not deem it necessary in a discussion of this kind to digress from the main line of argument to prove the inferiority of the Negro, or the degeneracy induced by the blood intermixture of widely diverse racial types, such as the Negro race and the white race. Upon the assumption that the white race is superior to the Negro, the whole controversy involved in the race problem rests. When once it is admitted that the Negro race is inferior to the white race, there is no difficulty in showing that the two races should be separated and should never be allowed to live together, side by side under the same government, enjoying equal political and social rights.

Misguided champions of racial equality, realizing the difficulty confronting them in supporting the principle of equality of human rights, have dared to deny that the Negro is an inferior race. They have asserted that the assumption that the Caucasion is an essentially superior race is provincial, unintelligent, and un-Christian. In order to refute so fallacious a contention, one has only to vision, in resplendent panorama, the shining pageant of all the ages. Behold the triumphs of Babylon and Nineveh, of Thebes and Memphis, of the Pyramids and the Parthenon; the splendor that was Greece and the grandeur that was Rome. Unroll the mighty scroll on which are emblazoned the brightest stars in the firmament of the past, and you will find Homer and Plato, Socrates and Pythagoras, Virgil and Julius Caesar, and all the imperial philosophers, and countless thousands in more modern times, sprung from the loins of Aryan stock. Review the endless creations of art, science, and religion and law, and every other form of high achievement, and you will have before you a swarm of witnesses stretched over an expanse of 6,000 years, proclaiming the glory and supremacy of the Aryan race and all its subdivisions. The consistent testimony of all historic times demonstrates, in the immensity and preponderance of proof, that the Caucasian race has manifested, without a single exception, the overmastering qualities of the human family. Compare all these accomplishments of the Caucasian race with the degraded fetishism of the Negro race on the banks of the Niger and the Congo.

Aside from the historical argument, strong and decisive confirmation may be found in the general anatomy of the Negro. As one author has stated it:

> Beauty of form and color has its own high and inalienable rights, its own profound significance for the history alike of nature and of man. Even if the intermingling of blood wrought no other wrong than the degree of bodily beauty, the coarsening of feature, and blurring of coloration, it would still be an unspeakable outrage to be deprecated and prevented by all means in our power.

Historical and biological facts sustain the assumption that the Negro race is an inferior race and that there rolls between the black and white species an impassable river of 10,000 years, and yet, through all these ages of coexistence with the whites, throughout all its vicissitudes, they have clung to the unchanging type of their ancestors. The germ plasm, the only conveyor of racial inheritance, is the same today in the Negro that it was when he roamed the jungles of Africa. Take the intermingling of such near affinities and harmonizing germ plasms as the Teuton and the Alpine Kelt; time has not been able to efface their distinguishing features, either of body or mind. If, in these closely allied races, the ancestral fires and genetic values still live in their remote descendants, how can we expect or hope for anything else from the intermixture of Caucasian and African blood? Will not the slumberous apathy in which the dark continent of Africa broods, awaiting its eons, surely fall upon the people that drink its blood into their own veins? To anticipate that by education or by amalgamation this inferior race can be exalted to a level with the white race is to ignore history and to defy science.

It has been definitely determined by the most learned students of race culture and hereditary values that intermingling with inferiors lowers the superior stock by more than one-half of the hereditary values, and both the superior and the inferior races. In other words, the average offspring is almost invariably found to be physically, mentally, morally, and genetically inferior to the average of either parent stock—more beneath the average level of the superior than above the average level of the inferior. This is a matter to be given consideration solely on account of the future of mankind at large. It is imperative for the future of mankind that the superior races should always be maintained at the highest level of efficiency because the work they do for civilization determines the progress of humanity.

There is an old proverb which says, "God created the whites. I know not who created the blacks. Surely a devil created the mongrels." The impoverishment, by interbreeding of diverse races, of civilized racial values may be spread over centuries, while the individual fails to note its approach. The individual takes into account only the small span of his own life, and, therefore, cannot appreciate the slow disintegration of the hereditary materials from which civilizations are developed.

The momentum of an industrial age pushes material development far down the line of a decaying social structure. The capacity for cultural developments, for initiative and inventive genius, is civilization's only security. A race whose genetic values have not been such as to enable them to make worthy contribution to a generation's moral and cultural heights and attainments cannot maintain those heights and ideals.

The first signs of racial decay and depreciation in quality of mental inheritances as a result of interbreeding between diverse types of mankind is reflected in a display of thousands of forms of sensuous attractiveness, in the sensational appeal of literature, in a proneness to pursue neurotic vagaries, a surrendering to feverish and rampant individualism, which leads in all directions and arrives nowhere. Art, music, and religion undergo freakish changes, abandoning age-old lofty ideals. Invariably throughout historic time the self-destruction of the best blood of the Nation is the common factor which determines that it is bound to die. This factor

accounts for the failure of every fallen civilization since the beginning of recorded time. A civilization destroyed by the impoverishment and impairment of its hereditary values can never be restored to its former life. It is dead eternally. A people whose qualities and capacities that make for greatness have not been impaired when overcome by conquest will not remain long a subjugated race. The catastrophe that overtook them will be repaired, the wrong avenged, and to a *still* greater civilization, because of a chastening of the spirit, they become worthy and most illustrious contributors. Racial decadence must precede defeat at arms if a conquest of the people is to be made secure. No greater folly has ever existed upon the face of this earth than a war between two civilized peoples. The only justifiable war, if any kind of war can be so adjudged, is a war between a superior and an inferior race. It has been said that "every wounded bird has an enemy at hand to put a merciful end to its sufferings. History shows that every civilization, having become decrepit through the pollution of its blood and the impairment of its hereditary materials, has been spared the humiliation of falling to pieces of its own weight by the timely appearance of a willing foe."

The doctrine that all men are created equal and the persistent activity of those who adhere to this dogma and insist upon its literal application to all races, howsoever diverse, and persevere in minimizing the degree of difference of mental capacity between dissimilar races have contributed more to the impairment, if not the destruction, of civilization than any other cause. These misguided advocates of the theory that the hereditary values and innate capacities of the various types of mankind are inherently equal, that whatever differences there may be they are due to differences in experience, in training, in education and opportunities, are today shouting from the pulpit, on the rostrum, and through the press, "We have found the solution of the problem. Let us train, educate, and properly environ the Negro, and then we will close up the mental gap between him and the so-called superior races; we will bring him up to the level of the white man." Rot!

I have already undertaken to show that mental gaps cannot be filled up by training and education where racial characteristics and hereditary values are widely diverse. Have the Negroes of Washington, through all these years of education and training, been elevated to the white level? Have those of Pennsylvania, New York, or Chicago been lifted to a common level with the white man? As one author has expressed it, "When the bow of Hellenic science fell into the hands of the Arabs, was he quite able to bend it?" Can any sane man entertain the belief that the difference between the white man and the Negro is one of experience and training? How can anyone claim that it is a question of mental contents rather than of mental capacities? What teacher in all America has ever been able to supply a worth-while mental content in the absence of mental capacity? Surely none will contend among the representatives in this body that experience and training and the packing and cramming of Negro contents in the human skull have ever been able to close up the mental gap between individuals of the same race or the same family. How much more impossible, then, would it be to close up the wider and impassable gap between individuals of different races. To preach the doctrine of race leveling through experience, training, and education is in defiance of all that has been written upon the sober-minded pages of biology, ethnology, and anthropology. It is the inborn power to know that determines the heights attainable by the individual. Instead of spending useless and ineffectual effort in trying to lift up a weaker race to a level with a stronger we should be ever alert in our efforts to advance and add to the achievements of the superior race. The hope of humanity lies not in strengthening the weak but in perfecting the strong.

From the foregoing discussion it may be now stated that all races are to be regarded as contemporary, and differ in their attainments according to the value of their respective inheritances. No two races, unaffected by mixture of dissimilar blood, advance according to the same scheme of development. The advancement and culture of each is controlled by its own particular inheritance values. No single race is destined to pursue a course of advancement after the manner of any other race. All racial differences and divergencies are traceable directly to the immutability of the character unit. Even among races that reach back and take their inheritances from homogeneous types differ among themselves in attributes of character.

Racial differences stand eternally after all other differences fade away. The German character can never evolve into the French character. The Englishman will be English until he mixes with some other race, and as a result of that mixture ceases to be. The Negro will be Negro and can develop as a Negro only along his own particular lines of inheritance values, and he will remain a Negro until his blood is commingled with some other race, and as a result of such commingling ceases to exist. The mixture of superior and inferior stock invariably results in the depreciation and eventual destruction of both races. The survival of races has forever been and will forever be dependent upon the maintenance of the purity of blood and the conservation of hereditary inheritances.

The people of the United States, meaning the white people, are primarily inheritors of English blood. The qualities that we have inherited from our English-speaking ancestry are the qualities that have contributed to our greatness. Other inheritances, it is true, have had some part in American achievements, but those other inheritances are such as come from racial types closely similar to our own. Aside from the Negroes and the few remaining Indians, we Americans are a homogeneous people. The one towering threat to our civilization is the presence of the Negro race, which we are endeavoring to assimilate, and whose members we are trying to qualify as useful citizens by extending to them the advantages of education and all the benefits accruing from social and political equality. This impending danger projects itself across the horizon of our future like an offshoot of the Rocky Mountains. Never before has a nation deliberately invited the horrible specter of race mixture to its very vitals, as the United States of America is doing at the present time. It seems that our people have never yet understood the true significance and the awful consequences of race mixture. Notwithstanding the fact that the mixing of diverse races, the commingling of superior with inferior stocks, is a thing written upon the tombstones of departed civilizations, we still go on heedlessly traveling the road that history points out to us as the way that all previous civilizations traveled which eventually fell of their own weight, or were overcome by a superior force into which no impairment or pollution of genetic values had ever crept.

Nothing is more nearly inconceivably horrible than the mingling, within a single being, of characteristics and hereditary instincts which have been strangers to each other for untold ages. These characteristics, chained together within a single individual, that prior to such bondage had lived free in separate races for nameless centuries, represent the greatest biological monstrosity that the human mind can conceive of.

Take the very unlike and altogether dissimilar character units of the Indian and the white man; these respective units of character have existed separately, unchanged through countless generations. When these units of character, those of the Indian and those of the white men, are brought together in a single individual, they remain in this individual as purely white and as purely Indian as if they had found their existence, each in its own kind.

Some scientists claim that we all possess 10, 12, or 15 personalities, and that when a woman marries a man she marries a dozen husbands, and that when a man marries a woman he marries a dozen wives; that at times one or the other of the different characteristics will appear, and at other times a composite of personalities will be shown.

We have here, through a mixture of Indian and white characteristics, a dual personality. These mixed breeds have characteristics which cause them to react to education and environment as the white man would respond. On the other hand, they have inheritances that distinguish them as reacting in the manner that an Indian would respond. He is incapable of reacting to his environment either as a white man or as an Indian. The hereditary values he possesses, and from which must be built his characteristics as a man, have not the power or the capacity to develop in him a human being having the possibilities of either of the types from which he is evolved. Such an individual will not inherit a stable, blended character; he will inherit from a mixture of unlike characters contributed by unlike races, and the finished product, as a rule, will be inferior to either race. Sometimes they neither resemble their parents nor each other, because of the confused nature of the germ plasmic stream from which they draw their inheritance.

Nature has spent untold ages in the selective breeding of the white, yellow, and black races, and has succeeded in bringing each to a fairly stable inheritance, to a degree of unity in general traits that makes for harmony within each race and sharply differentiates the races from one another.

When this mixture is of types evolved from the same race, having no seriously conflicting unlikenesses or inequalities, the inheritance values are not disturbed; it is due to the mixtures of unlike and conflicting characteristics—the superior with the inferior—that irreparable disaster results. As before stated, an individual constituted of conflicting racial qualities cannot come to effective development, because he has not within him any of the unencumbered qualities of any one of the stocks which entered into his inheritance. This mixing of unlike human types, of superior with the inferior, results in deterioration far beyond that due to a simple averaging of values. Insofar as the mixture of the Indian type with the white man is concerned, we have been mercifully spared this source of racial impoverishment by segregating the Indian in a land of his own.

We did that by force, and yet some hesitate to give the Negroes a chance to separate from the whites when it can be done voluntarily.

Not so with the Negro; it is here we face a race problem that overshadows all others in its mixed population. Strange to say, this problem is not between the full white and the full black, the two opposites of the world's races; it concerns the mulatto, an individual who is neither a white man nor a black man. Two races more diverse than the white and the black have never, in all the ages gone by, mingled their inheritances. The period of their divergence is so lost in the black recesses of time that no claim at this late date of their singleness of origin can soften the fact of their complete racial divergence. Never in all history have the two races, black and white, lived in the intimate relations of absolute equality. So distinct and entirely different from each other are their inheritances as that they have lived racially almost wholly apart for 6,000 years. This being true, all the more horrible is the thought that within the limits of one person, the mulatto, there must exist the units of character of both races in the closest association, characteristics that have stood apart through the passage of all time. These diverse elements of character hold their identity in this strange and unnatural companionship. In the fundamentals of his inheritance, the mulatto is a hyphenated citizen.

It is difficult for the mind to contemplate the seething chaos of contending emotions there must be in the soul of a mulatto, whose sadly and deplorably mixed inheritances include those of a dominant race, the white man. Imagine, for the moment, the horrible and ineffable intimacy where white inheritances, bred up through unnumbered generations, to a happy and harmonious association with the best of Aryan attributes, all of a sudden become fettered and forever bound by unbreakable ties within the limits of a single soul to a company of uncomprehending and widely diverse hereditary values of the black. It represents the hopeless and despairing cry of a purebred Aryan in enternal soul entanglement with an utterly strange human characteristic. Such an individual is incapable of comprehending himself. One moment, with quivering voice and strained muscles, he protests, in an agonizing cry, against the injustice done him. This wail of bitter protest is the voice of the Aryan, the better half of his dual nature, crying out from within him. To classify him with any other creature on earth is utterly absurd. He belongs to no race; he is an outcast from God's scheme of racial development.

I think a mulatto presents the saddest spectacle in human life. That indelible line, which for millenniums past, has separated the Negro race from the white race, threads its labyrinthic way through every cell and fiber of the mulatto. His every act and impulse is confused, impelled as he is by the combating tendencies of two different and divergent hereditary instincts; the Aryan characteristics on the one side and the Negro characteristics on the other. Consequently, it inevitably follows, as has heretofore in this discussion been shown, that this hybrid creature cannot rise to the average of the white man because his white inheritances are all encumbered and weighted down by inferior black inheritances. Neither can he show capacities above the average of the Negro except in rare and isolated cases, and even then such increased capacity in degree is less than the depreciation of his white inheritances. In other words, whatever advantage is gained on the side of his black inheritance is far less than the damage done to his white inheritance.

There is no such thing as the blending of the inheritance values of an inferior and superior race. The two values have no more affinity for each other than oil has for water. Black and white inheritances exist in the mulatto—fettered the one to the other, always separate and distinct, reacting to the influence of environment, education, and training, each after its own way, resulting in an individual that becomes a greater menace to society, and consequently develops a problem more serious and difficult of solution than the problem furnished by the dwelling together of the black man and the white man, under a condition where the mixture of the two strains is prohibited.

This entanglement of Negro blood with white blood; this enslaving of white and black inheritances, impairing eternally the respective inheritance of each, is the most serious problem confronting America today. Racial decay, from that form of amalgamation between superior and inferior types, is written upon the crumbling ruins and the fading parchments of every dead civilization. There is no exception—not one.

I wish to take a few moments to discuss amalgamation.

The result of amalgamation between the white race and the black race is the mulatto; the complete loss of identity of both races. The mulatto is not only a menace to our Caucasian civilization, he is also a menace to the full-blooded Negro. The degree of this menace is in direct proportion to his abilities and achievements attributable to his white inheritance. Behind the mulatto stand the masses of the Negro group. As a matter of fact, the mulatto, in this country, is monopolizing much that is intended for the Negro. It is the mulatto, rather than the full-blooded Negro, who extends the range of interracial competition to those working in fields other than manual labor. I have it upon the word of unquestionable authority that the mulatto now constitutes at least 50 percent of the Negro population of the District of Columbia.

The National Business League, very probably the most important business organization of the Negro race, in 1915 had for its officers one black Negro and 11 mulattoes. Its executive committee, 14 in number, was composed wholly of mulattoes. The life members of this league numbered 235; the classification of 16 was unknown; of the remainder 17 were black and 202 were mulattoes. Negroes who are in the employ of the United States Government are said to receive in salaries more than $60,000,000 annually. A very large part of this sum is paid to Negroes in the District of Columbia. Of the 20 members of the Negro race who have held seats in the Nations House of Representatives, 3 were

black and 17 were mulattoes. Of the 19 members of the race who were considered prominent during reconstruction days, 4 were classed as black and 14 as mulattoes. Of the six lieutenant governors furnished by the race during reconstruction days, all were mulattoes. Under President Taft, 14 important political positions were allotted to this race, and all of them were filled by mulattoes. The mulatto dominates completely the political organizations of the Negro. He is in position to control the patronage allotted to the Negro race; and in doing so, he sees to it that virtually all of the important Government jobs set apart for the Negro race are given to the mulattoes. The Federal Government in this respect, is throwing the weight of its influence against whatever effort the Negro might have made to preserve his racial integrity. Make a tour of any one of the Government buildings and see for yourself how large a part of the Negroes employed are mulattoes. In the Bureau of Printing and Engraving, it was noted in October of 1926, that of the 597 Negroes employed in that Bureau, 486, or 81.4 percent were mulattoes.

Take the higher institutions of learning that are maintained for the benefit of the Negro; they are dominated by the mulattoes, both in teaching force and in their student groups. In 1916 an investigation was made of the conditions obtaining in 25 Negro colleges and universities. There were enrolled in these institutions 9,172 students, of whom 7,567 were classed as mulattoes and only 1,605 as black, and they were not necessarily full-blooded Negroes. Morgan College, of Baltimore, was found to have 450 students, and everyone of them was a mulatto. Wilberforce University was credited with 450 students, of whom 394 were mulattoes and 46 blacks. Of 29 Negro educational institutions of college or university grade presided over by other than white men, 3 had presidents classed as black, while 26 had mulatto presidents. Of 17 State agricultural and mechanical colleges, 1 had a white president, 1 a Negro president, and 14 had mulatto presidents, with 1 unclassified. Take the institution founded by Booker T. Washington, who, by the way, was a mulatto himself. The teaching force of this school numbers about 200. Nine of them are Negroes, and not one of them holds a high position, while 184 are persons of mixed blood. Mr. William Archer, an English writer, after visiting that school, said:

> Indeed, I saw no one in high positions at Tuskegee who would not, with very small lightening of hue, have been taken without question for a white man.

Thus, we find that the higher grade institutions for the education of the Negro race are dominated—practically monopolized—by the mulatto, both in their teaching force and in their student body. The fact that a relatively few full-blooded Negroes have made good in their respective callings goes to show that a sufficient number of capable, full-blooded Negroes may be found to direct the destinies of their race and make more secure the inheritance values of the Negro race. The full-blooded Negro has not had a fair chance in his own institutions. He does not receive the benefits to which he is entitled any more from the mulatto members of his race than he does from the full-blooded Caucasian. He does not get his fair chance at all the blessings that flow from the higher educational institutions maintained for his race, the full-blooded Negro. He has no opportunity for the cultivation, by means of these institutions, of personal and racial self-respect.

Not only are mulattoes employed almost wholly as teachers in the institutions of learning maintained for the benefit of the Negro race, but they also control the churches and those institutions of learning supported by the churches. In 1914, the nine bishops of the Colored Methodist Episcopal Church were all mulattoes. There were 11 general officers of the church, and 9 of these were mulattoes, with two unclassified. Of the 27 bishops of the African Methodist Church, 4 were classed as black and 23 as mulattoes. Of the 8 bishops of the African Methodist Episcopal Zion Church, 2 were classed as black, and 6 as mulattoes. The officers of the National Baptist Convention, colored, were 12 in number, and all of them were mulattoes. Among the most prominent representatives of the Methodist ministry in the United States, there are about 580 persons; 95 of these are full-blood Negroes, and 485 are known to be mulattoes. Thus it may be seen that with mulattoes as the political leaders of the Negro race, with mulattoes as the teachers of its youth, with mulattoes occupying its pulpits, there can be no hope whatever in this country of any marked improvement of moral uplift in the character of the race, as a race. What is needed today more than anything else is to place before the Negro an opportunity whereby he can give to his race a racial pride and can inculcate in its members a compelling religious zeal for racial preservation.

Under present conditions, with the mulattoes dominating the business, political, educational, and religious activities of the Negro race, there is little to convince the full-blooded Negro that his racial integrity is worth preserving. The only method by which he can be given this opportunity to make secure his racial integrity and to make certain his racial preservation is by transporting him to a country where he can have the free exercise of all those inheritances which nature, through selective breeding confined to his own kind, has been able to build up and maintain for him. He must grow from within, and abandon all further hope of development from without. If that be true, he must be so circumstanced that those opportunities that have contributed to the development of other races may be afforded him without stint. All the moral, social, and religious safeguards that may be thrown around him for his protection in any country except one of his own will prove inadequate. If he remains here, he will eventually lose his identity as a race, and this impending threat of racial intermixture is the one thing above all others that justifies and demands racial separation in the interest of both races. In the matter of initial racial intermixture, heretofore a distinctly lower type of white men, with some exceptions, has been responsible for the evil, while the higher types, in obedience to law and enlightened conscience, and in respect for public sentiment, have refrained. That situation, however, we have reason to believe, is slowly but surely changing. The alarming increase in the number of mulattoes and the leadership they have assumed with respect to the social, political, and educational activities of the race, is encouraging the practice of miscegenation.

I could cite hundreds of examples tending to show the extent to which leading officials in the employ of our Government are giving aid and direct encouragement to a more extended intermingling of the white and Negro races. I shall not take the pains to encumber this discussion with more than one or two cases out of many in verification of the accuracy of this statement. I know of no attempt upon the part of officials of any of the divisions of Government to encourage social equality that has caused my blood to boil with more fiery indignation than the particular instance which I now have in mind to submit.

It was in the month of February, somewhere between the 3d and 5th of the month, that the newspapers of Washington carried an account of a social gathering of the higher-up employees of the W. P. A. at the home of Henry Alsberg, a white man, chief of W. P. A. writers' project. To this party Mrs. Ellen Woodward, Assistant Administrator of the W. P. A., a most highly efficient, educated, and cultured woman, from the State of Mississippi, was invited. Mrs. Woodward belongs to one of the finest families of my State. She is the daughter of an ex-United States Senator and a niece of a former United States Senator. It was a perfectly natural thing for Mrs. Woodward, as Assistant Administrator of the W. P. A., to accept an invitation to any social gathering of employees and officials of the W. P. A. at the home of the chief of the writers' project, Mr. Henry Alsberg. The newspaper article went on to say that when Mr. Ellen Woodward arrived she was given a round of introductions to colored guests, and that she evidenced accomplishments enabling her to mingle graciously with colored people, in spite of the traditions of her southland.

This is a case in which an innocent and unsuspecting woman of the South, brought up under traditions that had taught her from her youth up to abhor the social intermingling of two diverse races, was suddenly, if not forcibly, thrust into this motley melee of miscegenated mongrels and full-blood Ethiopians. The reporter giving the details of this party and the incident of Mrs. Woodward's appearance and introductions to these Negroes was careful to leave the plain inference that Mrs. Woodward, up to the moment of her presentation, was wholly unaware of the fact that Negroes would be present. As a Senator from the State of Mississippi, the home of Mrs. Woodward, and on her behalf and that of the white citizens of that State, I resent this deception that was practiced upon Mrs. Woodward and denounce the perpetrator of it all as a willful, malicious, premeditated calumniator, not only of southern womanhood but of the white women, wheresoever they may be found, of the United States of America. I also stand ready to defend the appearance of Mrs. Woodward at this off-colored party of mental prostitutes on the ground that when accepting the invitation extended her she had no knowledge of the character or complexion of the people who would be present. She had every right to assume that no gentleman would invite her to a social gathering where Negroes were to be met on a social level with white people.

If this deception had been practiced in her native State, Mississippi, those who perpetrated it would have decorated the tallest magnolia tree available nearby before the sound of revelry from the party had died out upon the midnight air. Thus would have been avenged the honor and the good name of southern womanhood.

Not only were the details of this party featured by the leading white newspaper publications of the city of Washington but it also appeared later in bold headlines in the Afro-American, a Negro newspaper, also published in Washington. This Negro newspaper said:

> White Mississippi W. P. A. official forgets social bugaboo. Mississippi-born Mrs. Ellen S. Woodward, white W. P. A. assistant administrator, knows how to mingle socially with colored people, despite traditions of her Southland.
>
> Mrs. Woodward went to a party in the home of Henry Alsberg, white chief of the W. P. A. writers' project, and had her round of introductions to colored guests. The southern-bred official appeared gracious and happy.

That is what the Negro newspaper said. What a sweet morsel was this to be rolled under the black tongue of Ethiopia.

In this connection, I wish to bring to your attention an article that appeared in the Daily Oklahoman just a few days after the Washington incident I have just related, February 13, 1938. The article, in full, reads as follows:

> YOUTH MIXES SOCIAL RACES
>
> Negroes were hosts to whites at a "social" at which both races joined in a square dance Saturday night at the Community Center, Brockway, 615 Northeast Fourth Street, in the Negro district.
>
> The affair was the first of a scheduled series of monthly parties growing out of the Oklahoma Youth Legislature, which held its first annual session at the Capitol December 31 and January 1. White members of the legislature are to be hosts in about a month, at a place not yet determined.
>
> Most of the 100 present Saturday night were college students from Oklahoma City University, Phillips University, Enid; the University of Oklahoma, Norman; Oklahoma A. and M. College, Stillwater; and Colored A. and M. University, Langston. About a third of the participants were young women of both races, in party dress.
>
> Negroes were admitted to membership in the legislative session, with Jim Crow rules not applied. However, they were barred from a dance sponsored by the legislature December 31.
>
> Leslie Edie, secretary of the youth legislature, a graduate of Oklahoma City University, and William Cunningham, State director of the Works Progress Administration writers' project, were among those present Saturday night.

It will be noted in the last paragraph of this article that William Cunningham, State director of the Works Progress Administration writers' project, was among those present. It appears that the slimy trail of these W. P. A. writers' project serpents is found insinuating itself through all these weird and woeful manifestations of social racial degeneracy.

These project writers are the men and women to whom has been assigned the duty of writing the history of the achievements of the white people of America in the various communities that comprise in the aggregate the entire area of the country. May we not with some degree of certainty, in the light of the incidents just given, anticipate the kind of history that will be written? Under no probability have we an assurance that it will be a contribution in support of racial integrity.

I will stop here long enough to remark that I received a copy of one of these writers' projects, the W. P. A. history of Mississippi, my own State; and in their attempt to describe a certain house which I own, they told about 14 different kinds of lies about it. [Laughter.]

About the time that the amalgamated social festivities took place which I have previously presented, an article appeared in a Negro newspaper, the Pittsburg Courier, under the signature of George S. Schuyler. Among other things, this article stated:

> The American Negro is dying out, not by way of casket, but by way of the cradle.

He means they are dying out by means of amalgamation; that the Negro type is passing out through the process of miscegenation. The article states further:

> Biological identity is just a matter of time. It is grateful to find so many people of today who have detected the hollowness of the whole racial hokum, whether Negro, Caucasian, or Mongolian, and repudiated it lock, stock, and barrel.
>
> Women are gradually coming into the wealth of the world, already controlling 60 percent. * * * Women will more openly pick and choose their mates without consulting men. * * * There are just about three ways of acquiring wealth; (a) by taking it, (b) by inheriting it, and (c) by marrying it. The first two channels are virtually closed to Negroes. Thus, being what they are, there remains only one of the traditional means of acquiring wealth and position. Now, just why should Negroes close up this last channel merely because some white people frown upon it? Even if the white party to an interracial marriage has no money * * * the offspring will lighten the group (which is obviously the great Afro-American desideratum) and bring it closer to the national norm of pulchritude, thus erasing the extreme difference between the two stocks.

The writer admits that there is an extreme difference between the two races, and his justification for commending interracial marriage is that it will lighten and brighten up the black group and bring it closer to the color of the superior group. His interest is solely in the Negro, and that interest, primarily, is to change his color at the expense of the discoloration of the white.

While thousands of examples could be produced in proof of the accuracy of the statement that the number of mulattoes in the United States is rapidly increasing, and that the practice assumed by the leadership of the mulatto group and certain misguided negrophilists among the whites with respect to the social, political, and educational activities of the Negro race is encouraging the tendency toward miscegenation, I shall take time to give only one further case illustrative of the abnormal drift toward amalgamation characteristic of this latter-day age.

Mr. WAGNER. Mr. President, will the Senator yield long enough to let me ask unanimous consent for the consideration of a bill to which I am quite confident there will be no objection?

Mr. BILBO. I shall soon be through. I would rather not yield for that purpose at this time. The bill might not pass by unanimous consent.

Mr. WAGNER. Very well; I will wait.

Mr. BILBO. If it is like some of the bills the Senator from New York has introduced—the antilynching bill, for example—I know it will not.

The International News Service, on May 11, 1938, carried in all the leading newspapers of the country an account of the marriage of a socialite and a great social worker to a Boston Negro. The woman's name is Mary Bradley "Polly" Dawes, age 30, Boston socialite school teacher, and a graduate of Boston University. The man, Julien Denegal Steele, is a graduate of Harvard University, and former director of

Robert Gould Shaw House, Boston, Mass. This couple married in a small New York church on May 11, and the ceremonies were attended by a few close friends. Miss Dawes was referred to in the announcement carried by the press as a distant relative of Gen. Charles G. Dawes, of Chicago, former Vice President of the United States. Of course the Negro, Steele, had no background other than that he was a graduate of Harvard University, and a director of the Robert Gould Shaw House.

What interests me most, in bringing to your attention this shocking incident, is what the man and woman each had to say about this marriage. The Negro, Steele, said:

True love knows no barrier. It transcends class, color, creed, or conditions. Fundamentally we are all human beings; we are all capable of rising to the same heights or sinking to the same depths, depending on our environment and opportunities, or lack of it.

Steele shows by this declaration that he has been a close student of the philosophy that has been taught for hundreds of years in this country by the abolitionists, negrophilists, and miscegenationists. Their contention has been that all men are created equal, and that if you were to give the Negro the same environment, the same training and the same education that is given the white man, he could be lifted to the white man's level. In this discussion I have submitted irrefutable proofs to the contrary. I have endeavored to show that racial values and hereditary capacity cannot be refashioned by environment.

This Negro, Steele, is dwelling in the same fool's paradise that was created for him and all other Negroes by a class of negrophilists and misguided, but well-meaning, humanitarians, whose principal pastime since the Civil War has been the shedding of countless tears over the Negro's condition as a liberated slave without political or social rights. He overlooks the teachings of science, namely, that heredity and all that it implies represents the only capital of the race; that individual inheritances and race inheritances are the only forces that can be transmitted to succeeding generations, and that environment, education, and training is only for the present—just for today—and cannot be handed down to offspring; that each individual born into the world, regardless of race, must begin life destitute of all that education and environment may have done for his predecessors; must start from a pivot of absolute ignorance and must acquire for himself such advancement and accomplishments as education and environment may bestow, and to such degree only as his hereditary powers and capacities may prescribe. The inheritance values of the Negro race are inferior to those of the Caucasian race. This is fundamental, and, furthermore, the difference in hereditary capacity as between the black and the white races, is greater than is shown between any other two races. It is this false doctrine of equal inheritance values between diverse races that has done more to augment the difficulties in the way of a solution of the race problem than all other things combined.

Let us now consider what Miss Polly Dawes had to say about her marriage:

I love Julien Steele. We have been sweethearts for 6 years. We want our romance and marriage to appear in its true light. This is no sudden thing. There has been a great deal of misunderstanding because facts were half told.

All that was told about it was that it was a Negro man and a white woman.

I became acquainted with Julien at the Robert Gould Shaw House, where I attended the nursery training school.

Going to school with a Negro—

As part of my training I did work there. He was not the head at the time. I know the serious step we have taken. I know we are battering the barriers of tradition. I appreciate that we are flaunting the canons of convention, but we are fortunate in America.

With a Congress which will not do anything about it—

We are coming out of the shadows of barbarism into the sunlight of civilization.

For a moment, let us contrast the words and sentiments of the principals in this terrible tragedy. Miss Dawes realizes that she is taking a "serious step." The Negro has no conception of seriousness. The hereditary instincts of Miss Dawes—the very best blood and inheritance of her race—impel her to give expression to the eternal truth that she is "battering down barriers" that have been set up as a protection of racial integrity for 10,000 years, and that she is proceeding deliberately against all the traditions of her glorious heritage; and last, but not least, that she is "flaunting the canons of convention."

The Negro possesses no inheritance capable of bringing to his consciousness any awareness of the awful consequences of his act. He merely dons the robe of a culture that has been tailored for him; he merely repeats after the manner of a parrot the fundamentals of a doctrine of racial equality that was originated by the negrophilists and promulgated for the Negro's benefit. Furthermore, the only justification she offers for taking a step so serious, and for running counter to all convention and tradition, is found in these words: "But we are fortunate in America." In other words, she lives in a country that permits and condones the infamy of her act. She appears to be sustained in her mad and insane determination to mingle her blood, impregnated with the highest genetic values of the Caucasian, with the blood of an African, whose racial strains have dwelt for 6,000 years or more in the jungles of a continent that the migratory instinct of the Caucasian has not yet, even to this day, been able fully to explore; just because she happens to be situated in a country that has no laws against miscegenation, and considers the Negro the equal of the white man.

I have introduced a bill seeking to prohibit marriages between whites and blacks in the District of Columbia. The committee has been considering the matter seriously; the bill has not been reported.

Polly Dawes, in concluding her remarks, said, "We are coming out of the shadow of barbarism into the sunlight of civilization." Poor Polly, in her last supreme effort to escape the despair of her impending doom, realizing that behind the barriers she has sought to batter to pieces lurks the shuddering shadow of barbarism, stoops down to the level of her lord and master, entwining her arms around the frightful product of barbarism she envisions, and presses tenderly and sympathetically the black, burry head of the Ethiopian upon a bosom white and stainless as the snow upon volcanic lips, and then, with all the energies of her tortured soil, struggles to lift up what God has put asunder and held apart for countless centuries into the sunlight of civilization.

Mr. President, the free air and sunshine of heaven will no sooner pour in upon him, this Julian of Polly's; this sun of civilization will no sooner arise with burning breath, then, lo, smitten by the breeze and beam, he will wither and die, this false idol of Polly's, and drag down with him into the charnel house of racial unchastity the beautiful Caucasian flower that stooped to lift him into the sunlight of civilization.

Miss Polly Dawes, by mating with a Negro, has not only battered down the barriers of tradition, but she has battered down a wall of protection that Nature has built around the inheritances that have been transmitted to her in an unbroken strain of purity through countless centuries. As before stated in this discussion, there is nothing that man can do to improve his inherited capacities. These hereditary powers have come down to us unchanged from the remote recesses of the past. Man himself is powerless to improve them, but he can impair them.

The great leaders in scientific research have found that this impairment of hereditary values can take place in only four ways: First, by the use of alcohol; second, by opiates; third, from a venereal disease; and fourth, by the mingling of the blood of widely different and diverse races. If by the mating of Dawes and Steele, of a Caucasian with an Ethiopian, the union should be cursed by a hybrid offspring. Nature has decreed that throughout all the eternities yet to dawn the impairment to the hereditary values of the off-

spring of the parties to the union will stand weakened and impoverished and incapable of further change except by further impairment through the folly and madness of some individual descendant. The sons or daughters of Polly and Julian may be physically strong and perfect; they may be educated and trained in the world's greatest institutions of learning; they may be circumstanced by every environment calculated to bestow the highest culture—but their mixed inheritances can never respond to that environment after the manner and to the extent that would follow if these inheritances were drawn from racial strains of close affinity. This is the penalty that Nature has exacted of those who disobey her laws of heredity. The story of the marriage of Polly and Julian is replete with other circumstances of the utmost significance. These individuals were permitted to know each other and to live together upon terms of social equality for 6 long years. Without this opportunity for companionship, this crime against Nature could never have been committed. The presence of even a color line, such as is in existence and observed in the South, would have made impossible the enactment of such a tragedy.

Is it not time, Mr. President, that the people of this Nation—that this Congress, composed of the qualified and duly authorized representatives of the people—should take notice of what is transpiring already in the most populous centers of our country; more especially of the things that come under our observation here at the very seat of our government, here in this beloved and beautiful Washington of ours, where whites and blacks are herded together in our public buildings, eating at the same cafeterias, drinking from the same fountains, and working together within the limited boundaries of four 18-foot walls.

I understand that at Walter Reed Hospital the officers in charge compel the whites and blacks undergoing treatment for sicknesses to live and sleep in the same ward.

We have the situation where white men are dictating to Negro stenographers and black men are dictating to white stenographers; where the evidences of practical social and political equality meet the eye and engender the amazement and astonishment of every passing Caucasian and of every citizen who takes pride in his race consciousness and would pour out the last drop of its unpolluted blood, if need be, to make secure and to keep forever uncontaminated the pure and undefiled racial strain to which he belongs.

We are permitting the very things to transpire under our own roof that made possible the marriage of a member of America's most noted and highly cultured family to a Negro. Heretofore it has been contended that intercourse between the Negroes and the whites, and intermarriage of the two races, was confined to the lower classes of both races, and sometimes between the better educated groups of the Negroes and the underprivileged strata of the whites. It was never thought that any attempt to break down the barriers of tradition, or override the canons of convention would be attempted by any member of the higher classes of society. It is not altogether impossible now to visualize the extent to which intermarriage between the two races will go. When one weighs the growth of the mingling of racial inheritances for the past quarter of a century, one is made to stagger when considering its possibilities in the future.

Mr. President, we who live at beautiful Uvalde in far-away Texas; and who live at quiet, secluded Juniper Grove down by the Mexico Gulf, in Mississippi, a section of our common country where the color line has kept apart these divergent races, where a public sentiment, and what some may term a racial prejudice, has made it impossible for a white man or a white woman to marry a Negro and remain in the South with the expectation of enjoying social or political recognition, cannot by the wildest stretch of imagination conceive of a time when someone who is bone of our bone and flesh of our flesh would unite under the holy bonds of matrimony with an Ethiopian. Ten years ago, I am sure, the Honorable Charles G. Dawes entertained the same views with respect to the mating of any member of his family, his kith and kin, with a Negro, that you and I now possess with respect to our families, or our kith or kin.

Mr. President, once upon a time Charles G. Dawes occupied the same seat where you now sit; he was Vice President of the United States. Charles G. Dawes has been disillusioned. I pray to God that you and I and the Senators here assembled may be spared the pitiable fate of a similar disillusionment. I fear, though, that unless we take steps to bring about a peaceful separation of the two races—the repatriation of the colored race to Africa—my prayer and that of all others will be unavailing, for God helps those only who help themselves.

In concluding this discussion of the amalgamation of the two races I want to leave with the Senate a startling thought and ask Senators to take it home with them and think it over. It is that on the basis of extensive studies made by Dr. Charles S. Johnson it is estimated that from ten to twenty thousand Negroes pass annually from the colored group into the white. Appalling as these figures may seem, I doubt that this yearly trek of Negroes across the color line is less than from thirty to fifty thousand. This exodus over the racial boundary will increase in geometrical ratio as the years go by. A few more examples set by men and women in the higher ranks of society similar to the one given by Polly Dawes will give added impetus to this migratory movement.

The first step toward social equality is political equality. As time passes on this insistence on political and social equality of the Negro will be an ever-recurring subject to be dealt with—a perennial source of disquieting discussion superinduced by strong sectional feelings.

Since the Negro at many strategic points is becoming more and more a determining political factor, the chances for his acquiring these objectives are steadily and alarmingly increasing. When once every barrier separating the two races is removed miscegenation becomes inevitable and complete amalgamation inescapable. To deny this truth is to assume a position unsupported by the history of the two races wherever and whenever they have lived together for any appreciable length of time. Even the color line, however rigidly drawn, is powerless to stop ultimate mongrelization; it can only produce delay.

After a careful study of the history of the sustained contact of the two races throughout recorded time, and after noting with what fine precision the processes of amalgamation in this country are proceeding under the same influences that have so successfully operated in the past, I now stand ready to offer repatriation as the only solution of this, the most serious of all problems confronting the American people. We as a nation are headed definitely toward hybridization. The purity of the Caucasian race in the Western Hemisphere is at stake; the perpetuity of the Anglo-Saxon culture and civilization is becoming slowly but surely imperiled; a doom more horrible is incapable of contemplation. It can all be summed up in one word, and that word is "annihilation."

Two difficulties lie directly in the way of creating a sentiment in favor of repatriation of the Negroes; one is altruism, running suicidally mad in the interest of the Negro. From time immemorial it has been the disposition of the superior race to stoop down in an effort to lift up the inferior race. This futile practice of the higher race, reaching down with arms of love to lift up a lower race to its own altitude, is self-destructive in that it results in the downfall of the superior race. The first duty of any race is to itself, to put forth all its energies to unfold the full flower of its own being. The danger that the superior race is facing, the importance of the interests at stake, the imperilment of race purity and perpetuity, call for no display of emotions, of sympathy, or pity for the inferior race. These sentiments which confuse and becloud the judgment, contribute more to the defeat of a sane solution of the problem than race prejudice. It is possible for race prejudice to be a valuable asset because it is associated invariably with race

pride, the very thing necessary to be stimulated if amalgamation is to be deferred and finally avoided. The menace to race purity is intensified by the insistence of well-meaning but ill-informed philanthropists that, in the interest of humanity, social equality and equal opportunity for all must be rigidly enforced, regardless of race or color. In the North and other sections where the Negro has become a political factor, the clamor is quite audible for the Negro to be permitted to have equal political, social, industrial, and civil rights with the white man. The North has been crying over the Negro since the institution of slavery was established in this country, and the South, during that interim, has been crying because of him. He is a perpetual source of emotional exhibitions. By some people, farm tenancy, social justice, slum clearance, social security, and "forgotten man" are thought of only in terms of the Negro. "Lo the poor Indian," was long ago discarded and gave place to "Lo the poor Negro." The result of all this is that he has been influenced and directed by white men and white women whose judgments have been warped by emotions of sympathy and pity. Far more favorably would it have redounded to his welfare and happiness had he been guided by hands moved through the impulse of blind prejudice. Prejudice would have condemned him to no worse fate than political disbarment, enforced segregation, and a decent, wholesome respect for the color line.

The other difficulty which stands in the way of repatriation for the Negro is the inability of the average man to attach sufficient importance to an event that will take place in some distant time, and to perceive the dangers of amalgamation, because the processes bringing it about move with the stealthiness of the silent tread of a panther.

For example, amalgamation gathers strength and momentum with the gradual imperceptibleness of the wearing away of a stone by the continual dropping of water. Its subtle and imponderable approachment is after the manner of a creeping paralysis, the slow indiscernible spread of a poison to all the delicate sources of strength and vitality outlying in every precinct of the human anatomy. The leaden-footed processes by which inevitable amalgamation insiduously eases upon us may be likened to the calm, unimpressive, deliberate movement of a gigantic glacier, or to the slightly perceivable phenomenon of a slowly convergent infinite series. Because of this long range of well-nigh hidden and obscure processes that lead to a point of blood contamination and race decadence from which there is no retreat, it is difficult to arouse in the heart and conscience of the people and of their leaders a proper appreciation of the awful significance of a progressing peril and all the horrifying consequences attendant upon the hopeless sinking of the great Caucasian race into the mire of mongrelism.

For these reasons I appreciate the magnitude of the task of sounding the alarm sufficiently appealingly and impressively to arouse concerted action among the people toward the adoption of remedial plans to avert amalgamation—a universally acknowledged, growing menace to our Anglo-Saxon civilization.

Notwithstanding the difficulties that I have outlined, besetting the undertaking to repatriate the Negro, it is my intention, through this amendment to the relief measure, to allocate such part of the relief appropriation as the President may deem sufficient to set up and carry on a Negro repatriation administration for the purpose of aiding Negroes in the United States to return to their homeland in Liberia, or such other contiguous territory as may be secured for them. My amendment also will empower the President to enter into and consummate, upon fair and equitable terms, negotiations with France and Great Britain for territory belonging to these countries, lying adjacent to Liberia, upon the basis of an exchange of these lands for agreed credits to be given them on the war debts due the United States, such lands so acquired to be deeded to a corporation controlling the lands for the exclusive benefit of Negroes from this country settling voluntarily on such lands, through the aid and cooperation of the United States Government.

Complete details of the repatriation movement will be left to the President, and it is assumed that he will very probably follow the plan adopted by the resettlement administration for the benefit of impoverished farmers in this country. A similar proposal was carried out in transporting farmers from the "dust bowl" in the Northwest to Alaska, and there providing for their settlement and rehabilitation through adequate Government aid.

The Negro repatriation idea, in its entire scheme of things, is based solely upon the readiness and willingness of the Negro to accept the opportunity offered.

I think every Negro in the country ought to vote for every Member of the Senate and the House who will get behind the movement and put it over. It is not an effort to compel the Negro to emigrate to his homeland. It is a movement to show him the way home, and not only to help him return to that home but to assist him in maintaining himself for a reasonable time when once repatriated.

Over 2,000,000 Negroes in the United States have already signed a petition signifying their desire to return to their homeland in Liberia. After many efforts in various sections of this country to secure for themselves equal rights and privileges with the white race, they have despaired of all hope of attaining these things under the exceedingly unfavorable conditions which obtain in the United States. Hence their registered wish—2,000,000 strong—for a chance in Liberia to enjoy the social, political, and civil rights denied them in this country, to preserve their racial purity apart from the white man, and to seek and employ an opportunity to give proof to the world that the Negro race is now sufficiently advanced under the tutelage of the white man to establish and maintain a civilization of its own. The Negro further realizes that if he is given the opportunity and then fails, the experiment will be proof positive that he is not now, and has never been, entitled to equal opportunities and rights with the white man, and that all his aspirations in this respect heretofore have been no more than an idle, iridescent dream.

Mr. President, I know that the amendment which I have presented, providing for the repatriation of the American Negro in his native land, Africa, and for the purchase of additional lands in Africa lying contiguous to the Republic of Liberia, presents a novel and far-reaching proposal, to which a majority of the Members of Congress up to this time have given only limited consideration. The amendment proposes legislation that should receive the fullest consideration because of its far-reaching effect upon the destinies of the two races involved.

The amendment involves legislation which should be referred to a committee for thorough and extensive hearings. Not only does the proposed legislation involve the great and important problem of preserving the racial purity of the two races and the salvation of our Anglo-Saxon civilization, but the economic condition of the country might be affected thereby. Therefore, I have decided not to ask the Congress to vote upon the proposal at this time.

I am aware of the fact that the Members of the Congress are not now prepared to pass upon this question. I am sure it will be the desire of every Member of Congress to give thoughtful consideration to the issues involved in the amendment, as well as to have an opportunity to consult their constituents and get their reactions to these measures.

My purpose in presenting the proposal at this time is to put the Congress and the country on notice that at a future session of Congress I shall again present the whole matter in a single bill. It has been my purpose to sound a note of warning of the dangers and difficulties that confront the American people just so long as we permit two races of such widely diverse characteristics to attempt to live side by side.

This is a problem upon which the destiny of our race and our civilization depends—a problem that must be met and solved before it is beyond our power so to do. The only solution is separation or repatriation.

The intent of this discussion is to stimulate the thought of the American people along lines that will lead, in the end, to a solution satisfactory to both races.

I therefore withdraw the amendment submitted.

CHARITABLE CONTRIBUTIONS BY FEDERAL RESERVE BANKS

Mr. WAGNER. Mr. President, after conferring with both the majority leader and the minority leader, as well as the Senator in charge of the pending measure, who expressed no objection to what I propose to do, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1899, being Senate bill 4022, introduced by me and reported by the Committee on Banking and Currency.

The PRESIDING OFFICER (Mr. HATCH in the chair). The Senator from New York requests unanimous consent to lay aside temporarily the unfinished business and proceed to the consideration of Senate bill 4022. Is there objection?

There being no objection, the Senate proceeded to consider the bill (S. 4022) to amend the Federal Reserve Act in regard to charitable contributions, and for other purposes, which had been reported from the Committee on Banking and Currency with an amendment, on page 1, line 8, after the word "welfare", to strike out "any Federal Reserve bank or", so as to make the bill read:

Be it enacted, etc., That the Federal Reserve Act, as amended, is amended by adding after section 13b a new section as follows:

"SEC. 13c. In localities where State banking institutions are permitted under the State law to contribute to community funds, or charitable, philanthropic, or benevolent instrumentalities conducive to public welfare, any member bank of the Federal Reserve System may also contribute to such funds or instrumentalities, and the directors or trustees of any such bank may appropriate and expend for such purposes such sum or sums as they may deem expedient and in the interests of the bank."

The amendment was agreed to.

Mr. WAGNER. Mr. President, all that the bill does is to permit banks which are members of the Federal Reserve System to make charitable contributions in States where the State laws permit such contributions to be made by State banks. The purpose of the bill is to help many of the welfare funds in the different States. Such contributions have always been made by Federal Reserve banks, but very recently the question has arisen as to whether the banks have the legal right to make such contributions. I think the contributions are for a worthy object, because they contribute toward the welfare and tranquillity of the communities in which the banks are located. The banks are as much interested in the communities as is anybody else.

I may say that to the bill as presented there is no objection from the Federal Deposit Insurance Corporation, the Treasury Department, or the Federal Reserve Board.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

EXECUTIVE SESSION

Mr. BARKLEY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE REPORTS OF A COMMITTEE

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters, which were ordered to be placed on the Executive Calendar.

The PRESIDING OFFICER (Mr. HATCH in the chair). If there be no further reports of committees, the clerk will state in their order the nominations on the calendar.

SECURITIES AND EXCHANGE COMMISSION

The legislative clerk read the nomination of George C. Mathews, of Wisconsin, to be a member of the Securities and Exchange Commission.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

TREASURY DEPARTMENT

The legislative clerk read the nomination of John W. Hanes, of North Carolina, to be Assistant Secretary of the Treasury.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

THE JUDICIARY

The legislative clerk read the nomination of James B. Frazier, Jr., to be United States attorney for the eastern district of Tennessee.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. McKELLAR. Mr. President, the nomination of Mr. FRAZIER has been delayed for some time. I ask unanimous sent that the President be notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, the President will be notified.

SOCIAL SECURITY BOARD

The legislative clerk read the nomination of Max William Stern, of California, to be Director of Informational Service.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

COLLECTOR OF INTERNAL REVENUE

The legislative clerk read the nomination of John E. Manning to be collector of internal revenue for the fifth district of New Jersey.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

UNITED STATES PUBLIC HEALTH SERVICE

The legislative clerk read the nomination of Jack L. James to be assistant surgeon.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. McKELLAR. I ask unanimous consent that the nominations of postmasters be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations of postmasters are confirmed en bloc.

IN THE ARMY

The legislative clerk proceeded to read sundry nominations in the Army.

Mr. SHEPPARD. I ask unanimous consent that the nominations in the Army be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations in the Army are confirmed en bloc.

IN THE MARINE CORPS

The legislative clerk proceeded to read sundry nominations in the Marine Corps.

Mr. BARKLEY. I ask unanimous consent that the nominations in the Marine Corps be confirmed en bloc.

The PRESIDING OFFICER. Without objection the nominations in the Marine Corps are confirmed en bloc.

RECESS

The Senate resumed legislative session.

Mr. BARKLEY. I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 5 o'clock and 40 minutes p. m.) the Senate took a recess until tomorrow, Wednesday, May 25, 1938, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate on May 24 (legislative day of April 20), 1938

SECURITIES AND EXCHANGE COMMISSION

George C. Mathews to be a member of the Securities and Exchange Commission.

TREASURY DEPARTMENT

John W. Hanes to be Assistant Secretary of the Treasury.

UNITED STATES ATTORNEY

James B. Frazier, Jr., to be United States attorney for the eastern district of Tennessee.

SOCIAL SECURITY BOARD

Max William Stern to be Director of Informational Service in the Social Security Board.

COLLECTOR OF INTERNAL REVENUE

John E. Manning to be collector of internal revenue for the fifth district of New Jersey.

UNITED STATES PUBLIC HEALTH SERVICE

Jack L. James to be an assistant surgeon in the United States Public Health Service.

APPOINTMENT, BY TRANSFER, IN THE REGULAR ARMY

First Lt. John Henry Weber to Ordnance Department.
First Lt. Joseph Edward Barzynski, Jr., to Air Corps.

PROMOTIONS IN THE REGULAR ARMY

MEDICAL CORPS

Charles Moore Walson to be colonel.
Ralph Wendell Lewis to be captain.
Scott Murray Smith to be captain.
Frank Dudley Jones, Jr., to be captain.
Robert Reed Kelley to be captain.
Lee Page Mayes to be captain.
Warren Henry Diessner to be captain.
Howard Fletcher Currie to be captain.
Robert La Tourrette Cavenaugh to be captain.
William Frederic Holmes, Jr., to be captain.
Maurice Crawford Davidson to be captain.
Charles Henry Bramlitt to be captain.

DENTAL CORPS

Arthur Letcher Irons to be major.

VETERINARY CORPS

Raymond Thomas Seymour to be lieutenant colonel.
Oscar Charles Schwalm to be lieutenant colonel.
Claude Francis Cox to be lieutenant colonel.
Donald Clifford Kelley to be captain.
Bernard Francis Trum to be captain.

PROMOTIONS IN THE NAVY

MARINE CORPS

Earl C. Long to be colonel.
Selden B. Kennedy to be colonel.
William T. Clement to be lieutenant colonel.
William S. Fellers to be major.
Charles R. Jones to be captain.
Clifford H. Shuey to be captain.

POSTMASTERS

CALIFORNIA

Lindsey L. Burke, Norwalk.

PENNSYLVANIA

Swiler M. Zeigler, Wellsville.

SOUTH DAKOTA

George L. Kemper, Aberdeen.
John W. Hoven, Selby.

TENNESSEE

Ernest F. Dennis, Chattanooga.
James F. Anderson, Cleveland.
Roscoe T. Carroll, Estill Springs.
William G. McDonough, McMinnville.
Paul S. Savage, Ripley.
Alfred H. Gill, Silver Point.
Raymond B. Gibson, Spring City.
Lois McReynolds, South Pittsburg.

HOUSE OF REPRESENTATIVES

TUESDAY, MAY 24, 1938

The House met at 11 o'clock a. m.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God of infinite truth and wisdom, we praise Thee for Thy patience with the world of men. We pray that Thou wilt draw us with Thy benign influence to a higher status of character that we may be strong and walk therein. Oh, abound in us in the riches of our Heavenly Father. We need purer aspirations, more fortitude, more self-denial, and more of the power of the spiritual world. Help us to accept Thy law, rejoice with those who do rejoice, condescend to men of low estate, and walk in fellowship with those who need us most. Grant that in all affairs we may lead useful lives. Oh, give us that divine wisdom and godliness which are profitable in all things. We thank Thee that Thy word standeth sure; its foundations are immutable and will remain until the last tear is shed and the last pulse of love has throbbed. Praise God, from whom all blessings flow. In our Savior's name. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Frazier, its legislative clerk, announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 3526. An act to refund sums paid by the railroads and other carriers of the United States under the Railroad Retirement Act of 1934; and

S. 3949. An act to amend the Agricultural Adjustment Act of 1938.

The message also announced that the Senate insists upon its amendments to the bill (H. R. 1591) entitled "An act to require the registration of certain persons employed by agencies to disseminate propaganda in the United States, and for other purposes," disagreed to by the House, agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PITTMAN, Mr. HARRISON, and Mr. BORAH to be the conferees on the part of the Senate.

PERMISSION TO ADDRESS THE HOUSE

Mr. TREADWAY. Mr. Speaker, I ask unanimous consent that on Thursday next, following the reading of the Journal and after the disposition of the legislative program of the day, I may be permitted to address the House for 20 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

EXTENSION OF REMARKS

Mr. HOPE. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and include therein an editorial from the New York Times of yesterday.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. TEIGAN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and include therein a recent address delivered by me at the Capital City Forum.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

COUNTING TREES IN CLEVELAND

Mr. RICH. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. RICH. Mr. Speaker, I was very much interested in reading in this morning's paper an article stating the fact that $179,000 is going to be spent to count the trees in Cleveland. What is the difference whether they have 500,000 trees or 700,000 trees in Cleveland? Do we want to spend $179,000 to find out whether they have a half dozen more or a half dozen less than the number somebody has guessed? Does this not seem ridiculous to you? It certainly does to me. Why, they will next be counting telephone poles or light standards or what not. I do not believe anybody would be so foolish as to spend $179,000 in any State or any subdivision of a State or any city to find out

how many trees they have. You are doing more foolish things in this administration than in any administration we have ever had in the history of our Nation. Cannot we stop the foolish, ridiculous expenditures of taxpayers' money. This administration should get the idea that people work at some useful, gainful occupation, not doing a lot of unnecessary, unusual things to spend money foolishly.

Get men to work in industry by giving business a chance. Let the capitalistic system work; it will put men to work in industry. That is the system that made this country the greatest nation on the face of the earth. If a man makes too much money we can level him by the income and the inheritance tax to any level the Government sees fit. Let us not destroy our American liberty and American freedom, the greatest heritage we have.

[Here the gavel fell.]

CALL OF THE HOUSE

Mrs. NORTON. Mr. Speaker, I make the point of order a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mrs. NORTON. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 84]

Atkinson	Dockweiler	McGroarty	Smith, Okla.
Barden	Doughton	McMillan	Smith, Va.
Bell	Englebright	Magnuson	Smith, W. Va.
Boykin	Flannagan	Moser, Pa.	Steagall
Buckley, N. Y.	Gasque	Mott	Thurston
Cannon, Wis.	Griswold	O'Connor, Mont.	Tobey
Celler	Hamilton	O'Day	Wearin
Champion	Hancock, N. C.	O'Leary	Weaver
Cole, Md.	Hart	Parsons	White, Idaho
Collins	Houston	Patman	White, Ohio
Crosby	Jenks, N. H.	Pettengill	Withrow
Dickstein	Kennedy, Md.	Reed, N. Y.	Wolcott
Disney	Kniffin	Rogers, Okla.	
Ditter	Kvale	Ryan	

The SPEAKER. Three hundred and seventy-four Members have answered to their names, a quorum.

Further proceedings under the call were dispensed with.

EXTENSION OF REMARKS

Mr. DRIVER and Mr. VOORHIS asked and were given permission to extend their own remarks in the RECORD.

Mr. RANDOLPH. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and include therein two recent editorials on wage and hour legislation.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

THE WAGE AND HOUR BILL

Mrs. NORTON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 2475) to provide for the establishment of fair labor standards in employments in and affecting interstate commerce, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 2475, with Mr. MCCORMACK in the chair.

The Clerk read the title of the bill.

Mr. BOILEAU. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BOILEAU. How far have we read in the bill?

The CHAIRMAN. Section 1 of the committee substitute has been read.

Mr. RAMSPECK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Mr. RAMSPECK moves to strike out the first section of the committee substitute, being lines 18 and 19 on page 48, and offers the following amendment in the nature of a substitute, with notice that if it is agreed to he will move to strike out the remaining sections of the committee substitute as read.

Mr. RAMSPECK. Mr. Chairman, I ask unanimous consent that the reading of the substitute may be dispensed with, in view of the fact that it is in print as the bill H. R. 10538, and is available to the membership.

Mr. BOILEAU. Reserving the right to object, Mr. Chairman, I shall not object, but I desire to reserve all points of order on the amendment.

Mr. RAMSPECK. Mr. Chairman, I make the point of order the reading has already started.

The CHAIRMAN. The Chair is of the opinion that if the unanimous-consent request is granted the point of order would have to be made before the Chair recognizes the gentleman from Georgia.

Mr. BOILEAU. That is my intention, Mr. Chairman.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent that the reading of the amendment be dispensed with and that the amendment be inserted in the RECORD at this point. Is there objection?

Mr. BOILEAU. Mr. Chairman, reserving the right to object, I would like to reserve a point of order to give the gentleman from Georgia an opportunity to explain the amendment. It is impossible to make a point of order without knowing what is in the amendment, and I therefore desire to have a point of order reserved so the point can be made after there has been some discussion of the amendment.

The CHAIRMAN. The gentleman can reserve his point of order.

Mr. BOILEAU. But they might insist upon my making the point of order, and I am not equipped to make the point of order without knowing what the amendment contains.

The CHAIRMAN. The Chair, of course, has no control over that situation.

Mr. BOILEAU. I realize that, and neither have I, and therefore, I object.

The CHAIRMAN. Objection is heard. The Clerk will report the amendment.

The Clerk read as follows:

Mr. RAMSPECK moves to strike out the first section of the committee substitute, being lines 18 and 19, on page 48, and offers the following amendment in the nature of a substitute, with notice that if it is agreed to, he will move to strike out the remaining sections of the committee substitute, as read:

Be it enacted, etc., That this act may be cited as the Fair Labor Standards Act of 1938.

PART I—LEGISLATIVE DECLARATION; DEFINITIONS; LABOR STANDARDS BOARD; LEGISLATIVE DECLARATION

SECTION 1. (a) The employment of workers under substandard labor conditions in occupations in interstate commerce, in the production of goods for interstate commerce, or otherwise directly affecting interstate commerce (1) causes interstate commerce and the channels and instrumentalities of interstate commerce to be used to spread and perpetuate among the workers of the several States conditions detrimental to the physical and economic health, efficiency, and well-being of such workers; (2) directly burdens interstate commerce and the free flow of goods in interstate commerce; (3) constitutes an unfair method of competition in interstate commerce; (4) leads to labor disputes directly burdening and obstructing interstate commerce and the free flow of goods in interstate commerce; and (5) directly interferes with the orderly and fair marketing of goods in interstate commerce.

(b) The correction of such conditions directly affecting interstate commerce requires that the Congress exercise its legislative power to regulate commerce among the several States by prohibiting the shipment in interstate commerce of goods produced under substandard labor conditions and by providing for the elimination of substandard labor conditions in occupations in and directly affecting interstate commerce.

DEFINITIONS

SEC. 2. (a) As used in this act, unless the context otherwise requires—

(1) "Person" includes an individual, partnership, association, corporation, business trust, receiver, trustee, trustee in bankruptcy, or liquidating or reorganizing agent.

(2) "Interstate commerce" means trade, commerce, transportation, transmission, or communication among the several States or from any State to any place outside thereof.

(3) "State" means any State of the United States or the District of Columbia or any Territory or possession of the United States.

(4) "Board" means the Labor Standards Board created by section 3 of this act.

(5) "Occupation" means an occupation, industry, trade, or business, or branch thereof or class of work or craft therein in which persons are gainfully employed.

(6) "Employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee but shall not include the United States or any State or political subdivision thereof, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization.

(7) "Employee" includes any individual employed or suffered or permitted to work by an employer, but shall not include any person employed in a bona fide executive, administrative, professional, or local retailing capacity as outside salesman (as such terms are defined and delimited by regulations of the Board) nor shall "employee" include any person employed as a seaman; or any railroad employee subject to the provisions of the Hours of Service Act (U. S. C., 1934 ed., title 45, ch. 3); or any employee of any common carrier by motor vehicle subject to the qualifications and maximum hours of service provisions of the Motor Carrier Act, 1935 (U. S. C., 1934 ed., title 49, ch. 8): *Provided, however*, That the wage provisions of this act shall apply, or any air transport employee subject to the provisions of title II of the Railway Labor Act, approved April 10, 1936; or any person employed in the taking of fish, sea foods, or sponges; or any person employed in agriculture. As used in this act, the term "agriculture" includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the cultivation, growing, and harvesting of any agricultural or horticultural commodities, the raising of livestock, bees, or poultry, and any practices performed by a farmer or on a farm as an incident to such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market. The term "person employed in agriculture" as used in this act shall include persons employed within the area of production engaged in storing for the farmer, preparing (but not commercial processing), or packing agricultural or horticultural commodities in their raw, natural, or dried state, but shall not include employees of transportation contractors engaged in transporting farm products from farm to market.

(8) "Oppressive wage" means a wage lower than the applicable minimum wage declared by order of the Board under the provisions of section 4.

(9) "Oppressive workweek" means a workweek (or workday) longer than the applicable maximum workweek declared by order of the Board under the provisions of section 4.

(10) "Oppressive child labor" means a condition of employment under which (A) any employee (as defined in this act to exclude employees in agriculture) under the age of 16 years is employed by an employer (other than a parent or a person standing in place of a parent employing his own child or a child in his custody under the age of 16 years in an occupation other than manufacturing or mining) in any occupation, or (B) any such employee between the ages of 16 and 18 years is employed by an employer in any occupation which the Chief of the Children's Bureau in the Department of Labor shall from time to time by order declare to be particularly hazardous for the employment of such children or detrimental to their health or well-being; but oppressive child labor shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file a certificate issued and held pursuant to the regulation of the Chief of the Children's Bureau certifying that such person is above the oppressive child-labor age. The Chief of the Children's Bureau shall provide by regulation or by order that the employment of employees of the age of 14 but under the age of 16 years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor if and to the extent that the Chief of the Children's Bureau determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being.

(11) "Substandard labor condition" means a condition of employment under which (A) any employee is employed at an oppressive wage; or (B) any employee is employed for an oppressive workweek; or (C) oppressive child labor exists.

(12) "Fair labor standard" means a condition of employment under which (A) no employee is employed at an oppressive wage; or (B) no employee is employed for an oppressive workweek; or (C) no oppressive child labor exists.

(13) "Labor standard order" means an order of the Board under section 4 or 6 of this act.

(14) "Goods" means goods (including ships and marine equipment), wares, products, commodities, merchandise, or articles or subjects of commerce of any character, or any part or ingredient thereof, but shall not mean goods after their delivery into the actual physical possession of the ultimate consumer thereof other than a producer, manufacturer, or processor thereof.

(15) "Unfair goods" means goods in the production of which employees have been employed in any occupation under any substandard labor condition, or any goods produced in whole or in part by convicts or prisoners except convicts or prisoners on parole or on probation.

(16) "Fair goods" means goods in the production of which no employees have been employed in any occupation under any substandard labor condition.

(17) "Produced" means produced, manufactured, mined, handled, or in any other manner worked on; and for the purposes of this act an employee shall be deemed to have been engaged in the production of goods if such employee was employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on such goods, or in any process or occupation necessary to the production thereof.

(18) "Sale" or "sell" includes any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition.

(19) "Average wage" as applied to an occupation in any industry means the average of the various wages paid as of September 1, 1937, in such industry with respect to such occupation weighted by the number of employees receiving each wage used in computing the average, as determined by the Board on the basis of representative samples, the latest available statistics of the Bureau of Labor Statistics of the Department of Labor, or otherwise.

(b) For the purposes of this act, proof that any employee was employed under any substandard labor condition in any factory, mill, workshop, mine, quarry, or other place of employment where goods were produced, within 90 days prior to the removal of such goods therefrom (but not earlier than 120 days after the enactment of this act), shall be prima facie evidence that such goods were produced by such employee employed under such substandard labor condition.

(c) All wage and hour regulations under the provisions of this act shall apply to workers without regard to sex.

LABOR STANDARDS BOARD

SEC. 3. (a) There is hereby created a Board, to be known as the Labor Standards Board, which shall be composed of five members who shall be appointed by the President by and with the advice and consent of the Senate, and one shall be from the Northeast, one from the Northwest, one from the Southeast, one from the Southwest, and one from the central part of the United States, and one of such members shall be a representative of employers and one shall be a representative of employees. The President shall from time to time designate one of the members of the Board to act as chairman, and shall have authority by Executive order to require the Board to report to him through the head of an executive Department. One of the original members of the Board shall be appointed for a term of 1 year, one for a term of 2 years, one for a term of 3 years, one for a term of 4 years, and one for a term of 5 years, and their successors shall be appointed for terms of 5 years each, except that any individual chosen to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. The Board shall appoint a director for each State, Territory, and the District of Columbia to serve the Board as it shall direct.

(b) A vacancy in the Board shall not impair the right of the remaining members to exercise all the powers of the Board. The Board shall adopt its own rules of procedure, including provision as to the number of members necessary, to constitute a quorum, but no order declaring a minimum wage or a maximum workweek shall be made except by a majority of the Board. The Board shall have an official seal which shall be judicially noticed.

(c) Each member of the Board shall receive a salary of $10,000 a year, shall be eligible for reappointment, and shall not engage in any other business, vocation, or employment.

(d) The Board may, subject to the civil-service laws, appoint such employees as it deems necessary to carry out the functions and duties of the Board and shall fix their salaries in accordance with the Classification Act of 1923, as amended. The Board may establish and utilize such regional, local, or other agencies, and utilize such voluntary and uncompensated services, as may from time to time be needed. In all litigation the Board shall be represented by the Attorney General or by such attorney or attorneys as he may designate. In the appointment, selection, classification, and promotion of officers and employees of the Board, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency.

(e) The principal office of the Board shall be in the District of Columbia, but it may meet or exercise any or all of its powers at any other place. The Board may, by one or more of its members or authorized representatives, or by such other agents or agencies as the Board may designate, prosecute any inquiry necessary to its functions in any part of the United States.

(f) The Board shall submit annually in January a report to the Congress covering the work of the Board for the preceding year and including such information, data, and recommendations for further legislation in connection with the matters covered by this act as it may find advisable.

PART II—ESTABLISHMENT OF FAIR LABOR STANDARDS; MINIMUM-WAGE AND MAXIMUM-HOUR STANDARDS

SEC. 4. (a) Whereas wages paid in interstate industries vary greatly between industries and throughout the Nation, reaching as low as $5 or less per week; and

Whereas hours of labor in interstate industries also vary greatly between industries and throughout the Nation, reaching as high as 84 hours per week; and

Whereas such wide variations create unfair competition for employers who wish to pay decent wages and maintain decent working hours; and

Whereas the workers who receive the lowest wages and work the longest hours have been and now are unable to obtain a living wage or decent working hours by individual or collective bargaining with their employers; and

Whereas it is necessary for the development of American commerce and the protection of American workers and their families that substandard wages and hours be eliminated from interstate industry and business; but

Whereas it is impossible to achieve such results arbitrarily by an abrupt change so drastic that it might do serious injury to American industry and American workers, and it is therefore necessary to achieve such results cautiously, carefully, and without disturbance and dislocation of business and industry: Now, therefore,

It is declared to be the policy of this act to maintain, so far as and as rapidly as is economically feasible, minimum-wage and maximum-hour standards, at levels consistent with health, efficiency, and general well-being of workers and the maximum productivity and profitable operation of American business.

(b) Having regard to such policy, and upon finding after notice and hearing, as hereinafter provided, that the application of the minimum-wage provisions of this act to any occupation or occupations will not curtail opportunities for employment, the Board shall by order from time to time declare, for such occupations, minimum wages which shall be as nearly adequate as is economically feasible, without curtailing opportunity for employment, to maintain a minimum standard of living necessary for health, efficiency, and general well-being: *Provided*, That the Board's jurisdiction in declaring minimum wages shall not include the power (1) to declare minimum wages in excess of 40 cents per hour, but higher minimum wages fixed by collective bargaining or otherwise shall be encouraged, it being the objective of this act to raise the existing wages in the lower-wage groups so as to attain as rapidly as practicable a minimum wage of 40 cents per hour without curtailing opportunities for employment and without disturbance and dislocation of business and industry; (2) to declare in any order a minimum wage for an occupation in any industry which is lower than the average wage paid in such industry with respect to such occupation at the time of the hearing on the order; (3) to declare, in the first order issued pursuant to this subsection with respect to an occupation in any industry, a minimum wage which exceeds the average wage paid in such industry with respect to such occupation at the time of the hearing on the order by more than 5 cents per hour; (4) to declare, in any subsequent order, a minimum wage with respect to such occupation which exceeds the wage applicable under the immediately preceding order by more than 5 cents per hour; or (5) to declare in any order an increase in the wage applicable under the immediately preceding order if, on the effective date of the order declaring such increase, such wage has been in effect for less than 365 days.

In declaring such minimum wages the Board shall consider among other relevant circumstances the following:

(1) the cost of living;

(2) the relative cost of transporting goods from points of production to consuming markets;

(3) local economic conditions;

(4) such considerations as would be relevant in a court in a suit for the value of services rendered where services are rendered at the request of an employer without contract as to the amount of the wage to be paid;

(5) the wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing;

(6) the wages paid for work of like or comparable character by employers who voluntarily maintain minimum-wage standards in the occupation to be subject to the order establishing such minimum wage; and

(7) differences in unit costs of manufacturing occasioned by varying local natural resources, operating conditions, or other factors entering into the cost of production.

(c) Having regard to such policy, and upon finding after notice and hearing, as hereinafter provided, that the application of the maximum workweek provisions of this act to any occupation or occupations will not curtail earning powers, the Board shall by order from time to time declare for such occupations a maximum workweek (and the maximum workday therein), which shall be as nearly adequate as is economically feasible, without curtailing earning power, to maintain health, efficiency, and general well-being: *Provided*, That the Board's jurisdiction in declaring maximum hours shall not include the power (1) to fix maximum hours less than 40 hours per week, but shorter maximum hours fixed by collective bargaining or otherwise shall be encouraged; it being the objective of this act to reduce the maximum working hours of the groups now working excessively long hours, so as to attain the maximum workweek of 40 hours as rapidly as practicable without curtailing earning power and without reducing production; or (2) to fix maximum hours in excess of 48 hours per week: *Provided, however*, That an employer shall not be deemed to be employing his employees for an oppressive workweek if such employer is operating under a plan, approved by the Board, for employing his employees on a yearly basis, and the average workweek during the year does not exceed the maximum workweek applicable under an order of the Board: *Provided further*, That the provisions of this subsection shall not be applicable with respect to any person employed in connection with the canning or other packing or packaging of fish, sea foods, sponges, or picking, canning, or processing of fruits, or vegetables, or the processing of beets, cane, and maple into sugar and sirup, when the services of such person are of a seasonal nature: *And provided further*, That the provisions of this paragraph (c) shall not apply to employees employed in a plant located in dairy production areas in which milk, cream, or butterfat are received, processed, shipped, or manufactured if operated by a cooperative association as defined in section 15, as amended, of the Agricultural Marketing Act.

In declaring such maximum workweek, the Board shall consider among other relevant circumstances the following:

(1) the relation of the work to the physical and economic health, efficiency, and well-being of the employees;

(2) the number of persons available for employment in the occupation to be subject to the order establishing such maximum workweek;

(3) the hours of employment established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing;

(4) the hours of employment for work of like or comparable character maintained by employers who voluntarily maintain a maximum workweek in the occupation to be subject to the order establishing such maximum workweek; and

(5) the provisions of this subsection shall not apply to employees engaged in processing or packing perishable agricultural products during the harvesting season.

COLLECTIVE-BARGAINING AGREEMENTS PROTECTED

SEC. 5. (a) Nothing in this act or in any regulation or order thereunder shall be construed to interfere with, impede, or diminish in any way the right of employees to bargain collectively or otherwise to engage in any concerted activity allowed by law in order to obtain a wage in excess of the applicable minimum under this act or to obtain a shorter workweek than the maximum workweek under this act or otherwise to obtain benefits or advantages for employees not required by this act, and a minimum wage so sought or obtained shall not be construed or deemed to be illegal or unfair because it is in excess of the minimum wage under this act, and a maximum workweek so sought or obtained shall not be construed or deemed to be illegal or unfair because it is shorter than the maximum workweek under this act.

(b) A labor-standard order establishing minimum wages or a maximum workweek for any occupation shall be made only if the Board finds that collective-bargaining agreements in respect to such minimum wages or maximum hours do not cover a substantial portion of the employees in such occupation, or that existing facilities for collective bargaining in such occupation are inadequate or ineffective to accomplish the purposes of this act.

(c) A labor-standard order covering any occupation in any industry shall not establish for such occupation a minimum wage which is lower or a maximum workweek which is longer than the average minimum wage or average maximum workweek prevailing for such occupation in such industry, unless the minimum wage established by such order is the highest wage or the maximum workweek is the shortest workweek that the Board is authorized to establish under this act.

(d) The minimum wages and maximum workweek established by collective-bargaining agreements in any occupation shall be prima facie evidence of the appropriate minimum wage and maximum workweek to be established by the Board for like work done under substantially like conditions.

EXEMPTIONS FROM LABOR STANDARDS WITH RESPECT TO WAGES AND HOURS

SEC. 6. (a) Unless an applicable order of the Board under this act shall otherwise provide, the maintenance among employees of an oppressive workweek shall not be deemed to constitute a substandard labor condition if the employees so employed receive additional compensation for such overtime employment at the rate of one and one-half times the regular hourly wage rate at which such employees are employed. But the Board shall have power to make an order determining that such overtime employment in any occupation shall constitute a substandard labor condition if and to the extent the Board finds necessary or appropriate to prevent the circumvention of this act. Any such order may contain such terms and conditions relating to overtime employment, including the wage rates to be paid therefor and the maximum number of hours of employment in each day and the maximum number of days per week, as the Board shall consider necessary or appropriate in the occupation affected.

(b) The Board shall provide by regulation or by order that the employment of employees in any occupation at a wage lower or for a workweek longer than the appropriate fair labor standard otherwise applicable to such occupation shall not be deemed to constitute a substandard labor condition if the Board finds that the special character or terms of the employment or the limited qualifications of the employees make such employment justifiable and not inconsistent with the accomplishment of the purposes of such one or more provisions of this act. Such regulations or orders may provide for (1) the employment of learners, and of apprentices under special certificates as issued pursuant to regulations of the Department of Labor, at such wages lower than the applicable minimum wage and subject to such limitations as to time, number, proportion, and length of service as the Board shall prescribe; (2) the employment of persons whose earning capacity is impaired by age or physical or mental deficiency or injury, under special certificates to be issued by the Board, at such wages lower than the applicable wage and for such period as shall be fixed in such certificates; (3) deductions for board, lodging, and other facilities furnished by the employer if the nature of the work is such that the employer is obliged to furnish and the employee to accept such facilities; (4) overtime employment in periods of seasonal or peak activity or in maintenance, repair, or other emergency work and the wage rates to be paid for such overtime employment not exceeding the rate of time and one-half; and (5) suitable treatment of other cases or classes of cases which, because of the nature and character of the employment, justify special treatment.

PART III—UNFAIR GOODS BARRED FROM INTERSTATE COMMERCE; PROHIBITED SHIPMENTS AND EMPLOYMENT CONDITIONS IN INTERSTATE COMMERCE AND PRODUCTION FOR INTERSTATE COMMERCE

SEC. 7. It shall be unlawful for any person, directly or indirectly—

(1) to transport or cause to be transported in interstate commerce, or to aid or assist in transporting, or obtaining transportation in interstate commerce for, or to ship or sell in interstate commerce, or to ship or deliver or sell with knowledge that shipment or delivery or sale thereof in interstate commerce is intended, any unfair goods; or

(2) to employ under any substandard labor conditions any employee engaged in interstate commerce or in the production of goods intended for transportation or sale in violation of clause (1) of this section.

PART IV—GENERAL ADMINISTRATIVE PROVISIONS

LABOR-STANDARD ORDERS

SEC. 8. A labor-standard order—

(1) shall be made only after a hearing held pursuant to section 9;

(2) shall take effect upon the publication thereof in the Federal Register or at such date thereafter as may be provided in the order;

(3) shall define the occupation or occupations, the territorial limits within which such order shall operate, and the class, craft, or industrial unit or units to which such order relates;

(4) subject to the provisions of this act, may classify employers, employees, and employments within the occupation to which such order relates according to localities, the population of the communities in which such employment occurs, the number of employees employed, the nature and volume of the goods produced, and such other differentiating circumstances as the Board finds necessary or appropriate to accomplish the purposes of such order, and may make appropriate provision for different classes of employers, employees, or employment; but it shall be the policy of the Board to avoid the adoption of any classification which effects an unreasonable discrimination against any person or locality or which adversely affects prevailing minimum wage or maximum workweek standards and to avoid unnecessary or excessive classifications and to exercise its powers of classification only to the extent necessary or appropriate to accomplish the essential purposes of the act;

(5) in case of an order relating to wages, may contain such terms and conditions as the Board may consider necessary or appropriate to prevent the established minimum wage becoming the maximum wage; but it shall be the policy of the Board to establish such minimum-wage standards as will affect only those employees in need of legislative protection without interfering with the voluntary establishment of appropriate differentials and higher standards for other employees in the occupation to which such standards relate;

(6) shall contain such terms and conditions (including the restriction or prohibition of industrial home work or of such other acts or practices) as the Board finds necessary to carry out the purposes of such order, to prevent the circumvention or evasion thereof, or to safeguard the fair labor standards therein established;

(7) may modify, extend, or rescind at any time, in the light of the circumstances then prevailing, a labor-standard order previously made: *Provided*, That at least 90 days' notice from the date of the order must be given before any change is made effective if it increases wages or reduces hours applicable under a previous order.

HEARINGS

SEC. 9. A labor-standard order shall be made, modified, extended, or rescinded only after a hearing held pursuant to this section. Such hearing shall be held at places within the United States, to be designated by the Board, readily accessible to interested persons at reasonable travel and subsistence expenses and with minimum loss of time, on the Board's own motion or on the complaint of any labor organization or any person having a bona fide interest (as defined by the Board), filed in accordance with such regulations as the Board shall prescribe, and showing reasonable cause why such hearing should be held. Such hearing shall be public and may be held before the Board, any member thereof, or any officer of the Board designated by it. Appropriate records of such hearings shall be kept. The Board shall not be bound by any technical rules of evidence or procedure.

ADVISORY COMMITTEES ON FAIR LABOR STANDARDS WITH RESPECT TO WAGES AND HOURS

SEC. 10. Before making an order under section 4 establishing a minimum wage or a maximum workweek, or both, for employees in any occupation, the Board shall appoint an advisory committee or committees to investigate and report upon the value of the services rendered by employees in such occupation or the number of hours of employment reasonably suitable to the nature of the work therein, or both, as the case may be. Each such advisory committee shall be composed of an equal number of persons representing the employers and the employees in such occupation, and of not more than three disinterested persons representing the public, one of whom shall be designated as chairman. Persons representing the employers and employees shall be selected so far as practicable from nominations submitted by employers and employees, or organizations thereof, in such occupation. Two-thirds of the members of such advisory committee shall constitute a quorum, and the recommendations or report of such committee shall require a vote of not less than a majority of all its members. Members of an advisory committee shall be entitled to reasonable compensation to be fixed by the Board for each day actually spent in the work of the advisory committee in addition to their reasonable and necessary traveling and other expenses and shall be supplied with adequate stenographic, clerical, and other assistance. The Board shall submit to an advisory committee promptly upon its appointment such data as the Board may have available on the matter referred to it. Any such advisory committee shall, after investigation, hearing, and conference with the principal interested parties, submit a report upon the matter on which its advice was requested within such reasonable period of time as may be determined by the Board. If its report is not submitted in such time, the Board may appoint a new advisory committee. The Board may accept or reject, in whole or in part, the recommendations of an advisory committee or may resubmit the matter to the same advisory committee or to a new advisory committee, as the Board deems proper; but the Board shall make its order only after a hearing held pursuant to section 9. If the Board rejects, in whole or in part, the recommendations of an advisory committee, it shall publish its reasons therefor in the Federal Register. The Board shall not reject any recommendation of any advisory committee if there is substantial evidence to support such recommendation in the record of the hearing held pursuant to section 9.

INVESTIGATIONS; TESTIMONY

SEC. 11. (a) The Board in its discretion may investigate and gather data regarding the wages, hours, and other conditions and practices of employment in any occupation subject to this act, and may inspect such places and such records (and make such transcripts thereof) and investigate such facts, conditions, practices, or matters as it may deem necessary or appropriate to determine whether any person has violated any provision of this act or any labor-standard order, or to aid in the enforcement of the provisions of this act, in prescribing regulations thereunder, or in obtaining information to serve as a basis for recommending further legislation concerning the matters to which this act relates.

(b) For the purpose of any investigation or any other proceeding under this act, including any proceeding under section 9 or section 10, any member of the Board, or any officer thereof designated by it, is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, or other records of any employer deemed relevant or material to the inquiry.

(c) In case of contumacy by, or refusal to obey a subpena issued to, any person, the Board may invoke the aid of any court of the United States in the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, and other records. Such court may issue an order requiring such person to appear before the Board, or a member or officer thereof designated by the Board, and to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

(d) No person shall be excused from attending and testifying or from producing books, papers, correspondence, or other records and documents before the Board or any member thereof or any officer designated by it, or in obedience to the subpena of the Board, or in any cause or proceeding under this act on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture, but no individual shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify or produce evidence, documentary or otherwise, after having claimed his privilege against self-incrimination, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

ENFORCEMENT

SEC. 12. Whenever it shall appear to the Board that any person is engaged or about to engage in any act or practice which constitutes or will constitute a violation of any provision of this act, or of any provision of any labor-standard order, it may in its discretion bring an action in the proper district court of the United States to enjoin such act or practice and to enforce compliance with this act or with such labor-standard order, and upon a proper showing a permanent or temporary injunction or decree or restraining order shall be granted without bond. The Board may transmit such evidence as may be available concerning such acts or practices to the Attorney General, who, in his discretion, may institute the appropriate criminal proceedings under this act.

RECORDS

SEC. 13. (a) Every employer subject to any provision of this act or of a labor-standard order shall make, keep, and preserve

such records of the persons employed by him; and the wages, hours, and other conditions and practices of employment maintained by him and shall preserve such records for such periods of time, and shall make such reports therefrom to the Board as the Board shall prescribe by regulation or order as necessary or appropriate for the enforcement of the provisions of this act or the regulations or orders thereunder. Every employer subject to a labor-standard order shall keep a copy of such order posted in a conspicuous place in every room in which employees in any occupation subject to such order are employed.

(b) No person other than the producer shall be prosecuted for the transportation, shipment, delivery, or sale of unfair goods who has secured a representation in writing from the person by whom the goods transported, shipped, or delivered were produced, resident in the United States, to the effect that such goods were not produced in violation of any provision of this act. If such representation contains any false statement of a material fact, the person furnishing the same shall be amenable to prosecution and to the penalties provided for the violation of the provisions of this act.

POWERS OF THE SECRETARY OF LABOR AND OF THE CHILDREN'S BUREAU

SEC. 15. (a) The Board shall utilize the Bureau of Labor Statistics of the Department of Labor for all the investigations and inspections necessary under section 11 (a). The Secretary of Labor shall have the powers enumerated therein in the conduct of such investigations and inspections and shall report the results thereof to the Board.

(b) The Chief of the Children's Bureau in the Department of Labor, or any of his authorized representatives, shall make all investigations and inspections under section 11 with respect to the employment of minors and bring all actions under section 12 to enjoin any act or practice which is unlawful by reason of the existence of oppressive child labor, and shall administer all other provisions of this act relating to oppressive child labor.

(c) In performing his duties under this act, the Secretary of Labor may, under plans developed with the consent and cooperation of the State agencies charged with the administration of State labor laws, utilize the services of State and local agencies, officers, and employees, and notwithstanding any other provisions of law may reimburse such State and local agencies, officers, and employees for their services when performed solely for such purposes.

REGULATIONS; ORDERS

SEC. 15. The Board shall have authority, from time to time, to make, issue, amend, and rescind such regulations and such orders as it may deem necessary or appropriate to carry out the provisions of this act, including but not limited to regulations defining technical and trade terms used in this act. Among other things, the Board shall have authority, for the purposes of this act, to provide for the form and manner in which complaints may be filed and proceedings instituted for the establishment of fair labor standards; to prescribe the procedure to be followed at any hearing or other proceeding before the Board or any member of the Board or any officer thereof designated by it or any advisory board appointed by it. For the purpose of its regulations and orders, the Board may classify persons and matters within its jurisdiction and prescribe different requirements for different classes of persons or matters. The regulations and orders of the Board shall take effect upon the publication thereof in the Federal Register or at such later date as the Board shall direct. No provision of this act imposing any liability or disability shall apply to any act done or omitted in good faith in conformity with any regulation or order of the Board, notwithstanding that such regulation or order may, after such act or omission, be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

VALIDITY OF CONTRACTS

SEC. 16. (a) Any provision of any contract, agreement, or understanding made in violation of any provision of this act or of a regulation or order thereunder shall be null and void.

(b) Any contract, agreement, understanding, condition, stipulation, or provision binding any person to waive compliance with any provision of this act or with any regulation or order thereunder shall be null and void.

RELEASE OF GOODS

SEC. 17. The Board shall, by order, exempt any goods from the operation of any provision of this act prohibiting the sale or transportation of such goods in interstate commerce if the Board finds that every person having a substantial proprietary interest (as defined by the Board) in such goods had no reason to believe that any substandard labor condition existed in the production of such goods or that such exemption is necessary to prevent undue hardship or economic waste and is not detrimental to the public interest. Any order of the Board under this subsection shall contain such terms and conditions as the Board considers necessary or appropriate in order to safeguard the enforcement and prevent the circumvention of this act.

RELATION TO OTHER LAWS

SEC. 18. No provision of this act or of any regulation or order thereunder shall justify noncompliance with any Federal or State law or municipal ordinance establishing a minimum wage higher than a minimum wage established under this act or a maximum workweek lower than a maximum workweek established under this act, or otherwise regulating the conditions of employment in any occupation and not in conflict with a provision of this act or a regulation or order thereunder.

COMMON CARRIERS NOT LIABLE

SEC. 19. No provision of this act shall impose any liability or penalty upon any common carrier for the transportation in interstate commerce in the regular course of its business of any goods not produced by such common carrier, and no provision of this act shall excuse any common carrier from its obligations to accept any goods for transportation.

COURT REVIEW OF ORDERS

SEC. 20. (a) Any person aggrieved by an order of the Board under this act may obtain a review of such order in the district court of the United States for any district wherein such person resides or has his principal place of business, or in the District Court of the United States for the District of Columbia by filing in such court, within 60 days after the entry of such order, a written petition praying that the order of the Board be modified or set aside in whole or in part. A copy of such petition shall forthwith be served upon any member of the Board or upon any officer thereof designated by the Board for that purpose, and thereupon the Board shall certify and file in the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript such court shall have exclusive jurisdiction to affirm, or, if it is not in accordance with law or if the Board arbitrarily rejected a recommendation of the advisory committee, to modify or set aside such order in whole or in part. The judgment and decree of the court affirming, modifying, or setting aside any such order of the Board shall be final, subject to review as provided in sections 128, 239, and 240 of the Judicial Code, as amended (U. S. C., 1934 ed., title 28, secs. 225, 346, and 347), and in section 7, as amended, of the act entitled "An act to establish a Court of Appeals for the District of Columbia," approved February 9, 1893 (D. C. Code, title 18, sec. 26).

(b) The commencement of proceedings under subsection (a) shall not, unless specifically ordered by the court, operate as a stay of the Board's order.

JURISDICTION OF OFFENSES AND SUITS

SEC. 21. The district courts of the United States shall have jurisdiction of violations of this act or the regulations or orders thereunder, and, concurrently with State and Territorial courts, of all suits in equity and actions at law brought to enforce any liability or duty created by, or to enjoin any violation of, this act or the regulations or orders thereunder. Any criminal proceeding may be brought in the district wherein any act or transaction constituting the violation or an element thereof occurred. Any suit or action to enforce any liability or duty created by, or to enjoin any violation of, this act or regulations or orders thereunder may be brought in any such district or in the district wherein the defendant is an inhabitant or transacts business, and process in such cases may be served in any district in which the defendant is an inhabitant or transacts business or wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 128 and 240 of the Judicial Code, as amended (U. S. C., 1934 ed., title 28, secs. 225 and 347), and section 7, as amended, of the act entitled "An act to establish a Court of Appeals for the District of Columbia," approved February 9, 1893 (D. C. Code, title 18, sec. 26). No costs shall be assessed against the Board in any proceeding under this act brought by or against the Board in any court.

PENALTIES

SEC. 22. (a) Any person who willfully performs or aids or abets in the performance of any act declared to be unlawful by any provision of this act or who willfully fails or omits to perform any act, duty, or obligation required by this act to be performed by him shall be guilty of a misdemeanor and upon conviction shall be fined not more than $500 or imprisoned for not more than 6 months, or both. Where the employment or an employee in violation of any provision of this act or of a labor-standard order is unlawful, each employee so employed in violation of such provision shall constitute a separate offense. No person shall be imprisoned under this subsection except for an offense committed after the conviction of such person for a prior violation of this subsection.

(b) Any person who willfully makes any statement or entry in any application, report, or record filed or kept pursuant to the provisions of this act or any regulation or order thereunder, knowing such statement or entry to be false in any material respect, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $500 or imprisoned for not more than 6 months, or both.

(c) Any employer who willfully discharges or in any other manner discriminates against any employee because such employee has filed any complaint or instituted or caused to be instituted any investigation or proceeding under or related to this act, or has testified or is about to testify in any such investigation or proceeding, or has served or is about to serve on an advisory committee, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $1,000 or imprisoned for not more than 1 year, or both.

(d) Any person who, without just cause, shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, or other records, if in his or its power so to do, in obedience to the subpena of the Board, shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than $500 or to imprisonment for not more than 6 months, or both.

(e) No producer, manufacturer, or dealer shall ship or deliver for shipment in interstate commerce any goods produced in an

establishment situated in the United States in or about which within 30 days prior to the removal of such goods therefrom any oppressive child labor has been employed: *Provided*, That a prosecution and conviction of a defendant for the shipment or delivery for shipment of any goods under the conditions herein prohibited shall be a bar to any further prosecution against the same defendant for shipments or deliveries for shipment of any such goods before the beginning of said prosecution.

SEPARABILITY

SEC. 23. If any provision of this act or of any regulation or order thereunder or the application of such provision to any person or circumstances shall be held invalid, the remainder of the act and the application of such provision of this act or of such regulation or order to persons or circumstances other than those as to which it is held invalid shall not be affected thereby. Without limiting the generality of the foregoing, if any provision of this act or any regulation or order thereunder shall be held invalid insofar as it gives any effect to any substandard labor condition or requires the maintenance of any fair-labor standard on the part of any person or in any circumstances, the application of such provision of this act or of such regulation or order shall not be affected thereby insofar as it gives any effect to any other substandard labor condition or requires the maintenance of any other fair-labor standard on the part of the same person or in the same circumstances, or insofar as it gives any effect to the same substandard labor condition or requires the maintenance of the same fair-labor standard on the part of any other person or in any other circumstances.

EFFECTIVE DATE OF ACT

SEC. 24. This act shall take effect immediately, except that no provision requiring the maintenance of any fair-labor standard or giving any effect to any substandard labor condition shall take effect until the one-hundred-and-twentieth day after the enactment of this act, and no labor-standard order shall be effective prior to that day.

Mr. MAVERICK (interrupting the reading of the amendment). Mr. Chairman, I ask unanimous consent that the further reading of the amendment be dispensed with and that the gentleman from Wisconsin have the right to submit his reservation of a point of order.

Mr. BOILEAU. If it is to be understood, Mr. Chairman, that I can make a point of order against the amendment after the gentleman from Georgia explains the amendment, I have no objection.

The CHAIRMAN. If the unanimous-consent request of the gentleman from Texas is granted, the Chair understands that the gentleman from Wisconsin has a reservation of a point of order which can be exercised upon the termination of the gentleman's remarks.

Mr. MARTIN of Massachusetts. And it is understood I might make one also?

Mr. MAVERICK. Anyone can make a point of order at that time.

Mr. HARLAN. Mr. Chairman, reserving the right to object, if this amendment is adopted, will the members of the committee have an opportunity to submit any amendments to this amendment, inasmuch as it has not been read?

The CHAIRMAN. The substitute is open to amendment. If the substitute is adopted, that would preclude further amendments from being offered. Amendments must be offered while the substitute is pending.

Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Georgia [Mr. RAMSPECK] is recognized for 5 minutes.

Mr. RAMSPECK. Mr. Chairman, I ask unanimous consent to proceed for an additional 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. RAMSPECK. Mr. Chairman, this substitute is H. R. 10538 and is the bill agreed upon by the majority members of the subcommittee on labor of which I had the privilege of being chairman. The members of that committee, in addition to myself, were the gentleman from West Virginia [Mr. RANDOLPH], the gentleman from Pennsylvania [Mr. GILDEA], the gentleman from Texas [Mr. THOMAS], the gentleman from California [Mr. WELCH], the gentleman from Maine [Mr. SMITH], and the gentleman from Wisconsin [Mr. SCHNEIDER]. The Democratic members adopted this and it was reported by the subcommittee to the full committee, and it was rejected by the full committee by a vote of 10 to 8.

I wish to pay tribute to the faithfulness of every member of that subcommittee for their diligent efforts to work out this vexing and controversial problem. The minority members, of course, never agreed to this proposal and the full committee preferred the Norton substitute, which is pending now.

This bill, in substance, is the same as the bill that passed the United States Senate last year. The only difference between this bill and the Senate bill is that the board of five provided for in both bills, in this proposal is selected on a geographical basis, one coming from the Northeast, one from the Northwest, one from the Southwest, one from the Southeast, and one from the central portion of the country. In addition to this, we have provided a weighted average minimum wage to start with, which, in my judgment, will provide a higher starting wage than the Norton proposal.

In addition to this, we have provided a limitation above the bottom minimum wage for any increase in any 12 months of 5 cents per hour.

We have also put a top on hours, which the Senate bill did not have, of 48 hours, giving the board discretion between 40 and 48 hours and discretion as to wages between the weighted minimum bottom, and I call your attention to the fact that the Senate bill had no bottom, and 40 cents an hour as the top of the minimum wage.

In addition to this, we took out section 8 of the Senate bill which gave the board authority to prescribe wages and hours for purely intrastate or local business when it was contended or shown to the board that somebody from another State was coming into that State and competing with the local manufacturer or employer.

We also took out the requirement that the manufacturer or employer should post in every room in his place of business a list of all of the employees, the hours when they went to work and when they left work, and provided that if any employee stayed beyond his period of working hours it was prima facie evidence of overtime employment. These things just simply interfere with business and are not necessary to a proper functioning of the law.

I emphasize the fact that, in substance, this is the bill which passed the United States Senate. It is in substance the bill which had the endorsement last August, of both the C. I. O. and the American Federation of Labor, and I put the letter of Mr. Green in the RECORD on yesterday, and you will find it at pages 7302 and 7303 of the RECORD. It is the type of legislation which Mr. Jackson, Mr. Reilly, and Mr. Cohen, and every other lawyer, except the general counsel of the American Federation of Labor, have said is the safe way to approach this question from a legal standpoint, and if we want wage and hour legislation, instead of making simply a gesture to the sweated laborers of this country, we are going to have to take this sort of bill to get it. If gentlemen have any doubt about that, I hold in my hand a page from the United States News of May 9, in which Senator WALSH, of Massachusetts, is quoted as follows:

> In my opinion, a blanket control applying equally to all industries is preferable in respect to hours of employment, but with respect to minimum wages, the Board should be empowered to use its own discretion within limits in applying a minimum-wage law industry by industry.

Also in this same newspaper there is a statement from Senator THOMAS, chairman of the Senate committee, in which he said in part:

> Regional differences may be taken into account in the Senate bill, and I trust that this effort will prevail. I do not believe it is the wish of Congress to destroy an industry or a section of the country.

From the information that I am able to get, the Norton proposal has no chance of being enacted into law by agreement on the part of the United States Senate. Therefore, I say if you want to prevent delay, if you want to get legislation now, adopt this method, a flexible method, a method

which gives consideration to the facts which we know exist in various sections of the country. It provides an independent commission with authority delegated within limits prescribed in the bill, to apply the facts to the case and to fix minimum wages between certain definite standards laid down in the bill. It provides a bottom minimum wage which is the weighted average of the best that is in industry today and a top minimum 40 cents an hour. It gives discretion as to hours between 40 and 48. I believe, Mr. Chairman, most sincerely, that this is the only method that has a chance of being sustained by the courts of the country when the test comes, as we know it will inevitably.

Mr. KITCHENS. Mr. Chairman, will the gentleman yield?

Mr. RAMSPECK. I am sorry; not now. I call attention again to the fact that I put in the RECORD yesterday, on pages 7301 and 7302, the legal opinions which the subcommittee had before it by Mr. Reilly and Mr. Cohen, and they show beyond a shadow of doubt that the only safe method for attempting this new legal experiment, this new legal power we are undertaking to give to the Federal Government under the interstate commerce clause of the Constitution is by the method which has been tried in the States and has been sustained by the United States Supreme Court. They tell you frankly they find nothing in the decisions or the Constitution which would indicate that any other method would be held constitutional; and I read just a few words from Mr. Reilly's brief. He says:

> You have asked my opinion as to whether there is any authority for the view that Congress may validly enact a bill providing a uniform minimum wage of 40 cents an hour throughout the country.
>
> After examination of the authorities I have been unable to find any decision or constitutional law sustaining this view. Moreover, the decisions in the field of minimum wages and minimum prices create serious doubt as to whether such an enactment would be upheld in the light of the present state of the authority.

Therefore, I appeal to Members to adopt this method which has been found satisfactory in the District of Columbia, in the State of New York, in the State of Washington, in the State of Massachusetts, and in some twenty-odd other States of the country, and which has over a period of 30 years been applied satisfactorily in Great Britain. It is the only method with which we have any experience. It is the only method the courts have tested and held to be valid, and it is the only sane and sensible program, in my judgment, of applying a wage and hour law to the varying and complex facts that we find in the 48 States of our great country. It is the method asked for by the President. I hope that the Committee may see fit to adopt this method. [Applause.]

When this matter was before the House last fall I signed the discharge petition, voted to discharge the Rules Committee, and also voted against the motion to recommit the bill. My position today is the same as it was then. I am willing to support a bill which provides a fact-finding process for regulating wages and hours—a bill which provides a hearing for employees and employers; a bill which is fair and has some chance of being held valid. I cannot support the Norton bill because in my opinion, it is not legal and is arbitrary and not practical.

Mr. BOILEAU. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman from Wisconsin makes the point of order. The gentleman will state his point of order.

Mr. BOILEAU. Mr. Chairman, I make the point of order that the amendment offered by the gentleman from Georgia [Mr. RAMSPECK] is not germane to the substitute amendment now being considered by the Committee of the Whole House on the state of the Union under the 5-minute rule. I desire to be heard on the point of order.

We are considering this Senate bill under a rather unusual rule, a rule that provides that the committee substitute shall be considered under the 5-minute rule as an original bill. Therefore, if it is being considered in the form of an original bill, in order that the amendment offered by the gentleman from Georgia may be germane, it must be germane, not to the Senate bill, but it must be germane to the committee substitute. In drawing up this rule the gentlewoman from New Jersey [Mrs. NORTON] apparently had that in mind, because, as stated in the rule approved by the House, we find the following:

> It shall be in order to consider without the intervention of any point of order the substitute amendment recommended by the Committee on Labor.

I submit, Mr. Chairman, that had that language waiving points of order not been in this rule, the amendment offered by the committee would not have been in order, because it is not germane to the Senate bill, but the waiving of the points of order makes the committee substitute in order. Otherwise it would not be in order as not being germane.

The rule continues:

> And such substitute for the purpose of amendment shall be considered under the 5-minute rule as an original bill.

The point of order must be sustained against the amendment offered by the gentleman from Georgia unless the amendment is germane to the committee substitute which we are reading now as an original bill, and I contend that it is not germane to the committee substitute. There have been numerous rulings and precedents to the effect that because a substitute or an amendment deals with the same general subject matter does not necessarily mean that it is germane and can be considered as a substitute. The Chair will undoubtedly recall the ruling made by Mr. Speaker Rainey several years ago when the House was considering the bill to refinance farm-mortgage indebtedness. I recall it very well, Mr. Chairman, because at that time I offered as a substitute another method of refinancing farm-mortgage indebtedness.

I offered as a substitute for that committee bill the so-called Frazier-Lemke bill, and Mr. Speaker Rainey, after giving the matter considerable thought and going through the precedents, ruled that that substitute, although dealing with the same general subject matter of refinancing farm-mortgage indebtedness, proposed to accomplish the purpose in such a different way that it was not germane to the bill then under consideration, and my amendment was ruled out of order. I recall also—I believe it was last year or year before and I have forgotten who was in the chair, I believe it was in Committee of the Whole House on the state of the Union when we were considering the Frazier-Lemke bill, after 218 Members of the House had discharged the committee from consideration of the Frazier-Lemke bill. The bill was brought to the floor for consideration and the gentleman from Texas [Mr. JONES], chairman of the Committee on Agriculture, offered as a substitute for the Frazier-Lemke bill another method of refinancing farm-mortgage indebtedness, perhaps following closer the provisions of the Frazier-Lemke bill than the amendment offered by the gentleman from Georgia follows the committee substitute in the present instance as an original bill. The presiding officer at that time, whether it was the Speaker or the Chairman of the Committee of the Whole, sustained the point of order against the Jones amendment on the general ground that although it dealt with the same general subject matter, it provided an entirely different method of financing farm-mortgage indebtedness and was not germane to the bill under consideration.

I conclude, Mr. Chairman, by again pointing out that we are considering the committee amendment as an original bill, An amendment, therefore, that might be germane to the Senate bill nevertheless is not germane to the committee amendment because it must stand or fall upon the principle of germaneness to the committee substitute which we are considering as an original bill.

The CHAIRMAN. Does the gentleman from Georgia desire to be heard on the point of order?

Mr. RAMSPECK. I do, Mr. Chairman.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. RAMSPECK. Mr. Chairman, I call the attention of the Chair to the fact that when this matter was under consideration last December the situation was reversed. We

had a bill embodying a flexible principle similar to the one provided in my amendment. At that time the gentleman from Indiana [Mr. GRISWOLD] offered an amendment similar to the present committee bill. The Chair held it in order. It seems to me that it is simply a difference in method, that it seeks to accomplish the purpose by a little different set of mechanics, and, therefore, should be held to be germane.

Mr. BOILEAU. Mr. Chairman, will the Chair hear me briefly on one further point?

The CHAIRMAN. The Chair will be glad to hear the gentleman from Wisconsin further.

Mr. BOILEAU. May I not point out, Mr. Chairman, that the committee substitute does not provide for a board, it provides a general principle applicable all over the country? The substitute offered by the gentleman from Georgia differs in that it provides for the setting up of a board, an entirely different agency; a bureau of the Government. It provides for differentials. It was upon this very proposition that the former rulings to which I have referred were made by the Speaker and by the Chairman of the Committee of the Whole.

Mr. O'CONNOR of New York. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The Chair will be glad to hear the gentleman from New York.

Mr. O'CONNOR of New York. Mr. Chairman, I ask to be heard on the point of order principally because of what the distinguished gentleman from Wisconsin has said about the rule. There is nothing unusual in the rule whatsoever. Similar rules are brought in here time and time again. Whenever a committee strikes out all after the enacting clause in a Senate bill and substitutes its own bill as an amendment the fairest way to handle the measure is to have the committee amendment read as an original bill. One reason for this is so that there will be the usual opportunity for amendments without running into third-degree amendments right away.

So the only salient point the gentleman from Wisconsin makes is that the substitute offered by the gentleman from Georgia is not germane to the committee amendment which we are reading as an original bill. This subject of the germaneness of such substitutes was discussed last December.

The gentleman from Wisconsin is, of course, correct when he says that the substitute offered by the gentleman from Georgia [Mr. RAMSPECK] must be germane to the committee amendment which we are now considering as an original bill. Last December, when we were discussing the wage and hour bill, the same question was brought up, and in fairness to everybody concerned, the Chair then ruled properly that such substitutes were germane. I engaged in the discussion on that point of order. I said then, in effect—

We have here a new subject—wages and hours. We are entering on a new venture, and any bill that carries out a plan of effecting the ultimate result and deals with wages and hours, in my opinion, is germane, irrespective of the methods provided, the administration, a board, or what not, set up. I think in all fairness every measure that deals with that big subject of wages and hours should be considered in this House and not brushed aside by any technicality.

Mr. MARTIN of Massachusetts. Mr. Chairman, in reply to the gentleman from Georgia [Mr. RAMSPECK] with reference to the ruling of the Chair last year upon the so-called Griswold amendment, I call attention to a real difference in the situations. Last year, when the amendment was presented it would have the effect of curtailing the bill. It did not contain any matter that was not distinctly referred to in the bill. In this instance the proposed substitute goes beyond the bill that the House has voted to consider. The amendment of the gentleman from Georgia is beyond the scope of the bill which the rule puts in order. As the gentleman from Wisconsin well stated, the Ramspeck amendment sets up a new bureau entirely to regulate wages and hours, and that provision certainly is not germane, and in my opinion the point of order of the gentleman from Wisconsin [Mr. BOILEAU] is well taken.

Mr. MICHENER. Mr. Chairman, it seems to me the argument of the gentleman from New York [Mr. O'CONNOR] answers itself. The gentleman does not refer to precedents of the House; neither does he refer to the rulings of the Chair on any previous occasion. He bases his argument entirely on expediency, equity, and fairness. Every one of those grounds was urged in extension on every occasion when this matter has been before the House; and the Chair, adhering to the original precedents—and as the present occupant of the chair well knows there is a long line of precedents—has religiously held exactly opposite to what the gentleman from New York [Mr. O'CONNOR] now contends, for even though what he now contends for may be expedient, equitable, fair, and expeditious to accomplish an objective, regardless of the route we pursue. I am arguing for the integrity of the rules and the precedents of the House. I am not in any way speaking of the merits of the proposed amendment or substitute.

Mr. O'CONNOR of New York. Will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from New York.

Mr. O'CONNOR of New York. The gentleman is talking about precedents. I listened to the ones discussed by the gentleman from Wisconsin [Mr. BOILEAU]. I remember them. I can see no relevancy in them; but, as I said, you are dealing with a new subject, wages and hours. It is a brand-new field. There is no precedent in this particular instance.

Mr. MICHENER. Yes; there is. When the Farm Board bill was being considered a few years ago we were dealing with a new subject and a new method of approach. It was held at that time by the Chairman of the Committee of the Whole, after reciting the precedents, that even though we were dealing with a new subject we could not change diametrically the method of procedure provided in the bill to reach a desired objective.

Mr. BOILEAU. Will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from Wisconsin.

Mr. BOILEAU. May I suggest to the gentleman from New York [Mr. O'CONNOR] that so far as the Frazier-Lemke bill was concerned, so far as legislation along that line is concerned, that was and still is just as new a subject as when that method was established. We never had any legislation along that line; so the argument it is new legislation is absolutely immaterial and has nothing to do with the point at issue.

The CHAIRMAN. The Chair is ready to rule.

When this bill came up for consideration last December, the present occupant of the chair presided over the Committee of the Whole and at that time the present occupant of the chair as the then Chairman of the Committee of the Whole had to pass and did pass on several substitutes offered to the then committee substitute for the Senate bill. The Chair does not intend to take much time of the Committee of the Whole in reviewing the situation that existed when the bill was being considered before, nor to read the entire opinion of the Chair at that time. However, the Chair feels there are parts of the decision rendered at that time which are decisive of the question rendered to the Chair today.

The Chair feels that House Resolution 478, as the gentleman from New York [Mr. O'CONNOR] stated, so far as the language therein contained and referred to by the gentleman from Wisconsin [Mr. BOILEAU] is concerned, provides the method of procedure in the consideration of the pending measure. The Chair feels this question should be decided upon whether or not the substitute offered by the gentleman from Georgia [Mr. RAMSPECK] is germane to the committee substitute.

When this bill was under consideration last December the Chair stated in detail the reasons for overruling the points of order made against the several substitutes that were then offered to the committee substitute. The opinions of the Chair made at that time will be found on pages 1588 to 1593, inclusive, of the CONGRESSIONAL RECORD of December 15, 1937.

At that time the Chairman of the Committee of the Whole stated, and I quote from page 1593 of the CONGRESSIONAL RECORD of December 15, 1937:

The Chair believes, having in mind the broad objective of this bill, the establishment of minimum wages and maximum hours, that the Committee of the Whole and the House are not precluded from considering another method or another means of accomplishing that purpose than the one recommended by the Senate bill or by the House committee, both methods being germane. The Chair believes it germane for the Committee of the Whole House on the state of the Union under the rules to consider a mandatory minimum-wage and maximum-hour provision in preference to the amendment of the Committee or the provisions of the Senate bill. Which is the desirable course to take is a matter for the Committee to determine.

It seems to the Chair that the position today is the reverse to what it was on that occasion. It seems to the Chair that the same question is fundamentally presented to the Chair today as was presented to the Chairman of the Committee of the Whole when the bill was being considered on December 15 last year.

Without reciting all the reasons stated by the Chairman of the Committee of the Whole House on the state of the Union on the occasion when the bill was last up for consideration, the Chair feels that the reasons stated at that time are just as applicable today as they were on that occasion. Therefore, the Chair overrules the point of order.

Mr. RANDOLPH. Mr. Chairman, I rise in opposition to the substitute offered by the gentleman from Georgia.

I ask unanimous consent to proceed for 10 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RANDOLPH. Mr. Chairman, I have asked for this additional 10 minutes in order that the committee's viewpoint in opposition to the substitute amendment, offered by the distinguished gentleman from Georgia, may be clearly understood. I regret that my colleague from Indiana [Mr. GRISWOLD] could not speak on this matter. He had made a special study of the subject, but illness keeps him from being present.

I should like to preface my remarks in connection with the pending substitute amendment by saying I was a member of the subcommittee of the House Committee on Labor charged with an attempt, and it was an honest attempt, to bring before the full Committee on Labor a measure which that group might report to the House for consideration. The gentleman from Georgia [Mr. RAMSPECK] certainly contributed splendid service as the chairman of that subcommittee, and I pay him deserved tribute at this time. It was hoped the subcommittee's findings and draft of a measure might be acceptable to the full committee, but the full committee decided otherwise, and so after the vote of 10 to 8 on the subcommittee bill, which has been mentioned by the gentleman from Georgia, there was a further expression by the committee, and by a vote of 14 to 4 the committee amendment, now being considered as an original bill, was reported and is before us at this time.

I rise, therefore, with the firm conviction in my own heart that the establishment of the principle is absolutely necessary at the present time. My remarks made in opposition to the amendment of the gentleman from Georgia can in no wise be construed as an opinion which has been arrived at hastily, and I certainly believe the viewpoint of the Committee on Labor is entitled to the very careful and sympathetic consideration of the Members of the House in connection with the pending substitute, because it was not so long ago that the Congress of the United States itself recommitted to the House Committee on Labor a bill which would be revived by the gentleman from Georgia.

Proposals to fix minimum wages and maximum hours by Federal legislation raise two basic constitutional questions:

First. Does the Congress have the power to enact legislation of this character?

Second. If so, is the legislative means adopted a reasonable and valid exercise of that power?

The opponents of the bill which is before us generally admit that Congress has the power to legislate on the subject of wages and hours, but contend the particular provisions of this bill are unreasonable and arbitrary. In answer to the first proposition, it may be said, in brief, that the power of the Congress to enact minimum-wage and maximum-hour legislation emanates from the commerce clause of the Constitution. Congress has authority to stop practices which threaten to obstruct or unduly burden the flow of interstate commerce. It may exercise such control and regulation over the industrial relationship of employers and employees as is necessary to avoid disputes and strife which burden the free flow of commerce (*National Labor Relations Board* v. *Jones & Laughlin Steel Corporation*, 301 U. S. 1; *National Labor Relations Board* v. *Fruehauf Co.*, 301 U. S. 49; *Texas and N. O. R. Co.* v. *Railway Clerks*, 281 U. S. 548; *Virginian Railway Co.* v. *System Federation No. 40*, 300 U. S. 515; *Second Employees' Liability Case*, 223 U. S. 1; *Santa Cruz Fruit Packing Co.* v. *National Labor Relations Board*, decided March 28, 1938).

In considering the second question, I shall direct my remarks to the argument advanced by Representative RAMSPECK that this legislation is invalid because it does not constitute a reasonable and valid exercise of Congress' power. Two reasons are advanced for the invalidity of this bill:

I. It prescribes rigid minimum-wage and maximum-hour standards for the entire United States, and, therefore, "is not a reasonable exertion of governmental authority but, on the contrary, is arbitrary and discriminatory."

II. It constitutes an invalid delegation of legislative power to the Secretary of Labor as "the standards prescribed upon which the Secretary is to base a decision are not sufficiently definite."

I believe I can demonstrate that both of these contentions are unsound. I shall consider the points separately.

I. (A) The fixation of a reasonable minimum-wage and maximum-work period by the Congress for the protection of health, safety, morals, and welfare of workers does not constitute a deprivation of liberty to contract forbidden by the due-process clause of the fifth amendment (*West Coast Hotel Co.* v. *Parrish*, 300 U. S. 379 (overruling *Adkins* v. *Children's Hospital*, 261 U. S. 525, and distinguishing *Morehead* v. *New York ex rel. Tipaldo*, 298 U. S. 587)).

The Washington minimum-wage law for women is the only minimum-wage statute which has been sustained by the United States Supreme Court (*West Coast Hotel Co.* v. *Parrish*, supra), except as that case in overruling Adkins against Children's Hospital can be said to have sustained the validity of the minimum-wage law for the District of Columbia. Both the Washington statute and the law for the District of Columbia authorized a board to fix minimum wages for women based on the cost of living necessary to health and decency. Chief Justice Hughes, in the Parrish opinion, at page 399, stated:

The legislature was entitled to adopt measures to reduce the evils of the "sweating system," the exploiting of workers at wages so low as to be insufficient to meet the bare cost of living, thus making their very helplessness the occasion of a most injurious competition. * * * What these workers lose in wages the taxpayers are called upon to pay. The bare cost of living must be met.

It can be concluded from the above quotations and the provisions of the Washington statute which were under attack that the Supreme Court regards "cost of living" as a reasonable standard upon which to base a minimum wage. Hence any minimum-wage requirement reasonably related to cost of living, whether prescribed by statute or fixed by a board, should have a fair chance of being sustained. Viewed in this light, the rigid minimum-wage rates fixed in this bill should be upheld.

Admittedly the Congress can fix a minimum wage in accordance with a cost-of-living standard rather than delegate the task to an executive board or agency, if it has facts showing what wage the cost of living warrants. Where a single and rigid minimum wage is prescribed by the Congress for all localities in the United States, as would be the case

in the proposed bill, under the doctrine of the Parrish case, it should only be necessary to show that the wage established in the statute is not in excess of what is required by costs of living for the region of the United States where living is the cheapest.

Mr. SABATH. Mr. Chairman, will the gentleman yield?

Mr. RANDOLPH. I yield to the gentleman from Illinois.

Mr. SABATH. What the gentleman desires to make clear to the House is that the Congress cannot delegate to any board it creates greater power than the Congress itself possesses. If the Congress does not have the power, surely no board would have the power to fix the minimum or the maximum wage, and minimum or maximum hours.

Mr. RANDOLPH. The gentleman is correct. Certainly the Congress is in possession of sufficient facts to go forward itself and legislate instead of delegating the same power to a board.

Mr. HEALEY. Mr. Chairman, will the gentleman yield?

Mr. RANDOLPH. I yield to the gentleman from Massachusetts.

Mr. HEALEY. The only purpose in delegating to a board the power to determine wage and hour standards would be that Congress itself would feel it was not in possession of the facts, but the contention of the gentleman is that the Congress is in possession of the facts and does know that the wage and hour standards set up in this bill are not unreasonable and will meet the terms that the Court may lay down.

Mr. RANDOLPH. The gentleman from Massachusetts is correct. If I have the time, I shall put into the RECORD all the cases in question, and shall show that studies which have been made produce the facts on the basis of which the rigid requirements in this bill are proposed.

Mr. KELLER. Mr. Chairman, will the gentleman yield?

Mr. RANDOLPH. I yield to the gentleman from Illinois.

Mr. KELLER. I should like to ask the gentleman from Massachusetts if he recalls the Shreveport decision, the coal case involving this very point, and if he does, will the gentleman state what it is?

Mr. MAVERICK. Mr. Chairman, will the gentleman yield?

Mr. RANDOLPH. I yield to the gentleman from Texas.

Mr. MAVERICK. The gentleman talks about this being based upon a reasonable standard of living, but the Supreme Court decision was based on a hearing of the facts regarding a particular trade, occupation, or job in a particular part of the country. What I want to know is, how is the statute going to do that? We are not going to have a hearing under the present bill and we will have one under the Ramspeck bill. That is what I wish the gentleman would explain.

Mr. RANDOLPH. The Bureau of Labor Statistics certainly has already set up the figures, and if given the time now, I can put that information in the RECORD at this point. I should like to proceed, if I may.

For example, if the cost of living for industrial workers engaged in interstate industries is cheaper in Alabama than in any other State in the Union and the cost of living in that State requires a wage rate of not less than 40 cents an hour to provide the necessities of life, such a wage rate for the entire United States would appear to be reasonable and valid. No employer could show that he was aggrieved and required to pay too much.

Statistical studies which have been made within the last 2 years demonstrate that the minimum wages provided in the present bill are not in excess of the requirements of cost of living. In an elaborate official study entitled "Intercity Differences in Cost of Living in March 1935, 59 Cities," made by Works Progress Administration in cooperation with the Bureau of Labor Statistics, it is stated that—

> The cost of a specified standard of living does not differ widely among most cities; differences in living costs are to be explained to a considerable extent by the differences in the standard of living.

This is illustrated by the following excerpt from this study:

> The cost of living in the maintenance level ranged from a high of $1,415 in Washington, D. C., to a low of $1,130 in Mobile, Ala., at March 1935 prices. The average in the 59 cities combined was $1,261. The cost of the emergency level was also highest in Washington, $1,014, but was lowest in Wichita, Kans., $810. The average was $903. At both levels the necessary outlay in the most expensive city averaged about 25 percent above that in the least expensive; in more than one-half the cities living costs were within a range of $100 per year.

The significance of this excerpt cannot be fully appreciated unless the terms "maintenance level" and "emergency level" are understood. The maintenance level is explained in the study to provide only for the cost of living necessary for material needs and some psychological needs. Emergency level provides almost exclusively for physical needs, and the study adds:

> But it might be questioned on the ground of health hazards if families had to live at this level for a considerable period of time. * * * Neither of these budgets approaches the concept of what may be considered a satisfactory American standard of living, nor do their costs measure what families in this country would have to spend to secure "the abundant life."

In this study the cost-of-living figures were based on the living requirements of industrial workers for a family of four—husband, wife, and two children.

It is to be noted that the lowest cost of living in any of the 59 cities on an emergency-level basis was found at Wichita, Kans., $810 for a family of four. Now, the greatest annual wage which an employee could receive under the present bill after the 40 cents became operative is $832. This would require him to work 52 weeks per year, 40 hours per week. However, the act prescribes a minimum wage of only 25 cents an hour for the first year which would produce an annual income of only $520 for an employee working full time at 40 hours per week.

On the basis of this survey it cannot be contended reasonably that $520 or even $832 is more than enough to provide the costs of living necessary to health and decency, when $810 is the lowest cost of living for the United States on an emergency-level basis.

[Here the gavel fell.]

Mr. MURDOCK of Arizona. Mr. Chairman, I ask unanimous consent that the gentleman from West Virginia may proceed for 5 additional minutes on this important discussion.

Mr. COX. Reserving the right to object, I trust that if unanimous consent is granted, the gentleman from Georgia [Mr. RAMSPECK] who offers the amendment, may be given 5 additional minutes in which to reply.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Does the gentleman from Georgia submit a unanimous-consent request?

Mr. COX. Yes, Mr. Chairman; I do submit it as a unanimous-consent request.

The CHAIRMAN. Does the gentleman from West Virginia yield for that purpose?

Mr. RANDOLPH. I yield, Mr. Chairman.

The CHAIRMAN. The gentleman from Georgia [Mr. Cox] asks unanimous consent that the gentleman from Georgia [Mr. RAMSPECK] may be given an additional 5 minutes, the Chair to recognize the gentleman later for that purpose. Is there objection?

There was no objection.

Mr. RANDOLPH. Now let us consider the assertion that the costs of living differ greatly for the various regions of the United States for industrial employees. This assertion has been made repeatedly and is the principal basis for the contention that the bill seeks to achieve an arbitrary and unreasonable end and therefore contravenes the due-process clause of the fifth amendment of the Constitution.

The research and technical staff of the National Industrial Conference Board provides industry with information from time to time on wage and hour differentials and cost of living. The National Industrial Conference Board is composed of manufacturers, banks, insurance companies, oil companies, public utilities, and railroads. Its statistical

service is probably as accurate in the field in which it serves as that of any nongovernmental organization in the country.

A recent survey on wage and hour differentials and cost of living published by the Board this year in book form, Differentials in Industrial Wages and Hours in the United States, demonstrates the acute need for a Federal wage and hour law.

The following table on average hourly earnings for seven industries shows, for example, that the lumber industry which is especially concentrated in the South and far West pays an average wage of 32.7 cents in the South and of 74.9 cents in the far West. The wage differential for the two regions in this industry is 129.1 percent. But the cost of living differential for the two regions is only 7.4.

TABLE 1.—*Average earnings and hours of male workers in specified industries in September 1937, by regions*

[Source: National Industrial Conference Board]

Regions	Cotton	Foundries and machine shops	Furniture	Lumber	Printing	Electricity	Gas	Paper and pulp [1]
	Average hourly earnings							
United States	$0.458	$0.737	$0.543	$0.535	$0.952	$0.831	$0.691	$0.617
East	.527	.745	.569	.457	.964	.893	.738	.619
South	.424	.640	.422	.327	.854	.643	.506	.555
Middle West	-------	.750	.552	.485	.955	.882	.685	.618
Far West	-------	.752	.637	.749	.986	.844	.675	.723
	Average hours worked per week							
United States	37.3	40.6	43.0	43.4	38.8	42.4	41.6	-------
East	38.6	40.7	42.1	45.9	39.2	42.1	41.0	-------
South	36.6	39.3	45.7	47.8	38.2	43.9	41.2	-------
Middle West	-------	40.8	43.1	42.1	38.8	42.1	42.4	-------
Far West	-------	39.8	40.2	40.1	37.7	41.8	43.0	-------

[1] Relates to wage rates, not earnings, in April 1937. Based on information supplied by American Paper and Pulp Association.

It is enlightening indeed to contrast existing wage differentials with differentials in cost of living for the various geographical regions of the United States. While it can be said that living costs in the South are lower than in the East and far West, 5.8 percent and 7.4 percent, respectively, "the differential in living costs is considerably less than in wages. Moreover, while there is only a moderate difference, 2.3 percent, in living costs between the South and Middle West, wages differ considerably." Discrepancy between differentials in living costs and wages exists principally in the South. For example, the cotton industry is concentrated almost wholly in the East and South. According to this study, hourly earnings for the industry averaged 42.4 cents in the South and 52.7 cents in the East, a difference in hourly earnings between these two regions of 24.3 percent. But the cost of living in the South is only 5.8 percent lower than it is in the East. "In this connection, it must be emphasized that in compiling the data on living costs it is assumed that the same standard of living prevails throughout the United States, except that allowance is made for differences in local housing conditions and for variations dictated by differences in climatic conditions."

TABLE 2.—*Indexes of earnings and hours of male workers in specified industries and the cost of living September 1937, by regions*

[Base, United States average=100. Source: National Industrial Conference Board]

Regions	Cost of living
United States	100.0
East	102.1
South	96.5
Middle West	98.7
Far West	103.6

An analysis of the cost-of-living data on a population basis points to the conclusion that living costs are higher in the larger than in the smaller communities. The difference between the lowest and highest population group amounted to 5.7 percent.

TABLE 4.—*Indexes of earnings and hours of male workers in specified industries and the cost of living, September 1937, by population groups*

[Base, United States average=100. Source, National Industrial Conference Board]

Population	Cost of living
United States	100.0
I. 500,000 and over	103.9
II. 250,000 to 499,999	99.6
III. 100,000 to 249,999	99.4
IV. 25,000 to 99,999	98.3
V. 10,000 to 24,999	
VI. Less than 10,000	-------

NOTE.—Little difference in cost of living between citizen of ¼ million and 10,000; the difference in living cost is only 1.1 percent.

The differentials in living costs, however, on either a geographic or population basis, when the same standard of living is applied, are considerably less than the differentials in wages. Hence, the variations in living costs are not sufficient to account for the wage differentials. The latter must be explained on other ground. (Direct quotations from National Industrial Conference Board Service letter of January 27, 1938, analyzing a study of wage and hour differences and costs of living.)

It will be noted that the greatest cost of living differential in the United States based on population is only 5.7 percent and based on region is only 7.4 percent. These two maximum cost of living differentials expressed in terms of percentages of $832—which is the greatest sum which is guaranteed a person who works 40 hours per week at 40 cents per hour for 1 year by the provisions of the wage and hour bill—are $47.42 and $61.56, respectively.

Moreover, using 100 as the average cost of living for the United States, the cost of living for the South is shown to be 96.5, or only 3.5 less than the average cost for the country. Three and five-tenths percent of 40 cents is 1.4, or less than a cent and one-half. So based on cost of living—not standard of living—the South cannot show that it is entitled to a favorable wage differential or even a cent and one-half.

So it does not appear that the cost of living for the various regions and population areas of the United States differs so greatly as to require the Congress as a matter of reasonableness to fix differentials in minimum-wage legislation.

Second. The standards set forth in section 6 of the bill to guide the Secretary of Labor in determining what industries come within the purview of the law were taken from language used in recent decisions of the Supreme Court which fix and define the jurisdiction of the National Labor Relations Board. It is believed that they are sufficiently specific to meet the test of constitutionality.

In connection with the constitutional question of delegation it is important to remember that the Supreme Court very rarely finds fault with a congressional delegation of power. There are only two cases where congressional delegation has been adjudged invalid in 150 years of constitutional practice. There is nothing in recent decisions of the Court which would justify the Congress in casting aside legislative experience in providing for the administrative handling of modern, complex problems by delegation to administrative agencies—where proper guides have been employed to direct the exercise of the delegated power. The two cases in which congressional delegation to administrative agencies has been found invalid are *Panama Refining Co.* v. *Ryan* (293 U. S. 388) and *Schechter Poultry Corporation* v. *United States* (295 U. S. 495). In the first case the subject of the statutory prohibition, the transportation in interstate commerce of petroleum produced in violation of State law, was defined but the delegation was held to be improper because the range of administrative discretion was not only unlimited but wholly undefined. In the latter case the Court was not disturbed so much by the range of discretion granted with respect to any particular subject matter, as it was by the fact that the Court found no "adequate definition of the subject to which the codes were addressed."

Neither of these objections can be urged against the wage and hour bill. The range of administrative discretion is defined and limited. Section 6 directs the Secretary of Labor to determine the relation of various industries to commerce. His action is not made discretionary but mandatory. Secondly, the bill contains an adequate definition of the subject matter upon which his discretionary power is to operate. A recent case before the Supreme Court considered a delegation problem which is strikingly similar to the one which we have before us. Under the provisions of the National Labor Relations Act, the Board which administers that law is authorized to prevent unfair labor practices where the unfair practices complained of are "affecting commerce." The Board has no power to prevent all unfair practices. It must find in each case that the unfair practice is "affecting commerce." Hence, the words "affecting commerce" are all-controling in determining the powers of the Board.

In the case of Santa Cruz Fruit Co. against National Labor Relations Board, supra, the Chief Justice observed that the words "affecting commerce" did not furnish an exact formula but said that because of the very nature of the power of Congress under the commerce clause that the criterion must necessarily be "one of degree and must be so defined." The following excerpt from the opinion in that case illustrates the problem clearly:

It is clear that where Federal control is sought to be exercised over activities which separately considered are intrastate, it must appear that there is a close and substantial relation to interstate commerce in order to justify the Federal intervention for its protection. However difficult in application, this principle is essential to the maintenance of our constitutional system. The subject of Federal power is still "commerce" and not all commerce but commerce with foreign nations and among the several States. The expansion of enterprise has vastly increased the interests of interstate commerce but the constitutional differentiation still obtains. *Schechter Corporation* v. *United States* (295 U. S. 495, 546). "Activities local in their immediacy do not become interstate and national because of distant repercussions" (Id., p. 554).

To express this essential distinction, "direct" has been contrasted with "indirect," and what is "remote" or "distant" with what is "close and substantial." Whatever terminology is used, the criterion is necessarily one of degree and must be so defined. This does not satisfy those who seek for mathematical or rigid formulas. But such formulas are not provided by the great concepts of the Constitution such as "interstate commerce," "due process," "equal protection." In maintaining the balance of the constitutional grants and limitations, it is inevitable that we should define their applications in the gradual process of inclusion and exclusion.

There is thus no point in the instant case in a demand for the drawing of a mathematical line. And what is reasonably clear in a particular application is not to be overborne by the simple and familiar dialectic of suggesting doubtful and extreme cases. The critical words of the provision of the National Labor Relations Act in dealing with the described labor practices are "affecting commerce," as defined (sec. 2 (6)).

Standards set forth in the bill to govern the actions of the Secretary of Labor cannot be said to be more indefinite than the phrase "affecting commerce." Under the standards of the bill, the evidence taken at required hearings would have to show that an industry was one within the purview of Federal regulation because of its close and substantial relationship to interstate commerce, and so forth, before it could be subjected to the Fair Labor Standards Act. [Applause.]

In the minority opinion of the distinguished gentleman from Georgia [Mr. RAMSPECK], he advances three grounds upon which he expresses the opinion that the Supreme Court will hold that the pending bill exceeds the legislative authority of the Congress; in other words, will be held unconstitutional.

(1) That to approach a solution of this problem we must have a fact-finding process to which Congress must delegate the power to determine what wages and what hours shall be applied after a thorough consideration of the facts.

The answer to this assertion is plain. If Congress can delegate the power to an agency it creates, certainly it possesses such power itself. If the delegation of power would make such legislation comply with the Constitution the assertion by the Congress itself of that power would seem to be equally constitutional. It would seem rather strange if an agency created by the Congress would possess greater powers than the Congress itself.

(2) To do otherwise would be arbitrary and capricious, would be discriminatory, and would violate the due-process requirements of our Constitution.

If the Congress possesses the power under the Interstate Commerce clause, and if the Congress, as in the pending bill, provides what shall be minimum wages and maximum hours in the fields of business activity therein mentioned, it is exceedingly doubtful if the courts will declare the pending bill unconstitutional. Having jurisdiction to legislate under the Interstate Commerce clause, and the Congress undertaking itself to do so, instead of delegating the power to do so to a created agency the manner of exercise of a constitutional power when done by Congress itself will not be questioned by the judicial branch of the Government. For the courts to act otherwise would place a coordinate branch of the Government with no constitutional power of veto in the position of vetoing an act of Congress upon the ground that the Congress did not exercise the powers delegated to it in a proper manner. I doubt very much if the judicial branch would place itself in such a position of judging whether or not the Congress exercised its powers in a proper manner. The application of the rule of arbitrary and capricious action is plainly different when the direct act of the Congress itself is being considered than when the action of an administrative agency is being reviewed.

The proper and the probable course that the courts would take under our form of government with our three coequal branches of government, where the Congress legislates on a subject matter that comes within its constitutional powers, is to leave the question of arbitrary and capricious actions or of reasonableness or unreasonableness of exercise to the voters; to let such question, being political, rest for approval or disapproval with the people. To declare unconstitutional an act of Congress which the Congress had the power to legislate upon, on the ground that the Congress did not exercise its powers in a proper manner would result in serious confusion, grave misunderstanding, and controversy between at least two of the three coordinate and coequal branches of our Government.

It would seem that if the Congress has the power to pass legislation prescribing minimum wages and maximum hours in interstate business, that the judicial branch will not question the manner of the exercise of the power, but will take the position that the forum for such judgment is the people.

(3) The standards prescribed upon which the Secretary is to base a decision are not sufficiently clear.

This relates to the powers delegated to the Secretary of Labor by section 6 of the bill, relating to the authority of the Secretary to determine what industries shall be affected.

This section establishes definite standards that the Secretary must follow and comply with. The section also provides for "due notice to interested persons and giving them an opportunity to be heard." Not only in determining "the relations of the various industries to commerce," but also where "an order issued under this section shall be modified or revoked."

In connection with the powers delegated to and authority given to the Secretary of Labor under the provisions of section 6 of the bill, section 8 must also be considered. Section 8 provides for "court review of orders." It provides:

Any person aggrieved by an order issued under section 6 may at any time obtain a review of such order by filing in the circuit court of appeals * * * a written petition praying that such order be modified or set aside in whole or in part.

Not only is such action on the part of the committee wise and proper, but it strengthens the provisions of section 6. If there were a grave question of the constitutionality of the provisions of section 6, which I do not concede, the power of court review of the actions of the Secretary, and of court interpretation of the section would seem to meet the argument an improper or unconstitutional delegation of power. [Applause.]

Mr. KNUTSON. Mr. Chairman, I move to strike out the last two words and ask unanimous consent to proceed for 10 minutes.

Mr. McKEOUGH. Mr. Chairman, I object, on the ground that we have taken up over an hour and have not proceeded very far with the consideration of the measure. I hope gentlemen will not ask for any extension of time, and I object to this request.

Mr. KNUTSON. Mr. Chairman, I yield to no man in this House as a friend of labor. With all my heart I believe in organization for him who toils and in his right to bargain collectively. As a matter of fact, I have carried a union card for well nigh on to a quarter of a century and expect to continue to do so until the end. I believe in organization of labor, because it means better wages and better working conditions. In my zeal to help promote the welfare of labor I voted for the Wagner Labor Act 3 years ago—something that I heartily regret now. At that time we were assured that its enactment would make for greater security for the toiler and above all would bring peace and contentment to the labor world. Alas, for the dream of the New Deal, the very opposite has resulted from the operation of that law.

According to official figures there have been more strikes and labor disorders since the law went into effect less than 3 years ago than in the preceding 7 years. To be more specific, during the almost 3 years that the law has been in effect, or from July 1935 to March 1938, there have been 8,012 strikes, as against 8,172 strikes for the preceding 7 years.

Now we are asked to pass another piece of hocus-pocus legislation that is going to be even worse for the employee and employer. It is here proposed to put a ceiling on hours and a floor under pay.

Invariably, when a minimum level is fixed it becomes the maximum. The older Members of the House will recall that during the late war Congress passed a law which permitted the Executive to fix the price of wheat. At that time wheat was bringing the grower between $3 and $4 per bushel. The Food Administrator set the minimum price of wheat at $2.20 per bushel at the terminal market, and immediately that became the maximum price, causing American wheat growers to lose hundreds of millions of dollars.

What assurance have we that in the operation of the proposed wage and hour law 40 cents will not become the maximum rate of pay as happened in the fixing of the wheat price 21 years ago? If the Government is given the power to fix a minimum wage, it naturally follows that it will also have the power to fix maximum wages, and that would strike at the very heart of the principle of collective bargaining.

Several preceding speakers evidently labor under the delusion that the passage of a wage and hour bill will do much toward taking up the present labor slack. Let me remind those who nurse this hallucination that France passed a 40-hour law several years ago which all concede has had a demoralizing effect on employment, production, and industry.

Instead of providing more work the operation of this law will have the very opposite effect. It will create more unemployment because it would further stimulate the use of labor-saving machinery. We have in operation in the District of Columbia a minimum-wage law that has been in effect less than a month and already has been responsible for scores of waitresses, hotel maids, and others being laid off. My authority for this is Miss Rose Brunswick, business agent for the Hotel and Restaurant Employees Alliance, who was quoted to this effect in the Washington Post on May 17.

In my opinion the passage of an inflexible national law, such as is here proposed, would multiply all over the country a thousandfold the unfortunate situation that has already resulted from the operation of the District minimum-wage law.

I do not understand how a proposal like this can have any appeal for a practical-minded person. The bill before us is inflexible in that it makes no provision for differentials that will take into consideration the vastly different conditions in various parts of the country, such as climate and difference in living costs. How can any sane person contend that such a proposal is based upon sound economic laws? As I see it, it is political in all its implications and is designed solely for the purpose of catching votes.

Why do we not profit by the experience of France and the District of Columbia? This is merely another Utopian dream similar to the national labor relations law Congress enacted 3 years ago and I prophesy that when the thousands of Government snoopers, who will be employed to enforce this law, get into operation it will be about as popular as was enforcement of the Volstead law. Already we are snooped to distraction. Rarely a day passes by but that some Government or State inspector drops in to snoop around. I fail to see any necessity for a law such as is here proposed but I can see grave dangers to labor arising out of its enforcement, not to mention the additional harassments to employers that will result from its enforcement.

In the larger centers labor is already organized and drawing wages far in excess of the rate provided for in this bill, consequently it follows that the legislation is aimed at the rural sections of America and, frankly, we do not want it. I hold in my hand telegrams and letters from a score or more creameries, cooperatives, the Farm Bureau, the Grange, from produce dealers, canners, small-business men—all bitterly opposed to this new nostrum that is going to work out exactly in the same way as has the Wagner labor law. You will recall the wonderful promises that we were assured would result from its operation. It was to do away with strikes and labor difficulties. How miserably it has failed I need not remind you. Then there is the bituminous-coal law which was also to perform wonderful miracles but that has also bogged down and about all that it has done is to increase the price of coal to the consumer from 75 cents to $1 a ton.

Let us be done with this fanciful and impractical program and get back to earth. The crying need today is to get the thirteen or fourteen million who are now idle back to work and to give the farmer a market for his products at parity prices.

If this legislation will do anything, it will increase the price of commodities that the farmer must buy without making any provision for increasing the price of what he has to sell. In addition to that, it will make it practically prohibitive for the farmer to go into the labor market and hire farm help. Do you suppose that anyone is going to hire out to work on a farm, where the hours are long, when he can get a job in town at better pay and half the hours? The whole thing simply does not make sense, but it is in line with the whole New Deal program of giving the farmer the short end of it.

You have given away his home market to Argentina, Australia, Canada, and Europe. Now you propose to complete the job by making it impossible for him to hire help. This is nothing more or less than a face-saving piece of legislation that the New Deal leaders want to use this fall in retaining control of Congress, and I, for one, am not going to vote to again make the farmer the goat for such a deceptive program. It will pass because the President wants it, but bear in mind this is not the first time that the President has asked for legislation that will cripple and hamper legitimate industry. O Lord, how long? Let us hope that the people will take matters into their own hands and apply the necessary remedy at the next election. [Applause.]

At this point I desire to insert an editorial from the Minneapolis Tribune which presents in a comprehensive manner the attitude of rural America toward this legislation:

THE FARMER AND THE WAGE-HOUR BILL

The case which agriculture presents against the Black-Connery wage and hour bill has seldom been more vigorously and effectively stated than it was on Thursday by William S. Moscrip, of Lake Elmo. As a leader in the dairy and livestock industries of Minnesota and the Northwest, Mr. Moscrip thinks naturally in terms of the farmers' best interests, and he has no illusions as to the adverse effect which this bill, if enacted into law, would have on those interests.

As he so clearly points out, the measure which comes to a vote before the House of Representatives next Monday, will inevitably tend to increase the prices of commodities which farmers must buy, while making no provision whatsoever for increasing the

prices of what the farmers sell. It is calculated, by its very nature, to make price parity between agriculture and industry impossible. Furthermore, the Black-Connery bill would make it extremely difficult for farmers to secure labor at prices they can afford to pay, and for the simple reason that they would have to compete for labor with industries in which minimum wages and maximum hours were fixed by Government fiat.

Again, this proposed bill is certain to encourage employers in industry to install more labor-saving machinery in an effort to keep down production costs, and Mr. Moscrip wisely warns the farmer what this will mean to him in new unemployment, with its further weakening of the American market for food and other agricultural products.

The fact that the National Grange, the National Cooperative Council, and the National Cooperative Milk Producers' Association are all opposed to the Black-Connery measure is deeply significant. These organizations, like Mr. Moscrip, perceive a serious threat to the farmer's welfare in this bill, and they are accordingly waging a militant fight against it.

The friends of agriculture are not misled by the eloquent claims on its behalf; the fact that it is well-intentioned does not blind them to the fact that it bodes no good for the farmer. The Black-Connery bill does not even provide differentials in wages and hours between urban and rural communities. It does not even exempt from its provisions persons engaged in the processing of seasonal or perishable agricultural commodities. What it does is to create a system of bureaucratic control over industry, and through that control and the disparities it will create, threaten to impose new burdens on the farmer.

The wage-hour bill is a snare and a delusion. Agriculture has nothing to gain by its enactment, and it has a tremendous stake in its defeat. If the House passes it on Monday, it will be voting against every interest of the farmer, and agriculture will do well to hold to strict account whoever sanctions its betrayal.

During the life of the N. R. A. it appointed a board of research to observe its operation and determine how it could be improved or how it should be modified. This board was composed of celebrated economists and a large staff of subordinates and employees. Naturally, it was friendly to the philosophy of the N. R. A. It had at its disposal all of the data and information available. Its investigation and observations of the workings of the N. R. A. lead to conclusions that so far as the regulation of wages and hours was concerned, it resulted in curtailment of production, decrease in the average standard of living, lower consumption of raw materials, including farm products and lower prices for them, geographical realinement of industry, and higher production costs for farmers. It also showed that under the attempt to fix a minimum wage, while some were raised, a substantial percentage was lowered to the minimum. This would bear out the oft-repeated prediction that the so-called minimum wage may automatically be fixed as the maximum.

Mr. KELLER. Mr. Chairman, I rise in opposition to the pro forma amendment, and in favor of the Ramspeck substitute for the pending Norton bill.

Mr. Chairman, this body is going to pass a wage and hour bill today. It ought not to be a question of dispute except as to the facts in the case. I am sorry that I must call the attention of my friend from West Virginia to the mistake he made in his statement that the Ramspeck bill was recommitted last year. That is a mistake. The Norton bill of last year, very similar to the present Norton bill, was recommitted and not the Ramspeck bill.

Mr. RANDOLPH. Mr. Chairman, will the gentleman yield?

Mr. KELLER. I yield.

Mr. RANDOLPH. I inadvertently used that term. I meant a bill in which differentials were recognized. It was the Norton bill which was recommitted.

Mr. KELLER. The gentleman admits the mistake, and I am glad of that. But I know he had no possible desire to misrepresent anything. He is not built that way.

The only difference between these two bills of any real importance is simply that the present bill may or may not be constitutional, while the Ramspeck bill, beyond reasonable doubt, is constitutional, and that is the meat in the coconut, here and now.

The question, therefore, that this body is going to decide today is whether we want to take a chance that is entirely unnecessary, or whether we do not. I do not see why we should try to put up to the Supreme Court a matter which it has not yet decided, when we can get exactly the same result by following the rulings which the Supreme Court has already made. Why should we exchange a certainty for a very uncertain hope?

I want to call the attention of my learned friend from Massachusetts to the question I put to him a while ago, and that is that a reading of the Supreme Court decision in the Guffey coal case will convince any man that the Supreme Court holds, really, to just one means of permitting the setting of prices and the settling of conditions, and that is through the hearings of a semijudicial body which the Ramspeck bill proposes. There have been no hearings by this body that could be used by the Supreme Court, and the Supreme Court gave this Congress a very gentle slap on the wrist in the coal case along that line, saying that the Congress had nothing before it to justify any arbitrary action.

Mr. HEALEY. Mr. Chairman, will the gentleman yield?

Mr. KELLER. Yes; I yield.

Mr. HEALEY. The philosophy of these minimum-wage cases in almost every instance is based on the cost of living, and in the States boards or minimum-wage commissions are set up to determine the cost of living, and in some there are two standards, the cost of living and the value of services.

Mr. KELLER. The value of services has always been the basis in law and in equity. But the gentleman does not answer my question.

Mr. HEALEY. In the Parrish case, in the dicta, Chief Justice Hughes said, "The cost of living must be met." Now, every Member of this Congress knows that the wage standard set up in this bill does not overmeet that cost of living. Therefore, why should we delegate the power to a commission to determine that question?

Mr. KELLER. And still the gentleman does not answer the question I asked him. I asked what the Supreme Court said in the Guffey coal case, and he does not tell us.

Mr. HEALEY. I do not believe the situation is a parallel one.

Mr. KELLER. It cannot be a parallel situation ever. There is hardly such a thing in lawsuits. But there is certainly a parallel of reasoning in relation to them. And if the Supreme Court refused to accept the opinion of Congress as binding on the Court in the Guffey coal law, it will naturally follow the same rule in relation to this law.

Now, as a matter of fact, Mr. Chairman, we are going to do one of two things. First, we are going to take a chance or we are not, and it ought to go without saying that if the committee sustains the Norton bill I shall vote for the Norton bill, of course. Everybody knows that; but also I ought to call your attention to the fact that during two sessions of this body it was my great opportunity to study this question and had before me as great lawyers as there are in America on this very subject while I was chairman of the subcommittee of the Labor Committee on the textile bill. The whole subject was thrashed out two or three times, and the accepted doctrine of the Supreme Court was brought forward then very plainly, and was perfectly understood and was included in the textile bill which was reported by the subcommittee, and the Ramspeck bill follows that bill, completely and entirely. The Ramspeck bill is our safest way out. [Applause.]

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. HARLAN. Mr. Chairman, I move to strike out the last two words. I am in favor of a wage-hour bill. I am in favor of it because I believe it will elevate the position of labor. I favor it because I think the welfare of this country depends on the elevation of the condition of labor, the shortening of hours to reasonable limits, and the raising of wages as high as possible. Therefore, I shall vote for any bill that we can get out of this committee, but I regret to be in a position where I must disagree with the Labor Committee on this proposition of the amendment. I favor the Ramspeck amendment, for two reasons. I think that of all the bills before this House the committee bill is too risky and too radical for us to accept at this time. Inasmuch as we are breaking new legislative ground, why do we want to

take in more territory and run more risks than are necessary? We are blazing new trails, and why jump off a precipice when we can go down stairs? There is no precedent for this committee bill. The Supreme Court in the child labor cases has expressly stated that such a bill would be turned down by the Supreme Court. They have modified that obiter recently in the Wagner labor decisions by inference only. There has been no express decision that any labor bill will be supported. Why not accept a bill that will give us as little risk on that proposition as possible and follow precedent as nearly as possible? The committee bill attempts to legislate against fact, because the geographical and production conditions in the country are so different. We cannot have a uniform bill that will work in a country where conditions are not uniform.

Furthermore, in considering conditions of work throughout this country we must measure in some way the value of services rendered. It is not only a question of the cost of living, as the gentleman from West Virginia intimated, but it is the value of the services which the Court will consider in passing on the constitutionality of this bill—the extent of the use of hand labor as against machine labor, the cost of transportation, taxes, proximity of fuel and water power—all of these make changed conditions throughout the country that I believe the Supreme Court will say must be determined by some legislative-judicial body before it will accept a universal law out of this body with no more facts than we have available at the present time. This proposed law is against what precedents we have. The gentleman from Georgia [Mr. RAMSPECK] has reviewed the decisions.

Mr. Chairman, the most important reason why we should accept this Ramspeck amendment is the fact that the measure we have before us is creating a needless division on this side of the House. It is going to flaunt before another legislative body the almost inevitable exigency of a filibuster. When we are all working for the common purpose, why do we want to pass a bill that will divide our forces, divide the forces that are interested in the welfare of labor, when it is not necessary? In a year or two we can probably eliminate differentials while approaching a uniform standard, but in approaching a uniform standard why not do it one step at a time? Why do we want to go the whole way, which will certainly inevitably create friction and hatred, sectional feeling and a filibuster in another legislative body and probably mean no legislation at all? I respect the opinion of the great labor leaders in this country. Both of them have been on both sides of this subject. I am for the welfare of labor also. I shall respect their opinion, but as long as I am a Member of Congress I shall try to merit their respect. That means that under my oath I must exercise my own best judgment on legislation. I am not willing to agree to change my opinion every time some labor leader changes his, regardless of my respect for him or his ability. [Applause.]

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. COX. Mr. Chairman, I move to strike out the paragraph. Those who are advocating wage-hour legislation are holding a rendezvous with elements which they must soon disavow or else be utterly consumed in the conflagration of hatred which they will build. When they see what a menace to society they are nurturing, what a Frankenstein they have created, they will flee from them and seek shelter under the protecting care of the Constitution, which today they treat as if it were a worn-out and worthless thing. They will support it with a glowing patriotism; they will demand that it be preserved, that it be not destroyed by an unrestrained Congress, or made meaningless by a jittery, frightened court. Mr. Chairman, truth is truth and right is right, and can be made nothing else either by a maddened Congress or a frightened court. It sickens me to see States surrendering their sovereign rights, to see the people exchanging their liberties for a full stomach. That this bill violates every principle of State rights and home rule, no student of government will deny, and if enacted into law and not quickly repealed, it will utterly destroy the States, and lead to the concentration of all power in Washington and the complete federalization of all the activities of the people, all informed persons admit. Take this fatal step, Mr. Chairman, and there will be no turning back short of State socialism. Take this step, and you change our whole civilization.

You make of the fine, free, and independent manhood and womanhood of America little cogs in the iron wheel of a great and all-powerful socialized state. The people who support this bill upon so-called humanitarian grounds have become intoxicated by its emotional appeal. They do not see the all-important principle that is involved. That it changes our dual system of government, they do not know and are unwilling to be shown. That it will destroy individual initiative and private enterprise is to them seemingly of little concern.

Mr. Chairman, the need of the hour is a change of attitude toward the idea of law and toward one another, and this change cannot be brought about by evasion of the Constitution but must be aided by its observance and the enforcement of its mandates. Mr. Chairman, this Congress has neither the wisdom nor the goodness to be entrusted with unrestrained power to legislate for a free people. For sympathy, charity, good example, and unselfish public service there will always be room.

[Here the gavel fell.]

Mr. COX. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. COX. For the suppression of native powers, for public dictation based on arbitrary rules, for the assumption that society is more important than those who compose it, and for the forcible expropriation of success for the relief of failure there is no place in a free republic.

Mr. Chairman, are we going to wrench our American democracy from its moorings and set it adrift upon the sea of failure? Are life, liberty, and the pursuit of happiness no longer inalienable human rights which government must respect? Are the people no longer sovereign, Mr. Chairman? Is reason to be supplanted by force? Is democracy to give way to imperialism?

Mr. Chairman, our American constitutional democracy is on trial. Who will come to its defense? [Applause.]

Mr. WOOD. Mr. Chairman, I rise in opposition to the pro forma amendment.

Mr. Chairman, my able friend, the gentleman from Georgia [Mr. Cox], made a very great oration. I believe he is one of the most finished orators of the House, but after he concluded we still find ourselves with the problem of substandard wages and long hours. He did not suggest any remedy in lieu of the present bill.

I desire to address myself, Mr. Chairman, for a few moments to the Ramspeck substitute. Insofar as the legal question is concerned, insofar as its constitutionality is concerned, being a layman, I have no way of knowing whether this proposed bill that has been drafted by the Committee on Labor and is now before us is constitutional. We have, I believe, some of the best constitutional lawyers in the United States among the membership of this Congress. I have heard many able attorneys in the past 5 years express their opinions as to the constitutionality of many New Deal measures that were declared void by the Supreme Court. These very same able lawyers, and they are among the most astute attorneys in the United States, were wrong in many of their contentions. They held that N. R. A. would be declared constitutional; many of them held that the A. A. A. would be declared constitutional. Measured by the viewpoint of the Supreme Court at that time these constitutional lawyers of the House and the Senate were wrong in their contentions as to the constitutionality of those measures.

I quote from the opinion of Mr. Chief Justice Hughes with reference to the minimum-wage law, as follows:

> The exploitation of a class of workers who are in an unequal position with respect to bargaining powers and are thus relatively defenseless against the denial of a living wage is not only detrimental to their health and well-being, but casts a direct burden for their support upon the community. What these workers lose in wages the taxpayers are called upon to pay. The bare cost of living must be met. The duty of Congress is plain. It owes a duty to the fair employer.

An so forth.

Justice Hughes declared the minimum-wage law constitutional. I believe he will take the same position with reference to this wage-hour bill providing a floor for wages and a ceiling for hours.

Mr. Chairman, I hope we shall not again get into that realm of exemptions and differentials, the annual wage, and all of the technical ambiguities that are contained in the Ramspeck substitute. If we are going to have a wage-and-hour law we ought not to try to load it down with so many amendments that no one can understand it, as we did the bill we considered in the last special session. As you well know that bill was loaded down with exemptions and differentials to such an extent that no one in this House understood what was in it, neither the committee nor anyone else. The pending bill is clear and concise. Almost any man or woman can understand it. It is the most understandable bill that has come before us. It is a fair start, and I hope we will not adopt the Ramspeck substitute but that we will vote it down together with all other ambiguous amendments and vote finally for the passage of the committee substitute we are now considering. [Applause.]

[Here the gavel fell.]

The CHAIRMAN. Under the terms of the consent agreement the Chair now recognizes the gentleman for Georgia for 5 minutes.

Mrs. NORTON. Will the gentleman yield?

Mr. RAMSPECK. I yield to the gentlewoman from New Jersey.

Mrs. NORTON. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

Mr. RAMSPECK. Mr. Chairman, may I compliment the gentleman from West Virginia, who is not a lawyer, upon the very splendid presentation he made of a most difficult legal side of this problem. He has rendered splendid service in our efforts to reach a solution of this problem and has demonstrated his sincere interest in the workers.

Mr. RANDOLPH. Will the gentleman yield?

Mr. RAMSPECK. I yield to the gentleman from West Virginia.

Mr. RANDOLPH. It is true I am not a lawyer, but I am a student of law in one of the schools in Washington, and I will try to become a lawyer.

Mr. RAMSPECK. The gentleman ought to make a good lawyer, because he tried to do an impossible thing and did it with great ability.

Mr. Chairman, if you are interested in the legal questions that the gentleman from West Virginia undertook to discuss before you vote on this matter, I hope you will turn to page 7301 of yesterday's RECORD and read the brief submitted by the Solicitor of the Department of Labor, Mr. Gerard Reilly, who discusses in detail the very questions raised by the gentleman from West Virginia. He states there is nothing in the decision of the Washington State case which indicates that the State of Washington would be at liberty to fix a minimum wage in excess of that needed for the cost of living.

I have not the time to go into a legal argument on this matter. The gentleman attempted to justify this bill on the ground that the W. P. A. 3 years ago made an investigation of the cost of living in certain cities in the United States. I am familiar with that study, and I put part of it in the RECORD in December. I stated then that I wanted my people to get just as much wages as anybody else. However, he is basing his argument on the fact that the W. P. A. made a study in 59 cities. The Labor Committee has made no such study. When the Supreme Court comes to pass on this law it will have to pass on a single case involving a single employee coming from a particular community. The decision must be made on the facts in such a case. If any gentleman wants to stand here and say you cannot produce thousands, yes, tens of thousands, of individual employees in the United States who are making today less than 25 cents an hour and are living on that sum, which I do not justify nor defend, why, then, he is saying things that are not in accord with well-known facts.

I can produce from my own State and from every State in the South thousands and thousands of employees who never made 25 cents an hour, and they can prove that they have lived on that amount. Their employers can prove it. When your law goes to the Supreme Court, as has been pointed out by Mr. Jackson, Mr. Reilly, and Mr. Cohen, if it can be proven that in a single case the employer must pay more than is necessary to produce the cost of living in that identical, single case, why, then, your law may be thrown out.

Mr. BOILEAU. Will the gentleman yield?

Mr. RAMSPECK. I yield to the gentleman from Wisconsin.

Mr. BOILEAU. The gentleman is not confusing subsistence and living, is he?

Mr. RAMSPECK. I am talking about the cost of living.

Mr. BOILEAU. The gentleman does not contend that one can live on 25 cents an hour?

Mr. RAMSPECK. The State laws operate on a fact-finding basis. The employees and the employers come in and they submit their estimate of what it costs to live. These committees go into the facts and determine what the cost of living is in a particular community. That is the only precedent we have for this type of legislation.

In answer to the gentleman from Missouri [Mr. WOOD], may I say that the bill I have presented here today as an amendment is the same bill the gentleman from Missouri [Mr. WOOD] supported last August, that the gentleman from West Virginia [Mr. RANDOLPH] supported last August, that the chairman of the Committee on Labor supported last August, that the American Federation of Labor supported last August, that the C. I. O. supported last August, and it was not until the Denver convention of the American Federation of Labor that there was a change. At that convention the Federation of Labor changed its opinion, and they had the right to do that. I do not criticize them for that. That convention was the sovereign body of the American Federation of Labor, and of course Mr. Green is bound by their action and he ought to follow it. This bill I have proposed today as an amendment to the pending measure is the one the Senate passed; it is the one the House committee reported last August, and every member of the committee, with the exception of three, voted for it last August.

There is nothing confusing about the bill. There are no exemptions in there that the committee did not put in last August. None of them were put in on the floor of the House. It is a fact-finding process that has some chance of being held legal. I may say I am more interested in finding a solution to this problem than in making a political issue out of wages and hours. [Applause.]

[Here the gavel fell.]

Mrs. NORTON. Mr. Chairman, I hardly feel it is necessary to say that we are unalterably opposed to the Ramspeck amendment. It is true that the committee reported one similar to it last year. It was not this bill, because nobody can tell what is contained in the bill. You would be compelled to take a pencil and paper and work out all your averages before you would know on what it is based. However, that bill did contain differentials. The gentleman from Georgia [Mr. RAMSPECK] has forgotten to say that while the

committee reported the bill, the House definitely turned it down. That bill was recommitted to the committee last December.

We then tried to bring in a bill that would be acceptable to the House and to all parts of the country. I am not going to enter into a discussion of the legal questions because I am not a lawyer and my opinion, therefore, would not be worth very much; but I do want to say that I have been reading the newspapers recently and I find that many things that were considered unconstitutional yesterday are considered constitutional today. I do not think anyone can venture an opinion whether or not this bill is or is not constitutional. When the time arrives and there is a test made of it, we will then be able to understand that.

May I say further that the bill before you today, the bill that has been reported to the House, is the best bill that we can bring to the House in order to take care of all parts of the country and do the thing we are aiming to do; that is, set a floor for wages and a ceiling for hours. This bill was reported by the Labor Committee by a vote of 14 in favor and 4 against.

Mr. Chairman, I sincerely hope the Ramspeck amendment will be voted down, and I now ask for a vote on the amendment.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from Georgia [Mr. RAMSPECK].

The question was taken; and on a division (demanded by Mr. RAMSPECK) there were—ayes 70, noes 139.

So the substitute amendment was rejected.

Mr. TAYLOR of Tennessee. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAYLOR of Tennessee: Strike out section 1 of the committee substitute amendment and insert in lieu thereof the following as a substitute for the committee amendment:

"That as used in this act unless the context otherwise requires—

"(1) 'Person' includes an individual, partnership, association, corporation, business trust, receiver, trustee, trustee in bankruptcy, or liquidating or reorganizing agent.

"(2) 'Interstate commerce' means trade, commerce, transportation, transmission, or communication among the several States, or into or from any State to any place outside thereof.

"(3) 'State' means any State of the United States or the District of Columbia or any Territory or possession of the United States.

"(4) 'Occupation' means an occupation, industry, trade, or business, or branch thereof or class of work or craft therein, in which persons are gainfully employed.

"(5) 'Employer' includes any person acting directly or indirectly in the interest of an employer in relation to an employee but shall not include the United States or any State or political subdivision thereof, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization.

"(6) 'Employee' includes any individual employed or suffered or permitted to work by an employer, but shall not include any person employed in a bona fide executive, administrative, profession, or local retailing capacity as outside salesmen nor shall 'employees' include any person employed as a seaman, or any railroad employee subject to the provisions of the Hours of Service Act (U. S. C., title 45, ch. 3); or any employee of any common carrier by motor vehicle subject to the qualifications and maximum-hours-of-service provisions of the Motor Carrier Act, 1935 (U. S. C., title 49, ch. 8): *Provided, however*, That the wage provisions of this act shall not apply to any air-transport employee subject to the provisions of title II of the Railway Labor Act, approved April 10, 1936, or any person employed in the taking of fish, sea foods, or sponges; or any person employed in agriculture. As used in this act, the term 'agriculture' includes farming in all its branches, and among other things includes the cultivation and tillage of the soil, dairying, forestry, horticulture, market gardening, and the cultivation and growing of fruits, vegetables, nuts, nursery products, ferns, flowers, bulbs, livestock, bees, and poultry, and further includes the definition contained in subdivision (g) of section 15 of the Agricultural Marketing Act, approved June 15, 1929, as amended, or any other agricultural or horticultural commodity, and any practices performed by a farmer or on a farm as an incident to such farming operations, including delivery to market. Independent contractors and their employees engaged in transporting farm products from farm to market are not persons employed in agriculture. The term 'person employed in agriculture' as used in this act, insofar as it shall refer to fresh fruits or vegetables, shall include persons employed within the area of production engaged in preparing, packing, or storing such fresh fruits or vegetables in their raw or natural state: *Provided, however*, That nothing in this section shall exclude from the operation of section II of this act persons employed in forestry or in the taking of fish, sea food, or sponges, or in the tapping or chipping of pine trees for crude gum or the collection or handling of gum spirits of turpentine or gum rosin.

"(7) 'Emergency work' means any work necessary for the protection or preservation of life or health, for the prevention of damage to property, or for maintenance or repair of property or equipment, or made necessary in the due course and conduct of production and to avoid undue disruption of business.

"SEC. 2. It shall be unlawful to employ any person in any employment affecting interstate or foreign commerce at a wage less than 25 cents an hour, or at work in excess of 8 hours per day or more than 40 hours in any one week, or to employ any person under the age of 16 years for hire: *Provided*, That in case of emergency the provisions of this act shall not apply during the period of such emergency: *Provided further*, That such employer affected file with the State labor commissioner or other proper State official designated by law a sworn statement as to the necessity for such action: *Provided further*, That such employer shall pay to his workers during such emergency wages of not less than time and one-half for work in excess of 8 hours per day or 40 hours in any one week.

"SEC. 3. In order to prevent curtailment of opportunities for employment for learners, apprentices, and persons suffering from physical handicap, it is hereby provided that section 2 shall not apply to learners and apprentices until they shall have had 6 months' experience in the work they are engaged to perform, and neither shall section 2 apply to the employment of individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, and in such cases a wage shall be paid to be fixed by the State labor commissioner, or other proper State official designated by law upon a sworn statement of facts in each individual case.

"SEC. 4. Any person in any State or Territory or possession of the United States or the District of Columbia guilty of violation of any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than $100 for each offense. The employment of each employee at a wage less than that fixed in this act, or for hours longer than those fixed in this act, unless excepted as provided in section 3, shall constitute a separate offense.

"SEC. 5. The district courts of the United States and possessions shall have jurisdiction of the violations of this act. Any criminal proceeding may be brought in the district wherein any act or transaction constituting the violation or any element thereof occurred. The Attorney General of the United States may petition, in the district court having jurisdiction to issue, upon proper showing, a permanent injunction prohibiting further violations of this act by any defendant in any criminal proceeding. Any district court in the district wherein the defendant is an inhabitant or transacts business or where the violation of the act occurred has jurisdiction of said suits in equity. Judgments and decrees so rendered shall be subject to review as provided in sections 128 and 240 of the Judicial Act, as amended (U. S. C., title 28, secs. 225 and 347, and D. C. act, title 18, sec. 26). It shall be the duty of each United States district attorney, to whom satisfactory evidence of any violation of this act has been presented, to cause appropriate proceedings to be commenced and prosecuted in the proper court in the United States for the enforcement of the foregoing penalties or any of them.

"SEC. 6. It shall be unlawful for any person to transport, offer to transport, or offer for transport in interstate commerce any goods in the production or processing of which any person so employed for longer hours per week or for less wages per hour or under the age of 16 for hire as provided in section 2 hereof when applicable.

"SEC. 7. It shall be unlawful for any person to transport, offer to transport, or offer for transport, in interstate commerce, any goods in the production or processing of which convict, prison, forced, or indentured labor has entered.

"SEC. 8. The provisions of this act shall not supersede any State law or municipal ordinance establishing a minimum wage higher than the wage established by this act or maximum hours shorter than those established by this act.

"SEC. 9. Any employer under a collective-bargaining contract with the union of his employees affiliated with a recognized, bona fide national labor organization providing for higher minimum wages and shorter maximum hours shall be exempted from the provisions of this act as to the employees covered by such agreement and insofar as the agreement covers hours and wages.

"SEC. 10. All laws or parts of laws in conflict herewith are hereby repealed. Should any provision of this act be held unconstitutional by the Supreme Court of the United States, the other provisions shall not be affected by such decision.

"SEC. 11. This act shall become effective 90 days after the enactment thereof."

Mr. TAYLOR of Tennessee (interrupting the reading of the amendment). Mr. Chairman, I ask unanimous consent that the further reading of the amendment be dispensed with.

Mr. SABATH. Reserving the right to object, Mr. Chairman, very few Members know what the substitute amendment of the gentleman is.

Mr. TAYLOR of Tennessee. I shall be pleased to explain the amendment.

Mr. DIES. Reserving the right to object, Mr. Chairman, I ask unanimous consent that the gentleman from Tennessee may have 5 additional minutes in which to explain the amendment, without having the amendment read.

Mr. SABATH. If the gentleman will explain the amendment I shall withdraw my reservation of objection.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent that the further reading of the substitute amendment be dispensed with and that the substitute be inserted in the RECORD at this point. Is there objection?

There was no objection.

Mr. BOILEAU. Mr. Chairman, I reserve all points of order on the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. DIES] asks unanimous consent that the gentleman from Tennessee may proceed for 5 additional minutes. Is there objection?

There was no objection.

Mr. TAYLOR of Tennessee. Mr. Chairman, I am not offering this amendment as a dilatory measure. I am offering it in absolutely good faith. I may say I have been greatly interested in the subject of wages and hours and have really devoted more study to it during the present session of Congress than I have given to any other subject that has been before this body since I became a Member. I am tremendously interested in the wage earners of this country, as I set out in detail in the address I delivered to the House a few days ago. I am offering this amendment because I believe the bill which it includes is a distinct, a decided, and a substantial improvement on both the House and the Senate bills.

On yesterday my distinguished friend, the gentleman from New York [Mr. FISH], and others, took the position that the committee bill is the American Federation of Labor bill. I challenge that statement. The American Federation of Labor bill, which was voted down last December, was a bill which vested exclusive authority as far as enforcement was concerned in the Department of Justice and the courts of this country.

Mr. WOOD. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Tennessee. I yield to the gentleman from Missouri.

Mr. WOOD. As the gentleman knows, this bill is not the American Federation of Labor bill, but it is one on which labor is united.

Mr. TAYLOR of Tennessee. I do not know about that.

Mr. FISH. Mr. Chairman, will the gentleman yield to me? The gentleman referred to me.

Mr. TAYLOR of Tennessee. I yield to the gentleman from New York.

Mr. FISH. Does not the gentleman know that Mr. William Green, president of the American Federation of Labor, is wholeheartedly in back of this bill?

Mr. TAYLOR of Tennessee. I understand that, but I am talking about the American Federation of Labor bill that was voted down last December. That bill vested absolute authority of enforcement in the courts of the country to the exclusion of the Labor Department or any board, as does my proposal.

Mr. FISH. Does not the gentleman know that the bill that was voted down last December was opposed by Mr. Green, the president of the American Federation of Labor?

Mr. TAYLOR of Tennessee. I do not know that. I voted for that bill, the A. F. of L. measure.

Mr. FISH. He opposed it in letters sent to every Member of Congress, because he did not believe in establishing another commission.

Mr. TAYLOR of Tennessee. I understand that is true, but this bill about which I am talking is not a parallel to the bill that was supported by Mr. Green last year.

Mrs. NORTON. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Tennessee. I yield to the chairman of the Committee on Labor.

Mrs. NORTON. I wish to make it very clear that this bill was not written by the American Federation of Labor, by the C. I. O., or by any other labor organization. They had nothing whatsoever to do with the writing of the bill.

Mr. TAYLOR of Tennessee. I am not saying this bill does not have the support of the American Federation of Labor. I am simply saying this is not the bill that was proposed by the American Federation of Labor last year, as was stated by the gentleman from New York on yesterday.

Mr. SHAFER of Michigan. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Tennessee. I yield to the gentleman from Michigan.

Mr. SHAFER of Michigan. Does the gentleman know that the American Federation of Labor has a bill in the House and that there is a petition on the desk right now to discharge the committee from the further consideration of that bill?

Mr. TAYLOR of Tennessee. I am not familiar with that. I really do not know what the attitude of the American Federation of Labor is on this particular proposal, but I do know this bill is a distinct departure from the bill which was proposed and supported by the American Federation of Labor last year. My bill is substantially the American Federation of Labor bill which was voted down last December. The only difference is that my bill provides for a 25-cent floor. In providing for a 25-cent floor I do not mean to say I favor a 25-cent-an-hour wage for the laboring people of this country, because I want to see them get all the wages the traffic will bear.

There has been some discussion of the constitutionality of the committee's measure. I concede there is some question of the constitutionality of my measure, but it is not nearly as vulnerable to adverse action on the part of the courts as is the committee bill, because the committee bill in the final analysis is a 40-cent-an-hour-wage bill and that is the question the Court will pass upon if the matter ever goes before the Court. In my judgment, my bill does provide for differentials in this way. As I stated in my speech a few days ago, I have an idea that if this question is submitted to the Supreme Court it will perhaps say that an industry which cannot pay a wage of 25 cents an hour to its employees does not deserve to exist.

I believe that the escalator which is provided in the committee bill, the graduated scale, is fraught with great danger both to industry and to labor, for this reason: Just before the increase of 5 cents an hour in the wages goes into effect the great buying businesses of the United States will rush in and fill their warehouses with goods, with the result that after this 5-cent increase goes on there will be a lapse and stagnation of purchasing activity, and industry will have to close down for a considerable period until this stock has been diminished. This will result in the laying off of millions of working people in this country during that period, which will result in great hardship and distress.

Mr. SCHNEIDER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Tennessee. I yield.

Mr. SCHNEIDER of Wisconsin. Does not the gentleman think that if there is such a demand for goods because of merchants wanting to buy them on a lower scale labor can organize and demand an increase in spite of the law providing for a wage of 25 cents an hour?

Mr. TAYLOR of Tennessee. Of course, this does not preclude labor from receiving more than 25 cents an hour. This simply provides that industry cannot pay less than 25 cents an hour.

Mr. KNUTSON. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Tennessee. I yield.

Mr. KNUTSON. The Washington Post the other day carried the statement from the head of the local union of wait-

resses and hotel maids that over 50 waitresses and hotel maids have been laid off since the minimum-wage law went into effect in this District on May 8. So, instead of making labor, according to her statement, it has deprived people of work.

Mr. TAYLOR of Tennessee. I took the position in my remarks a few days ago that if this bill becomes law it will result in the increase of unemployment in this country by at least 2,000,000.

Mr. KNUTSON. Is not that the way all of this Utopian legislation works out?

Mr. TAYLOR of Tennessee. Well, I do not regard minimum-wage legislation as Utopian legislation exactly.

Mr. KNUTSON. Well, it was conceived by dreamers.

Mr. TAYLOR of Tennessee. I think it is up to the Congress to pass a wage and hour bill that is reasonable to both labor and industry and one that will weather the test of the Supreme Court.

Mr. Chairman, this bill, of course, does not conform to the recommendations of the President of the United States in any respect. I want to call attention to the fact that on May 24, 1937, in a special message to the Congress on this subject the President said:

> Most fair labor standards as a practical matter require some differentiation between different industries and different localities.

Further on in the same message he said:

> We must seek to build up through appropriate administrative machinery minimum-wage standards of fairness and reasonableness, industry by industry, having due regard to local and geographical diversity.

On January 3 of this year in his annual message to the Congress the President stated it in even more explicit and more emphatic terms when he said:

> No reasonable person seeks a complete uniformity in wages in every part of the United States.

This bill does seek a uniformity in wages. The President himself has said that is unreasonable. I regret to hear members of the Labor Committee charged with being unreasonable. I have too high a regard for them, but under this criterion set up by the President they are indicted and condemned as being unreasonable persons.

Mr. SCHNEIDER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Tennessee. I yield.

Mr. SCHNEIDER of Wisconsin. Does not the gentleman's substitute provide for the same 25 cents an hour that the committee amendment provides?

Mr. TAYLOR of Tennessee. It does; but, as I stated a moment ago, in my judgment, if this question comes before the courts they will hold that the 25-cent wage does not violate the due-process clause of the Constitution and is not confiscatory and would permit of the differentials which would naturally follow.

Mr. WELCH. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Tennessee. I yield.

Mr. WELCH. Does the gentleman's bill provide for increases over the 25-cent minimum provided in the bill?

Mr. TAYLOR of Tennessee. It does not make any provision for that, but after industry and labor adjust themselves to this new order, it will be an easy matter for Congress to pass another act increasing the minimum wage if it is found to be expedient and advisable.

Mr. WELCH. In other words, the gentleman is attempting to establish a uniform wage of 25 cents an hour throughout the entire United States?

Mr. TAYLOR of Tennessee. That is right.

Mr. WELCH. That is the meaning and intent of the gentleman's bill?

Mr. TAYLOR of Tennessee. That is exactly what I do, with the understanding, of course, that later on the minimum may be increased.

Mr. DUNN. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Tennessee. I yield.

Mr. DUNN. Does the gentleman know that the American Federation of Labor, the C. I. O., and the Brotherhood of Trainmen have endorsed the Norton bill?

Mr. TAYLOR of Tennessee. The brotherhoods have certainly not endorsed it. As I understand it, all the railroad brotherhoods have asked to be excused from this straitjacketing piece of legislation.

Mr. BOILEAU. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Tennessee. I yield.

Mr. BOILEAU. The maintenance-of-way men have not asked to be excluded. They desire to be included.

Mr. TAYLOR of Tennessee. I understand the 21 railroad brotherhoods have asked to be excluded, and they certainly are not included.

[Here the gavel fell.]

Mr. TAYLOR of Tennessee. Mr. Chairman, I ask unanimous consent to proceed for 1 more minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. TAYLOR of Tennessee. My bill goes on to provide for the handicapped people in industry by providing that the labor commissioners of the various States shall inquire into each individual case and fix the wage for people who are handicapped on account of age or physical disability, and it also takes care of the period of training for 6 months when those who are employed as apprentices may have 6 months' time within which to familiarize themselves with the work before coming under the provisions of the bill. [Applause.]

[Here the gavel fell.]

Mr. COX. Mr. Chairman, I move to strike out the last word and rise in support of the amendment. There is much merit in what the gentleman from Georgia [Mr. RAMSPECK] said and what the gentleman from Tennessee [Mr. TAYLOR] has just said with reference to the constitutionality of the pending bill. If I had the confidence or if I have the confidence to believe the Supreme Court will adhere to the position, extreme though in many instances it has been, which has already been taken, then there would be no doubt whatever in my mind but that the Court will, if this bill is passed and is attacked in the Court, hold it unconstitutional. The bill seeks to establish Federal control over production, and under the continuous stream of commerce doctrine to apply Federal control at the point of the formation of intent in the mind of the individual to produce for commerce which shall run all the way to the point of consumption of the article produced. The Secretary is empowered to hold that a local producer who competes with an interstate operator in supplying a purely local market, which the interstate operator would otherwise serve, is in interstate commerce. The Secretary is also empowered to hold that a manufacturer, though selling nothing across State lines, if he use in his manufacture any article shipped in across State lines, is in commerce and comes under the law, or if in disposing of his production he should send an article across State lines, he would fall under the provisions of the law. It is, of course, known to all that the Supreme Court still holds that production is a local activity, subject alone to local control. The gentlewoman from New Jersey [Mrs. NORTON] sponsoring this bill stated yesterday that little power was delegated to the Secretary of Labor. Mr. Chairman, the power of life and death over all industry and, therefore, over all of the activities of the people, is, by the express provisions of the bill vested in the Secretary of Labor.

The gentleman from Massachusetts [Mr. HEALEY], who happens to be, as I understand, the legal expert of the Committee on Labor charged with the responsibility of defending the bill against attack on constitutional grounds, stated yesterday that while the purpose of the bill is to relieve the condition of substandard workers, yet the lowest-paid workers in the Nation, the farm laborers and the clerks in retail stores, are exempt under the law because they are not in commerce.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. COX. Mr. Chairman, I ask unanimous consent to proceed for 5 minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. COX. By that solemn declaration on the part of the gentleman from Massachusetts he made disclosure that he is unacquainted with the provisions of his proposed law, because, Mr. Chairman, all production may be brought under the law. There can be no control of the activities of enterprise and the relationship as between employer and employee except that power be found drawn from the commerce clause of the Constitution, as is attempted in this instance, projecting it into the States to the extent of taking away from the free citizen the right to contract as he sees fit and the setting up of Federal control not only of his activities in productive operations but holding that he is in commerce from the point of the formation of an intent to engage in commerce.

Mr. Chairman, broader powers were never vested in a single individual than are given to the Secretary of Labor under the provisions of this bill. No such Federal dominion over the activities of the people ever dreamed of heretofore.

Mr. Chairman, this is not an attempt at oratory on my part, but is an attempt to strip away from this whole proposal all of the sentimentality with which advocates have endeavored to drape it and thereby conceal its wicked intent and purpose to establish Federal dominion over the lives of the people of this country.

Mr. CREAL. Mr. Chairman, will the gentleman yield?

Mr. COX. I regret I cannot yield. What will be the consequences, Mr. Chairman? Pass this law and into every hamlet in this Nation where men toil you will have a representative of the Secretary of Labor hand in hand with a representative of the C. I. O., which is gnawing away at the very vitals of America, going into the individual's place of business and virtually taking charge in the sense that the Secretary is vested with power to initiate inquiry and the making of investigation to determine if there be an excuse for the employment of Federal power to compel complete surrender of all those rights heretofore understood and believed to be natural and inalienable, and beyond the power of Congress to take. [Applause.]

The CHAIRMAN. The time of the gentleman from Georgia has again expired.

Mr. FISH. Mr. Chairman, I rise to oppose the amendment. The gentleman from Tennessee [Mr. TAYLOR], the author of this amendment, quoted me as saying that the pending bill was sponsored by the American Federation of Labor. I repeat that in principle the pending bill is similar to that legislation which has been consistently advocated by the American Federation of Labor. I further emphasize that this pending bill, the Norton wage-hour bill, has the wholehearted support of the American Federation of Labor through its president, William Green.

Mr. BOILEAU. Mr. Chairman, will the gentleman yield?

Mr. FISH. Yes.

Mr. BOILEAU. The gentleman, I imagine, also wants to make it clear that it has the support of the C. I. O.?

Mr. FISH. That is correct with certain reservations.

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. FISH. Yes.

Mr. COX. Is the gentleman not willing to make some careful study of the pending measure and come to a conclusion which to the gentleman's mind represents right and justice and support it entirely disregardful of the judgment or recommendation of any other political or social or business group?

Mr. FISH. That is precisely what I have done.

Mr. COX. Does the gentleman not represent what he believes is right?

Mr. FISH. I will tell the gentleman exactly what I believe. I believe that this is a fair, a just, and a humane bill. I say to the gentleman from Georgia and to the House that I think it is a justifiable criticism of Congress that this bill was not enacted into law 20 years ago. [Applause.] I have been waiting ever since I have been in Congress to vote for a uniform hour and wage bill to do away with sweatshop hours, wages, and intolerable labor conditions. I do not care who is for the bill or who is against the bill, it is a sound and equitable bill. Furthermore, as one who has fought communism for many years, I believe if the Members of the House want to help to stop the spread of communism and radicalism, they should support humane legislation of this type in order to provide social and industrial justice and a square deal for labor.

Mr. COX. Or else abandon the Government to them.

Mr. FISH. The people still control the destiny of our Republic through a free ballot and through free institutions. It does not make any difference who is for the bill or who is against it, the bill is meritorious, it is right, and it is in the interest of the American people. I believe in the Federal Constitution as much as does the gentleman from Georgia. I have stood for social and industrial justice for 20 years in public life, and I believe in those principles more today than ever before and in putting them into effect under the Constitution. I believe that is exactly what we are doing by this bill. [Applause.] The gentleman from Wisconsin wanted me to say that the C. I. O. is for this bill. That is correct; the C. I. O. is for this bill, all labor organizations are for it, unorganized labor as well as organized labor. Whether a certain person or group is for or against a bill does not make the bill meritorious. I am for this uniform wage and hour bill because I want this country to be worth living in for all the people, and to do so we must pay living wages.

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. FISH. I cannot yield further, I am sorry.

It is up to us as Members of Congress to legislate. Let us, as Al Smith says, look at the record, which discloses that the C. I. O. and President Roosevelt were combined in favor of the old bill that set up a commission and a differential in wages which was defeated in the House. That bill set up not only a commission but a superbureaucracy to control and regulate labor and industry. In all fairness to Mr. Green, the President of the American Federation of Labor, he opposed that bill, primarily because he was against setting up a board or commission to have a strangle hold over labor and industry. He fought that bill on principle without compromise, and he, more than any other factor, was responsible for its defeat. He is for the pending bill because it is almost identical in principle to the bill he has advocated from the very beginning. Whether you call it the American Federation of Labor bill or the Norton bill makes no difference to me, it is in line with Mr. Green's recommendations; but whether it is or not, I propose to support it because it is a meritorious, sound, fair, just, and humane bill. [Applause.]

[Here the gavel fell.]

Mr. COX. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended in order that I may ask him a brief question.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

Mr. CREAL. Mr. Chairman, I object. The gentleman could not find time to yield to me.

Mrs. NORTON. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey.

There was no objection.

Mr. MEAD. Mr. Chairman, I am sure everybody enjoyed the philosophical discussion of the purposes of our Constitution by the distinguished constitutional lawyer from Georgia. His legal talents are highly regarded. His observations are always interesting and illuminating. While his particular observation on this important subject is refreshing, it falls short of being sustaining so far as the millions of unemployed are concerned. They are clamoring for this bill; workers located in your district, in my district, and in the gentleman's district. I am sure that the gentleman's ob-

servations as they apply to the pending amendment will be neither convincing nor effective.

Now, then, the attitude of labor as it applies to this measure has been mentioned. In order to clear the atmosphere let me say that from the information I have no measure considered at this session has received more emphatic approval of labor organizations than this particular bill. I want to congratulate the committee, both Republicans and Democrats, for the work they have so ably completed in bringing this measure before the House. It has received the wholesome approval of labor; it has the sympathetic support of railroad labor. Railroad labor, however, asks for the adoption of an amendment which will extend the authority contained in the bill. That amendment will be presented at the proper time by the gentleman from Ohio [Mr. CROSSER]. I trust the committee will accept his amendment.

The escalator clause has been subject to some critical analysis because of the fact that it might apply too severely to the industries of the country. We are informed by the United States Weekly which reached us a week ago that average wages throughout the United States, including every portion of the country, range, if I recall the figures correctly, from a low of 39 cents an hour to a high of 59 cents an hour for unskilled labor. Surely a wage proposal that begins at 25 cents an hour and gradually increases until it attains a high of 40 cents an hour should not injure industry; and the modest proposal with regard to the regulation of hours beginning at 44 hours a week, lower than the average now applying in industry, and eventuating after 3 years in a 40-hour week, will not endanger the industries of America. This is a modest proposal, a proposal that will gradually permit industry to gear itself to the minimum standards contained in the bill.

Of course the bill is not by any means a perfect measure, but it is a forward step in the solution of this complex problem of unemployment.

It establishes minimum standards; it offers a small measure of protection to the lowest-paid group of workers in industry.

Another thought I would like to leave with you: This bill will no doubt go to conference, and there it will meet a Senate proposal which contains numerous provisions, including some of the provisions contained in the amendment offered by the gentleman from Tennessee. Let us send this clear-cut proposal to conference so our conferees will have a House bill to work upon. This action on our part will result in a better bill. It will speed it on its way to passage.

The House committee no doubt considered the proposal submitted by the gentleman from Tennessee. They gave it all of the thought and consideration that that measure was entitled to receive. They found that the bill pending before us is immeasurably superior. For that reason the Republicans and the Democrats on the committee voted to report this bill. The House bill exempts agriculture. It will ultimately aid industry, and it will not set up additional bureaus for its enforcement.

Let us therefore vote for this bill and send it to conference. The conferees will have a wide field from which to bring back a conference report. At that time we will have opportunity for further expression.

[Here the gavel fell.]

Mr. HEALEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have requested this time merely to answer the remarks made by the gentleman who sits at my left during the course of his very eloquent speech, in which he referred to the fact that on yesterday he asked me why it was the underpaid workers in retail stores were not included within the terms of this bill. As I recall, I replied to him yesterday that he knew the answer. Of course, it does not lie within the power of Congress, as most of those stores are engaged in purely intrastate activities, to regulate hours and wages in those instances.

The gentleman stated in his remarks that in making that statement I was not familiar with the provisions of the bill. I call his attention to section 11, page 58, of the bill. Included among the exemptions are those of persons engaged in local retailing capacity. I do not know what caused the committee that reported this bill to include among those persons exempted from the terms of the bill persons engaged in local retailing capacity. I assume the reason was that they believed that because of the intrastate activity in which such persons were engaged the Congress would not have the power to legislate minimum wage and hour standards affecting them.

So far as persons on farms are concerned, I am sure if this committee attempted to regulate the hours and wages of persons engaged in agriculture my friend would be one of the very first to protest most vehemently against that. We all realize it is impossible for us to legislate the hours and wages of persons working on farms. They have seasons and their remuneration is based on an entirely different plan.

[Here the gavel fell.]

Mrs. NORTON. Mr. Chairman, I rise in opposition to the amendment. This bill was introduced on May 17 and has never been considered by the Labor Committee. Nobody knows what is contained in it. The bill has been brought in here without any discussion whatsoever and certainly does not meet the wishes of the Labor Committee. The members of the Labor Committee have discussed this bill among themselves and they are very anxious that the Committee of the Whole vote down the amendment.

Mr. Chairman, I ask for a vote on the amendment.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from Tennessee [Mr. TAYLOR].

The amendment was rejected.

Mr. CELLER. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I am in favor of this bill and shall vote for it, but I want to take an exception most respectfully to what the gentleman from Massachusetts [Mr. HEALEY] just stated concerning whether or not this bill covers employees in retail establishments. While I have the greatest confidence in the gentlewoman from New Jersey, my esteemed friend, Mrs. NORTON, and her colleagues on the committee, I do not think the bill is clear enough in its terms and can readily be interpreted to embrace those in retail stores. Congresswoman NORTON said yesterday that employees in retail stores were not embraced in the bill. I am happy to hear that, but does the present wording of the bill say so? I doubt it. To fathom this bill as to retailing, we must make sure as to what two sections mean, towit, sections 6 and 11. The gentleman from Massachusetts read from page 58 (sec. 11), which implies at first blush that employees in local retail establishments may be deemed to be exempted from the provisions of the act; but he did not read far enough, because if you will refer to lines 5 and 6, page 58, you will find a delimitation; that is, "as such terms are defined and delimited by regulations of the Secretary of Labor." So that she is given discretionary power to place a meaning upon what is intended by "local retailing capacity." She is given free and untrammeled power. Her word is law. Her discretion is tremendous. In one breath we exempt "retailers," and in the other breath we say, "but only provided Miss Perkins says so."

Furthermore, refer to page 56 of the bill, lines 4, 5, 6, and 7. They are part of section 6, which also determines what industries and business are embraced in the act. There are three standards. First, substantial sales to other States; second, substantial purchases from other States; third, substantial deliveries or transportation to and from other States. It matters not if the business is local, purely local. If substantially that local store buys and receives substantially its stock and merchandise from outside the State, it affects the stream of commerce and is considered embraced in the bill.

That standard is as broad as a barn door and will allow almost anything to come in. It may embrace any business. Let us take a retail butcher shop in my district. I should say that practically all the purchases of that retail butcher in my district must involve interstate commerce in the sense

of this bill; namely, all the meat would come from outside New York State. The pork loins would come from Des Moines, possibly, the beef from St. Louis, the tenderloins from Chicago, and the fowl from New Jersey. Where can they buy outside the large packing establishments, most of which are located—where? Not in Brooklyn, from whence I come. Of course, they may have a branch establishment there, but most of that meat in fact would come from Chicago, from Cudahy, Swift, or Armour. There is no local meat. It practically comes entirely from the large packers. That the butcher "depends for his existence by substantial purchase of goods" in commerce, he comes under the act, despite the words of section 11.

Let us take a building contractor in my city. All that he purchases for the erection of a building in my district would have to come from outside the State. His purchases are substantially from outside New York.

The iron and steel come from Michigan or Pennsylvania, as well as the planks; trim and flooring from Oregon or Washington, the brass and the porcelain appliances likewise come from outside our State borders. Thus contractors doing a purely local business would come under the bill. I do not instance these facts in opposition to the bill, as I am in favor of it, but I believe we must use a greater degree of exactitude in our definitions.

The flour which the local grocery store sells will very likely come from Minneapolis, the pickles and the catsup from Pittsburgh, the preserves from California, the sugar from Colorado, the maple syrup from Vermont, the rice from Louisiana, and the fruit from Florida. That grocer might be deemed affecting the stream of commerce if the present wording of the bill remains.

I shall later offer suitable amendment to section 11.

I could take almost every single solitary retail establishment in my district, and if I were the Secretary of Labor I could very easily proclaim as the result of an examination that either the sales went substantially into other States or the purchases were from other States and, therefore, that business was associated with interstate commerce and was thus embraced in the bill.

Assuredly specific exemption without equivocation or reservation is needed to have local retailing employees removed from the jurisdiction of the bill.

Mr. MICHENER. Mr. Chairman, I rise in opposition to the pro forma amendment.

Mr. Chairman, the gentleman from New York [Mr. MEAD] made it very clear to us that this bill is going to conference. There is no Member among us so credulous that he believes the bill now before the House is going to be enacted into law in its present form. Our action today is for the purpose of sending the Senate bill to conference. The House Committee on Labor had its option. If the committee had wanted the bill before us today, and no other bill, it would have reported such bill, and it would have gone to the Senate for consideration on its merits. However, the committee adopted the other route, making it possible for the conference committee, and not the Congress, to write the law.

The bill we have before us today will never become a law. When the Ludlow resolution came before the House on motion to discharge the committee, as has this bill, the chairman of the Rules Committee said, "No bill has ever yet become a law by the method of discharging a committee."

The gentleman from New York has impressed upon us that organized labor, unorganized labor, and all people who labor are for this bill. I see the gentleman shakes his head. Perhaps he did not say "all people who labor," but that was the import of his statement. I come from a district where we have considerable organized labor.

Mr. MEAD. Mr. Chairman, will the gentleman yield?

Mr. MICHENER. I cannot yield for a speech, just for a question.

Mr. MEAD. I may say I stated that no bill has come before the House that has had so much approval from labor as this bill. I believe the gentleman will see that the remarks he attributed to me were made by the gentleman from New York [Mr. FISH].

Mr. MICHENER. The gentleman is always very fair. He is a representative of organized labor on this floor. He was elected as a representative of organized labor and always has been. The gentleman does a mighty good job, and as a rule I am able to go along with him. However, this is a time when the gentleman is wrong, and I cannot agree with him. I cannot believe that he is enthusiastic about this bill.

I realize that the national headquarters of the A. F. L. and of the C. I. O. have indicated to all Members of Congress their support of this measure. Their national conventions, however, have never given their approval. The locals throughout the country have been asked by their headquarters to write and wire the Members of Congress to support this bill. Along with other Members, I have received a number of such requests. I have also received letters from individuals who, when voting with the local union, loyally stand by the orders from the national headquarters, but who, when expressing their private views in a confidential way, have no hesitancy in condemning this Norton bill.

Inasmuch as the gentleman from New York [Mr. MEAD] attempts to impress upon us that all organized labor is for the bill, and that the Members of Congress should, therefore, vote for it, I read to you a letter received from Monroe Local No. 132, International Brotherhood of Paper Makers, Monroe, Mich., an affiliate of the A. F. L. The entire letter, printed on International Brotherhood stationery, under the seal of the local, is as follows:

INTERNATIONAL BROTHERHOOD OF PAPER MAKERS,
MONROE LOCAL, No. 132,
Monroe, Mich., May 9, 1938.

The Honorable EARL C. MICHENER,
House Office Building, Washington, D. C.

DEAR MR. MICHENER: The members of Monroe Local, 132, of the International Brotherhood of Paper Makers, Monroe, Mich., have been out on strike for the last 5 weeks against drastic wage reductions put into effect by the River Raisin Paper Co. of that city.

We note the House Committee on Labor have finally accepted the American Federation of Labor's point of view and are bringing up the wage and hour bill, which provides for a universal Nationwide minimum rate of 25 cents per hour with a provision this is to be increased to 40 cents per hour within a period of 3 years.

At the request of our members, I am asking you in all fairness, do you think any American worker can support himself and family in decency and according to our American standards of living on that rate? If you do, then our members suggest that you try it yourself; that is, you limit your income to a rate the equivalent of 25 cents for an 8-hour day rating and give it a fair trial, and at the end of said trial vote as your experience of a 25-cent rate and your conscience guides you.

We think this wage rate to be the most unfair piece of legislation ever suggested for the American worker, and ask that you give your support to kill any attempt made to pass it.

Very truly yours,

MONROE LOCAL, 132,
CARL EBY,
Recording Secretary.

Now, it is evident that this local is opposed to this bill because its members feel that 25 cents an hour for the first year is what the bill defines and establishes as a "fair labor-standard wage." I am personally acquainted with a number of the members of this local and I am sure they are splendid, patriotic citizens and my friends. I am just as sure that this letter expresses their view.

I know nothing about the strike referred to in the letter, other than what I have read in the newspaper. This local was organized by my good friend, our colleague from Wisconsin, Mr. SCHNEIDER. We all recognize that Mr. SCHNEIDER is one of the outstanding leaders of the A. F. of L. in the Congress and in the country. He naturally thinks in terms of his organization. He is not radical. He has the confidence of all who know him, and he is another organized-labor leader whose judgment I often seek on matters pertaining to organized labor. Mr. SCHNEIDER tells me that Monroe Local No. 132 has between 1,000 and 1,500 members, and that the men are striking because of a threatened 15-percent reduction in wages below last year's contract. My understanding is that last year's contract called for around 50 cents an hour, and it is easy to see why these organized

union men are opposed to the Congress, by legislative fiat, fixing 25 cents an hour as a "fair minimum wage" when the men themselves are now on strike for double that amount. They undoubtedly feel, as many others throughout the country feel, that a minimum wage fixed by Congress will in many instances automatically become the maximum wage paid in many industries. Samuel Gompers, the great leader of the A. F. of L., always fought any suggestion to fix by legislation hours and wages for working people. He felt that job could be done better through the medium of collective bargaining and around the council table, where the employer and the employee, each having a stake in the venture, could compare notes and arrive at an equitable decision.

Again I assert that the gentleman from New York [Mr. MEAD] is wrong if he thinks that all of organized labor is ready to permit Congress to fix the hours employees may work and the compensation employers must pay.

Now, Monroe Local, No. 132, is one of the largest A. F. of L. locals in the congressional district which I represent; and if I follow the request of this local I must do everything within my power to prevent the passage of this bill. For the reasons mentioned by the local, and for the additional reasons which I shall give, I shall vote against this bill.

Mr. SCHNEIDER of Wisconsin and Mr. KITCHENS rose.

Mr. MICHENER. I regret that time makes it impossible for me to yield to my colleagues. I know they each appreciate the situation.

[Here the gavel fell.]

Mr. MICHENER. Mr. Chairman, I ask unanimous consent to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The debate up to this time has been largely emotional rather than factual. I know of no one who favors sweatshops and the degradation of labor except possibly those few despicable individuals who indulge in the practice. No one is more bitterly opposed to this group than I am, and no one is more ready to do away with such practice, but this bill will not do the job.

It seems to me that it is well that we consider some of the salient features of this bill rather than vote blindly just so we can say that we voted for a wage and hour law. We all know there is little in a name of a bill. It is substance that counts. The enactment of a wage-hour law is of value to the people only to the extent that it gives relief and betters the general economic condition of the country. Having this in mind, let me call your attention to a few provisions of this bill:

In the first place, section 1 boldly proclaims that this law may be cited as the "Fair Labor Standards Act of 1938."

Section 4 in substance establishes 25 cents per hour as a "fair standard" of wages for the first year after the enactment of the law, with 5 cents an hour increase per year, and reaching a maximum of 40 cents an hour at the end of the third year.

Section 5 provides for an 8-hour day and a 44-hour week for the first year, reaching a 40-hour week at the end of the third year. Time and a half at the regular hourly rate is provided for all overtime.

Section 6 provides in part as follows:

The Secretary, as soon as practicable after the effective date of this section, shall, after due notice to interested persons and giving them an opportunity to be heard, determine the relation of the various industries to commerce. If, in the case of any industry, the Secretary finds (a) that the activities of such industry are Nation-wide in their scope, or (b) that such industry is dependent for its existence upon substantial purchases or sales of goods in commerce and upon transportation in commerce, or (c) that the relation of such industry to commerce is in other respects close and substantial, the Secretary shall issue an order declaring such industry to be an industry affecting commerce. Such order shall take effect at such time not more than 120 days after it is issued as the Secretary may designate in the order.

The wage and hour bill which was rejected by the Members of the House a few months ago placed discretion in a board to fix hours and wages and other standards of employment under certain conditions. The Congress overwhelmingly rebelled against such delegation of power. Here power is given to the Secretary of Labor to "determine the relation of the various industries to commerce." We found in the Schechter N. R. A. case that it was very difficult for even the Supreme Court to determine whether or not a particular industry was engaged in interstate commerce. Yet here we delegate to Mme. Perkins the authority and power to "issue an order declaring such industry to be an industry affecting commerce." I shall not consent to any such proposal.

The next section to which I want to call your particular attention is section 9, which is in part as follows:

SEC. 9. (a) The Secretary or his designated representatives may investigate and gather data regarding the wages, hours, and other conditions and practices of employment in any industry subject to this act, and may enter and inspect such places and such records (and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, or matters as he may deem necessary or appropriate to determine whether any person has violated any provision of this act, or which may aid in the enforcement of the provisions of this act.

(c) Every employer subject to any provision of this act or of any order shall make, keep, and preserve such records of the persons employed by him and of the wages, hours, and other conditions and practices of employment maintained by him, and shall preserve such records for such periods of time, and shall make such reports therefrom to the Secretary as he shall prescribe by regulation or order as necessary or appropriate for the enforcement of the provisions of this act or the regulations or orders thereunder.

Now, section 9 is of special interest because this is one of the "snooping" sections of the bill. Imagine the feeling of the merchant or the industry up in your district when a "designated representative" presents himself in the office and demands the right to make an investigation and "gather data regarding the wages, hours, and other conditions and practices of employment in the industry." Yet the bill goes further and provides that this representative of Madam Perkins may "enter and inspect such places and such records." Yes; and that is not all; and here the ultimate is reached. I know of no previous law going quite so far, because this bill provides that this "investigator" may "make such transcripts thereof"—having reference to the books and records of the industry—as this "investigator" may deem advisable. Has the time come when a representative of a bureaucrat in Washington may brazenly enter the business offices of all industry throughout the country and, for reasons best known to himself or the Secretary of Labor, take away with him "transcripts" and copies of the records kept in the offices of these private business institutions? And all of this because the Secretary of Labor is given authority "to determine whether any person has violated any provision of this act, or which may aid in the enforcement of the provisions of this act." This would sound all right in Russia, but somehow it just does not seem to me that it fits in America. We do not want any pro-labor or pro-capital czars threatening or intimidating labor or capital. Bureaucratic tyranny is intolerable.

May I impress upon you that subdivision (c) above referred to requires every employer subject to any provision of this act to "keep and preserve such records * * * and make such reports therefrom to the Secretary as he shall prescribe." Talk about letting up on business! Here we go again. More reports, more work, more fear, more investigation, and the end not in sight.

Section 10 is the child-labor provision of the bill and the portions of this section to which I want to especially call your attention are as follows:

SEC. 10. (a) No producer, manufacturer, or dealer shall ship or deliver for shipment in commerce any goods produced in an establishment situated in the United States in or about which within 30 days prior to the removal of such goods therefrom any oppressive child labor has been employed.

(b) No employer engaged in commerce in any industry affecting commerce shall employ any employee under any oppressive child-labor condition.

(c) The Chief of the Children's Bureau in the Department of Labor, or any of his authorized representatives, shall make all investigations and inspections under section 9 (a) with respect to

the employment of minors and bring all actions under section 15 to enjoin any act or practice which is unlawful by reason of the existence of oppressive child labor, and shall administer all other provisions of this act relating to oppressive child labor.

I have read section 10 to you, but lest you do not fully appreciate, let me call your attention to the fact that any producer or manufacturer, or even dealer, who ships, or delivers for shipment, in commerce any goods produced in any industry, where child labor has been employed within a period of 30 days before the shipment, shall be guilty of a violation of the law. We are all opposed to child labor, and I have been one of those most insistent upon the enactment of the child-labor amendment to the Constitution, to outlaw the employing of children in industry. Yet I am not ready to send to jail a manufacturer or a dealer who inadvertently happens to sell or ship some goods where the law has not been lived up to, when the manufacturer or the shipper has no knowledge of the violation. That is unreasonable. It is morally wrong.

Subdivision (c) of section 10 gives the chief of the Children's Bureau in the Department of Labor about the same powers that are given to the Secretary of Labor to make investigation in private business, and places in this official the discretion to determine if and when industry is complying with this law. Now, the chief of the Children's Bureau is a very splendid woman, and I do not believe that she would knowingly desire anything that would be injurious to industry. Yet the principle is wrong. Such vast and extensive power should not be given to any bureaucrat.

Page 51 of the bill defines "oppressive child labor." Without quoting this long section, suffice it to say that the chief of the Children's Bureau in the Department of Labor is given authority to determine what "oppressive child labor" is in specified cases where the children range from 14 to 18 years of age.

Section 12 provides as follows:

The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulations or by orders provide for (a) the employment of learners, and of apprentices under special certificates as issued pursuant to regulations of the Secretary, at such wages lower than the minimum wage applicable under section 4 and subject to such limitations as to time, number, proportion, and length of service as the Secretary shall prescribe, and (b) the employment of individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, under special certificates to be issued by the Secretary, at such wages lower than the minimum wage applicable under section 4 and for such period as shall be fixed in such certificates.

I wish I had time to elaborate on section 12, which permits Secretary Perkins to control the employment of "learners and of apprentices." Maybe I am a little skeptical, but for one I do not want to grant these powers without more study and consideration. I know how the National Labor Relations Board has used the powers given to it in the law. The A. F. of L. says its decisions are pro-C. I. O., and the employers and the independent unions join in the charge. The result is that business is harrassed. There were more strikes last year than any year in our history, yet Congress passed the Wagner Labor Act ostensibly to do away with strikes. Let us profit by that experience.

Section 13 defines what are prohibited acts as set up in the bill. Paragraph 2, subsection (a), is of special interest in that it provides that it shall be unlawful—

To transport, offer for transportation, ship, deliver, or sell in commerce, or to ship, deliver, or sell with knowledge that shipment or delivery or sale thereof in commerce is intended, any goods in the production of which any employee was employed in violation of section 4 or section 5, or in violation of any regulation or order of the Secretary issued under section 12; except that no provision of this act shall impose any liability upon any common carrier.

The part of section 13 above quoted makes it unlawful to transport, offer for transportation, ship, deliver, or sell in commerce * * * any goods in the production of which any employee was employed in violation of this act. Common carriers are excepted. Does it seem right, fair, or just to pass such an arbitrary law without the necessity of showing at least knowledge of violation on the part of those transporting or selling? It may be necessary to write such drastic regulations and statutes to control the business of our country, but it is this kind of thing that is driving businessmen out of business and bringing the Government into business. It is less legislation of this type and not more legislation of this kind that will help solve our present economic problems.

Subsection (b) of this section 13 provides as follows:

For the purposes of subsection (a) (2) proof that any employee was employed in violation of section 4 or 5, or in violation of any regulation or order of the Secretary issued under section 12, in any place of employment where goods were produced, within 90 days prior to the removal of the goods therefrom, shall be prima facie evidence that the goods were produced by such employee.

In other words, in order to make a case against an employer for paying less than the standard wage or working more than the maximum hours, all that is necessary for the Government to do is to prove that any employee was so employed, and that makes a prima facie case. The question of intent, knowledge, or willfulness of the employer is apparently not of concern to the framers of the bill. Imagine an employer, acting in good faith, hauled into court because he has violated some rule of the Secretary of Labor or of the statute itself without any knowledge of so doing or actual intent so to do.

Section 14 places a fine of not more than $500 or imprisonment for not more than 6 months, or both, on the violator of this law or any of the rules or regulations authorized therein. The law is written by Congress, but the rules and regulations are promulgated by the Secretary of Labor.

I am wondering how many Members who are going to vote for this bill have studied its terms carefully. There is too much desire here to get on the organized-labor band wagon. The primaries and elections are just around the corner and anything that bears the name of "fair labor standards" and "wage and hour" legislation is thought by some to be helpful.

There are few Members here who would vote today for the Senate bill, to which this Norton bill is an amendment, yet you are voting to make it possible for a half dozen Members of the House and Senate to write the kind of a bill they see fit, limited only by the House and Senate bills. This House bill contains no differentials; that is, it fixes a flat and uniform wage for each spot and place in the United States, regardless of working conditions, climatic conditions, cost of living, and what not. Without this provision the Members from the North will not support the bill. With this provision a majority of the Members from the South will not support the bill. The Senate bill permits a lower wage rate in the South, and if this bill comes back from the conference, it is almost a sure guess that it will contain differentials. Then, where are you Members from the North going to find yourselves? You are voting for this bill today on the theory that you are going to prevent your northern industries from going south. Oh, you may say, "I will vote for the bill today and get credit for voting for a wage and hour bill, because I know it will not come back from the Senate, and if it does come back from the Senate and is not as I want it, I shall then vote against it." The groups that are compelling you to vote today will be just as compelling when the conference report comes back. You are not helping yourselves politically and time will tell the story. You are not fooling anyone.

So far as I am concerned, there has been very little propaganda in regard to this bill. Not to exceed 40 telegrams and letters have been written to me for and against the bill. Five or six of these communications are from organized labor groups endorsing the bill. The remainder come largely from small-business men who are opposed.

Every farm organization, expressing its views to the Members of Congress, is absolutely opposed to the enactment of this bill. The National Grange submitted a letter to each Member, a copy of which has already been inserted in the CONGRESSIONAL RECORD, and I, therefore, quote but one paragraph which is:

If the enactment of the new wage and hour bill could reasonably be expected to do the country any good, we would be in

favor of it. Since we harbor the conviction that the net results of the passage of this proposed legislation would be harmful and demoralizing, we are against it.

The National Cooperative Milk Producers' Association likewise has submitted a long brief to the Congress, and I quote but one sentence, as follows:

The bill if enacted in its present form will be ruinous, not only to dairy farmers but to agriculture as a whole.

Time prevents further citations from organizations and individuals.

The best aid that can be given to the working man or woman today is a steady job with private industry at a living wage. When I say a living wage, I do not mean a wage that will simply provide shelter, buy the clothing to prevent suffering, and food that will prevent starvation. Industry should have the cost of production plus a profit and, by the same token, labor should have a living according to the American standard, with sufficient to provide for old-age security. Labor must have an adequate annual wage, not a niggardly hourly wage. If this bill even tended in this direction, that would be another thing.

We all realize that there are 13,000,000 people unemployed in the country today; that legislation has already been enacted making our national debt more than $40,000,000,000; that unemployment is increasing; that the reserves of our people have been exhausted; that our economic conditions are growing steadily worse; and that something must be done if our Nation is preserved. We have borrowed and spent. We have primed the pump. The remedies thus far advanced have been unavailing. It is high time that Congress faces the fact that the patient is gradually dying; that our American system of government is day by day being undermined; that a new economy is upon us; that the effort of the administration seems to be to change the very system under which we have become the greatest country in all the world—a system which undoubtedly has its shortcomings, but a system that has made the laboring man's standard of living, even now in America, superior to that anywhere under the sun. There is no need of telling the average American worker that this is the only country in the world where he may even aspire to most of the conveniences which he here enjoys. We have but to visit a modern factory, an ordinary construction job, or any other place where workingmen assemble to do their daily tasks to realize that our people own and ride in their own automobiles.

We have but to visit the average home of the average industrial worker in the United States to know for ourselves the neat and tidy, the wholesome homes in which most of these workers reside. We need but to inspect the telephone directories and make inquiry as to who buys radios to know what proportion of American workers enjoy these comforts of life. We need but visit the average public or parochial school to learn whose children constitute the vast majority of the students in these institutions. We need not go further than the floor of this very House to ascertain the possibility of the children of honest toil and labor holding positions of responsibility and honor in the councils of the Government. This is as it should be. This was not brought about by regimentation and spending but rather by thrift and toil plus American opportunity. I yield to none in my admiration for and my allegiance to the average American workingman. I come from among them. Like them, if I have made any success or accomplished anything in life, it has been due to the opportunities afforded me under the system of government which some now tell us is a thing of the past and should be changed. I resent any such philosophy.

Let me conclude with the statement that, in my judgment, the passage of either this bill or the Senate bill will at this time add to, rather than decrease, unemployment. This is not what we want. I am confident that the thinking workingmen in the Second Congressional District of Michigan, which I have the honor to represent, would much prefer to have the Congress devote its time to working out a program that will provide jobs rather than haggle over a bill regulating to death the few jobs we now have.

[Here the gavel fell.]

Mrs. NORTON. Mr. Chairman, I ask unanimous consent that all debate on this section do now close.

Mr. HOOK. I object, Mr. Chairman.

Mrs. NORTON. Mr. Chairman, I move that all debate on this section do now close.

The motion was agreed to.

The pro forma amendment was withdrawn.

The Clerk read as follows:

FINDING AND DECLARATION OF POLICY

SEC. 2. (a) The employment of workers under substandard labor conditions in occupations in commerce, in the production of goods for commerce, or otherwise affecting commerce (1) causes commerce and the channels and instrumentalities of commerce to be used to spread and perpetuate among the workers of the several States conditions detrimental to the physical and economic health, efficiency, and well-being of such workers; (2) burdens commerce and the free flow of goods in commerce; (3) constitutes an unfair method of competition in commerce; (4) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce; and (5) interferes with the orderly and fair marketing of goods in commerce.

(b) The correction of such conditions affecting commerce requires that the Congress exercise its legislative power to regulate commerce among the several States by prohibiting the shipment in commerce of goods produced under substandard labor conditions and by providing for the elimination of substandard labor conditions in occupations in and affecting commerce.

DEFINITIONS

SEC. 3. As used in this act—

(a) "Person" means an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons.

(b) "Commerce" means trade, commerce, transportation, transmission, or communication among the several States or from any State to any place outside thereof.

(c) "State" means any State of the United States or the District of Columbia or any Territory.

(d) "Employer" includes any person acting directly or indirectly in the interest of an employer in relation to employee but shall not include the United States or any State or political subdivision of a State, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization.

(e) "Employee" includes any individual employed or suffered or permitted to work by an employer.

(f) "Agriculture" includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the cultivation, growing, and harvesting of any agricultural or horticultural commodities, the raising of livestock, bees, foxes, or poultry, and any practices performed by a farmer or on a farm as an incident to such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

(g) "Employee employed in agriculture" includes individuals employed within the area of production engaged in storing for the farmer, preparing (but not commercial processing), or packing agricultural or horticultural commodities in their raw, natural, or dried state, but does not include employees of transportation contractors engaged in transportation of farm products from farm to market.

(h) "Employ" includes to suffer or permit to work.

(i) "Industry" means a trade, business, industry, or branch thereof, or group of industries, in which individuals are gainfully employed.

(j) "Industry affecting commerce" means an industry with respect to which an order issued under section 6 is in effect.

(k) "Employer engaged in commerce" means an employer in commerce, or an employer engaged, in the ordinary course of business, in purchasing or selling goods in commerce.

(l) "Secretary" means the Secretary of Labor.

(m) "Oppressive child labor" means a condition of employment under which (1) any employee under the age of 16 years is employed by an employer (other than a parent or a person standing in place of a parent employing his own child or a child in his custody under the age of 16 years in an occupation other than manufacturing or mining) in any occupation, or (2) any such employee between the ages of 16 and 18 years is employed by an employer in any occupation which the Chief of the Children's Bureau in the Department of Labor shall from time to time find and by order declare to be particularly hazardous for the employment of such children or detrimental to their health or well-being; but oppressive child labor shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file a certificate issued and held pursuant to the regulation of the Chief of the Children's Bureau certifying that such person is above the oppressive child-labor age. The Chief of the Children's Bureau shall provide by regulation or by order that the employment of employees of the age of 14 but under the age of 16 years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor if and to the extent that the Chief of the Children's Bureau determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being.

Mr. MARTIN of Colorado. Mr. Chairman, I offer an amendment to section 3.

The Clerk read as follows:

Amendment offered by Mr. MARTIN of Colorado: On page 51, line 12, strike out the paragraph down to and including line 14 on page 52 and insert in lieu thereof the following:

"(A) All goods, wares, and merchandise produced on or after January 1, 1939, wholly or in part through the use of child labor, transported into any State or Territory of the United States and remaining therein for use, consumption, sale, or storage, shall, upon arrival and delivery in such State or Territory, be subject to the operation and effect of the laws of such State or Territory to the same extent and in the same manner as though such goods, wares, and merchandise had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced in the original package or otherwise.

"(B) It shall be unlawful for any person knowingly to transport or cause to be transported, in any manner or by any means whatsoever, or aid or assist in obtaining transportation for or in transporting any goods, wares, or merchandise produced on or after January 1, 1939, wholly or in part through the use of child labor, from one State or Territory into any State or Territory, where said goods, wares, or merchandise are intended by any person interested therein to be received, possessed, sold, or in any manner used, either in the original package or otherwise, in violation of any law of such State or Territory.

"(C) It shall be unlawful for any person knowingly to transport or cause to be transported, in any manner or by any means whatsoever, or aid or assist in obtaining transportation for or in transporting in interstate commerce any goods, wares, or merchandise produced on or after January 1, 1939, wholly or in part through the use of child labor, unless the outside of such goods, wares, or merchandise, or the package containing the same, if they be packaged, shall bear a conspicuous label conforming to the requirements of this section. Such label shall truthfully set forth—

"(1) The name and address of the shipper;

"(2) The name and address of the consignee;

"(3) The nature of such goods, wares, or merchandise; and

"(4) A summary statement of the kind or kinds of work in connection with which child labor was utilized in the production of such goods, wares, or merchandise and the type or types of places where such work was performed. In case a label conforming to the requirements of this section has been removed from goods, wares, or merchandise, or from a package containing the same, or such goods, wares, or merchandise have been removed from a package bearing such a label, prior to the time such goods, wares, or merchandise shall be offered for shipment in interstate commerce, the information set forth in such label pursuant to the requirements of clause (4) of the preceding sentence or of this sentence shall be incorporated in a new label affixed to such goods, wares, or merchandise so offered for shipment, or to the package containing the same if they be packaged, together with a statement that such information was taken from another label. The incorporation of such information and statement in the new label shall constitute compliance with the requirements of said clause (4) unless child labor shall have been used in connection with processing or fabricating such goods, wares, or merchandise after removal of the label therefrom or from the package containing the same or after removal thereof from the package bearing such label, as aforesaid, in which event the incorporation of said information and said statement shall be a requirement as to said new label in addition to those defined by said clause (4).

"(D) It shall be unlawful for any person who—

"(a) has produced goods, wares, or merchandise in any State or Territory, wholly or in part through the use of child labor, on or after January 1, 1939; or

"(b) has taken delivery of such goods, wares, or merchandise in any State or Territory with notice of their character whether by purchase or on consignment, as commission merchant, agent for forwarding, or other purposes, or otherwise, to transport or cause to be transported, in any manner or by any means whatsoever, or aid or assist in obtaining transportation for or in transporting such goods, wares, or merchandise in interstate or foreign commerce or to sell such goods, wares, or merchandise for shipment in interstate or foreign commerce or with knowledge that shipment thereof in interstate or foreign commerce is intended.

"(E) For the purposes of this section the term 'child labor' shall be defined, (a) as employment of a human being under the age of 16 years in any occupation, and (b) as employment of a human being under the age of 18 years at 'extra hazardous work' specified by regulations promulgated pursuant hereto which specification shall be based on facts found by the Secretary of Labor as to the relative possibility of injury or detriment to health involved in various types of employment after necessary information on the subject has been collected by him or derived by him from sources deemed to be reliable; the term 'package' shall be defined as a wrapping, container, or crate, and as a unit of rolling stock in which goods, wares, or merchandise may be shipped or transported in bulk; the term 'person' shall be defined as an individual, a corporation, a partnership, an association, a joint-stock company, or any unincorporated organization; and the phrase 'State or Territory' shall be defined to include the organized States and Territories of the United States, any District or possession thereof, or place noncontiguous but subject to the jurisdiction thereof; the words 'produced' and 'production' shall be defined to include manufacturing, processing, fabricating, and mining operations, but as used in this section shall not be construed to mean planting, cultivation, and harvesting of fruits, grains, vegetables, and other agricultural products or agricultural work in connection with dairying, livestock husbandry, and poultry husbandry.

"Oppressive child labor shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file a certificate issued and held pursuant to the regulation of the Chief of the Children's Bureau certifying that such person is above the oppressive child-labor age.

"(F) Any person violating any provision of this section shall for each offense, upon conviction thereof, be punished by a fine of not more than $1,000, and such goods, wares, or merchandise shall be forfeited to the United States and may be seized and condemned by like proceedings as those provided by law for the seizure and forfeiture of property imported into the United States contrary to law: *Provided, however*, That no person who in conformity to paragraph (C) of this section and in good faith sets forth in a label information stated to have been taken from another label shall be deemed thereby to have violated this act so as to render himself subject to conviction, or goods, wares, or merchandise bearing or contained in a package bearing such label subject to forfeiture, in the event any of the information so stated to have been taken from another label proves to be false: *And provided further*, That no common carrier shall be deemed to have violated this section if, at the time it accepts goods, wares, or merchandise for transportation in interstate commerce in the regular course of its business, it shall rely in good faith upon a signed statement of the consignor that the obtaining of transportation for or the transportation of such goods, wares, or merchandise will not constitute a violation of this section, but any consignor who shall knowingly sign any false statement made to a common carrier as aforesaid shall be deemed thereby to have violated this section. The failure of any consignor to furnish such a statement to a common carrier at the latter's request shall excuse the common carrier from its obligations to accept any goods for transportation in interstate commerce. In any proceeding arising out of an alleged violation of this section, a showing that the goods, wares, or merchandise with respect to which the violation is alleged to have occurred were procured wholly or in part by a person who used child labor subsequent to January 1, 1939, and within 6 months of the date of the alleged violation at the place of employment where said goods, wares, or merchandise were so produced in whole or in part shall be prima facie evidence that the goods, wares, or merchandise with respect to which said violation is alleged to have occurred were produced wholly or in part through the use of child labor. In any such proceeding a copy of, extract from, or statement summarizing a record kept by or document filed with a government, church, or school authority establishing or purporting to establish the age or date of birth of a human being whose labor is alleged to have been used in the production of goods, wares, or merchandise shall be admissible in evidence when certified by or on behalf of such authority without further identification or authentication as prima facie evidence of the age of such human being. The adduction of such prima facie evidence shall cast upon the defendant or the party objecting to the forfeiture of goods, wares, or merchandise, as the case may be, the burden of rebutting or repelling such prima facie evidence by affirmative proof to the contrary. All records, returns, applications, and other information filed with or kept by any public office, officers, or authority pursuant to the act of August 14, 1935 (ch. 531, 49 Stat. 620), or any rule or regulation promulgated pursuant thereto, shall be available for inspection by any public official authorized or qualified to enforce this section or to prosecute a violation thereof, and such public official may require that copies of, extracts from, or statements summarizing any of such records, returns, applications, or other information be certified and delivered to him by or on behalf of any public office, officers, or authority by whom the same are kept or with whom they be filed. Any public official authorized or qualified to enforce this section may utilize in that connection, and shall be entitled to rely upon, any and all records, returns, applications, certificates, and other information collected by or filed with authorities charged with the administration and enforcement of the laws of any State relating to the education and employment of human beings that may be made available to such public officials by such authorities and are deemed by such public officials to be useful and reliable.

"(G) Any violation of this section shall be prosecuted in any court having jurisdiction of crime within the district in which said violation was committed, or from or into which any such goods, wares, or merchandise may have been carried or transported, or in any State or Territory, contrary to the provisions of this section.

"(H) (a) The Secretary of Labor, through the Children's Bureau or such other agency within the Department of Labor as he may designate, shall be charged with the enforcement of this section and shall be vested with full authority to administer its provisions and to prescribe such rules and regulations as may be necessary for its enforcement.

"(b) The Chief of the Children's Bureau or any person designated by him, pursuant to the regulations issued under the preceding subsection, shall have authority to enter and inspect at any time factories or other places in which articles are produced or held for interstate commerce and to inspect records relating to the employment of or to the shipment of articles therefrom, and to

make periodic reports of such inspections: *Provided*, That nothing herein contained shall be construed to authorize any invasion of the privacy of any home by search or inspection or otherwise."

Mr. MARTIN of Colorado (interrupting the reading of the amendment). Mr. Chairman, I ask unanimous consent that the further reading of the amendment, which is quite lengthy, may be dispensed with and that the amendment may be printed in the RECORD at this point.

Mr. CRAWFORD. Mr. Chairman, reserving the right to object, I dislike very much to object, but I do not know what this amendment is and I would like to hear it read, because I think it is a very imporant amendment.

Mr. MARTIN of Colorado. I intend to explain the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. MARTIN of Colorado. Mr. Chairman, based on my former experience with this amendment last December, I appreciate the futility of offering it at this time, but it becomes my duty to again offer what is known as the Wheeler-Johnson child-labor amendment, and I do so with something more than a suspicion in my mind that eventually this amendment will receive something it has thus far never received at this end of the Capitol, to wit, consideration.

The Wheeler-Johnson child-labor amendment provides a three-way approach to the child-labor problem. First, it prohibits the sale or transportation of child-labor goods in interstate commerce; second, it subjects child-labor goods in interstate commerce to the child-labor laws of the States into which they are shipped; and, third, it provides for the labeling of the goods.

These last two methods—and they have the approval of such men as Edward Keating, the author of the first Federal child-labor law, who appeared in behalf of the Wheeler-Johnson amendment before the Senate Committee on Education and Labor—are intended to take care of the problem of child labor to the extent of labeling and of subjecting them to State law, in the event the first method falls under the constitutional ban as did the original child-labor legislation. If the first method stands, these two methods will be superfluous.

There is only a one-way approach to this problem in the House bill, and that is the prohibition of transportation in interstate commerce, and I have boiled down the substantive words of these two propositions so you can understand them simply and determine for yourselves which is the superior method of attempting to reach this great evil.

In the House bill the child-labor provision reads as follows:

No producer, manufacturer, or dealer—

Mind you, it is limited to those three—

shall ship or deliver for shipment any goods produced in an establishment in or about which within 30 days prior to the removal of such goods therefrom any oppressive child labor has been employed.

Mind you, there is no prohibition of sale of child-labor goods or other handling or disposition of them. There is simply a prohibition that the producer or the manufacturer or the dealer shall not ship in interstate commerce.

Now let me read you the comprehensive and all-inclusive language of the Senate amendment:

It shall be unlawful for any person who has produced goods, wares, or merchandise wholly or in part through the use of child labor on or after January 1, 1939;

Or has taken delivery of such goods, wares, or merchandise with notice of their character, whether by purchase or on consignment, as commission merchant, agent for forwarding or other purposes, or otherwise.

To transport or cause to be transported in any manner or by any means whatsoever, or aid or assist in obtaining transportation for or in transporting such goods, wares, or merchandise,

Or to sell such goods, wares, or merchandise for shipment, or with knowledge that shipment thereof is intended.

It will be noticed that under the House bill child-labor goods will be released 30 days after the cessation of child labor in the plant. This will open the door to many legal evasions.

In the Senate bill the ban on child-labor goods is permanent after January 1, 1939, and there is a further provision in the Senate bill making the employment of child labor in a plant after that date prima facie evidence that the product of the plant was produced by child labor.

Mr. MARTIN of Colorado. Mr. Chairman, I ask unanimous consent to proceed for 5 minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MARTIN of Colorado. Mr. Chairman, a material difference between the two bills is that only producers, manufacturers, and dealers are specified in the House bill, and they are not forbidden to sell or dispose of the goods, while in the Senate bill any persons connected in any way with the processing, sale, handling, or transportation of the goods are specified. It includes purchasers, receivers, consignees, commission merchants, forwarding agents, aids, assistants, all persons. There can be no evasion through loopholes or omissions in the law and tricks in the legal trade under the Senate bill.

Another material difference is that while under the Senate bill occupations are to be classified as hazardous only after notice and hearing, under the House bill the Administrator may simply issue an order classifying occupations as hazardous. It is a fair question how far that provision will get in the courts.

Another difference worth noting is that under the House bill the Administrator may exclude from the protection of the law children between the ages of 14 and 16, just issue an order excluding any children between the ages of 14 and 16 under the House bill, if in the opinion of the Administrator it will not interfere with their health, well-being, or education. There is no exemption in the Senate bill. Child labor under 16 years of age is absolutely barred.

Another consideration is that the Senate bill places administration of child labor in the Secretary of Labor, where the House bill now places administration of wages and hours, but the House bill vests administration of child labor in a bureau chief. There is no sound basis for this division of jurisdiction; and, since apparently the Labor Committee has quit slapping Miss Perkins in the face and she is being reinstated in the good graces of the House Committee on Labor and given the administration of the more important subjects of wages and hours, there is no reason why she should not be given jurisdiction of child labor, as she is in the Senate Wheeler-Johnson amendment.

There is another important difference, and that is the administrator of child labor under the Senate bill is given power to investigate plants and records to determine whether the law is being violated, and there is no power of inspection in the House bill.

I said in the debate on this bill before, and I repeat it now, that this House legislation on child labor is nothing more than a gesture. It is open to a thousand legal evasions and objections. Child labor is only the stepchild of this bill. It has never been considered, but it will reach the point where it will be considered, and when it is I want to say that your little meager five-line skeleton will be put under the magnifying glass, and it will be found that there is no meat on it.

Mr. REED of New York. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of Colorado. Yes.

Mr. REED of New York. Is there anything in the gentleman's amendment that deals with the large volume of goods coming into this country from foreign lands made by children who are sitting on benches where their feet will not even touch the floor?

Mr. MARTIN of Colorado. There is a prohibition of the sale, handling, or transportation of child-labor goods in the United States. In its territorial scope it is identical with the House bill. If one does not girdle the globe, neither does the other.

Mr. REED of New York. I say the whole thing is simply hypocrisy raised to the *n*th degree, and I am in a position to say so, because I voted for the submission of the constitutional amendment to stop this child labor.

Mr. MARTIN of Colorado. I believe that in the language of the Wheeler-Johnson amendment they have gone as far as humanly possible in bringing within the purview of this legislation every class of people who will be engaged in handling, manufacturing, or disposing of child-labor goods in any way. Manufacturers, processors, and dealers are only a fraction of the agencies who may handle manufactured products. Under the House bill they could manufacture a whole warehouse full of child-labor goods and sell them to the man next door, or set up dummy agencies to sell and transport them without violation of the law. [Applause.]

The CHAIRMAN. The time of the gentleman from Colorado has again expired.

Mr. SCHNEIDER of Wisconsin. Mr. Chairman, I am a member of the committee, and I rise in opposition to the amendment. I call the attention of the House to the fact that the amendment proposed by the gentleman from Colorado [Mr. MARTIN] provides for striking out the child-labor sections in this bill. His amendment will destroy completely the best feature of the bill. It is recognized by everybody who has studied the matter of child labor that it is the best legislation that has yet been conceived for the purpose of abolishing child labor so far as interstate commerce is concerned.

Sustantially this provision has been adopted by the Senate committee, it has been adopted by the House committee on two or three different occasions, and has been adopted by this House. It has not the opposition of any organization in the country that has come to my notice. The National Child Labor Association, which has been in existence since prior to the 1916 act enacted by the Congress, has advocated this provision, and has supported it. They are in favor of it. Every public organization in America interested in child labor is in favor of this provision. The gentleman from Colorado [Mr. MARTIN] admits that he is the only Member on this floor to defend the provision that he adduces for the purpose of destroying this provision.

The provision in this bill, Mr. Chairman, is identical in principle with the provision of the Child Labor Act of 1916. It provides not primarily for the prosecution of people but primarily for the prevention of the employment of children. That is the salient feature of this provision. It does not require the labeling of goods wherever child labor is employed as does the amendment pending. The amendment of the gentleman from Colorado [Mr. MARTIN] puts the products of children employed in industry in the same class with the products of prisoners; that is, it must be labeled in order to be shipped to hold up to the public that it is an article that is made by child labor. No manufacturer who is willing to exploit children without a work permit will hesitate to ship the products of their labor without putting a label on them. This was clearly brought out in testimony on the Wheeler-Johnson bill before the Senate Committee on Interstate Commerce. Such a requirement for labeling is not only highly complicated but would be ineffective.

Mr. MARTIN of Colorado. Mr. Chairman, will the gentleman yield?

Mr. SCHNEIDER of Wisconsin. I cannot yield.

Mr. Chairman, I call attention to the fact that the provision of this amendment requires the labeling of the products of child labor the same as that in the law that requires the labeling of prison-made goods; they must bear a label before they can be shipped from one State to the other, stating that they are prison-made goods; yet the consumer does not know he is purchasing prison-made goods because the goods are taken out of the cartons and placed upon the shelves, and then they cannot be identified. [Applause.]

Mr. Chairman, we of Wisconsin are gratified to see in this bill that the Nation is ready to adopt standards which will eliminate sweatshop child labor. I consider this bill the best we can enact for the announced purpose of abolishing child labor in interstate commerce.

States which have already adopted laws to correct these evils within their borders will welcome the help of similar high standards for the country at large. Wisconsin and other States with a 16-year standard for child employment too long have been faced with the competition of goods manufactured in low-standard States. I hope, Mr. Chairman, that the full meaning of this step has been impressed upon my colleagues. The moral effect of these provisions by itself is sufficient reason for our favorable action upon them.

We have seen that while the 1916 Federal child-labor law was in effect—and it contained similar provisions—the States with lower standards of child-labor control hastened to improve their laws so that they would be on an equal footing with the Federal standards. We can expect a similar effect from the passage of this bill. What will be the result? A tendency toward uniformly high State standards, even in the provisions of laws covering occupations within the States which cannot be said to affect interstate commerce.

To clarify just what the bill covers, I wish to call attention to its protection of children under 16 years now engaged in tasks too heavy for them, also its protection of those from 16 to 18 years employed in jobs dangerous even for adults, and for too hazardous for those youths in their middle teens.

The House is agreed that the bill shall not interfere with the work of children for their parents in and around the home. We have also exempted from its provisions children working in agriculture and allied employment. For light out-of-school jobs not detrimental to the child's health and welfare we have provided that the Children's Bureau may make specific exemption for those between 14 and 16 years, but not in mining or manufacturing occupations. In these ways, Mr. Chairman, we hold that we are trying to be fair—fair to the children and at the same time protecting their best interests.

The House bill is sound in administrative method. We have used two key principles. First, we recognize existing adequate State machinery now carrying out State laws. We permit the Children's Bureau, in charge of administration, to cooperate with and use the services of State and local enforcing agents already in office. These agents of the States have an obligation to protect their own State's children and this bill aids them in carrying it out. In the second place, we provide for properly executed work certificates to be issued to and held by the employers for their own protection. The employer who wishes to protect himself from any possible prosecution has simply to keep on file for all youths employed such authorized certificates issued by local officials—as is now done in some 43 States—attesting to the age and legality of employment of these youths. Therefore, Mr. Chairman, the whole purpose and effect of these certificates will be to prevent illegal employment of children, to avoid annoyance to employers who want to live up to the law, and to reduce prosecution to a minimum.

As I pointed out, with 43 States and the District of Columbia now issuing work permits, it would surprise me very much if all the rest of the States did not take steps to conform to the standards of the Federal administering agency. The indirect result of such action will be further to reduce the cost of administration. Even under existing conditions in the States the methods we have proposed, based on sound experience and approved by every responsible administering agency, are as economical as any that could be devised. Certainly the methods we propose are far more economical and effective than any depending primarily upon Federal investigation and Federal prosecution.

Mr. Chairman, arguments concerning the constitutionality of this bill have been raised. May I point out to the Committee that this method of child-labor control is not likely to meet with any objection of the Supreme Court? Recent decisions of the Court sustaining the Wagner Labor Relations Act and other measures have made it clear that the Congress is acting within the Constitution in preventing the products of child labor from being shipped in interstate commerce. It is necessary only for the Court now to hold to its present sustained reasoning in order to uphold the power of Congress in enacting this bill. If we are to make headway in wiping out what has been a fierce and often vicious competition of manufacturers who make a practice of employing

young children, it is necessary for the Congress to use this power. States have found themselves frequently powerless to enact adequate laws in the face of pressure from these competing forces. It remains for the Congress to assist in producing a universal standard to aid the States in their good intentions.

Mr. Chairman, I believe we should remind ourselves that this bill can only deal with child labor in interstate commerce. That represents perhaps one-fourth of the total employed children in the country today. While we are pushing this phase of the problem to a happy conclusion, we must recognize that further steps are necessary to protect other children, often heavily oppressed, through higher standards. The one best method of achieving this is the child-labor amendment which 28 States, including my own State of Wisconsin, have ratified. It is to be hoped that the Supreme Court, in deciding the cases now pending before it, in its wisdom will find that this child-labor amendment is still alive, and that we may see next year the ratification by the needed eight States.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado.

The amendment was rejected.

Mr. BIERMANN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BIERMANN: Page 50, beginning in line 18, strike out subsection (g) and insert in lieu thereof the following: "(g) 'Employees engaged in agriculture' includes individuals employed within the area of production, engaged in the handling, packing, storing, ginning, compressing, pasteurizing, drying, or canning of farm products and in making cheese and butter."

Mrs. NORTON. Mr. Chairman, the committee has an amendment to take care of this, and the amendment will be offered at a later stage of the proceedings.

Mr. BIERMANN. Mr. Chairman, this is the amendment about which I think every Member has been circularized by the farm organizations.

It has been pointed out that the various labor organizations back the general provisions of this bill. If this is a good reason for supporting the bill in general, then I submit that the fact that every national farm organization in this country supports this amendment in principle is a convincing argument why every Member interested in the welfare of agriculture should vote for this amendment.

This bill is aimed at substandard labor conditions, and I submit that any Member of this House who is familiar with the kind of institution that this amendment I have offered is aimed at will agree with me when I say that substandard labor conditions do not exist in these institutions. In an amendment I inserted in the RECORD yesterday I included the word "processing." I call attention to the fact that in the pending amendment this word is stricken out. I struck it out for the reason that some Members thought that processing would include the making of cotton and wool into textiles, and rubber into finished products, and a long list of things of that kind. The amendment I have offered includes only the first processing of things that come off the farm. The important point is that the farmer pays the bill for this processing. Those of us who come from dairy sections know that the cost of making butterfat into butter or milk into cheese is borne by the farmer. There is no contention about that, no argument. The Members from the South will agree that the man who raises the cotton pays for ginning the cotton. When the cost of making butter, when the cost of making cheese, when the cost of ginning cotton increases the farmer gets just so much less; and our contention and the contention of the farm organizations is that this bill designed to help labor should not be so worded that it puts another burden on the agriculture of this country.

Mr. CURLEY. Mr. Chairman, will the gentleman yield?

Mr. BIERMANN. I yield briefly.

Mr. CURLEY. Will the gentleman read the exemption on page 58 where it says that no one employed in agriculture shall fall within the provisions of the bill? I call the gentleman's attention also to page 50 and ask him to read the different sections there and see if they do not accomplish the purpose of his amendment.

Mr. BIERMANN. I may say to the gentleman from New York that the agricultural organizations of this country who stand in relation to agriculture, the farmers, the same as the American Federation of Labor and the C. I. O. stands to labor, think the exemptions carried by the bill as drafted are not sufficient. It is just a question whether this House wants to follow the advice of the big farm organizations of the United States or whether they want to mulct the farmers of the United States to this further extent.

Mr. COFFEE of Nebraska. Will the gentleman yield?

Mr. BIERMANN. I yield to the gentleman from Nebraska.

Mr. COFFEE of Nebraska. This amendment would not take care of those employed in the handling of these seasonal crops outside of the area of production, would it?

Mr. BIERMANN. No.

Mr. COFFEE of Nebraska. In other words, the Grange amendment and the gentleman's amendment are not in conflict?

Mr. BIERMANN. No; they do not conflict.

Mr. THOMPSON of Illinois. Will the gentleman yield?

Mr. BIERMANN. I yield to the gentleman from Illinois.

Mr. THOMPSON of Illinois. May I ask the gentleman from Iowa whether his amendment would apply to a packing house located in Iowa and Illinois in the area of production, which employs two or three hundred men?

Mr. BIERMANN. Speaking frankly, I think that is something that would have to be worked out. There are some packing houses in the State of Iowa that this amendment would apply to perhaps; but may I say that all over this country it has been recognized that there should be a labor differential between the large city and the little town.

[Here the gavel fell.]

Mr. BIERMANN. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. WHITTINGTON. Will the gentleman yield?

Mr. BIERMANN. I yield to the gentleman from Mississippi.

Mr. WHITTINGTON. With respect to the question propounded by the gentleman from Illinois, may I remind the gentleman from Iowa that the word "packers" occurs in the present bill, so there is no difference between the amendment proposed and the provisions of the bill under consideration? As I understand the gentleman's amendment, it is merely a clarification of the definition of the word "employee" under the terms of the act?

Mr. BIERMANN. And it is the kind of clarification the farm organizations want. The question to be decided in voting on this amendment is whether or not the farmers of the United States are going to have their definition of "employee" as applied to agriculture or whether it is going to be written by people who have a city viewpoint. I do not find fault with the Committee on Labor, but I think whereas they are the experts who have knowledge regarding the big factories in Jersey City, New York City, and some of the other large cities, by the same token we who come from the farm areas are best qualified to say what terms should apply to labor in those areas. I may say that not a single employee in any one of these factories has made an objection to this, so far as I know.

Mr. WHITTINGTON. It is simply to permit the farmer to get his material prepared for market.

Mr. CURLEY. Will the gentleman yield?

Mr. BIERMANN. I yield to the gentleman from New York.

Mr. CURLEY. The gentleman spoke about various farm organizations.

Mr. BIERMANN. Yes.

Mr. CURLEY. The gentleman referred to the National Grange Association.

Mr. BIERMANN. Yes.

Mr. CURLEY. Does not the gentleman know that the National Grange Association is against this wage and hour bill?

Mr. BIERMANN. Let us not mix this up. I have a telegram here from the National Grange, the National Cooperative Association, National Cooperative Milk Producers Association, and others. The Farmers' Union endorses this amendment.

Mr. CURLEY. They are all against the whole bill.

Mr. BIERMANN. The American Farm Bureau?

Mr. CURLEY. Each one of those is opposed to every feature of the wage and hour bill.

Mr. BIERMANN. No; they are not.

Mr. CURLEY. I have the same communications the gentleman has.

Mr. BIERMANN. Has the gentleman a communication from the Farm Bureau?

Mr. CURLEY. Yes. I have the same communications that the gentleman has.

Mr. BIERMANN. I may say to the gentleman from New York that there are a great number of farm members in this House who would like to vote for this bill, but they do not want to vote for a bill that is going to bear down on their farm constituents.

Mr. CULKIN. Will the gentleman yield?

Mr. BIERMANN. I yield to the gentleman from New York.

Mr. CULKIN. The gentleman knows that the representatives of the various farm districts who wish to vote for this bill cannot vote for it unless they consider the due processes of nature?

Mr. BIERMANN. Yes.

Mr. CULKIN. For instance, a cow is milked at 9 o'clock in the morning and at 5 in the evening, 9 hours apart. Then the milk has to be brought to market or to the creamery 6, 10, 15, or 20 miles away. This bill does not apply and should not apply to that situation. It applies to the substandard conditions to which the gentleman already referred?

Mr. BIERMANN. I want to read a couple of sentences from a letter I received this morning from Edward A. O'Neal, president of the Farm Bureau Federation, in which he sets out the desirability of writing into this bill definitions such as proposed in my amendment. He states:

> We believe the bill should be clarified so as to assure the exemption of employees in such agriculture and horticulture industries in rural areas.

That is all my amendment takes in.

He states further, as follows:

> Failure to exempt these operations when performed in rural areas where conditions are so greatly different from the situation in large industrial and urban centers, will result in increased costs of processing and handling these products which will be reflected back in lower prices paid to farmers.

Mr. CRAWFORD. Will the gentleman yield?

Mr. BIERMANN. I yield to the gentleman from Michigan.

Mr. CRAWFORD. Does the gentleman's amendment exempt manufacturers of sugar beets in the rural areas?

Mr. BIERMANN. That is something that the Secretary will have to determine.

Mr. REILLY. Will the gentleman yield?

Mr. BIERMANN. I yield to the gentleman from Wisconsin.

Mr. REILLY. Does the gentleman's amendment cover a pea-canning set-up that is situated away from the farm on which the peas are grown?

Mr. BIERMANN. In a little town?

Mr. REILLY. In a little town; yes.

Mr. BIERMANN. But in the farm area?

Mr. REILLY. Yes.

Mr. BIERMANN. Yes; it does.

[Here the gavel fell.]

Mrs. NORTON. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 15 minutes.

Mr. HOPE. I object, Mr. Chairman.

Mrs. NORTON. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 20 minutes.

Mr. WADSWORTH, Mr. CULKIN, and Mr. HOPE objected.

Mrs. NORTON. Mr. Chairman, I move that all debate on this amendment close in 20 minutes.

The motion was rejected.

Mrs. NORTON. Mr. Chairman, I move that all debate on this amendment close in 30 minutes.

The CHAIRMAN. The question is on the motion of the gentlewoman from New Jersey.

The question was taken, and on a division (demanded by Mr. GILCHRIST) there were—ayes 97, noes 69.

So the motion was agreed to.

Mr. CURLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is not a new question by any means. This is merely another of a series of attempts to sabotage this wage and hour bill. This is not the first time it has been attempted. A somewhat similar amendment was introduced in another body by a Member of that body, and that amendment was stricken out when it came to the House. I was the sponsor of the amendment to strike it out. In some mysterious manner it got back into the bill again, but when the bill came on the floor and certain questions were asked about that amendment and nobody knew anything about how it got back into the bill. I offered another amendment to strike it out, and my amendment was agreed to.

Those who are here today can see what has been going on, the lobbying and the going around soliciting and seeking support of every Member of the House to the Biermann amendment. I wonder what it is behind this bill that is so important. After all we have before us for consideration a wage and hour bill which it is contemplated will help the poor underdog who is being paid substandard wages.

Mr. BIERMANN. Mr. Chairman, will the gentleman yield?

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

I represent a great dairy State, the largest in the country. I cannot understand why anybody should hold any brief for the cooperatives, which this amendment does. Let me show you exactly what the Standard Statistics Co. reports about certain cooperative organizations in the State of New York, where we have one of the greatest milksheds in the country. The gentleman from New York [Mr. CULKIN] knows more about that than I do, because he comes from up-State. The Standard Statistics Co. reports show that the Borden Co. and its subsidiaries earned a net income of $7,921,490 for 1936, as compared with a net income of $4,842,349 for 1935. The National Dairy Products Corporation, which controls the Sheffield Co., reported a net income of $13,282,028 for 1936, as compared with $9,338,205 for 1935. This bill will not interfere with such cooperatives whose employees are organized and the gentleman from Wisconsin [Mr. SCHNEIDER] can bear me out on that. They are already organized. This bill will not affect them at all, but the unorganized underpaid type.

Mr. CULKIN. Mr. Chairman, will the gentleman yield to me? The gentleman has referred to me.

Mr. CURLEY. I yield to the gentleman from New York.

Mr. CULKIN. The gentleman has just read the profits of the National Dairy Products Corporation and the Borden Co.

Mr. CURLEY. Yes.

Mr. CULKIN. Does the gentleman know that the dairymen of northern New York have their backs to the wall and are not getting a living price for their products?

Mr. CURLEY. Who is the cause of that?

Mr. CULKIN. Their land is being sold for taxes and they are being wiped out.

Mr. CURLEY. No; I am talking about the cooperatives that own that land, the Borden and the Sheffield cooperative organizations.

Mr. FULLER. Mr. Chairman, will the gentleman yield?

Mr. CURLEY. I yield to the gentleman from Arkansas.

Mr. FULLER. Is it not a fact there has not been a calf born in the gentleman's district in the last 15 years?

Mr. CURLEY. In reply to my friend's inquiry, I may say we have plenty of "bull" there.

I do not want to see anybody vote against this wage and hour bill. I want to see this Biermann amendment defeated. I do not know what there is to the amendment of the gentleman from Nebraska [Mr. COFFEE] and I am not going to say anything against his amendment, but I am against the amendment of the gentleman from Iowa [Mr. BIERMANN], for whom I have the highest respect and regard.

Mr. BIERMANN. Does the gentleman mean the people of New York City are better qualified to pass on what are proper wage and hour standards than are the people of Iowa?

Mr. CURLEY. They have a $2,000,000,000 milkshed there and they have something to say about it.

[Here the gavel fell.]

Mr. WADSWORTH. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I am prompted to impose upon the good nature of the committee for the next 5 minutes as a result of the remarks just delivered by the distinguished dairyman from New York City.

Mr. CURLEY. Mr. Chairman, will the gentleman yield?

Mr. WADSWORTH. I cannot yield. I have not yet got started. I know full well it is like bringing coals to Newcastle, or at least in a large degree bringing coals to Newcastle, for me to say much about farming before a group which contains many men who have had experience in it, but for the benefit of some of those who represent purely urban communities let me say a word or two about the effects of this bill in the farming regions if it should pass in its present form. I may not be able to cover the subject in 5 minutes, but if I am not, perhaps some other countryman will take up the story.

Let us look for a moment at the business of canning in a country canning factory. There are many of them in my district. I live within a mile of one and within 4 miles of another, and not to expose unduly any secret or make a remark of any particular importance, I sell sweet corn and peas to both of them.

The canning season starts in western New York, for example, first with early green peas around the first week or 10 days of June. The canning of peas goes on until the middle of July or toward the end of July with the later varieties winding up the season. Then there is an off season of 10 days or 2 weeks before sweet corn comes in. The sweet-corn canning season lasts clear through August and nearly all of September. It is followed in turn by tomatoes, carrots, and beets and spinach.

Now, all during that period that factory has to work very irregular hours. Just like the farmer, it is the slave of the sun and the weather. If we have about 2 days of unduly hot weather the heat suddenly ripens the crop more rapidly than the canning factory or the farmers have calculated. The result is it has to be rushed into the factory with all possible speed in order that it may be canned in proper condition. While that is being done, which generally is not over once or twice in 10 days, the people in the factory work overtime. They probably do not work overtime more than once in a week or 10 days and seldom more than 2 or 3 hours of overtime.

This is a recognized custom in the trade. No one ever complains against it. The labor conditions are excellent, the whole thing is seasonal and it is largely extra money to the operatives who get several weeks' work through the summer.

If that country canning factory is not exempt from the provisions of this bill, then all of its wage and hour limitations will be placed upon it, as well as the overtime provision, and when you increase the cost of processing fresh vegetables, you must expect one of two results. First, the factory must raise its price to the consumer—and I happen to know that they run on an exceedingly narrow margin—or else reduce the price paid to the farmer, and that is always what is done. Whenever you increase arbitrarily the cost of processing these fresh vegetables the farmer gets less per ton for them. I have been through it myself.

Mr. CURLEY. Mr. Chairman, will the gentleman yield?

Mr. WADSWORTH. I cannot yield.

The same thing is true in the dairy industry. We have scattered through the farming country country milk stations. The gentleman from New York has stated that the cow is milked at 6 o'clock in the morning. That is rather late on the average. The milk has to leave the farm at 7 o'clock iced to a temperature of 38° to 40°. It may have to go 20 miles to a country milk station. The milk station bottles it and the bottled milk is sold in the city. If the cost of running the milk station is increased by an act of Congress, then only one of two things can happen. The consumer must pay another cent or 2 cents for his milk—and you ask any milk dealer whether it is possible to raise the price of milk in the city. You would instantly have a housewives' strike on your hands. I know a milk dealer with whom I do business who raised the price 1 cent a quart in accordance with a suggestion made to him by the authorities, and he instantly had 400 cancelations of his orders. Consequently, the farmer must take a reduction.

These things should be exempt from arbitrary Federal statutes. [Applause.]

[Here the gavel fell.]

Mr. RANKIN. Mr. Chairman, I rise in support of the amendment to exempt cotton gins and other plants engaged in processing farm products from the drastic provisions of this legislation.

We need not deceive ourselves, Mr. Chairman, this so-called wage and hour bill in its present form, together with the spirit behind it, as expressed on this floor and in the cloak room, constitutes the most vicious assault of its kind that has been made against the South in 60 years. Nothing I have witnessed during all the years I have served in this body compares with it.

Mr. PATRICK. Do not forget the anti-lynching bill.

Mr. RANKIN. Let me say to the gentleman from Alabama that I shall never forget that pernicious measure, nor shall I ever forget some of the mean and vicious slanders that were directed against the white people of the South during the debate on it.

I do not have time to point out all the dangers in this legislation. It is being shoved through on the pretense that its advocates in the House are trying to help the laboring man, when as a matter of fact it is calculated to have the most baneful effect upon the laboring people of the South. I am talking about the people who work for a living, in the mills, in the lumber yards, in the factories and on the farm. I know something about it. I have been a day laborer, and I have worked on a farm. I rode a carriage at a saw mill for two years to get money to go to school one year. Many of the men with whom I worked will be thrown out of employment if this bill becomes a law. It will not raise their wages; it will just close the mill. That is what some of you want; you want to destroy southern industry and force all manufacturing establishments back into the large cities of the North and East.

You kid-glove Members from the cities need not attempt to tell me about the problems of the laboring man. I have had experience, and I know more about the problems of the man who toils for his daily bread than you will ever know.

It makes me a little tired to hear you window-sill farmers from New York, Boston, Pittsburgh, and Philadelphia attempt to tell us about the conditions of the farm laborers. You are not even interested in them. You know this bill will pile upon the farmers' backs untold burdens of expenses, without giving them the slightest benefit.

You propose in this bill to prevent any man working in any kind of industry unless he can get 40 cents an hour. That means that if he cannot get 40 cents an hour, then he

cannot work at all. He must either beg or seek the relief rolls. That destroys the very fundamental principle of human liberty. The greatest liberty a man can have on this earth is the liberty of working for his daily bread.

If you are honest and sincere in your pleas for the laboring man, why do you attempt to make this wide distinction between people working in industry and people working on the farm? A cotton farmer makes 1 cent an hour for his work for every cent a pound he receives for his cotton. Today cotton is about 8 cents a pound. That means that every cotton farmer makes about 8 cents an hour, and wheat, corn, and other farmers about in proportion. If you are going to do justice among the people who toil, why not write into this bill a provision to raise the farmers' pay to 40 cents an hour, which would mean 40 cents a pound for cotton and $4 a bushel for wheat? Instead of that, you are raising the prices of everything the farmer has to buy and leaving him with the bag to hold. You dodge that issue by saying that this does not apply to farmers. Now, if you think the farmers of this country are so stupid that they cannot see that this will pile additional burdens upon them in increased prices for the things they have to buy, without increasing the prices of the products of their farms, then you men from the South and West, who are supporting this monstrosity are in for a rude awakening.

If this bill would raise the wages of all the laborers in the country who are underpaid, God knows I would be glad to support it. But it will not do that, and you know it will not do that. It will simply close industrial establishments in the Southern States and in the Western States, throw thousands of people out of employment, concentrate industry back into the large cities and into large establishments where fewer people will be employed for the amount of goods produced—since machinery will take the place of manpower—and unload upon the unprotected masses, including farmers of the Nation, additional burdens that they will be unable to bear.

This will raise the prices of manufactured articles, with the result that goods will flow in from foreign countries. Then you will be clamoring to build the high-tariff wall higher in order to protect American manufacturers. That will add additional burdens to the farmers of the Nation, and destroy the efforts now being made by our distinguished Secretary of State, Hon. Cordell Hull, to rebuild our international trade. In my humble judgment, the laboring people of this country will curse the day this bill ever became a law, and will curse you for placing this vicious legislation upon the statute books of this Republic. [Applause.]

You say that we can manufacture goods more cheaply in the South and in the small towns throughout the agricultural belt than you can in the large cities of the East. That is true; what you manufacturers pay your laborers in wages over and above what they get in smaller towns of the South and West, is taken away from them in exorbitant rents, excessive prices for the necessities of life, exorbitant utility charges, and other similar expenses.

You do not want to give us any differentials or make any difference between the wages to be paid in the South and West and the wages to be paid in the large cities of the East. Yet, when the relief bill was before the House the other day an attempt was made to wipe out those differences and you voted it down—although it was shown that in the average Southern State a relief laborer only gets about $19 a month, while in New York he gets about $55 a month. But when it comes to placing this measure upon the statute books, to outlaw and destroy southern industry, you refuse any differentials whatsoever.

If this bill becomes a law without the Biermann amendment it will probably close thousands of cotton gins throughout the South. It will close the small canning plants and other processing establishments upon which the farmers depend for a market for their crops.

Some of you are consoling yourselves with the thought that the American people, and particularly the farmers, do not understand this legislation. You let this measure become a law in its present form and you will find out whether or not the people know what is in it before you, or your successors, come back to the Seventy-sixth Congress. [Applause.]

Some of you northern Democrats are saying that you can get along without the South, that you can have a northern Democratic Party. I have heard that argument quite often in recent months. Let me remind you that the Democratic Party originated in the South, and if it had not been for the South holding up the banner of Democracy in recent years there would be no Democratic Party today. If you should succeed in driving the South out of the party, it would not only mean the end of the party itself, but it would sound the death knell of democracy in America.

If I might be permitted to borrow from the lips of a great statesman of a century past and gone, an apostrophe to liberty, revise and appropriate it to democracy, which, to use his own language, are "one and inseparable," I would say that in the South, Sir, where the Democratic Party raised its first voice, where its youth was nurtured and sustained, there it still lives in the strength of its manhood and full of its original spirit. If discord and dissension shall wound it, if religious strife and blind ambition shall hawk at it and tear it, if communism, if fascism, if folly, if madness, if uneasiness under salutary or imaginary restraints shall succeed to separate it from those principles by which alone its existence is made sure, it will stand in the end by the side of that cradle in which its infancy was rocked; and it will fall at last, if fall it must, amidst the proudest monuments of its own glory and on the very spot of its origin. [Applause.]

Mr. BOILEAU. Mr. Chairman, I rise in opposition to the amendment. I agree with a great deal that has been said about this amendment. I agree to the general proposition that some amendment ought to be offered to this bill to permit the farmers to process their perishable commodities; but as a friend of the general proposition of controlling wages and hours in industry, I am unwilling to make any unnecessary exceptions. The gentlewoman from New Jersey [Mrs. NORTON], the chairman of the Committee on Labor, has agreed to accept an amendment which will be offered on page 53 of the bill, which, in my judgment, will meet the real substantial objections that have thus far been presented in the discussion of this amendment. That amendment will be offered as a substitute for the so-called Coffee or Grange amendment. That amendment will go far enough. The amendment that will be offered by the gentlewoman from New Jersey will exempt from the hour provisions of the bill, not wages, the first processors of milk and cream into dairy products, and the canners of fresh fruits and vegetables and fish and other canning processors. It will exempt the canning companies from the hour provisions of the bill for a period of 10 weeks in any one year, which, in my judgment, will give them ample time to do that which they have been demanding. In other words, canners have been demanding the right to can their perishable commodities when the supply is there and when there is need for promptly canning it to prevent waste.

Mr. CUMMINGS. Mr. Chairman, will the gentleman yield?

Mr. BOILEAU. No; I wish I had the time. That amendment will permit canners to operate for 10 weeks in the year without restriction on hours. They will have to pay the minimum 25 cents an hour, but they can work as many hours as needed to preserve the crop. If, perchance, 10 weeks are not enough, then they will have to pay time and a half for the extra time, but I do not think that they will have to do that. A canner from my own district was in my office the other day, and he said that, although now they pay only 22½ cents an hour, he did not object if they would put it up to 25 cents; and along with him was a canner from the great State of Arkansas who agreed to that proposition. He said if they had to agree to pay that same price all over it would not be bad on the industry. I submit if they have these 10 weeks' time in which they can work overtime without extra pay that is enough for the canner.

Getting back to the dairy industry, the amendment the gentlewoman will offer will permit all the year around processing of milk, skim milk, and whey and cream into dairy products without regard to the hour provisions, although the wage provision will be in effect. I submit that is necessary. The Committee on Labor has seen the necessity for it. They have gone a long way, and if we now vote in this bill the amendment, there is great danger of destroying the bill, because if you vote that, and along with it the Coffee amendment, the whole bill will be doomed, and if it is not voted down on the floor today it will have lost its effectiveness, because the provisions are too broad. I submit that all that is needed for the preservation and protection of perishable commodities is contained in the amendment that the gentlewoman will offer. We have no right to ask for more than that; we have no right to come here and say that we want wage and hour legislation to prevail in the cities and in the South, and we do not want others to come under the provisions of the bill. The committee has made sufficient concession, and we can go along with them, and we can have real protection. [Applause.]

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. WELCH. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I represent an urban district, entirely within the city of San Francisco. Regardless of this fact, during the 13 years I have been a Member of this body I have voted for every farm bill that has been presented to Congress. I will compare my record on farm legislation with that of any Member who has been here an equal length of time. I will be the last at this time to vote against an amendment that would be beneficial to the farming interests of this country. Unfortunately, Mr. Chairman, this amendment is premature. The distinguished gentlewoman from New Jersey, the chairman of the Committee on Labor, with the assistance of her committee, has worked out an amendment which will be offered as a committee amendment which I feel absolutely certain will take care of everything required by those who represent the farm interests in Congress; and I do ask at this time that no serious consideration be given to the pending amendment, but that we wait until the chairman of the committee has had an opportunity to present the committee amendment, which I believe will cover everything referred to by the gentleman from Wisconsin.

Mr. HEALEY. Mr. Chairman, will the gentleman yield?

Mr. WELCH. I yield.

Mr. HEALEY. I would like to ask, through the gentleman from California, a question of the gentleman from New York. The gentleman described the canning industry in northern New York. Does he believe an exemption of 10 weeks in any 1 year would be sufficient time for the seasonal activities of that particular industry?

Mr. WELCH. Mr. Chairman, I yield for that purpose.

Mr. WADSWORTH. I am familiar with the provisions contained in the amendment that I understand is to be offered by the chairman of the committee. Ten weeks is a little less than half the normal canning season.

Mr. WELCH. Mr. Chairman, I do not care to enter into a discussion with the distinguished gentleman from New York [Mr. WADSWORTH]. While I represent an urban district, I was born and raised on a farm, and I am somewhat familiar with farming conditions in the gentleman's district as I happen to have been born there. I know about the length of time required to process peas, corn, and other products raised in western New York. While as a rule I have great appreciation for the gentleman's judgment on farm problems, yet very few Members who have read the amendment that will be offered by the gentlewoman from New Jersey have voiced objection to it. On the other hand, with few exceptions all have agreed with it.

I hope, as I said a moment ago, the pending amendment will be voted down.

Mr. REES of Kansas. Mr. Chairman, will the gentleman yield?

Mr. WELCH. I yield.

Mr. REES of Kansas. Is the National Cooperative Milk Producers' Association in favor of the amendment to be offered by the gentlewoman from New Jersey?

Mr. WELCH. There are some cooperatives and some organizations, Mr. Chairman, that would amend it as far as they possibly could, and then destroy it. On the other hand, I do not think there is a producer in the United States who is in sympathy with the humanitarian purposes of this legislation who will not accept the amendment to be offered by the distinguished chairman of the committee.

[Here the gavel fell.]

Mr. GILCHRIST. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. GILCHRIST moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Mr. GILCHRIST. Mr. Chairman, I take this means to get recognition and address the House for 5 minutes.

I am greatly interested in this amendment. The reason it should be passed was well stated by the gentleman from New York, because when any processing tax or extra cost that is put upon a farm product is paid by the farmer, he bears the cost, he always pays. Take, for example, the A. A. A. processing tax. Do you know what happened in connection with that tax? The Brookings Institution itself made a report in which it showed conclusively that the processing tax was borne by the farmer. That was verified afterward by the Department of Agriculture in a report to the Treasury Department in checking the spread on hogs after the processing tax was paid. This also showed conclusively that the farmer paid the tax. This processing tax was found to be unconstitutional and illegal, and we have refunded such illegal taxes to other people. Only this last week we refunded an illegal tax to the railways. I am not opposing it. Perhaps they were entitled to it. There is, however, a duty we owe to the farmers, and that is to repay them the tax illegally collected from them. There is a bill in here now for this purpose, but we cannot get it out of the committee for a vote on the floor. I have tried diligently to get such a vote, but all to no purpose. Now, unless you support the present amendment, you are going to put another burden upon the farmer.

The amendment provides that out in the open country, where the handling, packing, or storing of agricultural commodities is done, there shall be certain exemptions from the provisions of the bill. We should have such exemptions so as to apply them to our creameries and milk producers and cheese makers. Do not destroy these farm activities. There is no question of health involved in what is done out in the open country, because the conditions there are healthful. The tempo of work out there is slower than in cities.

The freight rates are very much against us out there. I live in a little village of 1,200 people. We do not have any reservoir of labor upon which we can draw in times of peak loads or seasonal activities. We have to go along during the year, and there is no place to which we can go to get extra labor, even by paying time and a half or two times what the common wages are.

There is no question involved as to the necessity for this amendment in the cities, and I would like to be for the bill if I can be. I deny the insinuation the gentleman from the city of Brooklyn made that we are trying to sabotage this bill. That gentleman has no interest in farms or farming. As was said by another, "There has not been a calf born in his district for 50 years." It is not the purpose to sabotage the bill, but if we do support the bill, it will be because it does not destroy our industries. The old bill provided for the things contained in this amendment. Why the change? The present bill takes care of the packing of apples, peaches,

and pears, but it does not provide for such things as the canning of corn, the canning of tomatoes, or any of the other industries that the little villages depend upon and must depend upon. You folks are going to deny them that right if you vote down this amendment. I know what is in the substitute amendment which has been talked about here. It is merely a red herring drawn across the trail. The 10 weeks spoken of in the committee substitute will not do. It will not rescue us from the situation that you are putting on us. It does not provide for the things that my colleague from Iowa has provided in his amendment.

Mr. BIERMANN. Will the gentleman yield?

Mr. GILCHRIST. I yield to the gentleman from Iowa.

Mr. BIERMANN. Did the gentleman in all his experience in Iowa ever hear of any labor man or any labor organization complaining of substandard labor conditions at one of these factories which would be affected by my amendment?

Mr. GILCHRIST. No; not at all. I presented an amendment which is much like but not exactly identical to this one. A gentleman from the American Federation of Labor came to my office and said that they were not opposed to it. Labor is not against it. The amendment offered by the gentleman from Iowa [Mr. BIERMANN] should be adopted. Having discussed the amendment, I now ask leave to withdraw my own preferential amendment.

[Here the gavel fell.]

Mr. GILCHRIST. Mr. Chairman, I ask unanimous consent to withdraw my preferential motion.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

Mr. FULLER. Mr. Chairman, I object.

Mr. THOMPSON of Illinois. Mr. Chairman, I rise in opposition to the preferential motion.

The amendment offered by the gentleman from Iowa, as well as section (g) of the committee amendment, is, in my opinion, entirely too far-reaching. I have no objection to exempting some of the small processors who do home curing and home canning from the provisions of this measure; but may I call the Committee's attention to the fact that in a large number of the smaller cities of our country, especially in the Middle West, there are many so-called small packing houses and canning plants. They are not so small after all. They employ, two, three, or four hundred men and women and process various agricultural products. They kill pork, beef, lamb, and send it to market, as well as can soups, vegetables, and fruits.

The canning plants in these small country towns do not do such canning for home consumption. They do it under contract for some of the large distributors of the country. The distributors from the large cities send out labels, and the commodities are then labeled and sent into interstate commerce to be consumed in the larger cities, and centers of population.

I think all will agree with me that these small canning plants and so-called small packing houses very frequently pay notoriously low wages and work their employees long hours during the season. If we are going to have constructive wage and hour legislation, we should protect the people in the small communities, the people in these one-industry towns and villages, who are obliged to work in these factories, there being no other employment available. I hope therefore the Committee will reject the amendment offered by the gentleman from Iowa.

Mr. Chairman, in this connection, and assuming that the committee will reject the Biermann amendment, I ask the chairman of the Committee on Labor, the gentlewoman from New Jersey, what is meant by the committee language in section (g), "but not commercial processing"? That is not clear in my mind, and I would like to have a better idea of the committee's interpretation of that language which is in parentheses.

Mrs. NORTON. I may say to the gentleman it does not include making fertilizer or any of those commercially processed articles.

Mr. THOMPSON of Illinois. May I ask the gentlewoman this question: Where there is a small packing house or small canning plant engaged in packing or in canning, what do they do with the commodity? What do they do with the pork and beef that they kill? What do they do with the vegetables they can? It must be for commercial consumption. They cannot eat it all themselves and, generally speaking, these plants are not cooperatives.

Mrs. NORTON. I may say that at the proper time I intend to offer an amendment which I think will take care of the small packing industries.

Mr. THOMPSON of Illinois. My understanding is that the amendment to be offered by the gentlewoman from New Jersey would affect only the question of overtime, the question of hours.

Mrs. NORTON. Hours; yes.

Mr. HEALEY. Will the gentleman yield?

Mr. THOMPSON of Illinois. I yield to the gentleman from Massachusetts.

Mr. HEALEY. The gentleman does not want to pay these people less than 25 cents an hour, does he?

Mr. THOMPSON of Illinois. Absolutely not. That is the reason I am opposing the amendment offered by the gentleman from Iowa [Mr. BIERMANN].

Mr. REILLY. Will the gentleman yield?

Mr. THOMPSON of Illinois. I yield to the gentleman from Wisconsin.

Mr. REILLY. How much of the year do the small packing plants run?

Mr. THOMPSON of Illinois. Some operate 12 months a year, others during the canning season only.

Mr. REILLY. They would not come under this act at all.

Mr. THOMPSON of Illinois. But that is not clear in my mind. I do not so understand.

Mr. FULLER. The gentleman does not mean to tell us that up in his district and around that territory they pay as low as 25 cents an hour for labor in packing plants, does he?

Mr. THOMPSON of Illinois. Yes; in some cases.

[Here the gavel fell.]

The CHAIRMAN. All time has expired.

Mr. WHITTINGTON. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WHITTINGTON. May I ask if the Chairman has included the 5 minutes consumed by the gentleman from Iowa [Mr. GILCHRIST] which was on a preferential motion?

The CHAIRMAN. There still remains 5 minutes of the 30 minutes that the Committee agreed to by unanimous consent. Debate has closed on the preferential motion offered by the gentleman from Iowa [Mr. GILCHRIST].

The question is on the motion of the gentleman from Iowa.

The motion was rejected.

Mr. BEITER. Mr. Chairman, I rise in opposition to the Biermann amendment.

Mr. BIERMANN. Mr. Chairman, how has the time been divided so far?

The CHAIRMAN. This is an inquiry which the Chair anticipated might be made, and the Chair calls the attention of the gentleman from Iowa to the fact that of the 25 minutes which have been consumed so far, 15 have been consumed by those in favor of the amendment of the gentleman from Iowa and 10 minutes by those in opposition. Fifteen minutes have been consumed by Members on the Republican side and 10 minutes by Members on the Democratic side. The recognition of the gentleman from New York by the Chair evens the time all around.

Mr. BEITER. Mr. Chairman, like the gentleman from New York [Mr. WADSWORTH], I represent a district in which are located small canning factories.

First of all, before I take up the gentleman's argument, may I read the substitute proposed by the gentlewoman from New Jersey [Mrs. NORTON] for the amendment offered by the gen-

tleman from Nebraska [Mr. COFFEE]. The gentlewoman's amendment reads as follows:

(b) In the case of an employer engaged in the first processing of milk, whey, skimmed milk, or cream into dairy products, or in the ginning and compressing of cotton, or in the processing of cottonseed, the provisions of subsection (a) shall not apply to his employees in any place of employment where he is so engaged, and in the case of an employer engaged in the first processing of, or in canning, fresh fish or fresh sea food, or perishable fresh fruits or perishable fresh vegetables, or in handling, slaughtering, or dressing poultry or livestock, the provisions of subsection (a) shall not apply for 10 workweeks in any calendar year to his employees in any place of employment where he is so engaged.

The gentleman from New York stated that early in June or possibly the middle of June they would start the canning of peas and keep up this work for about 4 weeks, or until the middle of July. Then there would be a lull in the industry for about 4 weeks, or until the middle of August. From then on they would can corn, carrots, and possibly tomatoes.

The amendment which is offered by the gentlewoman from New Jersey does not state that the exemption shall be for 10 consecutive weeks, and by the admission of the gentleman from New York, they work the men 2 hours overtime, or possibly, at the outside, 3 hours overtime only about once a week, so you can see that a period of 10 weeks is ample. If the amendment is approved, it will give the small canning industries ample time to take up that slack. If it is not 10 consecutive weeks, well and good.

Mr. MOTT. Mr. Chairman, will the gentleman yield?

Mr. BEITER. I yield to the gentleman from Oregon.

Mr. MOTT. I may say to the gentleman that provision would not do the fish canneries on the Pacific coast very much good because they operate almost continually. There are only two or three months in the year when they do not operate, and many of the fish canneries also can vegetables and fruits.

Mr. BEITER. I am not as familiar with the fish canneries as I am with the fruit and vegetable canneries that the gentleman from New York has cited. What I have tried to point out is that by the gentleman's own figures the 10 weeks' exemption is ample time in which to take care of their commodities.

Mr. CULKIN. Mr. Chairman, will the gentleman yield?

Mr. BEITER. I yield to the gentleman from New York.

Mr. CULKIN. Does the gentleman believe the first processing of dairy products would include casein and dried milk?

Mr. BEITER. Yes; I believe it would.

Mr. CULKIN. I am very fearful of that, I may say to the gentleman.

Mr. DORSEY. Mr. Chairman, will the gentleman yield?

Mr. BEITER. I yield to the gentleman from Pennsylvania.

Mr. DORSEY. The provisions of this amendment do not require that it be 10 consecutive weeks, but a total of 10 weeks.

Mr. BEITER. I have stated that it would not be 10 consecutive weeks but a total of 10 weeks.

Mr. BOILEAU. Mr. Chairman, will the gentleman yield?

Mr. BEITER. I yield to the gentleman from Wisconsin.

Mr. BOILEAU. When I took the floor awhile ago I explained the Norton amendment and I did not refer to the cotton ginning. I am pleased to note that the gentlewoman from New Jersey has changed her amendment to exclude cotton ginning along with dairying. I am sure this helps her amendment considerably.

Mr. BEITER. I am sure that will help the proposal of the gentleman from Mississippi [Mr. RANKIN].

Mr. COFFEE of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. BEITER. I yield to the gentleman from Nebraska.

Mr. COFFEE of Nebraska. I hope the gentleman will explain to the House that the Grange amendment is not now before the House, and that this substitute is gradually being enlarged, taking in anything that anybody wants, in order to torpedo the Grange amendment.

Mr. BEITER. I do not believe that is the case.

Mr. DEMUTH. Mr. Chairman, will the gentleman yield?

Mr. BEITER. I yield to the gentleman from Pennsylvania.

Mr. DEMUTH. I wish to remind the gentleman that in my congressional district we have the largest canning and preserving factory in the world, the H. J. Heinz Co. This is an employees' bill, not an employers' bill. I am for the bill. [Applause.]

Mr. MEAD. Mr. Chairman, will the gentleman yield?

Mr. BEITER. I yield to the gentleman from New York.

Mr. MEAD. Everyone in the House realizes the sincerity of the leadership of the gentleman from Wisconsin [Mr. BOILEAU], who took the floor a moment ago and expressed his attitude in favor of the amendment exempting agriculture which will be offered by the gentlewoman from New Jersey [Mrs. NORTON]. I really believe those who are in favor of the workers of the country will support that proposal rather than the pending amendment, which has been referred to as an employers' proposition.

Mr. BEITER. American industry has demanded and won the right to the discussion on this bill to put a floor under wages and a ceiling over hours for the workers of our country. Compulsory legislation on the part of the Government is most necessary to correct the evils that exist in the field of labor today. The bill is a liberation for those who spend their days in back-breaking toil at starvation wages. These conditions have been tolerated for years by those who believe the profit system can operate no other way. An aroused public opinion has forced the issue.

The proposal not only sets up a uniform standard of minimum wages and maximum working hours but it also does something definite to eliminate child labor. Recent events have proven that while everybody talks about the horrors of child labor nothing has yet been done to correct it. The proposed amendment to the Constitution which would permit the Congress to legislate definitely against child labor has not been approved by a sufficient number of States to ratify it. The New York State Assembly some few months ago adopted a resolution petitioning Congress to regulate or forbid interstate commerce in merchandise manufactured by child labor. But this same body has not ratified the amendment to the Constitution which would give Congress specific power in this matter. Unless we take action such resolutions are just more "talk" and brings us right back to where we started—with no definite action being taken to stop this heartbreaking exploitation of childhood.

The present bill presents another approach to the solution of this vexing problem.

Our problem here is definite. The only possible solution is a uniform national law improving the social and economic conditions of our workers with decent wages and humane working hours and definitely eliminating conditions which permit children to toil.

Employers have advanced many reasons why this bill should not be enacted into law but none of them, so far as I can see, are sound or convincing. There are some employers, I am glad to relate, who do not take this stand and want to stop the cheap-labor racket which is attracting many industries to the South. These employers know and appreciate that unfair competition in the wages of employees leads to other evils besides underpaid and undernourished workers.

A majority of the House membership has shown that they want the bill brought here for debate—let us not waste time in trying to amend it too much. The last time we tried to pass a wage-hour bill it was amended to its death. Let us not make the same mistake again. We have a good bill and other perfecting amendments, if needed, can be undertaken as experience and expediency dictate.

Those who are genuinely interested in the welfare of our workers and who are sincere in their desire to outlaw child labor will vote for this bill. Humanity demands it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa.

The question was taken; and on a division (demanded by Mr. BIERMANN) there were—ayes 130, noes 109.

Mrs. NORTON. Mr. Chairman, I demand tellers.

Tellers were ordered; and the Chairman appointed as tellers Mrs. NORTON and Mr. BIERMANN.

The Committee again divided; and the tellers reported that there were—ayes 159, noes 134.

So the amendment was agreed to.

Mr. MAAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MAAS: On page 49, line 23, after the word "thereof", insert "and shall include the Federal Government in the executive, legislative, and judicial branches, except the Army, Navy, and the Coast Guard."

Mr. MAAS. Mr. Chairman, I believe that when the Government urges or imposes upon the people any progressive, forward step it should itself set the example and lead such a movement. The effect of this amendment merely applies the same protection to Government workers as will be accorded to those in industries.

There are numerous cases where Federal employees work in excess of 40 hours, and there are too many cases where they work for less than 40 cents an hour. The amendment, by including the legislative employees, applies the principle to the Government itself, and I believe if we want industry to follow these progressive movements we should take the first step and set the example. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota.

The question was taken; and on a division (demanded by Mr. SHORT) there were—ayes 33, noes 141.

So the amendment was rejected.

Mr. BLAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BLAND: Page 50, insert after line 24, the following new paragraph:

" 'Fishery industry' includes all fishery operations in preparing to catch or take, or in catching, taking, harvesting, cultivating, or farming, any kind of fish, shellfish, crustacea, sponges, seaweeds, and other aquatic forms of animal and vegetable life, including going to and returning from such work; and loading, unloading, or packing such products for shipment, and the propagating, processing, marketing, freezing, curing, canning, storing, and distribution of the above products and byproducts thereof."

Mr. BLAND. Mr. Chairman, if this amendment is adopted there will be offered in section 11 an amendment containing the necessary exemptions with reference to this industry.

It will be noted that in this particular section agriculture is defined. I was interested in the remarks of the prime mover of this legislation, the gentleman from Massachusetts, in which he said that obviously agriculture should be exempted. By all the rules that apply to agriculture, and then some, the fishery industry ought to be exempted. If there is any industry under heaven that cannot measure its operations by the rules that are applicable under this bill, it is the fishery industry. It is as varied in the different sections of the country, almost, as the different fishing sections themselves, some by reason of participation in the fish caught, some by reason of wages, as well as various other operations. The industry is confronted not alone by the vicissitudes that apply to agriculture, but also wind, wave, action of the tide, fogs, and various other conditions that must, necessarily, determine operations in the fishery industry. You may legislate all you please as to number of hours, but the fish that are running will not obey your legislation. [Laughter.] You may legislate all you please with respect to any provision in this bill, but when it comes to fogs and waves and wind and tide you are dealing with a situation that is far beyond this bill or the operation of any bill. You are dealing, when you deal with the fishery industry, with a condition that needs assistance, that needs help, and has received just about as little as any industry in the country.

When the tariff law was written, fish were not being imported in the large quantities that they are now and fish were largely on the free list. The result is that we today are confronted not alone with various vicissitudes in this country, but we are confronted with Japanese fish coming into this country, and some taken practically from our own borders. I ask you, in defense of this great interest, that it be given the same benefits that are given to agriculture. [Applause.]

Mrs. NORTON. Mr. Chairman, I shall take just a moment or two to say that the purpose of the gentleman's amendment is already taken care of in section 11, where there is exemption of employees in the taking of fish, seafood, and sponges; also, in the amendment that the committee will offer on page 53, there will be a further exemption.

Mr. BLAND. Mr. Chairman, will the gentlewoman yield?

Mrs. NORTON. Yes.

Mr. BLAND. The exemption as to taking of fish, seafood, and sponges is a minor operation in fisheries, and only part of it, and shows that the committee evidently did not have a full contemplation of the fishery industry.

Mrs. NORTON. We feel that we have taken care of all that is necessary in that particular business. I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia.

The question was taken; and there were on a division (demanded by Mr. BLAND)—ayes 101, noes 128.

So the amendment was rejected.

Mr. CRAWFORD. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment proposed by Mr. CRAWFORD: Page 52, after line 14, insert a new subsection, as follows:

"(n) 'Wage' paid to an employee includes the reasonable cost, as determined by the Secretary, to the employer of such employee of furnishing such employee board, lodging, housing, or other facilities, if such board, lodging, housing, or other facilities are customarily furnished by such employer to his employee free of charge."

Mr. CRAWFORD. Mr. Chairman, we face a practical fact that where board, lodging, or housing is furnished, unless it is taken into consideration, charges for that service will be increased in proportion to the amount of the wage increase. This amendment leaves the matter entirely up to the Secretary of Labor, and in behalf of the employee this type of relationship should be brought into the definition part of the act and made a part of the act. Everyone understands it; there is no need of taking a lot of time to discuss it or explain it. In the coal industry, and in many other industries, there is this realistic thing to deal with, and I think it must have been an oversight on the part of the committee in leaving that out of the definition portion of the bill.

Mr. O'MALLEY. Mr. Chairman, will the gentleman yield?

Mr. CRAWFORD. Yes.

Mr. O'MALLEY. I think the gentleman has in mind the lumber industry, where the workers in the forest are charged for board and lodging and it is placed against their wages.

Mr. CRAWFORD. Yes; a number of industries have that same problem.

Mr. O'MALLEY. And does the gentleman's amendment leave it to the Secretary to determine what a fair charge shall be?

Mr. CRAWFORD. Yes; it leaves it entirely in the hands of the Secretary. There is no way in which it will operate against the employee.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Michigan.

The amendment was rejected.

Mr. COOLEY. Mr. Chairman, I offer the following amendment which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. COOLEY: Page 50, line 20, after the word "farmer", insert "all persons employed in connection with the sale of leaf tobacco in auction warehouses."

Mr. COOLEY. Mr. Chairman, when the last wage and hour bill was before the House at the extraordinary session last fall, an amendment similar to the amendment that I have just offered was accepted by the chairman of the Committee on Labor. I hope that the amendment may be accepted by the Labor Committee at the present time, and if

not, that it may be adopted by the House. It is applicable only to those persons employed in auction warehouses in which leaf tobacco is sold. I cannot in the brief space of time at my disposal attempt to discuss in detail the operations of an auction warehouse but I call the attention of Members to the fact that auction warehouses are operated for the benefit of the farmers and in auction warehouses the farmer sells his tobacco. In the State of Georgia the entire leaf-tobacco crop is marketed in the brief space of 3 weeks. In North Carolina, Virginia, and in other sections of the country it takes longer, perhaps 3 or 4 months, but the point I wish to impress upon the House is that it is necessary for warehouses to remain open 24 hours each day. The farmers bring their tobacco in at every hour of the night, and these employees are permitted to sleep and loaf on the job until a farmer arrives with his tobacco. The tobacco is then taken from the truck or wagon and placed on the auction warehouse floor. There is not sufficient labor available at all times to operate on regular shifts of 8 hours each.

Mr. SIROVICH. Mr. Chairman, will the gentleman yield?

Mr. COOLEY. I yield.

Mr. SIROVICH. Who pays the wages of the man at the warehouse, the owner of the warehouse or the farmer who brings the tobacco?

Mr. COOLEY. The man who owns the warehouse pays the wages of the person assisting the farmer in unloading his tobacco.

Mr. SIROVICH. And the owner of the warehouse gets a commission on the sale of the tobacco.

Mr. COOLEY. The farmer pays the warehouseman a commission for services, which includes the services of the auctioneer.

Mr. SIROVICH. Why should the warehousemen be exempted?

Mr. COOLEY. The fact is that if these people are not made available by the warehouseman the farmer must unload his own tobacco and perform his own labor. The warehousemen heretofore have rendered that service for the farmer, and I am afraid that if they are put under this bill they will cease furnishing the service. Many of the farmers come in as early as 2, 3, or 4 o'clock in the morning, tired and exhausted; and if they do not have these laborers to help them unload their trucks or wagons, they will have to do it themselves. I hope the Members of the House will see the wisdom of putting this exemption in this bill.

Mr. CREAL. Mr. Chairman, will the gentleman yield?

Mr. COOLEY. I yield.

Mr. CREAL. Technically, does the gentleman think that that is an operation that becomes a part of interstate commerce? Does that tobacco partake of the nature of interstate commerce until it has reached the floor and been sold? Is not the warehouseman before that time the agent of the seller?

Mr. COOLEY. I am inclined to think the gentleman is correct; but to remove all question of doubt, I think this exemption should be included in the bill.

Mr. CREAL. Mr. Chairman, will the gentleman yield further?

Mr. COOLEY. I yield.

Mr. CREAL. The warehouseman charges 75 cents a hundred for handling this tobacco, and part of the service he renders is to help the farmer unload. If through the operation of this bill that charge were increased, would not the discrimination be against the farmer just the same as it is in the case of freight rates?

Mr. COOLEY. He would have to pay the bill or perform the labor himself. In all sincerity, I impress upon the House the desirability of this amendment. I certainly hope it will be adopted as it was before. It is applicable only to a very few people. It will work a great hardship upon the farmers if they are forced to place their own tobacco on the floors of these auction warehouses.

[Here the gavel fell.]

Mr. COCHRAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the purpose of this legislation is not only to provide a minimum wage and maximum hours, but also to put more people to work; put more people to work is as important as wages and hours.

Mr. WHITE of Idaho. Mr. Chairman, will the gentleman yield at that point?

Mr. COCHRAN. No; I refuse to yield at the moment.

Mr. Chairman, the purpose of this amendment is to keep additional people from going to work. Here is a concrete example where if this legislation is put into effect, those who operate the tobacco warehouses will not be able to keep people on the job 24 hours a day, as the gentleman who offered the amendment admitted they do. He says they sleep there and that when the farmer comes he wakes them up and they help the farmer unload his trucks. What we want to do by this legislation is to require that when they work 24 hours a day they have three sets of employees, split their work up into three shifts of 8 hours each.

Mr. COOLEY. Mr. Chairman, will the gentleman yield?

Mr. COCHRAN. I yield, because I referred to the gentleman's speech.

Mr. COOLEY. I think the gentleman misunderstood me. I made the statement that the warehouses of necessity remained open 24 hours of the day and in many instances the warehousemen kept their employees there. They were not actually working through the 24 hours. If a farmer came in at 2 o'clock in the morning, he would have to call on the warehouseman to help him unload.

Mr. COCHRAN. I understood the gentleman perfectly. They keep their warehouses open 24 hours a day and only want to employ one set of men. The retailer keeps his place open, the manufacturer keeps his place open, and they will be required to meet the provisions of the bill. Why not your tobacco men? I repeat, what we want to do is to put more people to work in this country, just as much as we desire to have a minimum wage and maximum hours; that is what we are trying to do and propose to do.

To do this we provide a minimum wage of 25 cents per hour for the first year, increasing at the rate of 5 cents an hour yearly until the wage scale will be 40 cents an hour. Further provisions are made for a 44-hour week at the outset, reduced to 42 hours the second year, and then to 40 hours a week thereafter. The minimum wage for a 44-hour week is $11 a week while 4 years after the passage of the act it will be $16 a week for 40 hours. All I ask is for those who oppose this bill to read its provisions that relate to minimum wages and maximum hours, stop and think for a moment, and then publicly let the people in their community know their opposition. Let them put themselves in the place of the workers we seek to help and see how soon they would change their views. We are not only doing something for the employee but we are also assisting the employer, because the increase in wages means an increase in buying power which brings better business. Who will contend that anyone receiving such a wage will be able to save any portion thereof for a rainy day? In setting this standard we also better the condition of the housewife and the children. Deprived of proper necessities of life today they are undernourished, not properly clad, and millions live in homes which not one person who opposes the measure would even care to enter.

We strike at those who for years have exploited their labor; at those who furnish unfair competition by selling their products at a price far below the producer who pays his employees a fair wage.

Say what you like about the National Recovery Act but the fact remains that act was beneficial to employees and to business, large and small. It was the chiseler, the sweatshop owner, and the like, that sought its destruction. This bill seeks to restore in part the N. R. A.

Those who care nothing about a reasonable standard of living for others so long as they can reap a harvest in dollars, those who deny a reasonable share of the profits of their industry to the men and women who are responsible

for those profits and those who would pay themselves hundreds of thousands of dollars in wages and bonuses annually, at the same time paying starvation wages to their employees, for selfish reasons oppose this legislation.

With millions of our citizens out of employment because of labor-saving and labor-displacing devices, are we to remain silent and not try and do something to put them back to work? Faced with another emergency—you and I know it is an emergency—I am not in favor of following the do-nothing policy of the Hoover administration. Either industry can open its doors to those who must have employment, or the Federal Government must continue to feed those unfortunate citizens and their families.

What did Chief Justice Hughes say in his opinion on the State minimum-wage law last year? Let me quote from his opinion, in part:

> The exploitation of a class of workers who are in an unequal position with respect to bargaining power and are thus relatively defenseless against the denial of a living wage is not only detrimental to their health and well-being but casts a direct burden for their support upon the community. What these workers lose in wages the taxpayers are called upon to pay. The bare cost of living must be met.

In plain words, Chief Justice Hughes points out it is the community that cares for its citizens when exploiters of labor refuse to do so. Is it not the taxpayers that pay the expenses of the community? Therefore, if in the end it is necessary to secure money for the upkeep of Government from those best able to pay, be it National, State, or local, is it not far better for the businessmen to take care of the worker in a way that will bring him labor for his money, rather than by taking care of the worker through the imposition of taxes?

We are not living in a world such as you and I knew as boys, nor in a world such as the forefathers knew. No business could exist today as it existed then. The standard of living of that day is not the standard of living today. We must meet the changed conditions. This is a step in the right direction. The principle of minimum wages and maximum hours is sound. No individual or corporation will suffer in the end by this legislation but, on the contrary, the millions of underpaid and overworked will benefit by a better standard of living, and as their purchasing power is increased the money will eventually be returned to the distributor and the producer.

I predict if this law is properly administered as Congress intends that it should be administered those who condemn it now will be highest in its praise.

Mr. Chairman, I say to the friends of this legislation that if they have kept their eyes open today and watched who voted for amendments they have found that it is the enemies of the legislation that attempt to adopt amendments. Those who voted for amendments, who refused to vote for consideration of the bill, will not on final roll call be found voting in favor of this measure, no matter what amendments are adopted. Let no one tell you that they will. Those who yesterday voted against considering this bill today voted against this committee on practically every vote that we have taken.

I say to the friends of this legislation: "Stay here; stand by your committee. Let us pass this legislation and not emasculate it as the enemies of the bill are trying to do."

This amendment should be voted down. [Applause.]

Mrs. NORTON. Mr. Chairman, I move that all debate on this amendment do now close.

The motion was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. COOLEY].

The amendment was rejected.

Mr. KITCHENS. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, the President, on January 3, 1938, in his message to Congress stated that "no reasonable persons seeks a complete uniformity in wages in every part of the United States." This statement should be true. Unfortunately, there are those in the House under the President's statement who will be placed in the category of the unreasonable, because they insist that wages be uniform and without distinction between the efficient or inefficient, male or female, old or young, skilled, semiskilled, or unskilled, and regardless of whether industries or factories are small or great, rich or poor, highly mechanized, or not.

The avowed purpose of this bill is the establishment of fair labor standards in employments in and affecting interstate commerce among several States. It really classifies all laborers as unskilled because no provision is made for skilled or semiskilled labor. No minimum wage is set for semiskilled labor or for skilled labor, and no protection is given to such labor under this law. On the contrary, they are left as the prey of chiselers and exploiters of labor, because the great majority of them are unorganized and without protection. Necessarily, the unskilled laborer under this bill will profit at the expense of the semiskilled and skilled laborer, and such a law is unfair and unjust. Instead of protecting the efficient and those who have diligently applied themselves to learning their trades, they will be required to bear the extra cost burdens of the inefficient, untrained, and unskilled.

This bill involves the principles of price fixing. If we can fix the minimum price of labor in industry, then we can fix the minimum price for all farm products in interstate or foreign commerce. It necessarily follows, then, that Congress can fix the wages of money and salaries of all people engaged in any business in interstate commerce, and can fix the wages of owners of industry by limiting their profits.

No hearings have been held on this bill. Those behind the bill object to any amendments, and refuse to consider or support a comprehensive bill that will do justice to all laborers, farmers, consumers, and owners of industry. We are entering a wide field of Federal legislation, revolutionary in character, never before attempted, under a granted power only of regulation of interstate commerce as set forth in section 1, article I, of the Constitution. This bill, if constitutional, extends the interstate commerce clause to such an extent that Congress will have the absolute power, directly or indirectly, to control all labor, industry, and commerce in the United States. Whether such an extension of Federal legislation, in its attempt to regulate interstate commerce, will result in good or evil remains to be seen.

Certainly, this bill, as now proposed, will centralize and result in centralizing all labor and industry in an official or agency of the Federal Government. The ostensible object of the bill, that is, to regulate and eliminate substandard conditions of labor in interstate commerce, will meet wholehearted approval of all. It is only when laborers, farmers, and owners of industry receive a fair wage and fair price for their products that the country can prosper.

I admit that in the great industrial centers of the Nation there exists today a most desperate state of affairs. The present plight of the unemployed in such industrial centers is due to a lack of jobs, which is the same trouble as in my district. It is not due necessarily to the wage paid. I am not one of those who believes a laborer should receive all of nothing rather than part of something. I am not one of those who believes it better for a laborer and his family to starve if he cannot get the same wage that is paid in New York City, Chicago, or Philadelphia. I am not one of those who believes that if the small factories cannot pay the same wage and at same time pay higher freight rate than large $5,000,000, $10,000,000, or $100,000,000 plants, that such small factories should be put out of business, and their labor permitted to starve. I am not one of those who believes it is better to have a few large industrial plants, monopolies, rather than to have a large number of small factories scattered here, there, and yonder throughout the country. I shall not be misled by those who seek to build up industry in their sections at expense of labor and others in my section. I do not believe in cheap labor. I believe the laborer is worthy of his hire and entitled to a fair wage for his

work, and will support any bill to that end, but I cannot obtain my consent to support a bill which will make fish of one and fowl of another.

What consideration in this bill are you giving to the man who is unable to obtain a job? He is honest and deserving and has, probably, a wife and children who need to live. You are casting him aside for the benefit of more fortunate ones. You are saying to him, "You and your family cannot live on $40 per month, and therefore it is better that you should die of starvation than that you should receive less than $44 per week." You are saying to the skilled and semi-skilled, unorganized laborers, "We will leave you to bear, at your expense, the extra burden and discriminatory freight rate of the industry in which you work."

A great deal has been said about southern labor. Unnatural tears have been shed in behalf of southern labor. Yet I do not forget that during the year 1937 $214,000,000 were contributed by the Government to relief of people in the State of Pennsylvania, while only $211,000,000 were contributed to all the Southern States. I listened yesterday to one of the gentlemen from Massachusetts, who, in a complaining tone, mentioned that on his trip through the South he asked the manager of one plant whether he had any aliens working in the plant. The manager replied, "Yes; we have two, but they are going to leave today." I praise that manager and take the liberty of saying that no aliens, who have not filed declaration of intention to become citizens of this country, will be welcome in my State to take the place of our labor. The alien problem is causing a great deal of the trouble in the East and the North; and so far as I am concerned, I am prepared to vote to return every one who does not file application to become a citizen to their homelands and that without delay.

It is freely admitted by some distinguished and disturbed Congressmen from the North and East that the real object of this bill is to prevent industry from being further decentralized and seeking better and more peaceful climes in the South. The truth is, industry cannot be blamed for seeking a section of the country where labor, power, and raw material are plentiful. We welcome industry, but shall expect industry to pay a fair and reasonable wage.

One of the reasons why the bill is unfair, unjust, and discriminatory against about four-fifths of the United States and its citizens is failure to take into consideration the unequal freight rates in various sections of the country. Eastern and northern industry has advantages over southern, western, and midwestern industry due to higher freight rates in the latter sections. If this advantage can be held, and the same wage imposed, then no industry can exist, much less compete with northern and eastern industry. The effect of this bill will be to destroy present industry in great sections of the country, and prevent the obtaining of any new industry.

Only recently, at Birmingham, Ala., representatives from various Southern States met and appeared before the Interstate Commerce Commission at a hearing there in order to bring about more nearly a parity of freight rates for the South.

The New England States and Governors of those States had a great number of lawyers at Birmingham vigorously opposing fair or parity freight rates for the South. So one needs to watch reformers as they loll on their tongues, parrot-like, the expressions "slave labor," "sweatshops," and so forth. When I hear the voice of Jacob and see the hand of Esau, I know enough to beware.

The New England States have been getting the benefit of tariff for many years at the cost of the South and West. We have been paying that tariff on the fabricated products of the East in order to help eastern labor and industry. The result is most industry, as well as capital, is centralized in that section. I might mention also in this connection that the industry in the Northeast imported for many years alien labor, exploited that labor for many years at the expense of southern and western labor, and now is willing and anxious to further sacrifice southern industry, southern labor, and consumers for their benefit.

I wish to call your attention to the Fifteenth United States Census of Manufacturers. This census shows there are something over 200,000 small factories in the United States, and about 20,000 large factories. That census shows a laborer in a factory which produces products annually of the value of $1,000,000 or more, by use of machinery, greater capital, larger purchases, and greater coordination of effort, produces from two to four times as much as a man doing the same kind of work in a small factory with an output amounting to $50,000 or less per year. I ask, then, how a small plant can pay the same wages as a million-dollar plant, and then, in addition, pay higher freight rates? It occurs to me the only plants that can survive will be the large plants.

The President recently sent a message to Congress on monopolies and requested legislation to prevent monopolies. This bill, in my opinion, will create, centralize, and sectionalize industry in the New England States, and further protect and foster monopolies. I hear Members on the floor of the House and in the cloak rooms say that all small businesses, if unable to pay what they call a living wage, should be destroyed. But they lose sight of the fact that what is a living wage in one section is not in another. If a living wage is to be your guide, then what is a living wage? This bill purports to define it, but I disagree with the definition. It falls far too short. They prefer that he receive no wage at all unless he receives the same wages as paid by a large million-dollar factory. By their votes and their efforts, they are against all southern, western, and midwestern labor and industry, and favor monopolies and million-dollar corporations. They are against the farmers and the consumers likewise, because any aid to the large industrial corporations, or advantage to them given, and to their labor, will be at the expense of farmers and other laborers and consumers.

It is well known that the large industrial corporations and monopolies exist mostly in the New England States. No telegram comes to any Member of Congress from them opposing this bill; no, not one. All monopolists, by their silence, favor it and are not openly advocating it because of fear of arousing some to a sense of its selfishness and injustice. They agree with certain Members of Congress who say, "Let the small industrial plants perish." I do not blame monopolists and large mechanized factories for not opposing this bill. There is method in their inaction and silence, and we see no telegrams or propaganda flooding Congressmen's offices.

On May 4 Congressman FISH, of New York, on the floor of the House, stated:

> I am not blaming any friends from Tennessee and Kentucky; I am not blaming Democrats of the South who may have different issues in those States confronting them. I admit that every northern Democrat from an industrial city will vote for this bill.

Mr. FISH then added:

> I have heard no demand from capital or industry against it; I do not know a single big industrial corporation in America that is opposing this bill.

Mr. FISH then begged all Republican Congressmen to support the bill.

This bill will destroy jobs, because large industrial corporations with millions of capital will use more and more machinery. This cannot happen in small factories. High-speed machines in large factories will be further mechanized for replacement of men. To be sure, no new jobs will be created by this bill. The only real effect of same will be to destroy jobs in great sections of our country and increase jobs in new and large monopolistic industries and centers in New England. After all, I know that one section of our great country cannot and should not prosper on the ruins of labor and industry in other sections.

The large pulp mills, oil companies, and railroads are not affected by this bill. The bill also excludes from its protection farmers, retail clerks, horticulturists, livestock raisers, poultry people, packers of agricultural products of different kinds, outside salesmen, seamen on merchants' ships, those

engaged in taking fish and sea foods. In fact, the bill excludes every worker in intrastate business of all kinds, such as work in laundries and other local factories and business not doing an interstate business. Why burden all these people with excess cost of their needs by fixing a set wage and lesser hours accruing to benefit of large industrial establishments and their labor in New England States? This bill singles out interstate laborers as a class to give them higher wages and shorter hours. All intrastate laborers are given nothing whatever. They are left with the same wage, same hours, and are forced to help bear the burdens of increased wages, and so forth, of laborers in interstate commerce.

We pay no million-dollar bonuses to capitalists and industrialists in the South. Our industry is all of small capital. We pay no $100,000, $250,000, $500,000, and $1,000,000 salaries in the South. We know that such salaries and bonuses are paid in hundreds and hundreds of these large concerns in the North and East. This bill will enable such concerns to maintain and increase such salaries at the expense of southern and western industry and labor.

Pay rolls are met with money from bank deposits. They cannot be met without money. These pay rolls are met from demand deposits in our banks. The State of New York has around $750 demand deposits for each man, woman, and child in that State. In our State, and many other Southern, Western, and Midwestern States, we have around $50 in demand deposits per capita. In other words, in New York State there is available for labor 15 times as much money per capita as there is in Arkansas. In the State of New Jersey there is seven times as much money available for labor in demand deposits as in Arkansas. In Connecticut, where the population is 250,000 less than in Arkansas, the demand deposits are two and a half times that of Arkansas.

No Southern State has attained anywhere near as high per capita demand deposits as these New England industrial States. American wages must, of necessity, vary widely from State to State because of this great difference in available money for pay rolls. Wages are governed by the amount of money available and by the conditions existing at the particular plant. These discriminations and inequalities cannot be put upon the same basis, and a uniform wage, if attempted, will be impractical.

The shoes and socks on your feet, hat on your head, clothing you wear, belt around your body, buckle, watch, chain, tie, knife in your pocket, fountain pen you use, pencil with which you write, glasses, if any, you wear, are almost all made in the East and North. Go into your home, look at the glass windows, carpets, or rugs on the floors; sewing machine, radio, electric-light fixtures, lamps, clock on the mantel, trunks in the corner, bed springs, bedsteads, chairs, telephone, stove, gas heaters, electrical equipment, tables, kitchen utensils, knives, forks, plates, linens of all kinds, gun in the rack, shells therefor, fishing rods, cabinets, books in the library, auto in garage and see if any of them are made in Arkansas or in your State. The same would apply to the tools, harness, equipment, and machinery of the farmer. In truth, the same applies to all the machinery and equipment of the few factories we have.

In Arkansas we have coal, gas, oil, waterpower, manpower, and electrical power in great abundance. We have great forests with fine timbers. We have finest clays in America, bauxite, other minerals, and raw materials. We produce a million and a half bales of cotton per year and manufacture less than five thousand of it. We have some of the finest labor, eager and anxious for a job. Many other States are similarly equipped.

I am just wondering why one should vote to raise the price of what farmers, laborers, and other southern and western consumers have to buy in order to further help New England capital, monopolies, and large industrial corporations and their labor in the New England States. Why should one vote to further handicap, if not destroy, labor and industry of his own section to build up and further centralize and monopolize industry in the North and East? Why vote to further cripple his schools in obtaining revenues? Why vote to foreclose all chance to obtain new industries for our southern and western labor and revenue for our schools?

The children in New England and certain Northern States receive on an average $75 each per year for school purposes; while in the South, due to lack of taxes on industry, our children have an average of about $25. Why should one vote against giving his own people a fair opportunity to get an education and obtain jobs in factories and increase school facilities of children of the people he represents? Why should one vote to impose further burdens and excess cost of manufactured products upon the fathers and mothers of these children in order to aid the capitalists, monopolists, and large industrial corporations in the New England States?

After all, why deceive labor? Why put him in, restrict, and accustom him to this low wage and hour scale? If he has a family, a laborer cannot live in a large city on 25 cents per hour. Certainly, he cannot have any of the conveniences and luxuries of modern inventions anywhere on such a wage. Why not show some courage and work for a wage that will enable him to have not only the necessities but some of the luxuries? Furthermore, in some cities and sections rents and living expenses are higher than in other sections. In some cities educational and other advantages are more and better than in others. In some cities workers are compelled to pay transportation to reach their work. Under this bill, instead of decentralizing industry and scattering it over the country so that all may have a chance, it will centralize industry. Electricity is the motive power of industry today and can be transmitted to where the raw materials, resources, and laborers are instead of transporting the raw material. Under this bill laborers will be forced to migrate in large numbers to the large industrial cities, where frightful labor conditions already exist. Then, I hesitate to contemplate the result.

Again, this fixing of labor's minimum wage cannot but please great capitalists and financiers of America. They control these large industrial plants, railroads, and monopolies. They control the banking facilities. I can assure you that at one meeting and one stroke of the pen these financiers can make 25 cents an hour equal in purchasing power to 15 cents. They can make 40 cents per hour equal 25 cents. This can result by changing the purchasing power of the dollar. The slightest lowering of the discount rate by the bankers can lower and destroy this fixed wage. The lowering of bank-reserve requirements will have the same tendency and effect. The slightest expansion of the currency or credit will lower this fixed wage. Nothing will please the great financiers of America more than to place the American laborer in a strait jacket of a fixed wage, variable at their will.

There is no stability in the value of a dollar, nor of its purchasing power, in America today. Until such purchasing power of the dollar be more nearly stabilized there can be no fixed wage and we shall continue to have depressions. In truth, this bill turns over to the great northern capitalists, financiers, and industrialists the fixing of labor's wage through their control of credit and money. This bill and the principle involved surrender to the financiers and large industrialists labor's rights to contract and bargain. Why not remedy first the fundamental cause of our economic troubles? Our whole trouble is caused by undue expansion or contraction of money and credit, instability of purchasing and debt-paying power of the dollar.

I submit, if we are going to fix a minimum wage for some laborers, then fix minimum wage or price for the farmer and his products. Why not help him and his family, because his sweatshop requires as much hard work, perspiration, and longer hours than any other sweatshop in this country? If the farmer be given a fair price, the industrial laborer will prosper. If Congress, under this law, can fix minimum wage, it can fix maximum wage and price on all things in interstate commerce or having to do with interstate commerce. If Congress can fix minimum or maximum wage under this bill, then it can fix minimum or maximum salaries for all business in the United States. I submit that when all this great business is turned over to some bureau or secretary in Washington to manage, to

define what is and is not interstate commerce, then we have destroyed individual rights, collective rights, State rights, constitutional rights, and substituted the dictates of man for law and the Constitution.

In some sections of this country we have droughts, floods, calamities, and other sectional crop failures and disasters. Yet under this bill, as to wages, no relief can be given. The same wage must be paid as in the great, rich industrial sections of North and East. When it comes to W. P. A. or P. W. A. jobs or relief in the South, what is the attitude of these humanitarians who shed glycerin tears so copiously for southern labor? Well, they give him just about one-half. Various advocates of this bill argue, in effect, that the southern laborer out of a job and hungry is less hungry than a New York or Pennsylvania laborer, and that the one should receive $21 per month, while the other $40 to $55 per month. They argue that it is a kind of dole or charity out of Federal Treasury anyway, and we will penalize him because of his helplessness. This bill now before us contemplates a worse discrimination even than that.

It is my opinion that the title of this bill should read, "A bill for an act in the interest of and to help create more monopolies, aid the financiers and controllers of large industry, place labor and its fixed wage under their control through control of money and credit, regiment labor and industry, take away from labor the right to contract individually or collectively, cripple, if not destroy, present southern labor and industry, prevent further industry locating in South, West, or Midwest, deprive citizens in four-fifths of the country of jobs and opportunities for jobs, further deprive the children of southern, western, and midwestern parents of educational advantages, fair share of industrial taxes and wealth, occupational opportunities, and for other discriminatory purposes."

Arkansas already has one of the best child-labor laws in the Union, as well as protective laws for women in industry.

The real remedy for our labor situation, for industry, for farmers, and all the people is to bring down the value of the gold dollar to the purchasing value of the dollar of 1926, and to maintain and stabilize that parity or basis, and then legislate wages. The currencies of other nations are disorganized, disarranged, out of kelter, and we suffer because still tied to gold on an unfair ratio or basis as to dollar value.

I submit it is impossible to pass a fair, honest, and nondiscriminatory labor bill in this Congress now or to amend the one before us. Such a bill I would support.

We have some bad labor conditions in the South, and you have worse conditions in the North and the Northeast; but it is not wise to kill a patient in order to cure him.

I do not believe that the President can approve this bill because he says that, "No reasonable person seeks a complete uniformity in wages in every part of the United States." I believe in the President's great humanitarian objects. I do not believe he would knowingly commit an injustice or perpetrate a wrong upon any section of this country for the benefit of another section of the country. I do not believe he will agree to a bill that will foster monopolies by giving them an advantage at the expense of small industrial plants of this Nation. Some of the rest of you may defy him; but at all times, on all votes that I may cast in this House, I shall be reasonable and make every effort to be just and fair to all, and within the Constitution, which I swore to uphold, protect, and defend.

Mr. CREAL. Mr. Chairman, I move to strike out the last two words.

Mr. Chairman, I want to answer very briefly the remarks made by the gentleman from Missouri [Mr. COCHRAN], who said that the Members voting for these amendments would be the ones who would vote against the bill on the final call. May I say to the gentleman that his eyesight is either bad or he is very careless in observation or reckless in statement. He made the statement that he saw the Members file by here and vote for these amendments. May I say to him if he stands here long enough he will see me vote for this bill as I voted for the last bill. There are other Members here who will do the same thing, and I can name them. He wants to make it appear that the gentleman who offered this last amendment did so at the suggestion of the enemies of this legislation. You are undertaking to legislate here, but you refuse to take out something that you have no jurisdiction to assume control over.

When the tobacco goes on to the floor of the auction house, it is under the control of the agent of the seller at all times until it finally passes over the auction block. When the seller accepts the bid, the tobacco then passes out of the control of the seller or his agent and not until that moment does it become a part of interstate commerce. The grower may reject the price and during all this time the labor that has been performed on this tobacco by the warehouse is charged up to the farmer. I do not care what the legislation provides or what the Secretary of Agriculture may say, you cannot control that part of the labor which takes the tobacco from the wagon and unloads it onto the warehouse floor, or that labor which is used in putting it into baskets. All of this labor has been performed before the man buys the tobacco and places it in interstate commerce.

The theory may be that the employer is keeping more than his share of profits, that he ought to give more to the man who does the work. That man is paid by the tobacco grower just the same as if the farmer paid it out of his own pocket. It affects the price charged for selling the tobacco.

You expect eventually to move that man who unloads up to 40 cents an hour, but he will be paid by whom? He will be paid just the same as if the farmer reached down into his pocket and handed him that money. Of course, the farmer raises his tobacco some years for 10 cents an hour. Now, who ever heard of a man growing his own crop at 10 cents an hour and giving another man 40 cents an hour to unload it under the shelter of a roof, while the farmer in growing the tobacco worked under the blazing sun all day? This man on the inside will get 40 cents an hour out of the pocket of the tobacco grower.

Mr. Chairman, I think the committee made a serious mistake in refusing to agree to the amendment. I think the gentleman from Missouri made an unwise, unjust, and inaccurate accusation when he said that the gentlemen who offered amendments are opposed to the bill. There is not a rule on God's green earth that is not subject to an exception, except the Golden Rule. The law of gravitation is affected by the winds and other conditions. I do not believe the Labor Committee considers itself to be 100 percent perfect in everything, and there may be some things overlooked by them for the good of this bill after passage.

Mrs. NORTON. Mr. Chairman, I ask unanimous consent that debate on this section and all amendments thereto close in 15 minutes.

The CHAIRMAN. Is there objection to the gentlewoman from New Jersey?

There was no objection.

Mr. LORD. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. LORD: Page 50, line 3, after the word "employee", strike out the balance of line 3 and all of lines 4, 5, and 6.

Mr. LORD. Mr. Chairman, this amendment which I have offered would compel the Government, the States, and labor organizations to come under the same rules that the farmers and manufacturers come under.

This section of the bill exempts the Federal Government, labor organizations, and certain others. The Federal Government is now employing in its hospitals people who work as long as 66 hours a week. I think I can safely say that every office in the Government here in Washington works their employees over hours and does not pay overtime for the work. One person told me he had worked 1,000 hours overtime and did not get one cent of pay for it. I think it would be hard to find an industry in which anyone is working 66 hours a week.

If we want to be consistent as a government, if we want to propose legislation providing for 40 hours a week, the Government itself should be included. We should not insist on Government employees working 66 hours a week for 25 cents an hour.

It is said that labor is back of this legislation. If labor wants this legislation, there is no reason why they should not come under the same regulations as industry.

I believe this should prevail, and we should not make fish of one and flesh of another.

Mr. SIROVICH. Mr. Chairman, will the gentleman yield?

Mr. LORD. I yield to the gentleman from New York.

Mr. SIROVICH. Will the gentleman be kind enough to tell the House in what department of Government men and women work 66 hours a week?

Mr. LORD. In the veterans' hospitals. I could tell you of many places where they work that long.

Mr. O'MALLEY. Mr. Chairman, will the gentleman yield?

Mr. LORD. I yield to the gentleman from Wisconsin.

Mr. O'MALLEY. Does the gentleman know of any labor organization that is employing anybody for less than 25 cents an hour and working them for more than 44 hours a week?

Mr. LORD. If they are, why should they ask to be exempted?

Mr. O'MALLEY. I do not know that they ask to be exempted.

Mr. LORD. If the gentleman will read the section which I am seeking to amend he will find they do.

Mr. GIFFORD. Mr. Chairman, will the gentleman yield?

Mr. LORD. I yield to the gentleman from Massachusetts.

Mr. GIFFORD. Would the gentleman's amendment cover goods produced by convicts in prisons, which, of course, are under the control of the State? If the gentleman will permit, may I ask the chairman of the Committee on Labor if the committee has not an amendment to offer covering prison-made labor?

Mrs. NORTON. No; we have no such amendment. This is a wage and hour bill.

Mr. GIFFORD. I wish the House would consider whether or not the gentleman's amendment would take care of prison labor. When the old bill was before us prison labor was taken care of by a committee amendment. I am greatly surprised that the committee or someone else does not offer that amendment.

Mrs. NORTON. The committee considered that question and decided not to offer any amendment on that feature.

Mr. LORD. This amendment applies to States and subdivisions, and they will take care of the prisons, as the gentleman from Massachusetts has suggested. I do contend and want to repeat that the Government should set the good example of wages and hours. It is unreasonable to ask attendants and nurses in hospitals to work 66 hours a week for 25 cents an hour and no overtime or increased pay for overtime. It is unfair and unjust to ask employees in nearly if not all departments to work overtime day after day with no pay for the work.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. LORD].

The amendment was rejected.

Mr. LORD. Mr. Chairman, that just shows the inconsistency of the Congress. That is all I want to say.

Mr. KERR. Mr. Chairman, I offer an amendment.

Mr. LORD. Mr. Chairman, I offer another amendment.

The CHAIRMAN. The Chair feels that in the 15 minutes remaining other Members who have amendments to offer should be recognized by the Chair. If there is any time remaining the Chair will be pleased to recognize the gentleman from New York.

The gentleman from North Carolina offers an amendment, which the Clerk will report.

Mr. LORD. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. LORD. I objected to the request to close debate in 15 minutes, Mr. Chairman.

The CHAIRMAN. The Chair may state that the Chair heard no objection.

Mr. LORD. It was noisy in the Chamber, of course. However, I have a very important amendment the House will adopt before we adjourn, and I hope the Chair will bear with me and hear me on that amendment.

The CHAIRMAN. If the time is not exhausted before then the Chair will endeavor to recognize the gentleman from New York, but the Chair feels that since a limitation of 15 minutes has been placed on debate the Chair should not recognize one Member to offer two amendments consecutively.

The gentleman from North Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. KERR: On page 50, after subsection (g), insert a new subsection, as follows:

"(h) The processing of tobacco includes persons employed within the area of production in handling, redrying, and packing such tobacco prior to its storage."

Mr. KERR. Mr. Chairman, this amendment simply extends the definition of who is an employee in agriculture. It is needless for me to say that the tobacco farmer certainly deserves recognition whenever a matter involving his interest is before the House. I speak on behalf of the tobacco farmer, whose product contributes annually $400,000,000 in revenue to maintain our Government, and who grows that commodity which is exported in a sufficient quantity of tobacco to swing the balance of trade in behalf of this Government for the last 8 or 10 years. This amendment simply states that after the tobacco is sold, the laborer who engages in the process of saving it, redrying it and putting it in a package to ship it, this being purely a seasonal operation, shall be considered an agricultural laborer and excepted under this section. That is all the amendment proposes.

Mr. BOILEAU. Mr. Chairman, will the gentleman yield?

Mr. KERR. Certainly, I yield to the gentleman from Wisconsin.

Mr. BOILEAU. Does not the so-called Biermann amendment cover what the gentleman has in mind?

Mr. KERR. I do not believe it does, because this amendment goes further and provides that those who redry and pack prior to storage shall be classed as employees employed in agriculture. Tobacco must be stored to protect it and keep it from damaging, in order that it may be commercially processed and put into cigarettes and manufactured tobacco.

Mr. BOILEAU. The Biermann amendment is as follows:

"Employees engaged in agriculture" includes individuals employed within the area of production engaged in the handling, packing, storing, ginning, compressing, pasteurizing, drying, or canning.

And so forth.

Mr. KERR. Tobacco has to go through a particular process of redrying. It has to be stemmed, redried, and put into hogsheads. Then it is safely kept for several years, is processed thoroughly, and then goes into cigarettes and smoking tobacco.

Mr. BOILEAU. Would not that amendment include redrying?

Mr. KERR. No, I do not believe so. I think that refers to redrying of vegetables, which are sometimes dried. For instance, we have dried peaches, dried apples, dried prunes, and other dried fruits. The amendment does not cover tobacco, in my opinion.

Mr. O'MALLEY. Mr. Chairman, will the gentleman yield?

Mr. KERR. I yield to the gentleman from Wisconsin.

Mr. O'MALLEY. Does the gentleman's amendment seek to exempt from not only the hour but the wage provisions those persons engaged in processing tobacco?

Mr. KERR. The amendment simply seeks to include as agricultural employees those who are engaged in taking care of this great commodity of our country.

Mr. O'MALLEY. In spite of the millions made by the tobacco companies, the gentleman seeks to exempt the people who prepare tobacco?

Mr. KERR. I seek to protect the farmers. The agencies which make millions out of tobacco are the Government of the United States, the manufacturers, and those who advertise and distribute the tobacco products. I am seeking not to protect those agencies but to protect the farmers. If the farmer has to pay for these increased wages, necessarily it will reduce the price of his tobacco, and this is none too high now considering what others get out of this commodity.

Mr. O'MALLEY. Does the farmer pay for this processing that the gentleman's amendment would exempt?

Mr. KERR. Of course, he pays all the expense incident to it, because it reduces the warehouse price of his product; you may be sure that the purchaser and the manufacturer will take this cost into consideration.

I would like to have the attention of the chairman of the committee. I have tried to make this statement succinctly so the amendment would be understood, and I hope the chairman will accept the amendment. It simply extends the provision to those employees who redry and repack the farmers' tobacco so that it may be preserved for an indefinite time and handled by the manufacturer.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina.

The question was taken; and on a division (demanded by Mr. KERR) there were—ayes 35, noes 102.

So the amendment was rejected.

The Clerk read as follows:

MINIMUM WAGES

SEC. 4. Every employer engaged in commerce in any industry affecting commerce shall, during the first 365 days from the effective date of the original order issued under section 6 with respect to such industry, pay each employee employed by him a wage at a rate not less than 25 cents per hour, and during each succeeding 365-day period pay each employee employed by him a wage at a rate not less than the rate applicable under this section during the immediately preceding period increased by 5 cents per hour; except that no provision of this act shall require any such employer to pay a wage at a rate in excess of 40 cents per hour.

Mrs. NORTON. Mr. Chairman, I ask unanimous consent that all debate on this section and all amendments thereto close in 40 minutes.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

Mr. CONNERY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONNERY: On page 52 strike out section 4 and insert in lieu thereof the following:

"SEC. 4. Every employer engaged in commerce in any industry affecting commerce, shall from the effective date of the original order issued under section 6 with respect to such industry, pay each employee employed by him a wage at a rate not less than 40 cents per hour."

Mr. CONNERY. Mr. Chairman, there seems to be great eagerness on the part of the Members of the House to finish the consideration of this bill tonight, and I feel this particular amendment needs no lengthy dissertation on my part.

The amendment simply eliminates the so-called escalator clause, wipes out the 25-cent an hour wage provision and inserts in lieu thereof a minimum wage of 40 cents. In other words, it makes the 40-cent minimum wage per hour provision go into effect immediately, upon the bill becoming law.

Mr. RANDOLPH. Mr. Chairman, will the gentleman yield?

Mr. CONNERY. I yield to the gentleman from West Virginia.

Mr. RANDOLPH. I know the gentleman from Massachusetts has a keen interest in legislation such as we are trying to pass here today, and will not the gentleman admit that it is better for the friends of this type of legislation to allow a period for industry to adjust itself rather than have the charge made against us that we have dislocated business by establishing the 40-hour provision and the 40-cent rate?

Mr. CONNERY. In answer to the gentleman I may say that it seems to be the consensus of a great majority here that this wage and hour legislation is very badly needed, and my idea is, why wait for 3 years to get the full benefit of the provisions of this wage and hour bill?

The Department of Labor records show that the average wage per wage earner per month for 59 selected industries ranged from 49.9 cents per hour to 66.5 cents per hour. The imposition of a 40-cent minimum wage has long been expected by industry and I believe there are but few, if any, industries which will be at all disturbed by it.

The Department of Labor, in a report issued February 15, 1938, page 67, states:

If the cotton-goods industry is considered as a whole, it is among those with the lowest paid factory employees in the United States. In April 1937, the period largely covered by the present survey, all but 4 of the 89 principal manufacturing industries reported higher average hourly earnings than were found in the cotton-goods industry.

On page 68 of this Department of Labor report I note that in April 1937 unskilled male cotton operators averaged 40.3 cents per hour. Therefore, only 3.5 percent of the male common labor in the Northern States received less than 40 cents an hour. The July average entrance rate for common labor in all industries in New England was 49.5 cents an hour, almost equal to the average of workers, skilled and unskilled, in the cotton mills of that area.

Report No. 747 of the Department of Labor, printed in the April 1938 issue of the Monthly Labor Review on page 5, notes that the average hourly pay of unskilled female workers of southern cotton mills was 30.4 cents per hour. Page 6 shows that less than some 8 percent of the cotton mill workers of our country receive less than 27.5 cents an hour.

Page 10 of this same report lists the average hourly earnings in the cotton-goods industry of the various States, and the lowest wage recorded is 26.7 cents per hour in Mississippi.

This report indicates that the average low wage for female workers in the southern textile mills will exceed 35 cents an hour.

The average hourly earnings of female cotton-mill workers in 1937 is shown to be:

	Per hour
Massachusetts	$0.451
Connecticut	.448
Maine	.44
Rhode Island	.442
New Hampshire	.436
New Jersey	.47
New York	.435
Pennsylvania	.381
Tennessee	.366
South Carolina	.366
Alabama	.358
North Carolina	.35
Georgia	.349
Texas	.279
Mississippi	.267

In view of this, Mr. Chairman, it seems to me that the 25-cent provision we have in the bill at the present time is not going to benefit to any great extent the great mass of underpaid people in this country, and in view of that fact I believe we ought to put this 40-cent-per-hour minimum-wage provision into effect immediately, and I therefore hope the Committee will support me in this amendment. [Applause.]

Mrs. NORTON. Mr. Chairman, I rise in opposition to the amendment.

While many of us would like very much to have a higher floor in this bill, we recognize that to do so would probably cripple some of the industries of this country. So we are opposed to the amendment on that ground, and I ask that the amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. CONNERY].

The question was taken; and on a division (demanded by Mr. CONNERY) there were—ayes 7, noes 33.

So the amendment was rejected.

Mr. HARRINGTON. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment proposed by Mr. HARRINGTON to S. 2475: Page 53, after line 2, insert:

"MINIMUM COMPENSATION FOR FARMERS

"SEC. 4A. No person shall purchase for shipment in commerce, except for export abroad, any agricultural commodity from a farmer at a price which is less than the parity price for such commodity as proclaimed by the Secretary of Agriculture. The Secretary of Agriculture shall proclaim and cause to be published parity prices on all agricultural commodities on the first day of the month succeeding the enactment of this law and on the first day of every third month thereafter. Whoever violates any of the provisions of this section shall upon conviction thereof be fined not more than $500 or be imprisoned for not more than 6 months, or both."

Mrs. NORTON. Mr. Chairman, I make the point of order against the amendment that it is not germane.

Mr. HARRINGTON. Mr. Chairman, will the gentlewoman from New Jersey withhold her point of order?

Mrs. NORTON. I reserve the point of order, Mr. Chairman.

Mr. HARRINGTON. Mr. Chairman, I offer this amendment because unquestionably it is the last chance we will have at this session of Congress to save the American farmer from the economic consequences of another year of bumper crops and to safeguard the investment Government already has in agriculture.

One of the aims of the wage-hour bill is to get rid of the sweatshops. We have sweatshops on the farm, too. Our farmers do plenty of sweating, not only in the fields, but sitting up nights in the front room sweating over mortgages, grasshoppers, droughts, dust storms, boll weevils, heat waves, and cold waves, not to mention seed and feed troubles, and the price his crop will bring provided he is lucky enough to get a crop. Believe me, that is real sweatshopping. So, let us get rid of all the sweatshops while we are at it.

As stated, the amendment proposes to fix a minimum compensation for farmers on the same principle that the bill fixes a minimum wage for workers in industry. If we can fix a minimum wage for factory workers we can just as surely fix a minimum income for our farmers by pegging the minimum prices at which their products may move in interstate commerce.

Our good President has wisely said that if the neediest of our people are to benefit from the new recovery program, then we must establish a floor as the bottom of the industrial wage structure. Otherwise, the money we have appropriated will trickle right back into the hands of the rich.

Well, this argument applies to agriculture, too. We have appropriated billions of dollars to stabilize farm prices, but we still have the jitters in the farm belt because of the lack of a price bottom and because the food speculators still reap a large share of the benefits. Give the farmer a guaranteed minimum price for his products and we will not have to appropriate a half billion dollars a year for agriculture. Guarantee the farmer a parity price and our farm problem will pretty well solve itself.

There is nothing radical or revolutionary about this proposal. The parity principle is already incorporated in the farm act. The farm act adopts parity as the basis for crop loans, only Congress did not appropriate any money for the loans. The parity plan means a minimum of about 83 cents a bushel for corn, $1.25 a bushel for wheat, 13 cents for cotton, and a corresponding price for our other principal commodities. Parity simply puts the price of farm products on equality with the cost of the industrial products the farmer has to buy. Nobody can question the fairness of that.

Let me just breathe a word of reassurance to my friends from the cities and industrial centers. This parity-price plan is not going to hurt the consumer. It makes practically no difference to the housewife whether the price of wheat on the farm is 75 cents a bushel or $1.25 a bushel. Your loaf of bread costs just about the same. The speculators see to that. These food gamblers on the Chicago Board of Trade are the fellows who fix farm prices now. They buy, hoard, and corner the market so that the farmer is gouged at one end and the housewife at the other. By the time the food gamblers take their cut and each of a half dozen middlemen take a crack at it, you will find that the farmer's end of a loaf of bread is not enough to buy a postage stamp. No, my friends, the consumers will not suffer from this plan, but between you and me and the gate post, it is liable to put the speculators completely out of business.

And so, I urge you to join with us in putting over this amendment, cut the farmers in on the benefits of the wage-hour bill, give the farmers the buying power to absorb the surplus products of industry, and we will really be on our way out of the recession and back to prosperity for everybody. [Applause.]

Mrs. NORTON. Mr. Chairman, I insist upon the point of order that the amendment is not germane.

The CHAIRMAN. In the opinion of the Chair the amendment offered by the gentleman from Iowa is not germane, and, therefore, the point of order is sustained.

Mr. PHILLIPS. Mr. Chairman, I offer the following amendment which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. PHILLIPS: Page 52, line 17, after the word "shall", strike out the balance of section 4 and insert "not pay any employee less than at the rate of 53⅓ cents per hour."

Mr. PHILLIPS. Mr. Chairman, this amendment goes along with another one that I have to offer on page 53, which in effect calls for a 30-hour, 6-hour day, workweek. The minimum wage is based as stated in the amendment, the wage per week being in effect $16. I know a great many Members of this House who feel that this would be too radical a change, and many thus object to it. On the other hand, I venture the prediction that many Members of the House who today may oppose such an amendment will a short time hence be in favor of it and for this reason: We heard not so long ago about technocracy, and all that went with it about the machine taking the place of manpower to a very great degree. Millions of people are unemployed today. There are millions of young high-school and college students going out into the world without a chance to get a job unless in some way our industrial system be changed, so that work is more spread out. I am glad the committee has reported the bill it has today, but while we are at it, why not go the whole way? It is an experiment any way, and I think we should try the 30-hour workweek.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut.

The question was taken; and on a division (demanded by Mr. PHILLIPS) there were—ayes 2, noes 21.

So the amendment was rejected.

Mr. DIES. Mr. Chairman, I move to strike out the last word. I have made this pro forma amendment to describe briefly an amendment that I shall offer at the conclusion of the next section. That amendment will provide for limited flexibility, to be administered in the beginning by the labor commissioner or other State agency designated by law. Under the amendment the employer can file a written application with the State labor agency, or in the event there is no such agency, then with the Secretary of Labor, in the first instance. A public hearing is held, at which the testimony is taken down by an official reporter. The State labor commissioner takes into consideration various factors that were in the original bill. Then if he finds it is justifiable to reduce the wages below 40 cents and make the hours longer than 44, he may do so, but he cannot in any

event fix the wages at less than 25 cents an hour, or the hours longer than 44. Then the record of the proceedings is transmitted to the Secretary of Labor of the United States, who may reverse or modify the ruling of the State agency, if the Secretary of Labor finds that the order of the State agency is contrary to the evidence. It seems to me that an amendment of this kind would give necessary flexibility to the bill and at the same time would provide a definite floor for wages and a definite ceiling for hours. It would guard against any favoritism or abuse or any wide differential in rulings by the State agency, by providing for ultimate action by the Secretary of Labor. It does not require the creation of any new bureau, because practically all of the States have either a State labor commissioner or a board for minimum wages, and I think there are 20 which have such a board. Let me say this seriously and sincerely to those of you who are anxious to pass wage-hour legislation.

You are not going to enact any bill that does not give the employer his day in court. It is unwise to pass this bill as written and run into parliamentary difficulties in the Senate and long delay. If the Members of this House who are sincerely desirous of enacting this legislation would be willing to meet the opposition half way and concede that the State should have some voice in the set-up as we promised in our Democratic platform pledge, real progress will be made. I do not think anyone can deny that the Democratic Party, when it made the statement "any transactions and activities that inevitably overflow State boundaries call for both State and Federal action" promised the country that the States would have some voice in the determination of this wage and hour business. Many of the States have never been concerned over the question. Only some 20 have given any effort to dealing with the vast number of employees who are primarily engaged in intrastate commerce. If you give the States some voice in the determination of this question, if you provide for reasonable flexibility, making it possible for an employer to go to his own State agency where information is easily accessible to him, an agency that understands his needs and his problems, and enable it to take care of the peculiar social conditions that may prevail in that State, at the same time providing for ultimate action on the part of the Secretary of Labor so as to safeguard against what many of you fear, the interposition of favoritism, progress would be made. It does seem to me that such a proposition merits the serious attention and respect of the members of this Committee who are desirous not merely of passing legislation in the House but of obtaining before adjournment some practical, feasible, workable, and constitutional measure. When I offer this amendment therefor, I sincerely trust that the members of the Committee will give it their careful consideration, because I think you know as well as I that you are not going to finally pass this bill as written.

[Here the gavel fell.]

Mr. FERGUSON. Mr. Chairman, I rise in opposition to the pro forma amendment.

Mr. Chairman, there is some question in the minds of a number of Members as to whether the Biermann amendment took care of the processing of livestock and as to whether it was a substitute for the Coffee amendment. The Biermann amendment applied only to a definition of those engaged in agriculture and limited its application to the area of production. As you know, livestock is the greatest single asset of our farmers. Livestock consumes about 80 percent of the farm products. Livestock is marketed principally in the big centers, such as Kansas City, Chicago, and St. Louis.

I have here a chart that I prepared showing receipts on the 12 markets and the variation of the receipts on these markets. Each square represents a week and 5,000 head. You will see that the weekly receipts in 1936 varied from 138,000 cattle to 288,000. You notice how the chart goes up and down.

There is absolutely no way to control the marketing of livestock. If a farmer is out of feed, or in case of drought, he has to go in; they are on the market. This chart represents cattle alone. You see they reach a peak for 4 months which might be taken care of by the 10 weeks' provision in the proposed committee amendment; but the same is true of hogs. Hogs come in and form another peak. Sheep come in at another season and form another peak.

The packer pays one of the highest rates of wage in industry in this country. If the packer is going to be forced to pay time and a half for overtime he will just not buy any more cattle than he can process in the 44-hour week; and the farmers' cattle and hogs and sheep will stand there in the pens and suffer serious deterioration. If livestock are not sold the day they arrive the producer must continue to pay the cost of feeding the livestock until they are sold.

Mr. O'MALLEY. Mr. Chairman, will the gentleman yield?

Mr. FERGUSON. I cannot yield; I am sorry.

It is not a question of wages. The common-labor scale in the packing industry is 62 cents an hour and skilled labor draws well over $1 an hour minimum. So while the packer could increase his force of men, it must be remembered that the yearly average in the packing industry is less than 40 hours per week. Skilled extra help would be hard to get.

Just as surely as you put the processing of livestock in the bill and bring the packer under this 40-hour limitation it is going to reflect in the price paid the farmer, because the only way the packer will pay that price is to take it off of the product. He does it already. The Lord knows I am not here defending packers as a bunch of saints, but they are operating on a narrow margin. Statistics will show that they make less than one-fourth to one-half cent per pound on their meat products. An additional cost in the processing of this meat will mean that it has to be taken off the livestock producer.

You who think the packers make all the money, all the profit, are mistaken. I have here the monthly sale of carcasses in New York and the monthly average price of dressed beef.

Regardless of what price the distributor in New York pays for his beef—and it varies from 13 cents to 25 cents a pound—he adds from 15 cents to 25 cents a pound for distribution.

For the 6 years covered in this chart furnished by the Department of Agriculture a majority of the time the average price of retail beef was 100 percent or more greater than the cost of the dressed beef purchased from the packer. The packer operates on a narrow margin of profit. I hope the House will adopt the Coffee amendment and save the producers of livestock from being punished by this bill—unless the packer is exempt from the hour provisions of this bill to take care of peak runs of livestock.

[Here the gavel fell.]

Mr. CRAWFORD. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. CRAWFORD: Page 52, line 20, after the word "him", insert "an effective wage equal to"; and on page 52, line 21, after the word "hour", insert the words "proportionate to the Department of Labor Price Index as of June 1, 1938"; and on page 52, line 25, strike out the words "by 5 cents" and insert the word "proportionately", and then strike out down to line 3, page 53.

Mr. CRAWFORD. Mr. Chairman, Matthew Woll, vice president of the American Federation of Labor, said the other day:

To find the answer to this question two guiding principles which have always been at the foundation of the American labor movement must be thoroughly understood. The first is a firm belief in our present system—the system of individual initiative and private enterprise with its profit motive.

The second is that the American worker does not want to be supported by governmental relief payments any more than he desires to be supported by his neighbors, organized charity, or by standing in a bread line.

Quoting the executive council of the American Federation of Labor, Mr. Woll said:

The real remedy for unemployment is the creation and maintenance of work opportunities for working men and women in private industry.

Mr. Woll proceeded to say this also:

Finally, labor as well as industry must ever be on the alert to detect and guard against the fettering of freedom even when a kindly bondage is offered by friendly hands and under the illusion of immediate relief. It is this freedom which distinguishes the characteristic of the individualism of America. It ranks in importance with freedom of speech, freedom of the press, freedom to peaceably assemble, and freedom of conscience. It has to do with food, clothing, and shelter for all of us—those prime economic necessities without which no refinement, no culture, no civilization, however conceived or highly wrought, can exist.

Mr. Chairman, the chairman of the Committee on Labor made the observation just recently that an arbitrary minimum hourly wage will relieve the burdens of public charity. I deny that statement, because unemployment and not wages creates the relief problem. If you think this problem through, you must come to the conclusion an arbitrary wage level can only add to unemployment and increase the relief burden.

Why does the bill ignore the cost of living? Prices are now falling, but this bill proposes a progressive rise in wage to be enforced by criminal law.

May I ask the committee chairman this question: If a legal wage level is defensible and if a 25-cent or 40-cent minimum is proper today, then I submit such a statement could not be defended if prices continue to fall. And if prices should again swing into a continued rise and go up 10, 50, or 100 percent, what provision is there in the bill to move above the 40-cent rate?

If the bill, as its advocates claim, will check present drastic deflation and will inflate purchasing power and prices, then what provisions have you in the bill that will maintain the parity of wage and price levels? That is the real protection that labor should have. This would protect the worker against inflation, thus maintaining a real wage level at a livable standard.

Mr. Chairman, the amendment which I have offered is designed to give this real protection in the event prices advance as against the fixed wage set forth in this bill.

Collective bargaining is a grand thing. Collective bludgeoning, whether it be by picketing or criminal law, will never solve the problem of fair wages. There is such a thing as competition. Do you think continued unemployment of ten or fifteen million workers will ever permit fair wages?

Can we not comprehend that the problem of the business cycle and of economic stability and security is wrapped within the folds of money and banking and the answer does not lie in collective bargaining? Ignore money and credit control and you will find crowded relief rolls and labor exploitation.

[Here the gavel fell.]

Mrs. NORTON. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Michigan [Mr. CRAWFORD] and ask for a vote thereon.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. CRAWFORD].

The amendment was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia [Mr. Cox].

Mr. COX. Mr. Chairman, the statement of our esteemed colleague, the gentleman from Mississippi [Mr. RANKIN], in which he denounced the pending bill as a raid upon the South and the West prompts me to remark that the phrase, "Our country one and indivisible forever," is but the expression of a hope and is not the statement of a fact.

This country, Mr. Chairman, is divided into three distinct economic and social sections, the North, South, and West, with three distinct cultures and three distinct ways of life. The South had its cultural beginning in Jamestown in 1607, the North its beginning in Massachusetts 13 years later, the one cavalier and the other puritan. There was cooperation between the two to the extent that a general government was established upon a basis of compromise. Following the setting up of that general government the two sections entered upon their effort toward expansion and were, of course, attracted to the West. The rivalry between the two sections, the North and the South, each in its effort to spread its influence into the West, led to the War between the States.

After the war was over the South turned to the task of rebuilding herself with naked hands and worn-out tools. The Federal Government came down upon that stricken area of our country and wrested local governments from the control of the people. It set up a carpetbag rule which it supported by the bayonet. It took the franchise from the people who had developed southern civilization and gave it to their former slaves. It denied the people of that section, who had fought in defense of their homes and their civilization, the right to a seat in this body. It established a pension system which the South, stricken and impoverished though it was, was compelled in part to support, and which resulted in the accumulation of wealth in the North that was used for the industrialization of that area to the further disadvantage of the South. [Applause.]

[Here the gavel fell.]

Mr. COX. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

Mrs. NORTON. Mr. Chairman, I shall be obliged to object.

The CHAIRMAN. The time has been limited, and there are 5 minutes remaining.

Mr. COX. Mr. Chairman, I ask unanimous consent to revise and extend my remarks in the RECORD so I may tell just a little more of this story.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. O'MALLEY. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, the only party in ancient history who has not been brought into this debate is "Eliza crossing the ice," and I have expected she will be brought into this debate by the opponents of the bill any minute now.

Mr. Chairman, this bill is designed to enact a principle. That principle is the one of minimum wages and maximum hours for all industry. If the principle is worth the paper it is written on, it admits of no exceptions. I have a letter on my desk from a gentleman who states, "I am heartily in favor of a wage and hour bill provided my industry can be exempted." He wants a law for the other fellow and not for him—a peculiar but common American psychology of legislation. The real facts in the case indicate that a few exploiters of labor force decent business to follow their practices to survive. Thus a uniform law is needed. The attitude of a good many Members who are opposed to the principle of this legislation is to shoot it so full of holes that there is slight chance of it being effective. Their idea is to get so many exemptions into this bill that it will be impossible for the principle ever to be given a fair test after enactment. The friends of the workers in this House ought to get their backs up by this time and stop there being placed in this bill amendments which will make it impossible for the principle of minimum wages and maximum hours ever to be given a reasonable trial, to see whether or not decent wages and hours will increase employment and purchasing power. [Applause.]

I heard a gentleman whose parliamentary skill I admire say just a little while ago, "If we can get enough exceptions and exemptions in this bill we do not care whether it passes or not. It will not affect us, it never will work, and it will be repealed." This is what has been going on all afternoon. And we who favor a fair trial for a great principle have to get together and stop this guerrilla warfare on a bill to help the workers of the Nation.

An amendment will be offered to the next section by the distinguished gentleman from Nebraska [Mr. COFFEE]. I have here a list of the people and the industries it would exempt. It goes all the way down the line to exempt under the guise of agriculture every industry from the automobile

industry, which uses soybeans that are processed, down to the rubber industry. Amendments were offered here that would exempt the tobacco producer, and I suppose there will be an amendment that will exempt the tobacco smoker.

If we intend that this measure will ever get a chance to be proven effective, if the friends of the workers in this House—and I hope they will stay here until the bill is passed—expect the principle ever to be effective, we must give that principle a chance and not exempt 90 percent of the industries, and especially those notorious for the sweatshop wages that add little or nothing to needed purchasing power. I hope when further amendments to exempt industries of any character are offered, the friends of wage-hour legislation, who want to see this measure have a fair and decent chance to prove its worth, will stay here and vote down these amendments that propose to exempt employers who are paying less than 25 cents an hour or working their employees over 44 hours a week. I have advocated the principle of this bill throughout my public career, and I want it given a fair trial, not crippled and devitiated before it is ever put into effect by the exceptions its secret enemies are trying to write into it behind the disguise of helping the farmer. Wipe away the crocodile tears some of these "friends of the farmer" are shedding and you will find food speculators and employers of underpaid labor are the real benefactors from most of these exception amendments. [Applause.]

[Here the gavel fell.]

The Clerk read as follows:

MAXIMUM HOURS

SEC. 5. No employer engaged in commerce in any industry affecting commerce shall employ any of his employees for a workday longer than 8 hours, or shall, during the first 365 days from the effective date of the original order issued under section 6 with respect to such industry, employ any of his employees for a workweek longer than 44 hours, or during any succeeding 365-day period employ any of his employees for a workweek longer than that applicable under this section during the immediately preceding period reduced by 2 hours; except that no provision of this act shall require the maintenance by any such employer of a workweek shorter than 40 hours. No employee shall be deemed to be employed in violation of this section if he receives additional compensation for his overtime employment at the rate of one and one-half times the regular hourly rate at which he is employed, or times the rate applicable under or pursuant to this act, whichever is higher.

Mrs. NORTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. NORTON: On page 53, line 4, after section 5, insert "(a)", and after line 21 insert the following:

"(b) In the case of an employer engaged in the first processing of milk, whey, skimmed milk, or cream into dairy products, or in the ginning and compressing of cotton, or in the processing of cottonseed, the provisions of subsection (a) shall not apply to his employees in any place of employment where he is so engaged, and in the case of an employer engaged in the first processing of, or in canning, fresh fish or fresh sea food, or perishable fresh fruits or perishable fresh vegetables, or in handling, slaughtering, or dressing poultry or livestock, the provisions of subsection (a) shall not apply for 12 workweeks in any calendar year to his employees in any place of employment where he is so engaged."

Mrs. NORTON. Mr. Chairman, this is the only amendment that the Committee on Labor intends to offer and it does so to give an additional time for the necessary work on certain agricultural commodities and seasonable products.

We found in our discussion of the bill in the Labor Committee, and since the bill was reported to the House, that there are certain seasonal commodities that should at least be exempted from the hours provision of the bill during what we call the peak season. So in order to be perfectly fair to these agriculturalists, Mr. Chairman, we decided to exempt them for 12 weeks of the year, from the hours provision of the bill and, of course, this period of 12 weeks applies to any part of the year and will, I understand, take care of all the seasonal products that have been suggested to us.

So, Mr. Chairman, I sincerely hope the committee will support this amendment and vote down the amendment that I understand is to be offered by the gentleman from Nebraska [Mr. COFFEE]. Our amendment takes care of everything that is necessary and everything that is seasonal, and we feel that to go any further than this amendment goes would be to take out the entire heart of the bill, and that, Mr. Chairman, we must resist.

Mr. DOCKWEILER. Mr. Chairman, will the gentlewoman yield for a question?

Mrs. NORTON. I yield.

Mr. DOCKWEILER. If a cannery, for instance, is attempting to can asparagus, it will have an exemption of 12 weeks?

Mrs. NORTON. Exactly.

Mr. DOCKWEILER. If that same cannery turns around and cans peas, will it be exempted for 12 weeks in that operation?

Mrs. NORTON. No; the same cannery would have only 12 weeks.

Mr. DOCKWEILER. Twelve weeks out of the entire year for whatever products its processes?

Mrs. NORTON. Yes.

Mr. BATES. Mr. Chairman, will the gentlewoman from New Jersey yield?

Mrs. NORTON. I yield.

Mr. BATES. I would like to ask the chairman of the committee to express to the House whether or not in the case of fish being handled and the vessel coming into port and discharging its cargo, which would require, for instance, 2 hours of work tonight, and with no other vessels coming in for, say, 2 weeks, depending upon their catch at sea, would that period of 2 hours constitute just 2 hours in the total hours allowed under the provision for 12 weeks?

Mrs. NORTON. It would constitute 2 hours of a workweek.

Mr. BIERMANN. Mr. Chairman, will the gentlewoman from New Jersey yield?

Mrs. NORTON. I yield.

Mr. BIERMANN. I would like to ask the chairman of the committee whether this 12-workweek provision applies to the entire section or does it simply apply to the canning of fresh fish or fresh sea food or perishable fresh fruits or perishable fresh vegetables, or in handling, slaughtering, or dressing poultry or livestock?

Mrs. NORTON. It simply applies to the things enumerated in the first part of the amendment.

Mr. BIERMANN. And it does not apply to dairying or to a cheese factory?

Mrs. NORTON. No; they are entirely exempt.

Mr. BIERMANN. From the hours provision of the bill?

Mrs. NORTON. Yes; from the hours provision of the bill.

Mr. MURDOCK of Arizona. Mr. Chairman, will the gentlewoman from New Jersey yield?

Mrs. NORTON. I yield.

Mr. MURDOCK of Arizona. Does the gentlewoman's amendment include the packing of fruit as well as the products of the cannery; the packing for instance, of oranges, grapefruit, and that sort of thing?

Mrs. NORTON. It does.

[Here the gavel fell.]

Mr. COX. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, continuing my remarks, interrupted a few moments ago——

Mr. CUMMINGS. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. CUMMINGS. Mr. Chairman, I have no objection to the gentleman speaking on this amendment, but I do not care to sit here and hear him talk about things that happened 60 years ago.

Mr. COX. The speaker is wholly indifferent to what the gentleman thinks.

I submit, Mr. Chairman——

The CHAIRMAN. The question before the committee is the amendment offered by the gentlewoman from New Jersey. The Chair is unable to state that the gentleman

from Georgia was not addressing himself to the amendment, and the Chair trusts the gentleman will address himself to the amendment and proceed in order.

Mr. COX. Mr. Chairman, a system of freight rates was put into effect that has, through all the years, discriminated against the South and West. A discriminatory tariff was set up which, with other advantages, has operated to establish complete and absolute economic bondage of these two great areas of this country. The tariff has poured billions——

Mr. CUMMINGS. Mr. Chairman, I renew the point of order. The gentleman is not talking about the pending amendment.

Mr. COX. I submit, Mr. Chairman, I am discussing the bill and therefore——

The CHAIRMAN. The gentleman will state his point of order.

Mr. CUMMINGS. The gentleman is not discussing the amendment that is before this body. He is delivering a very fine address, but this is not the proper place for it.

The CHAIRMAN. The gentleman from Georgia will proceed in order.

Mr. COX. All right, Mr. Chairman.

Mr. Chairman, as I was about to remark, the tariff has poured billions of dollars into the lap of the North—the greatest gift that any modern government ever bestowed on one group of people at the expense of other groups. The Government has showered thousands of other blessings on the North at the expense of the South and West. The North has conquered and is ruling the South and West. It is in complete command of the mighty forces of the industrial, political, and social revolution in America.

With one-fifth of the area and with less than three-fifths of the population of the country, the North owns above 90 percent of the wealth of the Nation. The South, with little more than one-fourth of the area and a little more than one-fourth of the population, owns less than 5 percent of the total wealth. The North owns the greater number of the banks, the insurance companies, the railroads, telegraph and telephone companies, aviation and radio, the utilities, all branches of manufacturing, stocks and bonds, mining and oil. Through the corporate device it has swallowed America.

Now, Mr. Chairman, let me discuss the bill.

Invoking its constitutional power to regulate commerce among the several States, Congress in this wage-hour proposal is endeavoring to set up Federal control over production, which means control over all the activities of the people.

Calling the measure a "great humanitarian act" and saying that it will relieve the conditions of substandard workers, is the mere spreading of honey to catch flies, for it is neither the one nor will it accomplish the other.

Disguised as a labor act, providing a "floor for wages and a ceiling for hours," which is a rhetorical phrase that means nothing, it is actually a social-security measure, under which industry and labor are to be made the instruments of social-security experiments. Industrial questions are to be lifted out of the economic field and treated as social problems.

The bills puts into the hands of the Secretary of Labor the power of control over the production activities of operators who either buy or sell in interstate commerce or who compete in a purely local market with interstate operators. No regard is to be taken of the right of a free person to sell his labor at his own price or of another to buy it, and none is to be taken of the inability of an employer to pay the required wages.

No greater powers were ever given any one person than those put into the hands of the Secretary of Labor under this bill. To exercise wisely and without damage or injustice, these despotic powers would call for superhuman judgment and understanding, which it is doubted the Secretary possesses.

The administration of the act would call for an army of snoopers, inspectors, counselors, and other agents, particularly susceptible to partisan abuses and political manipulations, and would throw all business and industry into the political field.

Both employers and employees would do well to remember that Federal control is a two-edged sword that cuts both ways. The powers so vested in Federal authority could as easily be used by a government hostile to free industry to crush it, as it could be used by a government hostile to labor to enslave it. Remembering also the Secretary's attitude toward the sit-down strike, for months unable to determine that the seizing, the holding, and the confiscation of other peoples' property constituted a violation of law, and remembering the Secretary's close tie-up with the radical labor element of the country, and the support given the National Labor Relations Board, the partners of the C. I. O. in its partisan and prejudicial administration of the one-sided National Labor Relations Act, it is not unreasonable to wonder how this law would be administered.

This wage-hour bill is political and not economic; it will increase unemployment and not decrease it; it is bad and not good; it will destroy and not save.

The enactment of this measure, supplementing the National Labor Relations Act, would result in a wave of organization by the C. I. O. throughout the country and particularly in the South. The well-known and undenied communistic leadership of the C. I. O. in its field operations would be given an open field to spread communistic doctrines throughout the South and other parts of the country, and the labor and social unrest that would necessarily and inevitably result would change for the worse the whole industrial and social atmosphere of these regions.

The measure is monopolistic and so intended. It will destroy small industry, a purpose for which it is designed. It will freeze industrial development to those areas where now existing and foreclose the possibility of spread into outlying areas.

Under the sorry pretense of regulating commerce, the real purpose of the bill is to set up Federal dominion over the activities of the people. It is an attempt to regulate all industry and to destroy the reserved powers of the States over their local concerns. It is a proposal to push an alleged Federal power to the point of wiping out the distinction between commerce among the several States and the internal commerce of a State. It is not an honest effort to regulate commerce, but to use the commerce powers of the Constitution to regulate employer-employee relations, which, standing alone, are of purely State concern.

The courts have uniformly held that production is a local activity concerning which it is not within the competency of the Congress to legislate. The decisions of the Supreme Court in the Labor Board cases, decided in April 1937, do not support the claims of advocates of control.

The adoption of the measure would constitute the greatest single step toward centralized bureaucracy yet taken in the history of the Nation. It would lead to Federal control of wages generally, governmental regulation of hours and working conditions, and price fixing by governmental decree. And when this door is opened to the invasion of Federal interference with free competition, free labor, competitive price adjustment, and collective bargaining, we will have abandoned the capitalistic system as it has always operated and we will have undergone regimentation of industry and labor, just as surely as it exists anywhere in the world today.

The act is unconstitutional, in that it attempts to establish Federal control over all production under the pretense of regulating interstate commerce. If this principle is ever established, then those meager powers kept by the States will be gone, and liberty, as understood and practiced by the people, will be a thing of the past.

The attempt to create the impression throughout the country that all those who love their fellow man favor this act, while those who oppose it are motivated by greed and a desire to see that the poor stay poor, is simply a demagogic appeal to prejudice.

That this whole idea is alien to our American ideals and customs, that it is incompatible with our democratic system of government, that it seeks to take away from the people the right to live their own lives in their own way and to interpret their own needs in their own native voice; that it is, in part, the product of those whose thinking is rooted in an alien philosophy and who are bent upon the destruction of our whole constitutional system and the setting up of a red-labor communistic despotism upon the ruins of our Christian civilization, is apparent to all who read understandingly.

Mr. CUMMINGS. Mr. Chairman, I renew the point of order and insist that the gentleman obey the rules of the House.

The CHAIRMAN. The gentleman will state his point of order.

Mr. CUMMINGS. The gentleman from Georgia is not talking to the amendment offered by the Chairman of the Committee.

Mr. COX. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD. What I have to say seems to disturb the gentleman from Colorado.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. COFFEE of Nebraska. Mr. Chairman, I offer the following amendment as a substitute for the Norton amendment, which I send to the desk.

The Clerk read as follows:

Substitute amendment offered by Mr. COFFEE of Nebraska: In line 4, page 53, add, after section 5, the following: "(a)"; add new subsection (b) after line 21, as follows:

"(b) In industries engaged in producing, processing, distributing or handling dairy products, poultry or poultry products, livestock or livestock products, or in those industries engaged in producing, processing, ginning, and compressing, distributing or handling other agricultural products which are seasonal or perishable, there may be employment beyond the established maximum workweek (or workday) without penalty by way of overtime payments or otherwise."

Mr. COFFEE of Nebraska. Mr. Chairman, the amendment just read is what is known as the Grange amendment, with the exception of two words added, "ginning" and "compressing." Those words are added in order to clarify the word "processing." Some of the cotton people thought "processing" might not cover ginning and compressing. When the wage-hour bill was before us last December, I offered this same amendment which was sponsored by the National Grange. It was adopted by a vote of 158 to 67. It was later incorporated in the Norton substitute bill by a vote of 130 to 35.

Mr. SABATH. Mr. Chairman, will the gentleman yield?

Mr. COFFEE of Nebraska. No, I cannot. I have only 5 minutes and was unable to get any time during the general debate. This amendment has been approved and endorsed by most of the livestock associations throughout the country, by the dairy organizations, the National Grange, and other farm organizations. The amendment has been carefully worked out and has been before the House for the last 5 or 6 months.

I appreciate, and I am sure the other Members from the agricultural sections of the country likewise appreciate, the attitude of the chairman of the Committee on Labor in making the concessions that she has in the amendment she has offered. This Grange amendment has caused these concessions to be made. I appreciate what has been done. However, I call attention to the fact that in the amendment presented by the chairman of the Committee on Labor "first processing" is exempted. That is a phrase that may be hard to interpret. What is first processing? Take, for instance, milk that comes into the dairy or the creamery. They bottle milk, buttermilk, and chocolate milk, and manufacture butter and ice cream for shipment in interstate commerce. These operations all take place under one roof and employees interchangeably handle all products. Are all these products, particularly ice cream and chocolate milk, the result of first processing?

Which of the employees would be exempt from overtime provisions and which would not? The principle has been recognized that we must exempt from overtime penalty the processors, producers, and handlers of these perishable and seasonal agricultural products. That principle is recognized, but only to the extent of 12 weeks per year, in the amendment offered by the gentlewoman from New Jersey. Are these weeks to be consecutive? Will 1 hour's overtime by some of the employees for 12 weeks close the exemption in spite of a seasonal run of perishable commodities? I know that some people object to the packing houses being exempted. I am talking from the standpoint of the livestock producer. Livestock and livestock products account for the major portion of the national farm income.

Mr. WOOD. Mr. Chairman, will the gentleman yield?

Mr. COFFEE of Nebraska. No. If I get some more time I shall be glad to yield. I am in the cattle business myself and ship cattle to Omaha, Sioux City, and Chicago. On weeks of heavy runs the employees in the packing houses will work more than 40 hours per week and be glad to have the work. When receipts are light they may work only 32 hours and get the minimum weekly guaranty. If the processor has to pay time and a half for overtime you gentlemen know who is going to pay for the overtime. It will be the producer. The packer can take care of himself. The extra cost will be either passed on to the consumer or taken from the producer. In this case you know and I know that it will be taken off the price of the cattle. I am also informed that the hiring wage in the packing centers is 62½ cents per hour for common labor, and runs to as high as $1.17 an hour for skilled labor.

This amendment does not interfere with the basic wage scale. It has to do only with the overtime provision, and exempts industries engaged in producing, processing, distributing, or handling dairy products, poultry or poultry products, livestock or livestock products, or those industries engaged in producing, processing, distributing, or handling other agricultural products which are seasonal or perishable.

The CHAIRMAN. The time of the gentleman from Nebraska has expired.

Mr. COFFEE of Nebraska. Mr. Chairman, I ask unanimous consent to proceed for 5 minutes, to yield for questions.

The CHAIRMAN. Is there objection?

Mr. WOOD. I object.

Mr. BOILEAU. Mr. Chairman, I rise in opposition to the substitute amendment.

Mrs. NORTON. Mr. Chairman, will the gentleman yield?

Mr. BOILEAU. I yield.

Mrs. NORTON. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 10 minutes.

Mr. FULLER. Mr. Chairman, I object.

Mrs. NORTON. Mr. Chairman, I move that all debate on this amendment close in 20 minutes.

The CHAIRMAN. The question is on the motion of the gentlewoman from New Jersey that all debate on the pending amendment close in 20 minutes.

The question was taken; and on a division (demanded by Mr. KLEBERG) there were—ayes 136, noes 68.

So the motion was agreed to.

Mr. BOILEAU. Mr. Chairman, the gentleman from Nebraska has offered an amendment which, if adopted, would absolutely destroy the effectiveness of wage and hour legislation, especially so far as hours are concerned. If you analyze this amendment, you will conclude that it exempts practically everything. I make this statement advisedly.

The pending amendment provides, so far as hours are concerned, that the industries engaged in processing, and so forth, livestock products are exempt from the hours provision; in other words, the processors of livestock products are exempt. This would exempt shoe factories, because the making of a pair of shoes is the processing of a livestock product, leather. Likewise it would exempt the woolen mills because wool is a livestock product.

In the gentleman's anxiety to gather a few southern votes among Members from cotton districts he has included ginning and the processing of other seasonal or perishable products. The only commodity I know that is ginned is cotton, and because they have the word "ginning" in there it must be assumed that cotton is a seasonable commodity. So the ginning of cotton is exempt. But, more than that, that means, according to the interpretation placed upon it by the author of this amendment, that it is a seasonal commodity and therefore the processing of cotton—in other words, the textile industry—is exempt. There is no question about that.

Mr. HEALEY. Mr. Chairman, will the gentleman yield?

Mr. BOILEAU. I yield.

Mr. HEALEY. Do not forget the gentleman's amendment also includes the handlers and distributors.

Mr. BOILEAU. Yes; the wholesalers. Here would be a wholesaler that sells a little butter, or cotton goods; they are handlers or distributors of cotton goods, and are exempt. They might also sell hardware, stoves, tractors, automobiles, and everything else; but just because they, according to the gentleman's own definition here, are an industry engaged in the processing of these commodities they are exempt and their entire operation is exempt. All they have to do is to sell a few pounds of butter or a few cotton shirts and all of their other activities would be exempt. You may say that that is an exaggerated interpretation, but that is the language of the amendment; and I submit that the amendment exempts, so far as hours are concerned, practically everyone.

Mr. COFFEE of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. BOILEAU. I yield briefly.

Mr. COFFEE of Nebraska. Does the gentleman think any department of this Government would so construe that amendment?

Mr. BOILEAU. If this Congress is silly enough to adopt this amendment, we can expect our agents in the Department to follow our nonsense; yes. [Applause.] I submit that if this amendment carries, we can expect them to have no higher degree of intelligence than we have here. If we say this bill shall carry these exemptions, we can expect they will comply with our direction.

I do not want to scuttle this legislation. I want the wage and hour legislation, as proposed by the pending measure, adopted and I want it made effective. I submit that the friends of wage and hour legislation cannot support this amendment and I sincerely hope they will follow the leadership of the Committee on Labor.

The gentlewoman from New Jersey [Mrs. NORTON], has offered an amendment which will take care of the valid objections that might otherwise exist to this bill. It will permit reasonable treatment of perishable commodities only on the hours proposition. It is a reasonable, fair concession to agriculture, and I do not believe any agricultural leader should support the Coffee amendment. Those agricultural leaders are my friends. I have worked hard with them, but I do not believe those who are advocating this amendment understand its implications or else they are against wage and hour legislation.

Let us support the gentlewoman from New Jersey and vote down the Coffee amendment and accept the committee amendment which she has presented.

[Here the gavel fell.]

Mr. MOTT. I offer an amendment to the substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. MOTT to the amendment offered by Mr. COFFEE of Nebraska: After the words "other agricultural" insert "fishery or sea food."

Mr. MOTT. Mr. Chairman, I cannot agree with the gentleman from Wisconsin that adoption of the Coffee amendment would exclude from the provisions of this bill the many articles he has named. According to the list he read, the Coffee amendment would exempt practically everything from textiles to automobiles. I do not believe that is a correct interpretation of the amendment. However, if it is, and if the amendment is to be adopted, then I think we certainly ought to include among the exemptions in this bill the processing of a product as perishable as fish.

Mr. Chairman, fish must be processed and canned on the day they are caught. The canneries must operate every day and usually they must operate every night when the fish are being taken. In this respect there is no difference between a salmon cannery and a fruit cannery. There is every reason why the processing of fish should be exempted from the provisions of the pending bill if the processing of fresh fruits and vegetables is to be exempted. That is all my amendment undertakes to do. It simply adds the words "fisheries or sea-food products" to the provisions of the Coffee amendment.

Mr. MAGNUSON. Will the gentleman yield?

Mr. MOTT. I yield to the gentleman from Washington.

Mr. MAGNUSON. May I ask the gentleman if there are any canneries in his district that pay less than the miserable wage provided in this bill? If they do, they should pay overtime.

Mr. MOTT. The Coffee amendment has nothing to do with wages, and neither has my amendment.

Mr. MAGNUSON. Or hours.

Mr. MOTT. The amendment has to do with hours only. No one in the gentleman's State or in my State, of course, works for so small a wage as 25 cents an hour and nobody works as long a week as 44 hours in any industry which would be affected by this bill.

Mr. MAGNUSON. That is right.

Mr. MOTT. In fact, no provision of this very modest wage and hour bill would affect anybody or any industry in the States of Oregon or Washington.

Mr. GREEN. Will the gentleman yield?

Mr. MOTT. I yield to the gentleman from Florida.

Mr. GREEN. I am very much in sympathy with the gentleman's amendment. I have the fishing industry in my State and in all probability we will lose our business to the Japanese fishermen unless we can get the protection offered by the gentleman's amendment.

Mr. MOTT. The amendment I have offered will affect every coast State in the Nation and every lake State.

Mr. GREEN. We will be put out of business if we do not agree to it.

Mr. MOTT. I can see no real objection to the amendment and I think it ought to be adopted.

[Here the gavel fell.]

The CHAIRMAN. The Chair recognizes the gentleman from Missouri [Mr. WOOD], for 2 minutes.

Mr. WOOD. Mr. Chairman, I hope the committee will not adopt the Coffee amendment to the committee amendment or the amendment to the Coffee amendment as submitted by the gentleman from Oregon. The gentleman offered the identical amendment to the bill in the last session and after we adopted his amendment he voted to recommit the bill.

Mr. Chairman, this amendment emanates from the Grange, the organization for which the gentleman from Nebraska speaks. The Grange in a letter advocating this amendment expressed the hope in the very same letter that this bill would be amended and then defeated. I am tired of the enemies of this bill coming in here and asking us to adopt amendments which will entirely emasculate the purposes and intent of the bill.

Mr. McKEOUGH. Will the gentleman yield?

Mr. WOOD. I yield to the gentleman from Illinois.

Mr. McKEOUGH. I may say to the gentleman from Missouri that I hold in my hand a letter written on the stationery of the National Grange dated May 20th. In the last paragraph, after recommending the enactment of the Coffee amendment, the following is stated:

While urging the adoption of this amendment, we sincerely hope that in the interest of the country as a whole the bill may be decisively rejected.

This sustains the gentleman's contribution.

Mr. WOOD. I think that should be enough for every Member of the House to vote against the amendment.

[Here the gavel fell.]

The CHAIRMAN. The gentleman from Florida [Mr. GREEN] is recognized for 2 minutes.

Mr. GREEN. Mr. Chairman, I hope the Committee will agree to the amendment offered by the gentleman from Nebraska and also the amendment to the amendment offered by the gentleman from Oregon.

We have a peculiar situation in my district in the menhaden fish industry. The fishers catch the fish and bring them in, and out of these fish are made fish meal and fish oil, which are sold at a very cheap price. It cost nothing to produce the fish, only to catch them. Those engaged in the menhaden fish industry of my district have wired me that if the processing of fish meal and fish oil is put under the provisions of this bill they will have to close up. The business they are now engaged in will go to the Japanese. Some of you have observed the Japanese fishers. It is a question of whether or not you want us to retain the fish-oil and fish-meal business, which is now enjoyed by the people in Florida, Virginia, and Oregon and other States, or give that business to the Japanese people. If you want us to retain it, accept the amendments offered by the gentleman from Oregon and the gentleman from Nebraska [Mr. COFFEE]. You well know the low standard of Japanese wages. They will undersell American menhaden industry if this bill is enacted without amendment.

Mr. SIROVICH. Mr. Chairman, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from New York.

Mr. SIROVICH. I call to the attention of the gentleman and of my colleagues that if we adopt the amendment offered by the gentleman from Nebraska [Mr. COFFEE], together with the amendment offered by the gentleman from Oregon and the amendment offered by the gentleman from Florida, this bill, even if passed, will be wholly ineffective.

Mr. GREEN. I do not yield to the gentleman to take my time to make a speech in opposition to the menhaden fishing industry in my district. I plead with my colleagues to exempt fish processing from the provisions of this bill. I also urge consideration of amendments for fishing-industry exemption which will later be offered by the gentleman from Virginia [Mr. BLAND].

[Here the gavel fell.]

Mr. SABATH. Mr. Chairman, it appears to me that all those who are opposed to this measure are desirous of adopting amendments to emasculate and kill the bill. If you desire to kill the bill, do it, but if we are in favor of the bill let us eliminate the ridiculous amendments and get down to voting for the bill. The only way this can be done is to sustain the committee, which has given 3 months of hard study to this proposition.

I have observed that nearly all the gentlemen on the other side, as well as the gentleman from Nebraska, have voted for the amendment offered by the gentleman from Iowa for the purpose of killing the bill, but notwithstanding that fact they will again make the people at home believe they are with labor and for humane treatment of the wage earners of America.

Let us be honest and let us go on record. I am going to demand a record vote on all the amendments that may be adopted. Let us know who is who and what we are doing, and if we are for or against the bill.

[Here the gavel fell.]

Mr. HEALEY. Mr. Chairman, the Coffee amendment is all-embracing and all-inclusive. It affects virtually every important industry in the United States. If it is adopted, it will exempt practically all of these industries from the provisions of this measure which we have been considering for the last 2 days.

Let me enumerate a few of the industries that will be exempted if this amendment is adopted: Textile industry; garment industry; automobile industry; sugar industry; rubber industry; button industry; fertilizer industry; shoe industry; leather goods industry; bakers' industry; distilling industry; hemp industry; hosiery industry; seed industry; tobacco industry; canning industry; processing cotton; processing wool; processing soybeans; handling clothes, etc.; processing sugar; processing rubber; processing milk and livestock products; processing livestock products; processing hides; processing grains and dairy products; processing silk and cotton; linseed and cottonseed oil; and many other products which could be enumerated.

Mr. KELLER. Mr. Chairman, will the gentleman yield?

Mr. HEALEY. I yield to the gentleman from Illinois.

Mr. KELLER. What has been left out, if anything?

Mr. HEALEY. I do not believe anything has been left out.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. MOTT] to the substitute amendment.

The amendment to the substitute amendment was rejected.

The CHAIRMAN. The question is on the substitute offered by the gentleman from Nebraska [Mr. COFFEE] to the amendment offered by the gentlewoman from New Jersey [Mrs. NORTON].

The question was taken; and on a division (demanded by Mr. COFFEE of Nebraska) there were—ayes 113, noes 145.

Mr. COFFEE of Nebraska. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mrs. NORTON and Mr. COFFEE of Nebraska.

The Committee again divided; and the tellers reported that there were—ayes 122, noes 152.

So the substitute amendment to the amendment was rejected.

Mr. MOTT. Mr. Chairman, I offer an amendment to the Norton amendment.

The Clerk read as follows:

Amendment offered by Mr. MOTT to the amendment offered by Mrs. NORTON: Strike out "for 12 workweeks in any calendar year."

Mr. MOTT. Mr. Chairman, I ask unanimous consent to address the House for 1 minute in order to explain the amendment.

Mrs. NORTON. I object, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. MOTT] to the amendment offered by the gentlewoman from New Jersey [Mrs. NORTON].

The amendment to the amendment was rejected.

Mr. PHILLIPS. Mr. Chairman, I offer an amendment to the Norton amendment.

The Clerk read as follows:

Amendment offered by Mr. PHILLIPS to the amendment offered by Mrs. NORTON: Page 53, line 4, strike out section 5 and insert:

"SEC. 5. (a) No employer engaged in commerce in any industry affecting commerce shall employ any of his employees for a workday in excess of 6 hours or a workweek in excess of 30 hours except that in cases of stated emergencies employees may be permitted to work 8 hours per day or 40 hours per week, whereupon the attaching compensation for this overtime period shall be not less than one and one-half times the regular existing and established rate."

Mrs. NORTON. Mr. Chairman, I make the point of order against the amendment that it is not germane.

The CHAIRMAN (Mr. MCCORMACK). The Chair is ready to rule. The amendment offered by the gentleman from Connecticut [Mr. PHILLIPS] is not in order as an amendment to the Norton amendment, and the Chair therefore sustains the point of order.

The question now recurs on the Norton amendment.

The amendment was agreed to.

Mr. CASE of South Dakota. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CASE of South Dakota: On page 53, line 10, after the words "longer than", strike out the balance of the sentence and insert "48 hours."

Mr. CASE of South Dakota. Mr. Chairman, as a whole, the bill that we have before us is a better bill, I believe, than the one we sent back to the Labor Committee last December. It is definite and understandable, for the most part. It does not place objectionable powers of inquisition in the hands of irresponsible committees, as the old bill did.

I voted yesterday for the consideration of the bill because I believe that when sufficient Members sign a petition to discharge a committee that such a bill is entitled to fair consideration by the House. The natural inclination of every Member of the House, I believe, is to vote for a bill that carries a labor label. Every Member of this House wants to help labor and provide more jobs at better pay. We are somewhere in the stage of a severe depression. More men are walking the streets today than were a year ago. More people who have jobs are finding it harder to make ends meet than they did a year ago. More businesses that provide jobs are finding it harder to meet their pay rolls and pay their taxes than were a year ago. In such a situation it is all the more important that we consider this bill carefully to see if it will help labor.

Will this bill provide more jobs? Will it increase purchasing power? Will it improve conditions?

The people in my district apparently do not think so. Not one of them has written me or sent me a telegram asking me to vote for this bill. On the other hand, I have had several messages—all of them opposed to this legislation at this time. I have had a few communications from outside the district urging a vote for the bill but none from within the district.

A stockman writes me:

We stockmen are opposed to this measure, as we know livestock marketings are seasonal and peak loads come at different times. If the handler of livestock has to pay full time for idle time and overtime for peak times, the producer will take the jolt in lower prices for his livestock. You, of course, are fully advised of the provisions in this bill, but I wanted you to know we are against it.

A businessman writes me:

We feel that our industry will not be able to stand the burden that this will put on us.

I recognize that it is not popular here or considered politic to quote businessmen; but, after all, the people for whom we want to provide more jobs and take up the slack in the depression may be able to give us some valuable ideas on the state of their businesses and their ability to provide more jobs.

A man who is struggling to get a small mine into production reminds me that his ore has to cross State lines to get to market, and he asks me how any young mine can get on its feet if it has to operate on a 40-hour week. He points out that the lowest-paid man on his force gets more than 40 cents an hour now, and to reduce him from 48 hours to 44 or 40 hours a week means cutting the man's weekly pay—and several miles from town there is nothing for the workmen to do but sit around and wait for the next week.

A farmer sends me an editorial from the Minneapolis Tribune, which reads as follows:

The fact that the National Grange, the National Cooperative Council, and the National Cooperative Milk Producers' Association are all opposed to the Black-Connery measure is deeply significant. These organizations, like Mr. Moscrip, perceive a serious threat to the farmer's welfare in this bill, and they are accordingly waging a militant fight against it.

The friends of agriculture are not misled by the eloquent claims on its behalf; the fact that it is well intentioned does not blind them to the fact that it bodes no good for the farmer. The Black-Connery bill does not even provide differentials in wages and hours between urban and rural communities. It does not even exempt from its provisions persons engaged in the processing of seasonal or perishable agricultural commodities. What it does is to create a system of bureaucratic control over industry, and through that control and the disparities it will create threaten to impose new burdens on the farmer.

The wage-hour bill is a snare and a delusion. Agriculture has nothing to gain by its enactment, and it has a tremendous stake in its defeat. If the House passes it on Monday it will be voting against every interest of the farmer, and agriculture will do well to hold to strict account whoever sanctions its betrayal.

Among the small businesses and shops there is a definite opinion that this bill will foster monopolies—in other words, it will be to the benefit of the big fellow in a competitive way. The larger businesses will be able to meet its conditions. They have the bookkeepers. They have the reserves to meet any demand for an increase in hour wages—or the strength to resist labor's natural demand for the same weekly wage for fewer hours. The larger industries are located where a reserve labor supply exists and can more readily accommodate themselves to a new schedule of hours.

In the face of this situation it is difficult for me to convince myself that the bill will help to provide jobs or to increase purchasing power, unless we change the provision on hours.

The little businesses, the young industries, the small shops, the small lumber mills, away from a supplementary labor supply, the small factories, the small mines, back in the mountains have been going nip and tuck to make ends meet under present conditions. They have been hanging on, striving desperately from pride or patriotism to keep going. These small enterprises that I know anything about are not paying starvation wages nor are they working their laborers 84 hours a week, or 72 or 60 hours a week. They are not paying 10 cents an hour or 15 cents an hour and very few of them are paying as low as 25 cents an hour.

I readily agree that the products of sweatshop labor and child labor should be outlawed from interstate commerce. Last December I said, "Bring a simple child-labor act before this body and it will pass with hardly a dissenting vote. Bring a simple bill to outlaw the products of sweatshop labor from interstate commerce and they will be outlawed as the products of labor were outlawed." But I do not think it is necessary to cripple and punish small business that is providing jobs for many people and giving them a wage on which they can comfortably live in order to outlaw child labor. And I am certainly opposed to the destruction of jobs and throwing people onto relief while they can get regular jobs at wages better than relief.

An amendment to set 48 hours as the ceiling for hours will save many jobs and it will support many wages at their present level instead of cutting them to what they will be if only 44 hours are permitted. Of course, 44 hours and 40 hours are desirable where the industry can adapt itself to that. But I would leave reduction below 48 hours at this time to be a matter of negotiation between employers and employee, and not make it a matter of legislative fiat.

A 48-hour week with the wage standards embodied in this bill will increase the purchasing power of labor in this country instead of reducing it as the proposed hour restrictions will do. The bill makes exemptions for the organized, articulate groups. You have exempted processors of farm products. But miscellaneous small businesses and mines and mills and industries that have been struggling to pay living wages and provide steady jobs get only another headache.

In the mood of the House at this late hour, no amendment is getting real consideration and I realize that argument for a change in the hours section is more or less futile.

A flat ceiling of 48 hours for the workweek, however, would meet most of the objections I have heard to the bill. Although I have not had a communication of any character from my district asking me to vote for this bill as it is, and I have had many in opposition; yet, because I believe that sweatshop conditions and child-labor conditions should be wiped out, I would be inclined to vote for the bill, as it is, if it were the only way to accomplish this result. But it is not the only way to do that and this bill goes far beyond attacking those conditions.

The fact is that the bill does create, and has created, fear among the small industries in lumber camps and in the mines and on the ranches and farms. If these people could be assured that they would be able to maintain a normal week of 48 hours with a full week's pay, they would feel differently about this legislation. I believe that this change

in the bill would be a general benefit to the country. [Applause.]

Mr. McCLELLAN. Mr. Chairman, the title of this bill, as it is commonly referred to, "wages and hours," has within itself an enticing and an alluring appeal; so much so that the title within itself tempts favorable consideration and acceptance of the merits of the proposal without an analysis and examination of the provisions of the bill. Especially is this true with those of us whose background in life has made us acquainted by personal experience with the trials and struggles of those who labor in both agriculture and industry. We who have toiled both in industry for low wages and worked on the farm where the products of our labor brought scant earnings, know what it is to earn our bread by the sweat of the brow. Having had these experiences, my information is first-hand, and I yield to no man in my desire to bring relief to the third of this Nation whom our President has pointed out as being ill-clad, ill-housed, and ill-fed.

If this bill, when in full operation, would contribute toward relieving this distress in a general way throughout the Nation, it would have my enthusiastic support. I would be most happy to stand here and plead for its enactment. In fact, I have striven, as I have studied this proposal, to find some way to justify voting for it. I want to help the laboring man, and especially the laborer of the South. I believe my voting record since I have been a Member of Congress will disclose that in every instance I have cast my vote in the interests of labor. I make this statement because many will say of those of us who vote against this bill that we are unfriendly to labor. That charge is positively untrue. We vote against it because in weighing what its effect and consequences will be we find that instead of being a general benefit to the people we represent, it will be seriously harmful and detrimental. In my judgment, taking the laborers as a whole, in my State, where this bill may benefit one, it will hurt others. Therefore, we must regard its effect as a whole and not accept what it may do in one local instance, as the final test of its merits. It is pretty much like the old maxim, "You can lead a horse to water, but you cannot make it drink." We can fix minimum wages, but we will be unable to compel industries to continue operating where they find they cannot exist and pay wages that would force them to operate at a loss, where the goods they produce must be sold in a competitive market.

Therefore, when this law goes into effect, if passed in its present form and so that within 3 years' time the lowest wages will be 40 cents an hour, that simply means that many of the smaller enterprises in the South will be compelled to cease operations. In the South we still use considerable manpower in industry, in the processing of goods, and in our manufacturing establishments. Our plants in the South are not as highly mechanized as are those of the North and East. Our industries and manufacturing plants in the South employ far more persons per volume produced than do the industries in the North and East where their plants are equipped with the most modern machinery. That means, Mr. Chairman, to pay wages in excess of what they can operate at a profit and at the same time compete with the highly mechanized establishments and equipment in the northern and eastern plants, they will have to shut down and cease operations. There is one thing sure—they will not operate without some reasonable hope of a profit, and the Congress is powerless to pass legislation that will force them to continue operating. The effect of this law will be bankruptcy for literally hundreds of southern industries. Every time one of these plants ceases to operate in the South it means the small operator is being driven out of business by Federal law. It is giving a special advantage to the manufacturing industries of one section of the country as against that of another. And so the result will be that as these plants close, the ranks of the unemployed will be increased, and for every laborer who benefits by this legislation in the South, two others will suffer because of it. And so, Mr. Chairman, paraphrasing, if I may, the admonition in the Bible, "What profiteth a man if he gains the whole world and lose his own soul?" I should ask, "What profiteth the laborer of the South if he gain the enactment of a wage and hour law—40 cents per hour and 40 hours per week—if he then lose the opportunity to work?" The laborer who is now working in the South and receiving wages of less than 40 cents per hour, but which wages are much higher than those paid by the Government for relief work, and who loses his job by reason of the plant in which he is at work being closed and driven out of business on account of this legislation, will find himself relegated to the ranks of the unemployed, and that means ultimately that he will be on relief.

At present his wages are not up to the amount this legislation proposes to fix for him, but of you drive out of business the plant where he is now employed and he thus becomes unemployed, where, in the name of high heaven, have you benefited this man when you take him out of regular employment and industry and drive him to the relief rolls, where the same Government says to him that in Arkansas he shall be paid only $26 per month for his wages? He was earning $50 a month before he was discharged from private industry, and this legislation in many instances will mean that he is driven from that job to the relief rolls and will earn a salary of only $26 per month. If this legislation meant that he would continue to work at 40 cents an hour and the industry in which he is employed could continue to operate and pay such wages, I would be most happy to support it, but, Mr. Chairman, if it means the relief rolls for many who are now employed in industry, then we do more harm than good by enacting this law. When the relief bill was up for consideration a few days ago, I pointed out the difference in W. P. A. wages paid by this Government to those relief workers in the South and to those paid by it in the Northern and Eastern States. Arkansas laborers receive an average of $26 per month. In the State of New York the same worker on relief is paid by the same Government $60 per month; in Connecticut he is paid $64; in Pennsylvania and a number of other States, $59 per month. These are the differentials that the Federal Government has imposed on the South. They are very unjust, and yet those insisting that the South be compelled by law to pay wages in industry comparable with those paid in the North and East were unwilling to eliminate these differences in the W. P. A. Many are taking an inconsistent position when they insist on a wage and hour law to close down southern industries and at the same time support differentials in relief that make the southern worker a victim of a discrimination and the rankest kind of injustice.

Mr. Chairman, we are doing something else when we pass this law. We are entering into the business of regulating and fixing the price of one of the greatest commodities—labor. This is the beginning. If legislation of this character will serve well with respect to one commodity, then we must of necessity and fairness and justice fix by law a minimum price for all other commodities. Pursuing this policy, we will next be compelled to fix the price of farm products, and I say to you, Mr. Chairman, if we pass this legislation with respect to minimum wages, then I shall advocate the enactment of a law to take care of the cotton farmer of the South and fix a minimum price for the product of his toil that will give to him, too, a living wage and a higher standard of living. [Applause.]

Someone will answer and say we have already taken care of agriculture. All right, let us make comparison. Under the present agriculture program, we have attempted to hold the price of cotton up to around 11 cents per pound, including parity payments. Now that price represents the extent to which the Federal Government is now willing to go with respect to aiding agriculture in the South, since cotton is our principal crop. Let us examine into this agricultural situation and see what the Federal Government is willing that the farmer of the South shall earn for his toil and labor in the production of his crop. I believe it is agreed that on an average, 250 man-hours are necessary in the production of a bale of cotton. Half of the cost of the production of cotton is assigned to labor. The other half is assigned to the

investment in the farm, livestock, and farm implements necessary to produce the crop. Therefore, Mr. Chairman, with cotton selling at 11 cents per pound, including the Government subsidy, if it takes 250 hours of labor for one man to produce a bale of cotton, then we have fixed wages of the cotton farmer in the South at 11 cents per hour. Working 10 hours a day, there is earned on the cotton farms of the South by those who toil in the cotton fields, from $1.10 to $1.30 per day, because they work from 10 to 12 hours, and often longer. This is the wages upon which the farmer must live, whereas we propose by this bill to guarantee to the man of industry 40 cents an hour, or nearly four times the wages of the farmer. It is out of balance; and one thing more, when we add the additional cost of labor this bill involves onto the production of the manufacturer, it is passed on to the consumer, and the 35,000,000 on the farms of America will have this added burden piled onto the heavy load they are already carrying. I am for the laboring man and I want to see him prosper, but, Mr. Chairman, the best way to make the laborer prosper is to bring prosperity to the farmer. When farm prices are good, laborers are in demand. When agriculture operates at a profit, all industries thrive and business is good. Instead of being a shortage of labor, there is need for workers. [Applause.]

Yes, Mr. Chairman, this measure has a tempting and an alluring title, and constitutes a snare that will deceive many into believing it offers them much higher wages and a higher standard of living. Some laborers today who vision a job at 40 cents an hour under this bill will find themselves earning relief wages instead.

If we want to be fair, we want to raise the price of agricultural products and place a floor under them so as guarantee to the farmers who produce the food we eat and the clothing we wear a fair wage for their toil and give them the security of a higher standard of living. Can the Federal Government do all of these things? If it can do it for one group that labors, it should do it for another.

There are some other things we should take into account in weighing this legislation. The passage of this bill will mean that southern industry, in order to survive, will cut the cost of production so as to compete with the northern and eastern competitors, and will, to the very limit of its financial resources, install labor-saving machinery in an effort to keep down the cost of production, and thus more people will be thrown out of employment. They will also seek to employ the younger men who are able to produce more by their labor within the same hours of work, and thus the age limit for workers generally in industry will be further lowered, and there will be thrown out of employment many who are 45 and 50 years of age and above that are now employed.

Instead of destroying these southern industries, this Government will do well to keep them and to encourage them to continue to give a pay roll for a number of employees rather than to destroy them and drive them out of business. Every man that is driven from his employment in industry today becomes a further burden on the Treasury of this Government. Can we stand it? We have made no substantial progress toward solving the unemployment problem that is so vexing and distressing, and so vital to the welfare of this Nation. We want to see wages as high as it is possible to make them and permit industry to operate. But our problem today is not so much higher wages as it is no wages. We all know there are many instances in which the laborer is underpaid and works longer hours than he should, and I would like to see these evils corrected, but to pass a law like this, that refuses to recognize any conditions and factors that do enter into the reasonableness of wages and what can and should be paid under given circumstances, will prove to be a boon to unemployment rather than the great benefits to the laborer that its proponents claim for it.

Mr. Chairman, I shall never turn my back upon those who labor and toil. I shall continue to vote for their interests in the light of my intelligence and judgment so long as I remain in Congress, but there are such things as proposals designed to benefit a special group of our people that, when correctly analyzed, it is revealed that while helping a few, it will harm many. That is exactly what we have in this proposed legislation, and, honestly believing that with all the sincerity I possess, I shall be compelled to vote against this bill. [Applause.]

Mr. SABATH. Will the gentleman yield?

Mr. McCLELLAN. Gladly.

Mr. SABATH. I am satisfied that the gentleman from Arkansas is interested in his people—both the farmers and the laborers—and wants to improve their condition and I believe he is unduly alarmed, because I believe this bill will eventually help the people in whom he is so interested.

Mr. McCLELLAN. I sincerely hope it does. There are none who need it so much as the farmers of the South.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Dakota.

The amendment was rejected.

Mrs. NORTON. Mr. Chairman, we intend to remain in session until this bill is voted on tonight. I want to give every member of the committee an opportunity to present any amendment that he desires to present; and in order to get a vote within a reasonable time, I ask unanimous consent that debate upon this section and all amendments thereto be limited to 20 minutes, the time to be equally divided between those who have amendments on the Clerk's desk. Is there objection?

Mrs. ROGERS of Massachusetts. Mr. Chairman, I reserve the right to object, to ask the chairman of the Committee on Labor if she will accept an amendment to eliminate the graveyard shift in industries which are not continuous, the shift that is so difficult for workers, because vitality is below normal between the hours of 12 o'clock midnight and 6 a. m.

Mrs. NORTON. I am sorry, Mr. Chairman, but I feel that I cannot do that.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

Mr. DIES. Mr. Chairman, I offer an amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. DIES: Page 53, after line 21, insert new section to be known as section 5 (a), as follows:

"SEC. 5. (a) Notwithstanding the provisions of sections 4 and 5, upon application to the State labor commissioner, or other State official designated by State law (or to the United States Secretary of Labor in case there is no State labor commissioner or other State official designated by law) of the State in which the industry is situated, by any employer subject to this act, and after public hearing and proper showing, the State labor commissioner or other State official designated by State law (or the United States Secretary of Labor in case there is no State labor commissioner or other State official designated by State law) shall establish a minimum-wage rate less than that provided in section 4 but not less than 25 cents an hour, or a maximum workweek more than that provided in section 5, but not more than 44 hours in any one week with respect to such industry if such action is justified by the following circumstances: (1) The cost of living, (2) the wages paid by employers who voluntarily maintain reasonable wage standards in similar occupations, (3) the wages established in similar occupations through collective labor agreements negotiated between employers and employees by representatives of their own choosing, (4) local economic conditions, (5) the relative cost of transporting goods from points of production to consuming markets, (6) the reasonable value of the services rendered, (7) differences in unit costs of manufacturing occasioned by varying local natural resources, operating conditions, or other factors entering into the cost of production, (8) the hours of employment observed by employers who voluntarily maintain reasonable maximum workweeks in similar occupations, (9) the hours of employment established in similar occupations through collective labor agreements negotiated by the employers and employees by representatives of their own choosing, and (10) the number of persons seeking employment in the occupation to be subject to the maximum workweek.

"(a) Such hearing shall be reported by an official reporter and the entire record of such hearing, together with the order of the State labor commissioner, or other State official designated by State law, shall then be forwarded to the Secretary of Labor of the United States. Upon receipt of this record the Secretary of Labor of the United States is hereby authorized to reverse or modify the order of the State labor commissioner, or other State

official, if the Secretary of Labor of the United States finds that such order is contrary to the facts as adduced at the hearing.

"(b) In the case of any State that does not have a State labor commissioner, or other State official designated by law, then until such time as such State designates a proper official the Secretary of Labor of the United States shall receive all applications provided for herein and conduct the hearings herein provided for either in person or through some deputy labor commissioner designated by the Secretary of Labor of the United States.

"(c) As soon as practicable after the receipt of the record of any hearing before the State labor commissioner or other State official designated by law, the Secretary of Labor of the United States shall issue an order either affirming, reversing, or modifying the order of the State labor commissioner, or other State official, and such order, when issued by the Secretary of Labor of the United States, shall supersede the order of the State labor commissioner, or other State official, who shall immediately change his order to comply with the order issued by the Secretary of Labor of the United States. Provided, however, that the order issued by the State labor commissioner, or other State official, shall be effective until such time as same is reversed or modified by the Secretary of Labor of the United States.

"(d) Any person aggrieved by an order issued by the Secretary of Labor of the United States under sections 4 and 5, may at any time obtain a review of such order by filing in the circuit court of appeals for the circuit in which is situated his principal place of business, or in the Court of Appeals of the United States for the District of Columbia, a written petition praying that such order be modified or set aside in whole or in part. A copy of such petition shall forthwith be served on the Secretary, and thereupon the Secretary shall certify and file in the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript such court shall have exclusive jurisdiction to affirm, or if it is not in accordance with law to modify or set aside, such order in whole or in part. The judgment or decree of the court shall be final subject to review as provided in sections 239 and 240 of the Judicial Code, as amended (U. S. C., 1934 ed., title 28, secs. 346 and 347). The commencement of proceedings under this subsection shall not, unless specifically ordered by the court, operate as a stay of the Secretary's order."

Mr. DIRKSEN. Mr. Chairman, I reserve the point of order on the amendment. It is an amendment which seeks to confer authority upon the State.

Mr. DIES. Mr. Chairman, the present bill authorizes the Secretary of Labor to utilize the services of local agencies in the enforcement of this act. All my amendment proposes to do is to afford a decentralized agency where the employer can go and present his case in the event he cannot pay 40 cents an hour or operate on a 44-hour basis. In no event can the State agency or the Secretary of Labor fix the wage scale below 25 cents an hour or permit more than 44 hours in a week. A public hearing is provided for, and the record will be taken down by an official reporter. In case there is no local agency, then the amendment provides that the employer may appeal direct to the Secretary of Labor. After the local agency hears the evidence at a public hearing he can then make his order fixing the wage scale and the number of hours; but, as I say, in no event below 25 cents an hour or more than 44 hours a week. The record then goes to the Secretary of Labor, who has the right to reverse or modify the order. This will provide a limited flexibility, and it is in line with the Democratic platform pledge. Republicans who are insisting on turning relief back to the States, and Democrats who still give lip service to State sovereignty, and those who believe the President's message that there must be some flexibility as well as those who want some legislation at this session that is valid and workable, should seriously consider this amendment.

Mr. WHITE of Idaho. Has the gentleman made any calculation of the cost of this provision and the amount of personnel necessary to enforce it?

Mr. DIES. Most of the States already have labor commissioners, and already 20 of the States have minimum-wage and maximum-hour boards. It is a question of whether we believe in a decentralized agency. When this bill comes back from the Senate I think gentlemen will not recognize it and I predict that it will be the Senate bill with a Federal board. It seems to me that here is recognition of State sovereignty, permitting the States to have some voice in the determination of the matter so that the employer can go to his own local agency in the beginning, which agency understands the problems and is in a position better to adjust these local questions. This is what we did in the Social Security Act, and I propose practically the same thing with reference to this.

The CHAIRMAN. The time of the gentleman from Texas has expired. Does the gentleman from Illinois make the point of order?

Mr. DIRKSEN. Mr. Chairman, I make the point of order against the amendment on the ground that it is not germane to the bill. The pending bill contemplates the exercise of Federal power for the purpose of establishing minimum wages and maximum hours. The amendment contemplates a very affirmative exercise of power by the State labor commissioner. While there is related subject matter I think it is a very distinct departure from the sovereignty which is contemplated in this bill and, therefore, is not germane.

The CHAIRMAN. Does the gentleman from Texas desire to be heard on the point of order?

Mr. DIES. Only to call the Chair's attention to the fact that the present bill proposes to authorize the Secretary of Labor to utilize the services of local agencies in the State to carry out this act. All this amendment proposes is to authorize the State labor commission or State agency to approve exceptions upon given facts where the employer cannot operate upon the maximum provided in this bill.

Mr. DIRKSEN. With reference to the point just raised by the gentleman from Texas let me say that it may utilize the services of the State agencies only by consent and cooperation. It does not confer any authority or affirmative power upon State agencies. That power has been reserved unto the Federal sovereignty itself.

Mr. DIES. In reply to that, under the provisions of my amendment they cannot use any State agency without the consent of the State agency. In the event the State does not cooperate, the Secretary of Labor of the United States acts in the first instance.

The CHAIRMAN (Mr. McCORMACK). The Chair is prepared to rule.

The Chair, fortunately, has had the benefit of the extension of remarks made by the gentleman from Texas in the CONGRESSIONAL RECORD of May 16, and the Chair has taken advantage of the gentleman's notice in that extension of his intention to offer the amendment he has offered. The Chair, therefore, has been able to anticipate the amendment's being offered and a probable point of order being raised against it.

The Chair is of the opinion that the amendment offered by the gentleman from Texas imposes a limitation upon what might be termed the "escalator" provisions of the pending bill from 25 cents to 40 cents an hour over a 3-year period and from 44 hours a week to 40 hours a week over a like 3-year period. As will be found in the amendment offered by the gentleman from Texas this limitation applies if a State official finds that certain conditions exist. If so the Secretary of Labor has the power to approve or disapprove, but in no event can any recommendation be made of a salary less than 25 cents per hour nor a workweek in excess of 44 hours.

In the opinion of the Chair the pending amendment is a limitation or an exemption which does not clearly vest in the State officials power to pass State minimum-wage and maximum-hour legislation. Having in mind the broad objectives of the pending bill the Chair feels that the amendment is germane to the bill and is in order.

For the reasons briefly stated the Chair overrules the point of order.

The question is on the amendment offered by the gentleman from Texas.

The amendment was rejected.

Mr. CONNERY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONNERY: On page 53 strike out all of section 5 and in lieu thereof insert the following:

"SEC. 5. No employer engaged in commerce in any industry affecting commerce shall employ any of his employees for a workday longer than 8 hours, or shall, from the effective date of the

original order issued under section 6 with respect to such industry, employ any of his employees for a workweek longer than 40 hours.

"No employee shall be deemed to be employed in violation of this section if he receives additional compensation for his overtime employment at the rate of one and one-half times the regularly hourly rate at which he is employed, or times the rate applicable under or pursuant to this act, whichever is higher."

Mr. CONNERY. Mr. Chairman, as will be observed, this is a companion amendment to the one I introduced under section 4. You can readily see I have been striving to have inserted in this bill a straight 40-cent minimum hourly wage and a 40-hour maximum workweek proposition rather than a 25-cent minimum hourly wage with a 44-hour workweek. The amendment I am now presenting simply strikes out the escalator provision, cuts out the 44-hour provision, and makes it a straight 40-hour workweek with time and a half for overtime, effective as soon as the bill becomes a law.

Whatever objection you had to raising the 25 cents an hour to 40 cents, as provided in my earlier amendment, surely you must agree that industry will suffer no great hardship if we cut out the escalator clause on the hours provision and insert a straight 40-hour week.

Mr. WHITE of Idaho. Mr. Chairman, will the gentleman yield?

Mr. CONNERY. I yield.

Mr. WHITE of Idaho. What becomes of contracts that may have been entered into to perform certain things based on present cost? The gentleman's amendment would raise the cost abruptly as soon as the bill becomes a law. What will happen to those contracts?

Mr. CONNERY. The situation would not be materially different than with the 44-hour provision, for it is a change of only 4 hours and goes into effect immediately instead of becoming effective at the end of the period of 2 years.

Mr. BRADLEY. Mr. Chairman, will the gentleman yield?

Mr. CONNERY. I yield.

Mr. BRADLEY. Will not the effect of the gentleman's amendment be simply to reduce the worker's wages $1 a week?

Mr. CONNERY. Not necessarily.

Mr. BRADLEY. The hours are reduced to 40. At 25 cents an hour this would make a reduction of $1 a week.

Mr. CONNERY. This reduction in hours will not curtail any worker's income, as the Department of Labor records show that even the southern cotton mills are not now and have not worked 40 hours per week for some years back. Again, this reduction of hours will provide millions of workers with jobs as soon as conditions become normal. In those small industries which must operate more than 40 hours per week, the workers would not suffer any loss because they would collect time and a half for such overtime over 40 hours.

Mr. BRADLEY. But it would reduce their income.

Mr. DUNN. Mr. Chairman, will the gentleman yield?

Mr. CONNERY. I yield.

Mr. DUNN. I believe in the gentleman's philosophy, but at this time in order to put this bill through, a bill which has the endorsement of the American Federation of Labor, the C. I. O., and the brotherhoods, I believe the gentleman better withdraw his amendment and come along with us.

Mr. CONNERY. Mr. Chairman, I have the utmost love and respect for the gentleman from Pennsylvania. He is a pal of mine. However, I have not seen any message come into this House in which the American Federation of Labor, the C. I. O., or any other labor organization has stated they were against the principle of putting in the straight 40-cent minimum hourly wage or the 40-hour maximum workweek provision at this time. It is true the labor organizations have backed this bill, but they have not gone so far as to say that they are against the amendment I am now offering to better this bill. Labor unanimously seeks a shorter workweek in order to relieve unemployment.

Mr. DUNN. May I say that in the Labor Committee I tried to put in the 5-day, 30 hours a week amendment. I was informed by a man representing the Federation of Labor that they were opposed to it.

Mr. CONNERY. I am with the gentleman on the 30-hour-week proposition, and this amendment I am asking for is a step in that direction.

I am for this wage and hour bill. As I stated yesterday on the floor of this House this bill is a genuine improvement over the monstrosity which was called a wage and hour bill last December. This bill definitely defines a minimum wage and shorter workweek. I seek to improve the bill by having this minimum, which I consider too low and of not enough assistance to our people, made 40 cents per hour and the workweek made 40 hours right now with time and one-half for overtime.

I sincerely hope we can improve this bill, but, if the majority votes to go slower I still intend to support the bill, as it is so much better than the bill we rejected last December. I felt at that time that the Labor Committee would, as they have done, report a better bill before the session closed.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. CONNERY].

The question was taken; and on a division (demanded by Mr. CONNERY) there were—ayes 6, noes 35.

So the amendment was rejected.

Mr. COOLEY. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. COOLEY: Page 53, line 21, at the end of section 5, insert *"Provided, however,* That nothing in this section shall apply to persons employed in connection with the marketing of tobacco in auction warehouses."

Mr. COOLEY. Mr. Chairman, this is another effort on my part to exempt the employees in auction warehouses from the hour provisions of this bill. The other amendment I offered a moment ago would have had the effect of exempting these employees from both the wage and hour provisions, but as I pointed out when I was addressing the House at that time, auction warehouses remain open 24 hours a day. This does not mean that these employees actually work 24 hours a day, but the warehouses remain open that long.

May I again impress on the House the fact that in Georgia the entire tobacco crop is marketed in 3 weeks. It is necessary to use a large number of employees to unload the tobacco for the farmers when it is brought into the tobacco warehouse. I cannot understand why this amendment should be objectionable to the Labor Committee.

Frankly, I believe the Biermann amendment is sufficiently broad to include these employees. I do not believe they are engaged in interstate commerce. I likewise believe they are handlers of agricultural commodities and would come under the provisions of that amendment. But by introducing this amendment I seek to clarify the situation so that we may very definitely know that these laborers who assist the farmers in unloading their tobacco shall be exempted from the hour provisions of this act. I fear unless they are exempted definitely from the provisions that the warehousemen will cease to render this very valuable service to the tobacco farmers of our State.

Mr. CREAL. Will the gentleman yield?

Mr. COOLEY. I yield to the gentleman from Kentucky.

Mr. CREAL. Is it not true that these men to which the gentleman refers are in most cases the sons of farmers, the tobacco raisers themselves, who live in the immediate community, and these men work there unloading that tobacco for their neighbor farmers?

Mr. COOLEY. In many instances, I may say to the gentleman, the warehousemen employ farm boys to work in the warehouse and assist the farmers in placing their tobacco.

Mr. PATRICK. Will the gentleman yield?

Mr. COOLEY. I yield to the gentleman from Alabama.

Mr. PATRICK. The gentleman will agree with me that the purpose of this law is to distribute labor and work more evenly over the Nation?

Mr. COOLEY. That is true.

Mr. PATRICK. If the gentleman's amendment is accepted, will it not tend to defeat the very purposes of this bill?

Mr. COOLEY. Absolutely not.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. COOLEY].

The amendment was rejected.

Mr. PHILLIPS. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. PHILLIPS: Page 53, line 4, after section 5, strike out the whole section and insert a new section, as follows:

"No employer engaged in commerce in any industry affecting commerce shall employ any employees for a workday longer than 6 hours, or shall hereafter employ any of his employees for a workweek longer than 30 hours. No employee shall be deemed to be employed in violation of this section if he receives additional compensation for his overtime employment at the rate of one and one-half times the regular hourly rate at which he is employed, or times the rate applicable under or pursuant to this act, whichever is higher."

Mr. PHILLIPS. Mr. Chairman, as the Members of the House will observe, this is a corollary to the amendment I offered a few minutes ago. The argument has been presented and I will not take the time of the House further.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut [Mr. PHILLIPS].

The question was taken; and on a division (demanded by Mr. PHILLIPS) there were—ayes 13, noes 33.

So the amendment was rejected.

Mr. BOREN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOREN: Page 53, line 21, at the end of the section add "No person, firm, or corporation engaged in the drilling for, production of, or transportation of crude petroleum in interstate commerce shall employ or cause to be employed any worker for more than 40 hours in 1 week, nor more than 72 hours in any 2 consecutive weeks, nor more than 16 hours in any 2 consecutive days."

Mr. BOREN. Mr. Chairman, I ask unanimous consent to extend my own remarks in the RECORD and include therein the testimony presented before the Committee on Labor on this subject.

The CHAIRMAN. The Chair may state that consent to include extraneous matter will have to be obtained in the House.

Mr. BOREN. Mr. Chairman, I modify the request and ask to extend my own remarks in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. BOREN. Mr. Chairman, this amendment simply provides for maintaining the status quo in the oil industry. For the last 4 years the hours in the oil industry have been regulated on exactly this basis. I believe it is a proper method to approach the problem by industries, and I hope the Committee will see fit to place its stamp of approval upon what the oil industry has been doing for the last 4 years.

Under permission to extend my remarks, I include the following extract from the hearings on the Fair Labor Standards Act of 1937:

FAIR LABOR STANDARDS ACT, 1937

MONDAY, JUNE 14, 1937

UNITED STATES SENATE,
JOINT COMMITTEE OF THE SENATE COMMITTEE ON EDUCATION AND LABOR AND HOUSE COMMITTEE ON LABOR,
Washington, D. C.

The joint committee met, pursuant to adjournment, at 10 a. m. in room 357, Senate Office Building, Senator Hugo L. Black (chairman) presiding.

Present: Senators Hugo L. Black, James E. Murray, Rush D. Holt, Allen J. Ellender, Robert M. La Follette, Jr., and James J. Davis.

Representatives William P. Connery, Jr., Robert Ramspeck, Matthew A. Dunn, Reuben T. Wood, Jennings Randolph, Richard J. Welch, Fred A. Hartley, Jr., William P. Lambertson, Albert Thomas, Joseph A. Dixon, William F. Allen, and Santiago Iglesias.

The CHAIRMAN. The committee will be in order. Congressman BOREN.

STATEMENT OF HON. LYLE H. BOREN, REPRESENTATIVE FROM OKLAHOMA

Representative BOREN. I come before this committee to offer a proposed amendment or suggestion on pending legislation as affecting the oil industry. It will make a provision for the 36-hour workweek.

Recently, when the Connally oil bill and other legislation was before my own committee, I offered there an amendment that—

"No person, firm, or corporation engaged in the drilling for, production of, or transportation of, crude petroleum in interstate commerce shall employ or cause to be employed any worker for more than 40 hours in 1 week nor more than 72 hours in any 2 consecutive weeks, nor more than 16 hours in any 2 consecutive days."

Now, as you will readily see from that amendment, the intention was to establish a 36-hour week, but making a provision for 40 hours in any 1 single week, in order to make it possible to meet emergencies that would require overtime. Also the 16 hours in any 2 consecutive days is an attempt to establish the 6-hour working day but to make reasonable provision for emergencies that might arise because of necessities for overtime.

I present this amendment, gentlemen of the committee, because we have already established in the oil business, since code days, the 36-hour week. I do not mean to indicate that all oil companies abide by that program, but I think it is safe to say that 60 or 70 percent of the companies do abide by a program calling for the 36-hour workweek.

The oil industry is a special problem, and I am very anxious that we be allowed to maintain the standards in the industry that have already been tried and found to be what we want.

I represent one of the greatest oil-producing districts in America and am acquainted first-hand with the situation that has existed in that industry during the last 10 years, as affects the labor, marketing, oil consumption, and production control. I have been a laborer in the oil field and have engaged, to some extent, in the other end of the business, that of drilling for oil, and I know that the 36-hour week has been the answer to the labor problem in my district, and I feel certain, should there be a general provision for a 40-hour week without excepting this great industry, that this industry, which is the third largest industry from the standpoint of the amount of money invested and people concerned in its production, the third in the Nation. This industry needs the 36-hour workweek.

I want to point out again that there are certain companies—and I believe that would include some 60 or 70 percent of them—that are on a 36-hour workweek at the present time, and that they have a reasonable minimum rate of pay.

In offering the above amendment I added thereto before my committee, the Committee on Interstate and Foreign Commerce, that—

"No person, firm, or corporation engaged in the drilling for, production of, or transportation of crude petroleum in interstate commerce shall pay less than $5 per 6 hours for daily employment."

This amendment for a 36-hour workweek, or $5 a day, would not change the situation in the oil industry, except to bring the chiseler or scalper, or whatever you wish to call him, into line. It is important because competitive features will force the companies now operating on a 36-hour workweek to go to a 40-hour week, or a week of greater hours, if there is no provision made for a 36-hour workweek.

A large percentage of operators who have already gone back to long hours since the code days have been drawing their closer competitors into line with them, so the long-hour workweek is gradually coming back in the oil industry. I have seen it when there was a 12-hour workday, I have seen it when there was a 6-hour workday, and it is very important, in my industry—I mean I represent a district which is largely an oil industry—this great industry that we have in America, that we have some provision to maintain what might be termed the "status quo" in the oil industry, and if I may have permission, I would like to just take from the record in the hearings before the Interstate and Foreign Commerce Committee on the so-called Connally hot-oil bill, the statement that I made to that committee supporting the amendment that I offered, and also the statement of Mr. Harvey C. Fremming, president of the International Association of Oilfield, Gas Well, and Refinery Workers of America, who spoke subsequent to me introducting this amendment and utilizing most of his time in discussing the amendment that I proposed there.

I do not care, Senator, to make a lengthy statement. I think I have made it clear. What I want is a provision in this bill that will permit us in the oil industry to maintain what might be called the status quo that we have found to be the solution of our labor problem. I say that in realization that there are a few instances such as the man who is employed as a pumper taking care of one well, perhaps that is his sole job, that could be said that he works 24 hours a day because if the pump quits working at midnight, he probably lives close by and is accustomed to hearing that pump going, and if it fails to work—any of you who live in the oil fields know that when the pump stops working in the middle of the night it is sufficient to awaken you—and the man would go out and look after the well. As a matter of fact, there are few of the individual instances where a man might look after

one or two wells as a pumper or roustabout maintaining a lease that they could be said to be working on a 24-hour schedule, but who actually perhaps are not working more than 3 or 4 hours a day.

I offer this amendment realizing that there must be some exception made, and I presume that this committee will, in this legislation, make some special provision, or at least some provision for the type of exception which will occur in all industries. I know my own correspondence on this amendment brought from the hospitals letters saying that if a similar provision were instituted in the hospitals that the smaller hospitals that had nurses on call would not be able to function properly because of the emergencies that might arise there.

I feel that the adoption of this amendment will be the real answer to the labor problem in the oil industry, and if I am permitted to put in the record the two statements that I indicated you will see that the president of the International Oil Field Workers Union expresses the same opinion as the sentiment of all workers in the entire oil industry.

They had a convention just the other day in Kansas City of all the oil workers in America, and the record of that convention will show that the oil labor realizes that they need to maintain what I call the status quo, the 36-hour workweek.

That concludes my statement.

The CHAIRMAN. Thank you very much, Congressman.

Representative BOREN. If there are any questions I will be glad to answer them. May I be allowed to enter into the record these two statements?

The CHAIRMAN. Is there any objection? All right.

The statements referred to are as follows:

"STATEMENT SUBMITTED BY HON. LYLE H. BOREN, REPRESENTATIVE IN CONGRESS FROM THE STATE OF OKLAHOMA

"Mr. BOREN. Mr. Chairman and gentlemen of the committee, I want to offer for the record later a prepared statement, substantiating my proposal here, but I would like to propose to this committee that it add to H. R. 5366, at the conclusion thereof, after the word 'repealed', these words: 'And following section 2 of said act add:

"'No person, firm, or corporation engaged in the drilling for, production of, or transportation of crude petroleum in interstate commerce shall employ or cause to be employed any worker for more than 40 hours in 1 week nor more than 72 hours in any 2 consecutive weeks nor more than 16 hours in any 2 consecutive days: *Provided further*, That no person, firm, or corporation engaged in the drilling for, production of, or transportation of crude petroleum in interstate commerce shall pay less than $5 per 6 hours for daily employment.'"

"In substantiating this amendment, Mr. Chairman, I would like to offer later for the record a prepared statement, and due to the fact that the committee has other witnesses here who desire to be heard this morning, I will not take up more of your time.

"Mr. COLE. Might I suggest that in order to have the hearing printed, and I assume you would want your statement to follow what you have said here this morning——

"Mr. BOREN. Yes.

"Mr. COLE. That you submit it to us as early as possible.

"Mr. BOREN. I will do that. That is all I have this morning, Mr. Chairman."

STATEMENT SUBMITTED BY HON. LYLE H. BOREN, M. C.

"Mr. BOREN. Mr. Chairman, I would like to offer for the consideration of this committee, an amendment to H. R. 5366:

"'No person, firm, or corporation engaged in the drilling for, production of, or transportation of crude petroleum in interstate commerce shall employ or cause to be employed any worker for more than 40 hours in 1 week, nor more than 72 hours in any 2 consecutive weeks, nor more than 16 hours in any 2 consecutive days: *Provided further*, That no person, firm, or corporatoin engaged in the drilling for, production of, or transportation of crude petroleum in interstate commerce shall pay less than $5 per 6 hours for daily employment.'

"In offering this amendment to H. R. 5366, I am doing so in the belief that stability in the oil industry should provide stability in labor conditions in that industry, and that legislation aimed to aid the producers of oil should take into account the workmen engaged in that production.

"I represent one of the greatest oil-producing districts in America. I am acquainted first-hand with the situation that has existed in that industry during the last 10 years as affecting labor, oil production, oil marketing, and to some degree oil consumption and production control.

"I have seen crude oil sell as low as 10 cents per barrel in my home country. I think I have some first-hand knowledge of the chaotic conditions that have existed in the marketing fields, both in the crude marketing and retail marketing of the finished products. But, also, I am keenly aware of the labor conditions that have existed in the oil fields for the past 10 years. I have seen the 12-hour day as a common practice; then, under the N. R. A. code, as low as 6-hour day. I have witnessed the effect of unemployment and observed the general condition of the country where oil is produced, both under the long-hour and the short-hour day system. I want to point out to this committee that permanent legislation for the oil industry should take into account the laborer in that industry.

"The necessity for this amendment is clearly pointed out by the fact that oil has gone up from 10 cents to $1.27 a barrel in my district. That is to say, that the price of oil has increased more than 1,000 percent but the pay of the workmen has increased far less than 10 percent on an average.

"The evidence in my home county would indicate that employment has not increased at all with the increase in the market price of oil. Of course, I cannot point out specific figures, but I could give you numerous examples from my general acquaintance with the personnel engaged in the production of oil in my district. Labor Department figures indicate that there has been an 8-percent reduction in employment concurrent with a 900,000-barrel daily increase in crude production.

"I want to point out that there are certain integrated companies maintaining operation on a 36-hour workweek and at reasonable minimum rate of pay. I think it is safe to say there is a fair percentage of the companies engaged in oil production that are operating now on the basis that would be set up under the terms of my proposed amendment. Their experience under the N. R. A. brought them to the conclusion that this operation was the wisest policy.

"However, there is a large percentage of the operators who have already gone back to long hours, which in turn means less men on the pay roll and workmen engaged for longer hours without proportional increase in compensation.

"This means that the 12-hour day in crude production is finding its way back into the producing fields. This condition, while not common, is of sufficient strength to act as an example frequently pointed to by those in the industry who are attempting to be reasonably fair.

"It is evident that operators working under the code provisions, while facing the competitive factors relating to hours and rates of pay, must see stability and uniformity in hours of labor and rates of pay or natural economic laws will cause them to lengthen hours and bring their rates of pay down to a figure comparable to this type of competitive operations.

"My understanding of H. R. 5366 or S. 790, making permanent the Connally hot oil bill, is that in the name of conservation it seeks to establish, among other things, a uniform price. The bill has as its purpose, eonomic value to the operators involved with, of course, an element consistent with the general welfare involved in the economy affecting this great natural resource. Since this legislation is in fact an economic stabilizing measure, it is important that we should establish economic stabilization for the workers involved. It is upon this principle that I have submitted for your consideration the proposed amendment.

"Mr. COLE. Thank you.

"Colonel Thompson was to go on next, but if you are willing to give way to Mr. Fremming, who has to leave this afternoon for Chicago, Mr. Thompson, we will hear him.

"Mr. THOMPSON. I will be glad to give way.

"Mr. COLE. He has a statement which he does not think will take more than about 5 minutes.

"Mr. THOMPSON. I will give way with pleasure.

"Mr. COLE. Before we hear him, the committee has considered whether it will meet this afternoon or tomorrow morning. Mr. Mapes is on another committee which requires his appearance this afternoon.

"Mr. THOMPSON. That will suit me much better.

"Mr. COLE. And after Mr. Fremming's statement we will adjourn until 10 o'clock tomorrow.

"Mr. THOMPSON. Ten o'clock tomorrow morning?

"Mr. COLE. Yes; we may go on tomorrow afternoon and Thursday afternoon if we find it suits the convenience of the committee.

"Mr. Fremming, we will hear you now."

STATEMENT OF HARVEY C. FREMMING, PRESIDENT, INTERNATIONAL ASSOCIATION OF OIL FIELD, GAS WELL, AND REFINERY WORKERS OF AMERICA

Mr. COLE. Give your full name for the record.

Mr. FREMMING. My name is Harvey C. Fremming. I am president of the International Association of Oil Field, Gas Well, and Refinery Workers of America, and I appear here on behalf of that association. The theory of the association has from the inception of the recovery in the industry attempted to contribute to certain defined economic standards in the petroleum industry through its organization and its relationship to the industry and through its association with the industry.

My appearance, Mr. Chairman, has no immediate bearing on the bill, although I am not unmindful of the tremendous value of conservation, but may I be pardoned for saying that I do not look upon this as solely a conservation measure. I cannot bring myself to think of this as a conservation measure. It is purely an economic measure, and the use of the term "conservation" here to my mind is in fact a misnomer. We are not unmindful of the purpose of the bill and the desire to have it continued for the economic reasons involved, but at the same time we appreciate the efforts being made to maintain the price structure through this instrumentality, and we offer the suggestion that there is another factor involved and that is the human factor in the industry itself. And that is the reason the only purpose of appearing here, not to oppose the purpose of this bill itself but to call attention to the fact that there are some 85,000 workers in the petroleum industry, some of whom, by reason of unfair practices, are not going to benefit in the price-structure value of this bill, because some have failed to maintain reasonable competitive conditions in the production of oil. So that we have here the cost problem; we have the uneconomic situation of crude production, and it is our purpose, gentlemen, to ask for an amendment to

the bill which will provide for maximum hours, regulation of maximum hours, and minimum rates of pay as just previously introduced by Congressman BOREN, of Oklahoma. We support this amendment, and we support it for many reasons. I am not going into a lengthy discussion because of the courtesy of this committee in extending time to permit me to be heard this morning. There are many reasons why this can be appreciated not only in this one branch of the industry but because of the human factor as well; this, Mr. Chairman, is not merely a question of regulating the shipment of contraband oil—that is, oil produced in excess of State allowables. It goes much beyond that, as very aptly appeared from the inquiries here this morning by members of the committee.

The right to regulate maximum hours of employment and minimum rates of pay is no longer a fancy or a theory advanced by theorists that appear before committees of Congress, but the fixing of minimum rates of pay and maximum hours of employment are now regarded within the rights of Congress in regulating interstate commerce. And certainly commerce is affected materially where human conditions obtained within the industry itself, and that leads us to the labor factor, the human factor in the industry. It is upon that principle and that principle alone that we appear here this morning and urge that this committee amend the present bill to establish maximum hours and minimum rates of pay as provided in the amendment introduced by Congressman BOREN this morning, and I am going to limit my statement this morning to the suggestion contained in that amendment, although I think some day this committee could give consideration to the study of whether or not the subterranean movement of oil from day to day, although it may not reach the top of the crown, has some value in a consideration of what interstate commerce is, although our understanding of it today is largely due to the fact that the movement in interstate commerce, for the purpose of regulation, must be of articles on top of the ground. It is our theory that some day we may develop the proposition that subterranean movement of certain commodities up to the point of the law of capture affects interstate commerce.

Mr. Chairman, I think there are plenty of reasons, plenty of reasons and certainly economic reasons, for this committee to consider favorably the amendment presented by Mr. BOREN to this measure, to this bill, if it is to be a stabilizing factor in the field of economics. We are, of course, interested in that, but we are equally interested in the human equation of reducing that competitive factor in the production of petroleum. That is the principle underlying our support, and that is the main principle upon which I wanted to discuss this with you this morning. That is all I have to say. We could enter into a lengthy discussion of this principle, but the facts are known to you, and I think we all understand that the purpose today is one of stabilization in the industry, with all due respect to the statement made by the distinguished Secretary this morning; but the human equation is there, and we must give consideration to that in maintaining the proper economic relation today.

I am somewhat discouraged by the conduct of the industry itself. When we met here in Washington in the bleak, stormy days in July 1933, the industry itself lay prostrate; in fact, the industry was so concerned with price and was concerned with consumer requirements because of the competitive picture within the industry that at that time it agreed upon a code of fair competition which had for its purpose regulation of labor relations within the industry as applied to maximum hours and minimum rates of pay. Most of the substantial organizations in the industry have maintained that interest, but we still have our chiselers, if I may use the common expression, Mr. Chairman, among them—men or corporations who benefit not only from the economic factor but from all other stabilizing factors that have come as a result of that original code.

The Morgans and the Du Ponts—if I may be permitted to refer to them—the Morgans, the Du Ponts, and the Mellons are outstanding in that particular situation as regards long hours and low rates of pay, and who in fact, within the internal operation of the industry itself, are imposing hazards and hardships against maintaining stabilized conditions of employment and rates of pay which in turn reflect themselves in consumer purchasing power that maintain our national economy.

That is all I have to say this morning, Mr. Chairman. We hope you will see fit to accept the amendment presented by Mr. BOREN.

Mr. COLE. Thank you. May I ask if this amendment you approve, as suggested by Mr. BOREN, is in any legislation now pending before the Labor Committee?

Mr. FREMMING. No; and it is not contemplated. Incidentally, there is in the general legislation provision for 40 hours a week, and we have a different situation in this industry which has given every evidence of its willingness——

Mr. COLE (interposing). I mean generally.

Mr. FREMMING. The general legislation is for 40 hours.

Mr. COLE. Is that included here?

Mr. FREMMING. That is not included in this. I understand your point. But the general bill will provide for 40 hours, and that bill is to come from the executive branch, as I understand it. But it does not provide for 36 hours, which this amendment would.

Mr. COLE. The general bill, you understand, will come from the executive branch?

Mr. FREMMING. Yes.

Mr. COLE. Would that be satisfactory to you?

Mr. FREMMING. No; it just means 4 hours more per day, which in turn means a reduction in employee load in the industry.

Mr. COLE. All right.

Mr. PETTENGILL. As I understand you, you said that a great many of the companies had maintained the labor standards of the N. R. A.

Mr. FREMMING. Yes, Mr. PETTENGILL; in the petroleum code.

Mr. PETTENGILL. Yes; the petroleum code. What were the hours provided in that code?

Mr. FREMMING. 36 hours per week.

Mr. PETTENGILL. Thirty-six?

Mr. FREMMING. Yes. I should repeat there, Mr. PETTENGILL, the manner in which Congressman BOREN presented his amendment to the committee. The 40 hours he gave means not more than 40 hours in any 1 week, and not more than 72 hours in any 2 weeks, and not more than 16 hours in 2 consecutive days.

Mr. PETTENGILL. Was that taken from the N. R. A. code?

Mr. FREMMING. That is verbatim, almost verbatim from the code itself, and for 2 years we operated splendidly under that code.

Mr. PETTENGILL. Had the rates of increase in pay to labor been in proportion to the benefit of this increase of about 27 percent on crude oil at the well head?

Mr. FREMMING. I would not say that they would equal 27 percent. The wages were increased, for the most part, in the industry, and for the most part we still have the benefit of some increase by reason of this legislation. But they all did not go along. We still have, in some sections, 12 hours a day. That was eliminated in 1933 by the code. When you speak of benefits, you mean in dollars and cents?

Mr. PETTENGILL. Total dollars per person.

Mr. FREMMING. Yes, sir; they have benefited. I do not say to the extent of 27 percent, but I do not think 27 percent is the whole story, Mr. PETTENGILL, if it be remembered how they were up here asking for relief from this 10-cent oil, and 20-cent oil throughout the industry. I think it must be remembered that the 27 percent does not represent the benefit received by this industry; it merely means that on the average, but that does not represent the whole truth, and we should not be confused by it at all.

Mr. PETTENGILL. The 85,000 workers you represent, the greatest bulk of them, have had wage increases, have they?

Mr. FREMMING. Yes.

Mr. PETTENGILL. Commensurate with the increase in price of crude?

Mr. FREMMING. Not necessarily commensurate with that, but they have had increases, substantial increases.

Mr. PETTENGILL. Some of them have not been increased as much as 27 percent, but they have had increases?

Mr. FREMMING. Yes; I would say most of them, except in the chiseler group.

Mr. PETTENGILL. Out of the 85,000 total number represented by you, how many thousands do you think, to use your expression, are at the mercy of the chiseler?

Mr. FREMMING. Oh, I would say not to exceed 25 percent, not in excess of that. It is just about the same percentage that runs throughout the whole industry.

Mr. PETTENGILL. Yes.

Mr. FREMMING. About the same group that runs the hot oil, the chiselers who will not pay their workers.

Mr. PETTENGILL. Thank you.

Mr. WOLVERTON. Mr. Chairman.

Mr. COLE. Mr. Wolverton.

Mr. WOLVERTON. Does the proposed amendment of Mr. BOREN relate only to the production, or does it include refining and marketing employees?

Mr. FREMMING. Only the producing end. We have no special difficulty in refining and never have had; it is only in the producing and transportation end, but so far as the refining branch of the industry is concerned, we have never had any quarrel on that question; 36 hours is maintained in that industry, and there is no charge of chiseling with respect to the refining end.

As to the marketing end today, it is the most chaotic that we have ever had. For your information, we are now working on that branch of the industry and are very earnestly trying to be helpful insofar as the worker problem is concerned. The regulation of hours of employment, fixed at 40 hours a week, obtained in the code.

Mr. WOLVERTON. I was unfortunately engaged otherwise and did not hear the amendment.

Mr. FREMMING. Yes.

Mr. WOLVERTON. Is it different from the one which was presented to the Senate?

Mr. FREMMING. It is the same; it is the same.

Mr. WOLVERTON. If I remember correctly, in your amendment you ask for the base of 36 hours a week and the rate of pay to be fixed at $5 as a minimum rate.

Mr. FREMMING. That is right; yes; that is correct.

Mr. WOLVERTON. And that relates only to those engaged in the production end?

Mr. FREMMING. Yes; drilling, production, and transportation.

Mr. WOLVERTON. Is that limited only to States that have the benefit of the Connally Act?

Mr. FREMMING. No.

Mr. WOLVERTON. Has employment increased over the period of 3 years?

Mr. FREMMING. To the contrary, it has decreased.

Mr. WOLVERTON. The figures presented to us would indicate that 900,000 more barrels per day are being produced, and yet I understand you to say that at this time it is a fact that the number of employees has actually decreased?

Mr. FREMMING. That is correct, in the last 3 years.

Mr. WOLVERTON. How do you account for that fact?

Mr. FREMMING. One of the special factors is the improved method of petroleum recovery today, through technical development making it possible to bring a well to production at a much shorter period of time than it took in the past. For example, for the east Texas field, to which reference has been made on several occasions, the sum total of drilling time to 3,500 feet, usually 3,500 feet being the average, runs around 15 days. Seven or eight years ago that was an unheard-of thing.

Mr. PETTENGILL. How many days?

Mr. FREMMING. Fifteen days, full time, full drilling, including cementing time and everything, the construction of the derrick, spudding, and bringing the well to production, in 15 days.

Mr. PETTENGILL. That means drilling more than 200 feet a day?

Mr. FREMMING. Oh, yes. It is proper to say in that connection there are certain drilling hazards elsewhere that do not obtain in east Texas. For instance, in the Kettleman Hills field, for example, to bring in a well to production would take approximately 6 months; they may be able to drill in less time than 6 months, but if they can bring in a well in 90 days it is a happy condition.

Mr. WOLVERTON. What has been the percentage of decrease in employment?

Mr. FREMMING. It will be—the Bureau of Labor Statistics indicates that the reduction has been running about 8 percent since the code became effective. Of course, there was a tremendous increase in the employee roll when the code became effective in September 1933, but since that time there has been about an 8-percent reduction in the crude production—in the drilling end, not the refining end of the industry.

Mr. WOLVERTON. I understand. What accounts for this decrease in the production end?

Mr. FREMMING. That is chiefly based upon improved methods of production, based principally upon the technical development in drilling equipment, primarily.

Mr. PETTENGILL. What about the refining branch?

Mr. FREMMING. They have increased employment in that end, due to the requirements to take care of this 900,000 barrels of crude, and the consumer demand has increased proportionately, as we understand it. There was about a 22-percent increase in consumer demand last year.

Mr. COLE. Is that all?

Mr. PETTENGILL. I have nothing further.

Mr. FREMMING. Thank you, Mr. Chairman.

The CHAIRMAN. Congressman LUCE.

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Oklahoma [Mr. BOREN].

The amendment was rejected.

Mr. FULLER. Mr. Chairman, I move to strike out the last two words.

Mr. Chairman, I realize it comes in rather poor grace to seek to obtain votes when you know a bill is going to pass. This bill is of vital importance to us who come from the South. You can ridicule us now, but we will be back here or Representatives from our districts of our political faith will be back here when many of those who ridicule us will not be here. You may seek to impose upon us and our section humiliation and disgrace and you may seek to heap sectionalism upon us, but there will come a day when you will repent politically in sackcloth and ashes. I do not blame any of the gentlemen who are at heart for this bill for supporting it. I believe that down deep in the hearts of at least 60 percent of the Members of this House they are not for this bill and are supporting it purely, solely, and entirely for political purposes. [Applause.]

We are not afraid of denunciation. We are not afraid of C. I. O.'s. We stand upon our merits and stand for the people who send us here. When you needed relief we have stood by you from the North who now seek to humiliate us. We have voted to give you relief that we south of the Mason and Dixon's line do not need, and we voted for it because you said the people of your districts and of your States were starving and in distress. We needed nothing in the way of slum-clearance houses, which we have given you. We who hail from south of the Mason and Dixon's line can get along without the relief that is being given today. We were so generous that we voted for the recent relief bill when we knew that the 11 Southern States, with 29,000,000 people, received less money for relief than the one State of Pennsylvania with 9,000,000 people. That is how we stood on this proposition. [Applause.] We wanted to grant relief for those in distress, though you do not return the sentiment. We have great regards for the wonderful Representatives from the State of Pennsylvania.

You are going to pass this bill, and we well know it. Those who are for this bill come here, like the gentleman from St. Louis, telling us this bill will give employment to the people.

Mr. HENNINGS. Mr. Chairman, will the gentleman yield? I am a gentleman from St. Louis.

Mr. FULLER. I refer to the gentleman from St. Louis [Mr. COCHRAN]. We who hail from the South know he hates the Democrats who represent the entire South. The gentleman does not apply the principles of this bill to the House restaurant he helps to operate here in Washington, where the Negroes serve for practically nothing.

This bill will not give employment to more people. The South will have its factories closed and its industries forced into bankruptcy, and many people will be thrown out of employment who are now making an honest and a legitimate living. But we are not going to come back to you to beg and pray for relief. We have been trying to do things for the people of the North. We have gone along with many Federal administration propositions which we were not for at heart, and we have done so because of loyalty to the party and the administration. I say to you who come from the North and who in these closing hours cast this stain and reflection upon the men who represent the South that if it were not for the South, the cradle of democracy, the South which has kept the home fires burning for the last 80 years, there would not be one of you here today, and there would not be a National Democratic Party. [Applause.]

We offer no apology for our attitude. When you state by words or by innuendo that we are engaged in slavery, that we have no respect for our laboring people, and that we are paying starvation wages to our people, you are either seeking to mislead or you are making statements concerning something about which you know absolutely nothing. [Applause.]

This bill is not the kind our President wanted when he said in his message no reasonable person would demand a uniform measure for the entire country. None of the advocates for this measure care that we have a long haul and from 50- to 100-percent increase over the North and East in freight rates. The wealthy industries of the Northeast and their representatives demand this bill to bankrupt the industries of the South. While they talk 25 cents per hour, it means 40 cents per hour. No living man is more for labor than I. I came from that class, and that class has made me what I am. I have worked as a union laborer, as a section hand, and upon the public works of the county, even for $1 per day with a pick and shovel for 10 long hours.

My relatives belong to this class. But I resist the efforts to ruin the canners, lumbermen, stave mills, poultrymen, dairymen, nurserymen, and other industries of my district. Were there a differential, the load would not be so severe. After all, the farmers will bear the burdens with the consuming public.

In the last few years we of the South have taken under protest much punishment. Our two-thirds Democratic convention rule has been abrogated. We have not received our proportionate share of relief, as is exemplified by the fact our W. P. A. laborers receive $21 per month while those of New York receive $55. If wages should be uniform in the entire Nation, why not pay the southern laborer the same as in the Northeast? We have witnessed a determined effort to humiliate the glorious South for political purposes by forcing upon us the unconstitutional so-called antilynching bill. And while our State rights have been ignored and we have been punished, which we became accustomed to years ago when a tribute was levied upon our people, we are for our country and will remain Democratic. [Applause.]

[Here the gavel fell.]

Mr. LORD. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, the amendment which I shall offer is to help the wood-distillation business in New York, Pennsylvania, Kentucky, Tennessee, and in many other States.

We distill wood to make charcoal, wood alcohol, acetate of lime, and other products. This industry requires work 7 days a week. It is impossible to shut one of these factories down at the end of the week. The profit in this industry is very small at the present time. The Government nearly ruined the industry when it changed the formula for denatured alcohol. There was a time when wood alcohol was used as a denaturant of grain alcohol. The Government has discontinued that and since then the business has just been hanging by its eyebrows, as it were. They tell me that if this bill goes through so that they could only work 40 hours a week and would have to pay 40 cents an hour, their business would be ruined.

The farmers during the winter months cut 4-foot wood and haul it in to the factory to get a little money to tide them over through the winter and spring. Others make this a yearly work, cutting and hauling wood for the factories. While the industry does not pay big wages and works long hours, it saves many from going on relief.

Should this bill become effective without exempting them from the provisions, the results may add many more to the relief rolls. I hope the amendment will be passed. [Applause.]

[Here the gavel fell.]

Mr. DIES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dies: Page 53, line 21, after the word "higher," insert the following: "*Provided, however,* That overtime employment shall only be permitted in the case of emergency work which shall mean any work necessary for the protection or preservation of life or health, for the prevention of damage to property, or for maintenance or repair of property or equipment, or made necessary in the due course and conduct of production and to avoid undue disruption of business."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was rejected.

The Clerk read as follows:

INDUSTRIES AFFECTING COMMERCE

SEC. 6. The Secretary, as soon as practicable after the effective date of this section, shall, after due notice to interested persons and giving them an opportunity to be heard, determine the relation of the various industries to commerce. If, in the case of any industry, the Secretary finds (a) that the activities of such industry are Nation-wide in their scope, or (b) that such industry is dependent for its existence upon substantial purchases or sales of goods in commerce and upon transportation in commerce, or (c) that the relation of such industry to commerce is in other respects close and substantial, the Secretary shall issue an order declaring such industry to be an industry affecting commerce. Such order shall take effect at such time not more than 120 days after it is issued as the Secretary may designate in the order. An order issued under this section shall be modified or revoked whenever the Secretary finds, after due notice to interested persons and giving them an opportunity to be heard, that the facts so require. The testimony upon any hearing provided for in this section shall be reduced to writing and filed with the Secretary.

Mrs. NORTON. Mr. Chairman, I ask unanimous consent that all debate on this section and all amendments thereto close in 10 minutes.

Mr. DIES. Reserving the right to object, Mr. Chairman, this is one of the most important sections of the bill, and I wonder if the gentlewoman from New Jersey would not let us have 20 minutes.

Mr. MAPES. Mr. Chairman, will the gentlewoman from New Jersey yield?

Mrs. NORTON. Yes.

Mr. MAPES. I think this is a fair illustration of the state of mind we get into when we convene at 11 o'clock and try to pass an important bill of this kind in one day's sitting. Of course, the membership of the House is in no state of mind to consider any legislation now on its merits. This is a very important section, and personally I would like to have at least 5 minutes on a motion to eliminate the section from the bill. Tomorrow we will probably do nothing.

Mrs. NORTON. Mr. Chairman, I ask unanimous consent that all debate on this section and all amendments thereto close in 20 minutes.

Mr. MAPES. Mr. Chairman, reserving the right to object——

Mrs. NORTON. Mr. Chairman, I move that all debate on this section and all amendments thereto close in 20 minutes.

Mr. MAPES. Mr. Chairman, I make the point of order that the motion is not in order. There has been no debate on the section, and I submit an amendment, which I send to to the Clerk's desk.

The CHAIRMAN. The point of order is sustained.

Mrs. NORTON. Mr. Chairman, I withdraw my motion.

Mr. MAPES. The motion has been withdrawn by a point of order and the ruling of the Chair.

The CHAIRMAN. The gentleman from Michigan offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. MAPES: On page 53, line 22, strike out all of section 6.

Mr. MAPES. Mr. Chairman, I would be glad to have the attention of the Chairman and the other members of the Committee in the consideration of the amendment which I have offered. Personally I cannot see how this section will do any good and I can see how it may cause constant annoyance to industry and embarass the courts in determining whether an industry is engaged in interstate commerce or not, when a question of a violation of this law comes before the court. It makes possible the creation of an army of snoopers to pry into the conduct of every business engaged in interstate commerce. Certainly a violation of this law as to wages and hours will be the easiest thing in the world to establish. It will not take an army of snoopers to find out whether an employer of labor is paying less than 25 or 40 cents an hour or whether he is working his employees more than 40 or 44 hours per week. His books will show that, and every person who works for him will know it. Any district attorney in the United States can find that out without any trouble. The section is not necessary for that purpose.

The section provides that the Secretary of Labor may pass regulations determining in effect what is interstate commerce, but there is no provision in the bill that a violation of the orders of the Secretary is unlawful. No penalty is provided for a violation of the orders of the Secretary. At best the findings of the Secretary in that respect can only be used as evidence upon the trial of a case in court. It may be argued that the Secretary of Labor finds this or that is interstate commerce, and therefore the court ought to so find. A court would be embarrassed if he felt that he must reach a different conclusion than the Secretary. The section can serve no good purpose and ought to be stricken from the bill.

Mr. HALLECK. Mr. Chairman, will the gentleman yield?

Mr. MAPES. Yes.

Mr. HALLECK. Has the gentleman from Michigan any idea how long it might take for the Secretary of Labor to determine just what industries are within the provisions of this act and what are not?

Mr. MAPES. No. Of course, it is a perfectly impossible task for anyone to perform, and as I read the bill it does not make an iota of difference whether she finds an industry is within interstate commerce or not. That is a question for the court eventually, and the court would only be embarrassed by any finding which the Secretary might make.

The CHAIRMAN. The time of the gentleman from Michigan has expired. The question is on the amendment offered by the gentleman from Michigan.

Mr. RANDOLPH. Mr. Chairman, the gentleman from Michigan would have the Members of this Committee believe that the Secretary of Labor is given power arbitrarily to exempt one industry from the provisions of this bill while subjecting another industry to them. That is not so.

Mr. MAPES. Mr. Chairman, will the gentleman yield?

Mr. RANDOLPH. I cannot yield just now.

Mr. MAPES. I think the gentleman misunderstood my statement.

Mr. RANDOLPH. I am sorry. I yield to the gentleman.

Mr. MAPES. One of the proponents of the bill made that statement before the Committee on Rules. My contention is that it does not matter at all what the Secretary of Labor

holds in regard to the matter. The court must determine whether an industry comes within the scope of the bill, regardless of the finding or regulation of the Secretary of Labor.

Mr. RANDOLPH. The bill directs, not authorizes, the Secretary to find, with respect to each industry, facts bearing on how extensive are its interstate operations. If those operations are in fact extensive, the Secretary is directed, not authorized, to issue an order declaring the industry to be one affecting interstate commerce. My sense of fairness tells me, and the gentleman knows, that no court in the land would convict anyone of violating a law as indefinite as this would be should his amendment be adopted. Would the gentleman from Michigan like to determine at his peril—peril of going to jail, mind you—whether the relation of the whole industry to interstate commerce is close and substantial when he is only one member of it? The gentleman knows that a criminal statute must clearly define not only those who are to be subject to it but also what constitutes a violation of it. If the gentleman will take the trouble to read the committee report on the bill he will find that this is the very reason section 6 of the committee amendment directs the Secretary of Labor to determine these facts in the first instance. He knows that if the bill were otherwise we might as well throw it in the wastebasket right now, and that is why he asks you to vote for his amendment.

Prior to the decisions of the Supreme Court in the National Labor Relations Act cases that Court had uniformly held, as a matter of law, that production did not affect interstate commerce so as to bring activities connected with production within the regulatory power of Congress. In the National Labor Relations Act cases, however, the Court held that the question whether or not production affected interstate commerce in the case of any particular industry or enterprise depended on facts.

Under the National Labor Relations Act those facts are determined in the first instance by the Labor Board. Under the bill those facts are to be determined in the first instance by the Secretary of Labor.

It is absolutely necessary, if the bill is not to be void for indefiniteness, that an administrative officer determine in the first instance these facts with respect to the industry involved. Congress cannot, and as a matter of fairness should not, require an individual employer to determine at his peril whether or not the facts with respect to the scope of the interstate operations of this industry are sufficient as a matter of law to make him subject to regulation by the Federal Government. He is only one member of the industry, and, although he knows the facts with respect to his own individual enterprise, he does not know, and has no way of finding out, those facts with respect to the whole industry. Hence the Secretary of Labor is directed to determine these facts.

Those who seek to write an artificial definition of what constitutes a close and substantial relation of an industry to interstate commerce should read the case of Santa Cruz Packing Co. against National Labor Relations Board, decided by the Supreme Court on March 28, 1938. The Chief Justice, in the course of his opinion, stated:

> There is thus no point in the instant case in a demand for the drawing of a mathematical line. And what is reasonably clear in a particular application is not to be overborne by the simple and familiar dialectic of suggesting doubtful and extreme cases. The critical words of the provision of the National Labor Relations Act in dealing with the described labor practices are "affecting commerce," as defined (sec. 2 (6)). It is plain that the provision cannot be applied by a mere reference to percentages, and the fact that petitioner's sales in interstate and foreign commerce amounted to 37 percent and not to more than 50 percent of its production cannot be deemed controlling. The question that must be faced under the act upon particular facts is whether the unfair labor practices involved have such a close and substantial relation to the freedom of interstate commerce from injurious restraint that these practices may constitutionally be made the subject of Federal cognizance through provisions looking to the peaceable adjustment of labor disputes.
>
> The question of degree is constantly met in other relations. It is met whenever the Interstate Commerce Commission is required to find whether an intrastate rate or practice of an interstate carrier causes an undue and unreasonable discrimination against interstate or foreign commerce. * * * It is met under the Federal Employers' Liability Act, where the question is whether the employee's occupation at the time of his injury is "in interstate transportation or work so closely related to such transportation as to be practically a part of it." * * * It is met in the enforcement of the Clayton Act in determining whether the effect of the described provisions in contracts for the sale of commodities is "to substantially lessen competition." * * *
>
> Such questions cannot be escaped by the adoption of any artificial rule.

Mr. CASEY of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. RANDOLPH. I yield.

Mr. CASEY of Massachusetts. I have some street-railway and bus companies up in my State that are intrastate in character. Assuming that 2 percent of their business might involve passengers and baggage coming from outside the State, could the Secretary of Labor rule that the business of these companies was interstate in character under the provisions of this bill?

Mr. RANDOLPH. No; I feel she would not so hold in such an instance.

[Here the gavel fell.]

Mr. SUMNERS of Texas. Mr. Chairman, I move to strike out the last word for the purpose of eliciting information from the Committee. I believe the Members of the House would like to know if, when a case under this bill goes to the court of appeals, it goes solely on the record made in the hearing before the Secretary of Labor? That is the first question. Secondly, when the appeal is taken, does a supersedeas go along with the appeal? What happens to a person adversely affected by the Secretary's order between the rendition of that order and the determination of the circuit court of appeals? I think all the Members here would like this information of anyone who can supply it.

Mr. COX. Mr. Chairman, does the gentleman refer to the penal section of the bill?

Mr. SUMNERS of Texas. Yes; that is what I am talking about.

Mr. WOOD. It does not go up on the record. That is the answer to the gentleman's first question.

Mr. SUMNERS of Texas. It does not go upon the record?

Mr. WOOD. No.

Mr. SUMNERS of Texas. Then upon what does the circuit court of appeals base its determination if it has no record before it?

Mr. WOOD. The record of the Secretary and additional testimony adduced before the court.

Mr. SUMNERS of Texas. That is what I asked. Additional testimony is taken before the court?

Mr. WOOD. Certainly.

Mr. COX. The gentleman is entirely in error about that, Mr. Chairman. There is no provision in the bill for the taking of testimony before the court to which the case is appealed.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. Yes; for information.

Mr. CELLER. I think the procedure is outlined on page 55, section 8:

> A copy of such petition shall forthwith be served on the Secretary, and thereupon the Secretary shall certify and file in the court a transcript of the record upon which the order complained of was entered.

The testimony the court of appeals would have would be the testimony taken before the Secretary of Labor.

Mr. COX. The question now arises as to whether a supersedeas on the findings of the Secretary of Labor is granted; and if granted, by whom?

Mr. SUMNERS of Texas. What I want to know is what happens to the business of the person affected between the time he appeals and the time the circuit court of appeals renders judgment.

Mr. DIES. His business is already gone.

Mr. CELLER. If the gentleman will read lines 18, 19, and 20 on page 55 he will find the following:

> The commencement of proceedings under this subsection shall not, unless specifically ordered by the court, operate as a stay of the Secretary's order.

Mr. SUMNERS of Texas. In other words, I assume he would have to seek from the circuit court of appeals a stay on the determination of the Secretary of Labor.

Mr. WOOD. The court is authorized to allow supersedeas in all cases.

Mr. COX. Under the language of the bill, if the Secretary should initiate an investigation and should make a finding adverse to an individual, the individual would have to suffer the imposition of the penalty, whatever the penalty might be, until the record of the proceeding might be perfected and the matter handled by the circuit court of appeals upon application for a grant of supersedeas of the order of the Secretary; in other words, under the language of the bill as drawn, a perfectly innocent party is at least for the time being deprived of his right of appeal, denied due process.

[Here the gavel fell.]

Mr. COOLEY. Mr. Chairman, I do not deem it necessary or appropriate at this time to impose upon the membership of this House an explanation of the reasons which actuated me, which were, of course, entirely satisfactory to me, at the time I voted to recommit to the Committee on Labor the wage and hour bill which came before us for consideration at the extraordinary session of the Seventy-fifth Congress last fall; nor shall I attempt to reconcile my position upon that bill with the position I have taken upon the measure now under consideration, further than to say that, although the two bills deal with the same subject matter and seek a solution of the same great problems, they are fundamentally, basically, and drastically different. The two bills contain very different methods of approach to the solution of the very vital, yet perplexing, problem—a problem which is national in its scope and upon the proper solution of which depends the welfare and progress of a large group of our people.

It is not possible in the limited time at my disposal to discuss with any degree of detail either the problem or the solution sought to be accomplished by either of the two measures.

I believe that Congress is justified in employing every reasonable and constitutional method which is necessary to prevent the maintenance of intolerable substandard labor conditions by a selfish minority of employers—employers who insist upon their right to exploit the men, women, and children of this Nation, and to cheat and to chisel to the end that they may engage in destructive, cutthroat competition at the great hazard of subjecting the American people to the paralyzing and devastating consequence of industrial warfare. All of us know that when a disreputable and vicious and selfish minority is permitted to maintain intolerable and unbearable labor conditions and to survive and thrive at the expense of the laboring man in any particular industry that the inevitable effect, the ultimate, yea, the immediate result is the lowering of the labor standards in the whole of the industry.

A great majority of our employers are humane, fair, just, and reputable, and are willing to approve, adopt, and embrace a program and a law which contemplates a reasonable regulation of hours and a fair, just, and reasonable regulation of wages. The American employers will welcome a reasonable and simple bill which may be easily and effectively enforced, but they insist upon being freed from the clutches of a bureaucratic government, boards, and administrators. This is a simple bill; the penalties provided, the fine and the imprisonment, will be imposed and inflicted upon all who in reckless disregard of its provisions trample upon the sacred rights of the laboring man to live. The malefactors will answer at the public bar of justice, before judge and jury in open court, which is the proper forum for the enforcement of our public laws.

The only power or function delegated to the Secretary of Labor is the duty to determine the relation of the various industries to interstate and foreign commerce, which, after all, is nothing more than a preliminary finding not binding upon the courts in which controversies may be determined, together with the duty to investigate and to collect and transmit to the Department of Justice information and data regarding wages and hours, conditions and practices of employment in the industries affected by this act, and to make and issue regulations and orders with reference to the employment of learners and those whose efficiency is impaired by age or other infirmities or disabilities. The Secretary of Labor is not given any power of enforcement.

The Chief of the Children's Bureau is authorized to make investigations and, if necessary, to institute proceedings for the purpose of restraining violations of the child-labor provisions of the act, and to administer the provisions relating to the oppression of children in industry.

Out of the meager minimums of $11 a week to begin with and $16 a week in the fourth year's operation of this bill I hope that we may all remember that the laboring man, who in most instances is the father of a family and the head of a household, will have to pay his house rent and for food and fuel, and for clothing and for medical and dental care and services for himself, his wife, and children, and for the education of his children, his taxes, together with a multiplicity of incidentals too numerous to mention.

We have heard a lot in recent years about developing and expanding our foreign markets for the products of our fields and factories. Our best market is the American market. If we would expand our great American market we must increase the purchasing power of the masses. I have always thought, maintained, and believed that the American farmer is not only entitled to the cost of production but to an adequate profit for the products of his fields and his labor, and that the American workingman is entitled to a fair, a just, and an adequate living wage. I do not think, and I never have thought, that the 1938 farm bill would have the effect of guaranteeing security and prosperity to the American farmer; neither do I believe that this bill will guarantee to the American workingman a fair and an adequate degree of security or prosperity, but I do believe that the farm bill and the bill now under consideration are both honest and sincere efforts to solve problems which must and will ultimately be solved by the people of this great Nation. I indulge the hope that this bill will accomplish even a part of that which its ardent advocates claim it will accomplish.

The working people of the Southland are as good as those in other sections of the world. A divine Providence has endowed the South and its people with differentials which no legislative body will or can ever take from us. We have fertile fields and forests and all the natural resources which make a people great, together with a climate unsurpassed in all the world.

I am sure that no one will contend that this bill is perfect. Neither is the farm bill. Both of them will have to be amended from time to time in the light of experience. I hope that we will soon find a happy solution of both the farm and the labor problems and that all sections of the country and all groups of our people may once again march together upon the highway of prosperity. [Applause.]

Mrs. NORTON. Mr. Chairman, I ask unanimous consent that all debate on this section and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

Mr. McLEAN. Mr. Chairman, reserving the right to object, the gentlewoman from New Jersey will bear in mind that some of us have been here since 11 o'clock this morning waiting for an opportunity to express our views on this bill as a whole and on the principles therein involved. Are we to be cut off now without being heard?

Mrs. NORTON. We feel that we have been very liberal in connection with the debate on this bill. Many of the Members are very anxious to get home and we feel that we should be permitted to limit the debate.

Mr. McLEAN. May I ask what the great hurry is to finish the bill today?

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

Mr. CELLER. Mr. Chairman, reserving the right to object, may I ask the Chairman how many Members have amendments pending?

The CHAIRMAN. The Chair may say that there are four amendments pending.

Mrs. NORTON. Mr. Chairman, I move that all debate on this section and all amendments thereto close in 20 minutes and that the time be equally divided among those Members who have amendments pending at the desk.

Mr. MAPES. Mr. Chairman, I offer a preferential motion. I move that the Committee do now rise.

The CHAIRMAN. Does the gentleman have the motion in writing?

Mr. MAPES. It is very unusual for the Chair to ask that that motion be put in writing.

The CHAIRMAN. The question is on the motion of the gentlewoman from New Jersey [Mrs. NORTON] that all debate on this section and all amendments thereto close in 20 minutes.

The motion was agreed to.

Mr. MAPES. Mr. Chairman, I offer a motion, which I send to the Clerk's desk.

The Clerk read as follows:

Mr. MAPES moves that the Committee do now rise.

The CHAIRMAN. The question is on the motion of the gentleman from Michigan.

The question was taken; and on a division (demanded by Mr. MAPES) there were—ayes 69, noes 154.

Mr. MAPES. Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chairman appointed as tellers Mrs. NORTON and Mr. MAPES.

The Committee again divided; and the tellers reported that there were—ayes 50, noes 128.

So the motion was rejected.

Mr. WHITE of Idaho. Mr. Chairman, a parliamentary inquiry. Now that this motion has been rejected, what becomes of the 8-hour day for Congressmen?

The CHAIRMAN. The question is on the amendment of the gentleman from Michigan.

The amendment was rejected.

Mr. MASSINGALE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MASSINGALE: On page 54, line 5, after the word "purchases", strike out the word "or" and insert the word "and."

Mr. MASSINGALE. Mr. Chairman, my amendment is for the purpose of protecting what you would call the corner grocery store man or the filling-station man. If you will turn to subsection (b) on page 54 you will find that the Secretary is directed to determine whether or not a particular industry is dependent for its existence upon substantial purchases or sales of goods in commerce. I want you to get the significance of that language. It means that if the Secretary should find that a country storekeeper is purchasing his groceries from a wholesaler in another State, then he could rule and probably would rule, or she would, in this case, that that man's business consists of substantial purchases of goods in commerce. This being true, there would not be a single little grocery store or filling station in America that would not have to pay the wages and observe the hours specified in this bill, and that would ruin those businesses. If you add "and" and eliminate "or" you cure the whole situation.

Mr. Chairman, I have taken this matter up with members of the Committee on Labor but have not been able to get any consideration from them. A matter of such importance as this should not demand of a Member of Congress that he come in here and beg and importune the members of the committee to recognize a little amendment of this sort which might save a great deal of embarrassment to the little merchants of this country.

Mrs. NORTON. Mr. Chairman, will the gentleman yield?

Mr. MASSINGALE. In just a moment.

Mrs. NORTON. I just wanted to observe that local retailing is exempted in the bill.

Mr. MASSINGALE. The further provision in this bill which states that a man is protected in such things as clerkships would not be worth anything at all if the Secretary of Labor first determined that a substantial part of that country merchant's business was in purchase of goods from other States. If you put the word "and" in there it will make the provision understandable and will prevent the Secretary from finding that simply because the little country merchant orders his groceries from another State he comes under this bill.

[Here the gavel fell.]

Mrs. NORTON. Mr. Chairman, I did not hear the amendment. I should like to have the amendment restated.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

There was no objection.

The Clerk again read the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. MASSINGALE].

The question was taken; and on a division (demanded by Mr. MASSINGALE) there were—ayes 40, noes 101.

So the amendment was rejected.

Mr. McLEAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McLEAN: Page 54, line 18, insert a new section, as follows:

"SEC. 6 (a). On his own motion, or if any labor organization, or any trade or industrial organization, association, or group, which has complied with the provisions of this act, shall make complaint to the President that any article or articles are being imported into the United States in substantial quantities or increasing ratio to domestic production of any competitive article or articles and on such terms or under such conditions as to render ineffective or seriously to endanger the maintenance of the provisions of this act, the President may cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigation under this subsection, and if, after such investigation and such public notice and hearing as he shall specify, the President shall find the existence of such facts, he shall, in order to effectuate the policy of this act, direct that the article or articles concerned shall be permitted entry into the United States only upon such terms and conditions and subject to the payment of such fees and to such limitations in the total quantity which may be imported (in the course of any special period or periods) as he shall find it necessary to prescribe in order that the entry thereof shall not render or tend to render ineffective any provision of this act."

Mr. HEALEY. Mr. Chairman, I believe the Clerk has read far enough in the amendment to indicate that the amendment is subject to a point of order. I make the point of order that this amendment deals with tariff matters, which are wholly without the scope of the subject under consideration.

The CHAIRMAN. The Chair believes the Clerk had better conclude the reading of the amendment. The Clerk will report the remainder of the amendment.

The Clerk resumed and concluded the reading of the amendment, as follows:

In order to enforce any limitations imposed on the total quantity of imports, in any specified period or periods, of any article or articles under this subsection, the President may forbid the importation of such article or articles unless the importer shall have first obtained from the Secretary of the Treasury a license pursuant to such regulations as the President may prescribe. Upon information of any action by the President under this subsection the Secretary of the Treasury shall, through the proper officers, permit entry of the article or articles specified only upon such terms and conditions and subject to such fees, to such limitations in the quantity which may be imported, and to such requirements of license as the President shall have directed. The decision of the President as to facts shall be conclusive. Any condition or limitation of entry under this subsection shall continue in effect until the President shall find and inform the Secretary of the Treasury that the conditions which led to the imposition of such conditions or limitations upon entry no longer exists.

The CHAIRMAN. The gentleman from Massachusetts [Mr. HEALEY] makes a point of order against the amendment.

Mr. McLEAN. May I be heard on the point of order, Mr. Chairman?

The CHAIRMAN. The Chair will hear the gentleman.

Mr. McLEAN. Mr. Chairman, the amendment I propose was enacted as section 3 (e) of the National Industrial Recovery Act of 1933, which was the first attempt to enact a wage and hour statute. The scheme of the National Recovery Act contemplated that an increase in the cost of production, which would necessarily follow the proposed limitation of wages and hours, would require some compensating price fixing and protection to cover the difference. It also anticipated that such increased cost of production would open the door to importation from countries where wage and hour statutes do not exist. Therefore, this provision was made a part of the act.

In brief, it authorizes the President, when he shall find that any article or articles are being imported into the United States in substantial quantities or increasing ratio to domestic production so as to render ineffectual or seriously endanger the maintenance of the labor standards established, to direct that such article or articles shall only be permitted entry subject to such limitations in total quantity as he shall find it necessary to prescribe.

The amendment is pertinent and germane to the pending bill because it protects those who may be compelled to increase the cost of production against importations from countries where such costs are lower, where wage and hour statutes do not exist, and where living standards do not approach our own.

Prosperity affects employer and employee alike. If an employer has work to do, he will employ men to do it, and the more work he has to do the more men he employs, and the more men employed the greater the demand and the fewer men available, and the price of labor goes up. This will not come about so long as we consume goods manufactured under conditions inferior to our own.

The American workingman now enjoys the privilege of negotiating with his employer as to the value of his services and the conditions under which he will work. He is the master of his own destiny. Under the scheme provided in this bill that privilege will be delegated to a bureau in Washington, and with it he will surrender so much of his independence. If experience is to be taken as a guide, there is more to be gained by his negotiation with his employer directly or through his organization. This method also affords the employer the opportunity to set forth his own needs measured by the competition he must meet, in which his employees have a material interest.

If the bill has any value whatever, it must be as a part of an economic scheme which takes into consideration all the elements which order our lives. The law of supply and demand still exists.

Valuable lessons were learned by experiences under the N. R. A. Its research board found as facts that, so far as the regulation of wages and hours was concerned, it resulted in curtailment of production, decrease in the average standard of living, lower consumption of raw materials, including farm products, and lower prices for them, geographical realinement of industry, and higher production costs for farmers. It also showed that under the attempt to fix a minimum wage, while some were raised, a substantial percentage was lowered to the minimum.

The enactment of this legislation in its present form will increase production costs and thereby reduce tariff rates. It will invite the world to dump on our market merchandise produced by sweatshop methods and child labor—conditions we are endeavoring to eliminate.

The amendment I propose will prevent such inconsistency.

The CHAIRMAN. The Chair is ready to rule.

The amendment offered by the gentleman from New Jersey clearly is not germane to the bill. The Chair passed upon a similar amendment when the wage and hour bill was up for consideration last December. For the reasons stated then, which it is not necessary to repeat at this time, the Chair sustains the point of order.

Mr. PEARSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PEARSON: On page 54, line 5, strike out the words "substantial purchases or."

Mr. PEARSON. Mr. Chairman, someone has said that Congress is the greatest deliberative body on earth, and I think the scene that has been enacted here today in the consideration of this bill is one of the most outstanding arguments I have ever seen against any such statement. I think legislation as important to the Nation as this bill is should be considered with some degree of sanity and order and consideration, instead of being debated in a state of utter confusion.

My amendment is a very simple amendment, and I hope I may have the attention of this Committee long enough to consider an amendment which is important and deserves the consideration of the membership of this House. We just disposed of an amendment almost the same in substance as mine offered a few moments ago by the gentleman from Oklahoma [Mr. MASSINGALE], and the Committee very promptly, in all of the confusion and disorder which prevailed, voted it down. My amendment is just enough different to justify me in presenting it to you again, and I want to ask you to consider it seriously and as an amendment offered in good faith to help this bill and not to destroy it.

If you will turn to page 58 of the bill you will find an express exemption going to local retailers and exempting them from the provisions of this bill, and the Lord knows they should be exempt because there is no one who would stand on the floor of this House and say that Congress has any jurisdiction over a man engaged in local intrastate business. So we have actually exempted at least this one group whom we all recognize as being entitled to such exemption. Now, if we leave the language in this bill as it is written on page 54, with the words "substantial purchases or sales of goods" remaining in the bill, you will absolutely go in the very teeth of this exemption to local retailers and say to them that if your business is substantially that of purchasing goods, which moved to him through interstate commerce, and even though you sell it locally and do not sell it in interstate commerce, you are subject to the provisions of this bill. This might be extended and applied to farmers and every group which buys rather than sells merchandise.

If I understand interstate commerce, it means the sale of merchandise which moves across State borders, and I can live in Tennessee and purchase a carload of merchandise to be shipped to me from Texas every day in the week, and if I do not sell that merchandise to someone in another State then I am not engaged in interstate commerce. If retail dealers buy merchandise which moves to them in interstate commerce, and this language is left in this bill, every local retailer in this Nation is subject to the provisions of the bill.

I want to ask this committee to reconsider the vote which they have just given on the amendment offered by the gentleman from Oklahoma [Mr. MASSINGALE] and sustain this amendment to strike this language out of the bill. [Applause.]

Mrs. NORTON. Mr. Chairman, I rise in opposition to the amendment. It has been stated time and time again that local retailing is exempted from the bill. I do not think there is any necessity for the amendment, and I hope the Committee will vote it down.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Tennessee.

The question was taken; and on a division (demanded by Mr. PEARSON) there were—ayes 58, noes 92.

So the amendment was rejected.

Mr. CELLER. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. CELLER: Page 54, line 9, after the word "commerce", strike out the period, insert a semicolon and the words "but no such order shall be applicable to any retail industry, the greater part of whose sales is in intrastate commerce."

Mr. CELLER. Mr. Chairman, I am sorry that the amendment of the gentleman from Oklahoma [Mr. MASSINGALE] and the amendment of the gentleman from Tennessee [Mr. PEARSON] have failed. They would have solved the problem of whether or not what the gentlewoman from New Jersey

[Mrs. NORTON] said, namely, that retailing is exempted, is actually the fact. I have great respect for the gentlewoman from New Jersey, when she says that retailing is exempted, but when you read section 6 and section 11, you find that those words belie what may be the best of intentions on the part of every member of the Labor Committee with reference to retailing. I maintain with all of the energy in me, as a lawyer of 25 years' standing and experience in interpreting statutes, who has appeared in the highest courts of the land, that you cannot read section 6 and section 11 together and have the interpretation consistent with what the gentlewoman from New Jersey says, namely, that retailing is exempted from the bill.

Mr. Chairman, the responsibility is here with all of us. I say to the Members of the House that you are responsible, and that this is your last chance. On two other occasions you have voted down amendments which would have made clear beyond peradventure of a doubt that retailing is exempted. The courts will look to the debates in this House for what is meant by these words. That is the settled practice. If we vote it down a third time, there will be no chance for any court anywhere, no administrative official anywhere, to say that retailing is exempted. The decision rests with you Members of the House. If you want to eliminate retailing, you should say so in clear-cut language, and this amendment which I offer indicates in the clearest way that retailing is exempted.

Mr. CASEY of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. CELLER. Yes.

Mr. CASEY of Massachusetts. If the gentleman's amendment is adopted, it will clarify this grave doubt and expressly exempt retailing.

Mr. CELLER. Yes. My amendment says that any industry whose sales are substantially in intrastate commerce shall be exempted from the operation of the act. My amendment changes section 6, and when read in connection with section 11 there can now be no doubt whatsoever. Without my amendment, there is doubt. Dissolve all doubt, dispel all chance of misinterpretation by accepting my amendment. Accept it and then retail dry goods, retail butchering, grocers, retail clothing stores, department stores will all be exempt.

Your duty is to clarify this situation. The chairlady, Mrs. NORTON, agrees that it is not the intention to include retailing. That being the case, why not say so? My amendment actually says that.

Mrs. NORTON. Mr. Chairman, in view of the great misunderstanding there must be about this retailing feature of the bill, the committee will accept the amendment. There has been a great deal of doubt as to the understanding of that particular section, and I think this amendment will not weaken our bill, but will in fact strengthen it. Therefore, I ask the Committee to stand with us in accepting this amendment.

Mr. DUNN. If these retailers are paying sweatshop wages, why should they be exempted?

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The question was taken; and on a division (demanded by Mr. CELLER) there were—ayes 145, noes 56.

So the amendment was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Oklahoma [Mr. JOHNSON] to offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JOHNSON of Oklahoma: Page 54, line 5, after the word "substantial", strike out the words "purchases or".

Mr. JOHNSON of Oklahoma. Mr. Chairman, this amendment is similar in effect to the amendment offered by the gentleman from New York [Mr. CELLER] and which has just been adopted. I sent my amendment to the desk early in the afternoon. It, like the amendment of my colleague from Oklahoma [Mr. MASSINGALE] and the one offered by the gentleman from New York, which amendment has been approved by this body, is to protect the little corner store, filling station, and other retailers who purchase a substantial part of their goods across the State line. Inasmuch as the amendment of the gentleman from New York has been adopted, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent to withdraw his amendment. Is there objection?

There was no objection.

Mr. PETTENGILL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PETTENGILL: At the end of section 6, add the following:

"All orders issued by the Secretary under this section and section 12 shall be filed with the Secretary of State and published in the Federal Register, and when so filed and published all persons and courts shall take notice thereof."

The CHAIRMAN. The gentleman from Indiana is recognized for 4 minutes.

Mr. PETTENGILL. I call the attention of the distinguished gentlewoman from New Jersey to my amendment which requires all orders to be filed with the Secretary of State and published in the Federal Register.

Under N. R. A. we had a tremendous amount of confusion with reference to orders, where they were, when they became effective. There was no provision in the statute for notice. In the "hot oil" case that came up from Texas the whole administration of N. R. A. was put in disrepute by the fact that nobody could find the orders. They were misplaced, misfiled, and if you found them in the hip pockets of a United States marshal you were lucky.

For the purpose of improving the administration of the bill, I offer this amendment. I understand that a tremendous number of orders will be issued under sections 6 and 12; it seems to me it is only fair to those who are charged with the administration of the bill and those affected by orders that the public have definite notice of the orders and that they should be filed with the Secretary of State and published in the Federal Register.

Mr. COCHRAN. Mr. Chairman, will the gentleman yield?

Mr. PETTENGILL. I yield.

Mr. COCHRAN. The gentleman's amendment is absolutely unnecessary, because the law that created the Federal Register absolutely requires any Government agency that issues a regulation to submit it to The Archives, and it is not effective until it is published in the Federal Register.

Mr. PETTENGILL. I have not read the act lately.

Mr. COCHRAN. The gentleman from New York [Mr. CELLER] is the author of the Federal Register Act. I am sure he will confirm what I say.

Mr. PETTENGILL. I do not see the gentleman from New York present at the moment.

Mr. COCHRAN. I may say to the gentleman from Indiana that I am positive the statement I make is correct, because I attempted to repeal the act. I know what the act contains and I know that no regulation of any governmental agency can become effective until it is published in the Federal Register.

Mr. SMITH of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. PETTENGILL. I yield.

Mr. SMITH of Connecticut. The statement of the gentleman from Missouri is correct that they have to be filed in the Federal Register, and if they are of general applicability they must be published. If not of general applicability, they are filed and do not have to be published.

Mr. PETTENGILL. Would orders under section 12 with reference to apprentices, learners, and handicaped workers be subject to publication in the Federal Register?

Mr. SMITH of Connecticut. I believe they would have to be published.

Mr. PETTENGILL. The gentleman considers them of general applicability?

Mr. SMITH of Connecticut. Yes.

Mrs. NORTON. That is my understanding.

Mr. PETTENGILL. I think it will do no harm to adopt my amendment. I am not convinced that the Federal Register Act requires the publication of these orders and regulations.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana.

The amendment was rejected.

Mr. DIES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DIES: On pages 53 and 54, strike out all of section 6.

The CHAIRMAN. The gentleman from Texas is recognized for 2 minutes.

Mr. DIES. Mr. Chairman, I call attention to the fact that if the Secretary of Labor in her discretion holds that some industry does not come within this vague and indefinite definition that was conceived by some third-story attic philosopher, there is nothing in the law or in the bill that will enable a competitor to compel that industry to come within the act. There is a provision in the bill by which an industry may be held to come within the bill, but if the Secretary of Labor holds that an industry does not come within it, there is not anything that can bring that industry under this bill.

This is the most ridiculous section I ever saw in my life. I hold here a letter from Miss Perkins recognizing the administrative difficulty in this and suggesting that it can be cured by a simple amendment. In view of the great haste to put the endorsement of the Members of this House upon what the powers that be have decreed I know it will be of no avail.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The amendment was rejected.

The Clerk read as follows:

ATTENDANCE OF WITNESSES

SEC. 7. For the purpose of any hearing provided for in section 6 of this act, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (U. S. C., 1934 ed., title 15, secs. 49 and 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary.

Mr. COCHRAN. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I realize the hour is late, but while I was called to the telephone the gentleman from Arkansas [Mr. FULLER] delivered what I consider to be a vicious attack upon me. When I came from the telephone, four gentlemen from the South advised me of the speech of the gentleman from Arkansas. I waited until I had the opportunity to read the stenographic report of the gentleman's speech.

During that speech the gentleman said, "We from the South know that he," referring to me, "hates every Democrat who represents the South."

Mr. Chairman, I resent that statement and I deny the statement. I can prove by the RECORD that it was not justified. If the late Speakers, the Honorable Joseph Byrns and the Honorable Henry Rainey, were alive today, they, too, would confirm the statement I am making. When Mr. Rainey was a candidate for the Speaker of this House, although he came from the North and was my neighbor, I had pledged my support to Joe Byrns for the speakership, and I never withdrew that pledge until he personally asked me to do so. When WILLIAM BANKHEAD, the present Speaker of the House, was a candidate for majority leader, there was a candidate from the North opposed to him. I pledged my vote to WILLIAM BANKHEAD and I kept my word. I voted for him not only for majority leader but later I voted for him as Speaker of the House.

When SAMUEL RAYBURN, our present majority leader, was a candidate for majority leader of this House, I pledged my vote to SAM RAYBURN, although there was a Democrat from the North opposed to him. I kept my pledge and I voted for SAM RAYBURN.

Mr. Chairman, that in itself is evidence that the statement of the gentleman from Arkansas was not justified.

I ask you to consult the RECORD. Refer to any bill that has been beneficial to the cotton farmers of the South, to the tobacco farmers of the South, and others; see whether or not I am not recorded as having been in favor of that legislation. There are only two bills that ever came before this House that I can recall that affected the South that I have not supported, and I have no apologies to offer for those votes. If I am not in error many Members from the South voted as I did. One involved the Gilbertsville Dam, which was considered the other day, and the other was the Florida ship canal.

I am willing to defend my vote on both, now or at any other time.

Mr. Chairman, nothing surprised me more than to read the remarks of the gentleman from Arkansas. I was here long before he ever came. I thought he was my personal friend, and I his personal friend.

Mr. Chairman, if any Member or Members from the South hates me, may I say to one and all of you, no matter how much you might hate me, I love you. [Applause.]

[Here the gavel fell.]

Mr. PALMISANO. Mr. Chairman, I move to strike out the last two words.

Mr. Chairman, the purpose of this bill is to increase wages and to shorten the hours of labor to relieve the unemployment situation. While I am in favor of this bill, and I might say that I supported the other wage and hour bill that was recommitted to the Labor Committee on December 17, 1937, I feel that this bill alone will not accomplish its purpose.

I have always believed that the proper way to relieve unemployment is to check labor-saving devices during a depression. On June 1, 1934, in the Seventy-third Congress, and again on January 11, 1935, I introduced a resolution directing the Secretary of Labor to make a survey of the labor-saving devices in order to ascertain the number of persons in the United States unemployed by reason of the use of each kind or type of such devices.

House Resolution 49 was reported out by the Labor Committee and passed in the Seventy-fourth Congress. The Secretary of Labor, in compliance with the said resolution, is now compiling a list of labor-saving devices.

I do not believe that the wage and hour bill alone will relieve the unemployment situation unless we check labor-saving devices. To give you an illustration, today a laboring man works about 44 hours per week. This bill provides 40 hours per week, which would be an increase of employment of 1 man for every 10 persons employed. This, in itself, to my way of thinking, is not sufficient. On the other hand, a labor-saving device is produced which will be operated by one person; the output of said device will be equivalent to 10 or 20 men's work. You will note that without checking labor-saving devices the wage and hour bill creating 1 job out of every 10 will not be sufficient.

Senate amendment 239 to H. R. 9682, known as the Revenue Act for 1938, inserted a provision authorizing the Secretary of the Treasury to make an investigation of labor-saving and labor-displacing machinery. I am sorry that the conferees on the part of the House saw fit to eliminate this amendment.

I am of the opinion that there are two things necessary for the proper distribution of wealth of this country and the employment of the unemployed. One is to retain the present income tax in the higher brackets and the other is to tax labor-saving devices during a depression.

I have been in touch with Mr. Isador Lubin, Chief, Bureau of Statistics, Department of Labor, whose office is compiling this list of labor-saving devices and Mr. Lubin informed me that he would file his report within the next 10 days. When this report is filed I trust that the Members of the House will examine this report so that we can prepare some

measure to tax labor-saving devices in the Seventy-sixth Congress. [Applause.]

The Clerk read as follows:

COURT REVIEW OF ORDERS

SEC. 8. Any person aggrieved by an order issued under section 6 may at any time obtain a review of such order by filing in the circuit court of appeals for the circuit in which is situated his principal place of business, or in the Court of Appeals of the United States for the District of Columbia, a written petition praying that such order be modified or set aside in whole or in part. A copy of such petition shall forthwith be served on the Secretary, and thereupon the Secretary shall certify and file in the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript such court shall have exclusive jurisdiction to affirm, or if it is not in accordance with law to modify or set aside, such order in whole or in part. The judgment or decree of the court shall be final, subject to review as provided in sections 239 and 240 of the Judicial Code, as amended (U. S. C., 1934 ed., title 28, secs. 346 and 347). The commencement of proceedings under this subsection shall not, unless specifically ordered by the court, operate as a stay of the Secretary's order.

Mrs. NORTON. Mr. Chairman, I ask unanimous consent that all debate on this section and all amendments thereto, and all the following sections and all amendments thereto, close in 30 minutes.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

Mr. TABER. Mr. Chairman, I object.

THE HOBBS AMENDMENTS

Mr. HOBBS. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. HOBBS: Page 55, lines 2 to 20, strike out section 8 and insert:

"SEC. 8. Any person who may feel aggrieved by any order issued under section 6 may at any time obtain a review of such order by filing in the district court of the district in which is situated his principal place of business, a written petition praying that such order be modified or set aside in whole or in part. On any such review the issue shall be tried de novo, and by jury if a jury trial be demanded in writing by either party within 30 days after the filing of the petition for review.

"A copy of the petition in every case shall be forthwith served upon the Secretary, by mailing it in the registered mail, return receipt demanded. Such return receipt shall be prima facie evidence of proper service.

"The judgment rendered upon any trial hereunder may be appealed from in regular order, as in case of any other appealable judgment: the same rules of practice and procedure which govern similar cases shall be applicable to cases hereunder."

Mrs. NORTON. Will the gentleman yield?

Mr. HOBBS. I yield to the gentlewoman from New Jersey.

Mrs. NORTON. Mr. Chairman, I ask unanimous consent that all debate on this section and all amendments thereto close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

Mr. HOBBS. Mr. Chairman, I desire most respectfully and earnestly to call your attention to lines 12, 13, and 14, page 55, wherein is stated the "joker" which damns the declared purpose of this bill to provide judicial review as false.

The caption of section 8, in bold type, reads:

Court review of orders.

There is no such thing in this bill.

The words to which I wish to call your attention are as follows:

Upon the filing of such transcript such court shall have exclusive jurisdiction to affirm, or if it is not in accordance with law.

The court may modify or cancel the order. In other words, the only criterion laid down in this bill by which to judge whether or not to modify or cancel a decision of the Secretary of Labor is that the decision holding that a firm is engaged in interstate commerce is not in accordance with law. What is the law that is referred to? It is that she must make an investigation—to suit herself—and make a determination of fact whether or not any given business is engaged in interstate commerce. Therefore, when she has made the investigation—to suit herself—and made the determination that this firm is engaged in interstate commerce, the only thing in God Almighty's world that can be done by the court, when the proprietor goes to court, is to determine whether or not she made the investigation and determination, and if she did, she complied with all the law that is in this bill; and the court would be under the necessity of "affirming" the determination reached by the Secretary, and her order, no matter how utterly erroneous her finding of fact might be!

I am not joking. This is not facetious. I expect the distinguished gentlewoman and the members of her committee, who believe in fairness, to give us a square deal on this thing and not "kid" us. You did it last time. The House adopted this same sort of amendment of mine during the wage and hour bill fight in December, and you ought to do it now.

You, who are the children of the Barons of Runnymede, who wrung from the unwilling hand of King John Magna Charta, which guaranteed trial by jury; you, who are descendants of the men who did away with star-chamber proceedings once and for all, by virtue of that same immortal document; you are not such as would deny to the humblest American citizen his "day in court"! You have said so repeatedly in this very debate. Therefore, I submit that when the Secretary of Labor makes an investigation and a determination affecting the rights of any man, or any business, deciding whether or not he or it comes under the terms of this act, that man or that business is entitled to the time-honored right of a "day in court"! Not for the childish pretext of seeing merely whether or not the Secretary has complied with the only two duties required of her by this act, but to determine whether or not, essentially and fairly, the Secretary is right or wrong.

In other words, you and every other citizen ought to have the right to challenge the justice, the equity, and the righteousness of the determination of the Secretary of Labor. She may know a great deal about the shoe market, but she is not infallible! I appeal in all fairness to you of this House, no matter what your convictions may be with regard to the merits of this bill, for this is not a partisan appeal I am making, to see that the rights of American citizens are respected! One of those rights of American citizens which should be respected is the right to "a day in court" and a jury trial. We grant that much—and usually more—to a confessed murderer or rapist! If we mean our oaths which bind us to uphold the Constitution, if we revere the proud traditions of our race, we should declare that the right of trial by jury should ever remain inviolate! [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama [Mr. HOBBS].

The question was taken; and on a division (demanded by Mr. HOBBS) there were—ayes 109, noes 94.

Mr. BOILEAU. Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chairman appointed as tellers Mrs. NORTON and Mr. HOBBS.

The Committee again divided; and the tellers reported that there were—ayes 127, noes 136.

So the amendment was rejected.

Mr. HOBBS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOBBS: Page 55, line 13, after the word "to", insert "try and determine the issue of the correctness, vel non, of the Secretary's determination of facts and order, and to," and also strike out of lines 13 and 14 the words "if it is not in accordance with law."

The amendment was rejected.

The Clerk read as follows:

INVESTIGATIONS, INSPECTIONS, AND RECORDS

SEC. 9. (a) The Secretary or his designated representatives may investigate and gather data regarding the wages, hours, and other conditions and practices of employment in any industry subject to this act, and may enter and inspect such places and such records (and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, or matters as he may deem necessary or appropriate to determine whether any person has violated any provision of this act, or which may aid in the enforcement of the provisions of this act.

Except as provided in section 10 the Secretary shall utilize the Bureau of Labor Statistics of the Department of Labor for all the investigations and inspections necessary under this section.

(b) With the consent and cooperation of State agencies charged with the administration of State labor laws, the Secretary may, for the purpose of carrying out the provisions of this act, utilize the services of State and local agencies and their employees and, notwithstanding any other provision of law, may reimburse such State and local agencies and their employees for services rendered for such purposes.

(c) Every employer subject to any provision of this act or of any order shall make, keep, and preserve such records of the persons employed by him and of the wages, hours, and other conditions and practices of employment maintained by him, and shall preserve such records for such periods of time, and shall make such reports therefrom to the Secretary as he shall prescribe by regulation or order as necessary or appropriate for the enforcement of the provisions of this act or the regulations or orders thereunder.

CHILD-LABOR PROVISIONS

SEC. 10. (a) No producer, manufacturer, or dealer shall ship or deliver for shipment in commerce any goods produced in an establishment situated in the United States in or about which within 30 days prior to the removal of such goods therefrom any oppressive child labor has been employed: *Provided*, That a prosecution and conviction of a defendant for the shipment or delivery for shipment of any goods under the conditions herein prohibited shall be a bar to any further prosecution against the same defendant for shipments or deliveries for shipment of any such goods before the beginning of said prosecution.

(b) No employer engaged in commerce in any industry affecting commerce shall employ any employee under any oppressive child-labor condition.

(c) The Chief of the Children's Bureau in the Department of Labor, or any of his authorized representatives, shall make all investigations and inspections under section 9 (a) with respect to the employment of minors and bring all actions under section 15 to enjoin any act or practice which is unlawful by reason of the existence of oppressive child labor, and shall administer all other provisions of this act relating to oppressive child labor.

EXEMPTIONS

SEC. 11. (a) The provisions of sections 4 and 5 shall not apply to (1) any employee employed in a bona fide executive, administrative, professional, or local retailing capacity, or in the capacity of outside salesman (as such terms are defined and delimited by regulations of the Secretary); or (2) any employee employed as a seaman; or (3) any employee of an employer subject to the provisions of Part I of the Interstate Commerce Act; or (4) any air transport employee subject to the provisions of title II of the Railway Labor Act; or (5) any employee employed in the taking of fish, sea foods, or sponges; or (6) any employee employed in agriculture; or (7) any employee to the extent that such employee is exempted by regulations or orders of the Secretary issued under section 12.

(b) The provisions of section 5 shall not apply to any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935.

(c) The provisions of section 10 shall not apply to any employee employed in agriculture.

Mr. KRAMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KRAMER: On page 58, line 20, after the "10" insert "in respect of child labor."

In line 21, strike out the period and add the following: "or to any child employed as an actor in motion pictures or theatrical productions."

Mr. KRAMER. Mr. Chairman, this is a perfecting amendment, exempting certain gifted children and granting the right to take advantage of an opportunity which is open to very few children. The ability to perform in motion pictures requires an intellectual gift and quality, something which is born in the exceptional child. Not only the motion picture industry but the movie-going public would be denied much pleasure and enjoyment if children were barred from the screen. The old and young are delighted with the unassuming appeal of America's little sweetheart, Shirley Temple; and the natural charm of the very talented Deanna Durbin; the wholesome fun of Spanky McFarlane, colored lad Buckwheat, Alfalfa, and the other children who compose Our Gang. Their pranks take us back to our own childhood. No one wants to forget those carefree days which we claim as the happiest of our lives. Without child actors we would not have had Tommy Kelly in Tom Sawyer and Huckleberry Finn, the Mauch twins in Prince and the Pauper, Virginia Weidler, Jane Withers, Jackie Moran, Sammy McKim, and the other delightful youngsters in amusing and entertaining films.

The stories of Charles Dickens have been brought back to us on the screen. Without child motion-picture players this would have been an impossibility. Those who saw the motion picture David Copperfield were deeply touched by the portrayal of the tragic little figure David by Freddie Bartholomew. There was more recently produced Captains Courageous, an excellent production, and the childish appeal of the young actor was truly dramatic. Many historical pictures have been brought to us also with child actors in the cast of characters.

The children who are employed as actors possess a distinct talent—a gift of God—and their employment is not labor in the sense of the word as applied to unfortunate youngsters, who, lacking in no distinct talent, are obliged to seek employment in some workshop, or elsewhere, for the few paltry dollars they can earn. Economic conditions have compelled them to assist in the breadwinning for the family and they are indeed pathetic little figures.

Dead End, a motion picture portrayal of life in the New York slums, had as actors in the principal roles several adolescent youngsters who had been born and reared in that very environment. They had little opportunity for becoming successful citizens in the business or professional world for they were very poor and only by the most courageous and persistent struggle could they ever hope to establish themselves. These young men were cast for the stage production of Dead End and were so successful that they were cast for the motion picture of the same name. They were thus removed from the atmosphere of slums and degradation and their contracts call for more motion-picture work. They are well on the way to becoming successful young men.

The motion-picture industry is very strict in the number of hours a child shall work; they must never lose their fresh charm of youth. Each child of school age must attend classes, and schools are provided by the motion-picture firms, being approved by the State board of education.

EMPLOYMENT OF THESE CHILDREN IS NOT LABOR

They are displaying a natural talent and they enjoy it. They are cared for far better than children in other walks of life. The theatrical profession is in a world by itself. The rules, code, and discipline is much stricter than that of the ordinary life of a child in the nonprofessional environment. Rest and relaxation comes first to the child stars—education next. They have every possible opportunity for education, and it is unfortunate that every child does not have the same opportunity. Through their work they acquire charm, grace, and poise.

Mary Pickford, who has now retired from the screen, was the first child actress of note. Her earlier childhood was a sad one, for there were many periods of poverty. However, the beautiful child attracted a great deal of attention and was selected to play the leading role in a film which necessitated a small girl to play the role of one of the characters. The public received her with a great deal of enthusiasm. More pictures followed in which she starred, and she soon became recognized as "America's Sweetheart." Mary Pickford is now an adult—most gracious—and most charitable, for she has never forgotten her own less fortunate days.

It is interesting to point out the various professions, talents, crafts, and vocations utilized in the production of motion pictures. There are in excess of 85 different professions and building-trades mechanics, exclusive of actors who are employed in the production of motion pictures.

The revenue obtained by the United States Government from the motion-picture industry is one worthy of our most serious consideration. Not only the income tax paid by the juvenile stars themselves but the income taxes paid by the adult stars and the thousands of persons employed in connection with the making of these pictures, including skilled and unskilled labor, also the revenue derived by the Government in taxes collected on the box-office receipts is worthy of consideration.

The number of child actors in the industry are not many, and they must not be cruelly cut off from the production of beauty, purity, love, and appeal of children. I sincerely ask your support on this constructive and meritorious amendment. [Applause.]

Mr. SCHNEIDER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from Wisconsin.

Mr. SCHNEIDER of Wisconsin. The gentleman's amendment would exempt children engaged only in the making of moving pictures?

Mr. KRAMER. The gentleman is correct.

Mr. SCHNEIDER of Wisconsin. There are very few young people employed in that occupation?

Mr. KRAMER. Very few. There are hardly more than 10 employed at one time.

Mr. RAYBURN. If the gentleman will yield, I may say I understand that the amendment of the gentleman from California is acceptable to the committee.

Mr. KRAMER. I know you are all for Shirley Temple and the other child actors.

I was for the bill last December and am for this bill and have supported it.

Mr. RANDOLPH. I may say that when the bill was before us for consideration the previous time the committee accepted the amendment.

Mr. KRAMER. I may say to the gentleman and the Members of the House that I am unqualifiedly for this bill. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from California.

The amendment was agreed to.

Mr. BARTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARTON: Page 58, line 21, insert a new paragraph, as follows:

"(d) The provisions of section 5 shall not apply to any employee who is employed at a fixed annual wage not in conflict with section 4 of this act, whether that wage be payable weekly, biweekly, or monthly, providing that, in addition to such fixed annual wage, the employee shall receive additional compensation at the rate of one and one-half times his wage computed on an hourly basis for any work done in excess of 12 hours in any one day, or 60 hours in any one week, or 2,080 hours in any one year."

Mr. BARTON. Mr. Chairman, as the Members of the House know, there are in different parts of the country certain industries which are experimenting with what has come to be known as the annual wage. One of these industries is in Austin, Minn., the Hormel Packing Co., and it may be recalled that Mr. Jay Hormel, the president of that company, appeared before the Senate Committee on Unemployment and gave testimony as to the value of the plan and the success which it had attained, which testimony was reported and commented on all over the United States. The industry which he represents—and there are a number that are attempting the same experiment—has reached the point where the guaranteed annual wage is about $1,500, and the average number of hours worked in that industry is 35½. However, to achieve this guaranteed wage in an industry whose products are perishable, they work certain weeks a higher number of hours, and these are compensated for by other weeks when the hours are lower. So the average turns out to be 35½.

The amendment which I offer would not weaken the bill. It would apply at present only to a comparatively small number of employees, but the important thing is that it recognizes in this labor act the principle of the annual guaranteed wage. This principle, I believe, points the way along which future progress for labor in this country must be made.

Mr. PETTENGILL. Mr. Chairman, will the gentleman yield?

Mr. BARTON. I yield.

Mr. PETTENGILL. The gentleman's amendment would encourage the adoption of the annual wage by industry, a recommendation which has been made by President Roosevelt?

Mr. BARTON. That is the purpose of the amendment.

Mr. BOILEAU. Mr. Chairman, will the gentleman yield?

Mr. BARTON. I yield.

Mr. BOILEAU. Does not the gentleman believe that the 12-hour week exemption with respect to hours would take care of the situation of the companies the gentleman has referred to?

Mr. BARTON. In answer to the gentleman I may say that I would like to see this first wage and hour bill recognize by name the principle of the annual wage and leave the door open for further experiments such as those Mr. Hormel has carried on successfully.

Mr. BOILEAU. Of course, the gentleman would not want the annual wage to be too low?

Mr. BARTON. In his case I have the actual figures, about $1,500 a year.

Mr. BOILEAU. In his case he is exempted now for 12 weeks in the canning of perishable commodities; in other words, he has 12 weeks when he can work longer than the hours provided in the bill.

Mr. BARTON. Of course, I have not had a chance to check that with him.

Mr. SCHNEIDER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. BARTON. I yield.

Mr. SCHNEIDER of Wisconsin. Does the concern in question ask to be exempt from the provisions of this bill?

Mr. BARTON. It asks to be exempt from the 40-hour provision, because, operating as it does, there are some weeks when they work more than 40 hours, and, of course, some weeks when they work less, but because of the economies effected they are able to pay the annual wage.

Mr. ANDRESEN of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. BARTON. I yield to the gentleman from Minnesota.

Mr. ANDRESEN of Minnesota. I will say to the gentleman that the average workweek is 35 hours and the average pay is $1,500 a year, and that is spread over the year.

Mr. BARTON. And the average pay, I may say, is subject to no deductions on the part of the company.

[Here the gavel fell.]

Mr. WOOD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I hope this amendment will not be adopted. While it is very true there are a few employers in this country who are experimenting with the annual wage, yet if you exempt the employers who have the annual wage, then all the chiseling employers of this country will immediately go upon an annual wage instead of a weekly wage, and this will give them an opportunity to get out from under the operation of the law.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The amendment was rejected.

Mr. FORAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FORAND: On page 58, line 11, after the figure "5", strike out all of line 11 and the word "sponges" in line 12 and insert in lieu thereof the following: "Any employee employed in the cultivation, growing, raising, harvesting, or taking of fish, shellfish, sea foods, or sponges and any practices performed by fishermen or water farmers as an incident to such fishing or fish-farming operations including preparation for market, delivery to storage or to market or to carriers for transportation to market."

Mr. FORAND. Mr. Chairman, I have asked for this time fully realizing we have been here almost 10 hours, but I do so because I want to clarify one part of the amendment. I have been assured by the chairman of the committee that this amendment is completely covered now in the bill.

Mr. RANDOLPH. Mr. Chairman, will the gentleman yield?

Mr. FORAND. Yes; I yield to the gentleman from West Virginia.

Mr. RANDOLPH. It is our understanding that the employees in which the gentleman is interested are covered by the broad exemption, and therefore that they are exempted.

Mr. FORAND. Thank you, Mr. RANDOLPH. Mr. Chairman, that is clear enough in the RECORD so that these people who are interested can refer to it at any time. The intent of the House is that all the employees mentioned in my amendment are exempt. Therefore, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BLAND. Mr. Chairman, I offer the following amendment which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. BLAND: Page 58, line 11, strike out the words "any employee employed in the taking of fish, sea foods, or sponges" and insert in lieu thereof the following: "Any employee employed in the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including the going to and returning from work, and including employment in the loading, unloading, or packing of such products for shipment, or in propagating, processing, marketing, freezing, canning, curing, storing, or distributing the above products or by-products thereof."

Mr. SABATH. Mr. Chairman, I make the point of order that that amendment has already been considered and voted down by the Committee.

The CHAIRMAN. The Chair calls the attention of the gentleman from Illinois to the fact that the amendment of the gentleman from Virginia is offered now to a different section from that to which it was offered before. The Chair calls attention to the fact that the effect of the amendment might be entirely different.

Mr. SABATH. Mr. Chairman, I withdraw the point of order.

Mr. BLAND. Mr. Chairman, I realize the apparent concession which was made just a moment ago, but I am not satisfied that the statement on the floor of the House is a sufficient concession for the Department to interpret that to be law, which by the express language is not law. This amendment is not the same. In the last amendment I was trying to define the fishery industry. I am now dealing with those persons who are exempt, and I call the attention of the Committee to the language with respect to the employment of persons in agriculture. It is said that persons employed in agriculture are exempt, and yet when we deal with the fishery industry we exempt only those who are employed in taking fish, sea foods, and sponges.

In other words, if you were to apply the same amendment to agriculture, you would exempt only the persons that are gathering the potatoes from the field, only the persons who are gathering the corn that has been raised, only the persons who are picking the cotton. You would not exempt the essential industry, the essential work, and essential employment that goes into the taking of the fish. In other words, when you are dealing with the nets in the sea you are not exempting the persons who have the labor of putting down those nets, you are not exempting the persons who again and again must go out to put out the nets, but you are exempting only the person who goes out and actually takes the fish out of the net after they are collected. By no process of interpretation of the English language can we make this amendment do that which I believe the committee intended it to do.

Mr. HEALEY. Mr. Chairman, will the gentleman yield?

Mr. BLAND. Yes.

Mr. HEALEY. The gentleman has taken into consideration the amendment already adopted?

Mr. BLAND. That dealt with processing, it did not deal with these fishermen who have a yearly operation in one kind of fish or another. I believe the intent of the committee was fairly good, and I cannot believe that the gentleman from Massachusetts intended to do the harm and detriment to his own fishermen along the Massachusetts coast that this language in this bill will do.

Mr. BATES. Mr. Chairman, will the gentleman yield?

Mr. BLAND. Yes.

Mr. BATES. Do I understand that there is no provision in this bill to take care of fishermen who go out in the water and get the fish?

Mr. BLAND. Only the men who take the fish, not the men who do the work incidental to it.

Mr. BATES. And the gentleman's amendment will clear up that situation?

Mr. BLAND. Yes. Applied to agriculture this kind of an amendment would apply only to the people taking the potatoes from the ground or who harvest the crop. All others employed in agriculture would be subject to the provisions of the bill. It would apply only to the people picking the cotton from the stalks and the people engaged in all of the other operations would be subject to the bill. I am only asking for the seafood and fishery industry that which has been done for agriculture.

The CHAIRMAN. The time of the gentleman from Virginia has expired. The question is on the amendment offered by the gentleman from Virginia.

The question was taken; and on a division (demanded by Mr. BLAND) there were—ayes, 151, noes 86.

Mr. LANZETTA. Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. BLAND and Mrs. NORTON.

The Committee again divided; and the tellers reported that there were—ayes 153, noes 100.

So the amendment was agreed to.

Mr. CUMMINGS. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. CUMMINGS moves that the Committee do now rise.

The CHAIRMAN. This motion is not debatable. The question is on the motion.

The question was taken; and on a division (demanded by Mr. CUMMINGS and Mr. O'MALLEY) there were—ayes 49, noes 152.

So the motion was rejected.

Mr. CROSSER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CROSSER: Page 58, strike out all after the semicolon in line 7, all of line 8 and line 9 down to and including the semicolon.

In lines 9, 11, and 12, respectively, strike out "(4)", "(5)", "(6)", and "(7)", and insert "(3)", "(4)", "(5)", and "(6)", respectively.

Line 15, insert "(1)" before "any" and, in line 19, after "1935", insert "; or (2) to any employee of an employer subject to the provisions of part I of the Interstate Commerce Act."

Mr. CROSSER. Mr. Chairman, I understand that the members of the committee are ready to accept this amendment. It is a very simple one which merely brings the railroad workers within the provisions of the wage section of the bill. I do not want to take the committee's time on something that is agreeable to them.

Mr. RAYBURN. Mr. Chairman, will the gentleman yield?

Mr. CROSSER. I yield.

Mr. RAYBURN. I understand, Mr. Chairman, that what the gentleman states is true, that the members of the committee are agreeable to the amendment he has offered.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio.

The amendment was agreed to.

Mrs. NORTON. Mr. Chairman, I ask unanimous consent that all debate on this section and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

The CHAIRMAN. The Chair will state that there are four amendments pending. If there is no objection, the Chair will recognize for 2½ minutes each Member who has offered an amendment.

There was no objection.

Mr. PACE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PACE: On page 58, at the end of section 11, add the following subsection:

"(d) The provisions of section 4 shall not apply to any employer during the time he is subject to a greater charge for the transportation of property moving from one rate-making or geographical section (as now or hereafter designated by the Interstate Commerce Commission for rate-making purposes) into another rate-making or geographical section than the charge for the transportation of the same or like classes of traffic moving wholly within the destination rate-making or geographical section, distance considered."

Mr. MARTIN of Massachusetts. Mr. Chairman, a point of order.

Mr. PACE. Mr. Chairman, will the gentleman reserve his point of order?

Mr. MARTIN of Massachusetts. Mr. Chairman, I reserve the point of order against the amendment to permit the gentleman to make a statement.

The CHAIRMAN. The gentleman from Georgia is recognized for 2½ minutes.

Mr. PACE. Mr. Chairman, I do not believe there is any Member of the House more anxious than I to have a part in improving the working conditions and the standards of living of the wage earners of this Nation. It is, therefore, very difficult and somewhat embarrassing to be faced with a bill that you know will be harmful to your district.

My amendment proposes that the wage provisions of this bill shall be suspended until the discriminatory and differential freight rates that now exist between different sections have been corrected. This bill provides that it will not become effective for 4 months after its passage. You have shown a disposition here today to eliminate all differentials. It is my hope that you will in good faith go further and eliminate the very unfair, the very discriminatory freight rates that now exist between different sections of the country. We need your help. We have been trying for years to get these differentials corrected.

I feel that if you will adopt this amendment that by united effort we can within the 4 months before this bill becomes effective get the Interstate Commerce Commission to consider this Nation as one great nation, to consider the people in every section of this Nation on an equality, so that if there is not to be any differential in wages then there will not be any differential in freight rates and no section will have a preference over another.

What are we confronted with today? In the official territory, in the Northern States, the freight rate is 100. In southern territory it is 139. In southwestern territory it is 175, and in the western territory, the Pacific coast, it is 171.

There is no dispute as to this injustice. Here is the official report to this Congress, House Document No. 264, and here is what it has to say as to the effect of these discriminatory freight rates on my section:

One of the basic principles of rate making for transportation purposes should be the prevention of rate barriers against regional or territorial development. Discriminatory or preferential rates unduly favoring some regions or territories as against others will surely operate to lower the future living standards of the American people by interfering with economic readjustments which are necessary for the national welfare.

When manufactured or processed articles, therefore, are moved from these outlying territories to markets in eastern or official territory competition must be met, as a general rule, from manufacturers or producers of similar products located in eastern or official territory who can reach the same consuming points on intraterritorial freight rates that are materially lower, mile for mile, than the interterritorial rates which these outside shippers are compelled to pay. An attempt to meet such competition generally entails a deduction from the prices received by the disadvantaged producers, since the extra freight costs cannot be passed on to the consumers. Thus, manufacturing in the outlying territories is hampered, discouraged, and retarded despite the fact that certain areas in these regions possess, with the single exception of proximity to markets, all the economic factors necessary for a considerable industrial growth.

The consumer, too, has a definite interest in this problem since transportation charges influence the prices of the products sold to him and the competitive situation of his market. The price of goods sold to the consumer in favorably situated rate regions tends to approach a figure slightly less than a price which would include freight charges on competitive goods from other regions less favorably located in regard to transportation costs. The consumer in regions in which comparatively high rates prevail may suffer also by having to pay prices that include more than transportation costs.

I hope you will approve this amendment, and give my section and the wage earners of my district the same opportunities and the same prospect of regular and profitable employment as you claim for your own people.

Mr. MARTIN of Massachusetts. Mr. Chairman, I make the point of order the amendment offered by the gentleman from Georgia [Mr. PACE] is not germane to this legislation which has to do with wages and hours. The amendment has to do with freight rates, which are not being considered in the present bill.

The CHAIRMAN. Does the gentleman from Georgia [Mr. PACE] desire to be heard?

Mr. PACE. Mr. Chairman, we are now considering section 11, which exempts certain persons from the effect of the provisions of this bill. I respectfully submit that the proposed amendment would suspend for a time from the effectiveness of the provisions of this act the employees who are subject to this discriminatory freight-rate situation. For these reasons I believe it is germane.

The CHAIRMAN. The Chair is ready to rule.

It is very evident to the Chair that the amendment offered by the gentleman from Georgia [Mr. PACE] is not germane to the pending bill or to any section of the bill, particularly section 11 of the bill.

The Chair sustains the point of order.

Mr. BELL. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. BELL: Page 58, line 14, after the end of section 11 (a) substitute a semicolon for the period and add thereto the following: "or, (8) any employee of a street, suburban, or interurban electric railway, or any other firm, company, or individual engaged in the business of carrying passengers for hire, not included in the exemptions contained in this section."

Mr. CASEY of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. BELL. I yield to the gentleman from Massachusetts.

Mr. CASEY of Massachusetts. Mr. Chairman, my amendment, which is at the desk, is the same as the gentleman's amendment, and I therefore withdraw it and ask that the gentleman from Missouri [Mr. BELL] may be given the additional time.

The CHAIRMAN. Does the gentleman from Massachusetts withdraw his amendment?

Mr. CASEY of Massachusetts. I withdraw it.

Mr. BELL. Mr. Chairman, then I am entitled to 5 minutes?

The CHAIRMAN. The Chair may say to the gentleman from Missouri that there are three Members beside the gentleman who have amendments pending. There are still 7½ minutes remaining. The Chair recognizes the gentleman from Missouri [Mr. BELL] for 2 minutes.

Mr. BELL. Mr. Chairman, the bill as presently drawn will be a great benefit to certain groups of employees, as we all know. There are two or three great groups of employees who will be injured by the bill if they are not exempted from the effect thereof.

The committee in its wisdom saw fit to exempt the American railway employees; they also saw fit to exempt those employees engaged in air transportation. The employees engaged in streetcar transportation are asking in this amendment that you do the same thing for them that you did at the request of the Brotherhood of American Trainmen and that you did at the request of the employees of those engaged in air transportation.

In my home town of Kansas City, Mo., the streetcars go across a State line. On one side we have Kansas City, Mo., and on the other side Kansas City, Kans. Those men receive more money per hour than is provided in this bill, just as the railway trainmen receive more and just as the people engaged in air transportation receive more. That is one of the reasons why they are asking for the amendment. In

the morning there is a crowded peak period in transportation, then a lull, and another crowded peak in the evening. The men engaged in this line of business know it will be injurious to them if they are not exempted from the provisions of this bill.

The question was raised in the committee, and it was stated that they were exempt anyway because the streetcar companies operate within a city and do not cross State lines. That is true of most streetcar companies, but scattered throughout the United States here and there are a few of these companies that do cross State lines, just as in my community. It is only fair and right, and I believe it is just, that these employees be taken care of just the same as those in the inland cities where they do not cross State lines.

Mr. CASEY of Massachusetts. Will the gentleman yield?

Mr. BELL. I yield to the gentleman from Massachusetts.

Mr. CASEY of Massachusetts. Is it not true that in some States where the street railways and bus lines operate between two cities within a given State they sometimes carry passengers and goods from outside the State, and although it is a small part of the business they might be held under the terms of this bill to be dealing in interstate commerce.

Mr. BELL. That is true.

Mr. CASEY of Massachusetts. Unless they are specifically exempted.

Mr. O'MALLEY. Will the gentleman yield?

Mr. CASEY of Massachusetts. I yield to the gentleman from Wisconsin.

Mr. O'MALLEY. If they are receiving more money than the minimum provided in this bill, how would they come under the provisions of the bill, anyway?

Mr. BELL. The reason they come under it is on account of the hours. Here is a man that gets his streetcar to the end of the line, and he is prohibited from taking it back to the barn. It is going to hurt those men more than anybody else.

Mr. O'MALLEY. Does the gentleman think those employees would not like to work 4 hours less a week?

Mr. BELL. I know the employees have appealed to me for this amendment, and I know they want it. Their representatives have gotten in contact with me.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. BELL].

The question was taken; and on a division (demanded by Mr. BELL) there were—ayes 62, noes 119.

So the amendment was rejected.

Mr. CREAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CREAL: On page 58, at the end of line 14, strike out the period and insert a comma and the following: "or to weekly or semiweekly newspapers with a circulation of less than 3,000, the major part of which circulation is within the county where printed and published."

Mr. CREAL. Mr. Chairman, I wish to say a brief word to those who are supporting labor legislation and those who want this bill to pass. It is very easy for a man who has a lot of labor votes in his district to go along with this bill, but what about a man going along with you who has a 100-percent record for voting for labor when there is not a single mine or labor union in his entire district and he has not received a single letter from his district asking him to vote for the bill? That is my position. [Applause.] I believe I deserve more credit than some of you rampant Members who are voting for this bill and have large labor groups in your districts. I am voting for the bill because I am voting for the laboring man.

In your wisdom you have overlooked some things which should be in this bill. You very carefully exempted the retailers in the crossroads towns. The department stores and other such businesses are exempted. But here is a sleepy town of 800 or 1,000 people where every businessman in the town is exempted but the little country publisher, the one who publishes the news about the births, the deaths, and the marriages, and prints the church notices of the community. In 90 percent of the cases this man is in poorer financial circumstances than any of his neighbors up and down the street who are specifically exempted. There are 3,000 or 4,000 of these publishers and their average circulation is 1,200. They are an uncontaminated, free, and independent press. They have never been subsidized. Be the publisher Democratic or Republican, his opinions, good or bad are his own. These men are not unfriendly to this legislation.

This amendment was offered by me when the wage and hour legislation was considered previously, and it was adopted with practically no opposition. However, under this bill, because 1 or 2 percent of a paper's circulation goes outside to people who want to get the home-town paper to see whether or not Lucy got married, or whether Sally's baby has been born yet, because that infinitesimal bit of their business is with people outside the county, these publishers fall under the provisions of this bill, when on each side of this little printshop are the butcher and the baker, who are exempt and who are financially better fixed than he is. Is not that a great injustice? I am sure nobody meant to include such an injustice in this bill. All of you who have country newspapers in your district, vote for this amendment. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky [Mr. CREAL].

The question was taken; and on a division (demanded by Mr. TAYLOR of Tennessee and Mr. MCKEOUGH) there were—ayes 140, noes 93.

Mr. O'TOOLE. Mr. Chairman, I ask for tellers.

Tellers were refused.

So the amendment was agreed to.

The CHAIRMAN. The gentleman from New York [Mr. LORD], offers an amendment which the Clerk will report.

Mr. LORD. Mr. Chairman, a point of order. I spoke on my amendment sometime ago. The amendment was to exempt the wood-alcohol industry. The vote was not taken then, Mr. Chairman, and I should like to have the vote taken now.

The CHAIRMAN. Does the gentleman offer his amendment?

Mr. LORD. I spoke on the amendment some time ago. I should like to have the amendment read now.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. LORD: On page 58, line 12 after the word "agriculture", insert "or (7) any employee employed in the distillation of wood;" and in line 12, strike out "(7)" and insert "(8)".

Mr. LORD. Mr. Chairman, I shall not take the time of the Committee by speaking on the amendment, and ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The question was taken; and on a division (demanded by Mr. LORD) there were—ayes 37, noes 121.

So the amendment was rejected.

Mr. BIERMANN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BIERMANN. At this point could I offer an amendment to the amendment offered by the gentleman from Kentucky [Mr. CREAL] which has just been agreed to?

The CHAIRMAN. An amendment already agreed to cannot be amended.

Mr. BIERMANN. I was on my feet before the gentleman from New York, Mr. Chairman.

The CHAIRMAN. The Chair may state to the gentleman that the amendment has already been agreed to, and an amendment to that amendment is not now in order.

The Clerk read as follows:

LEARNERS, APPRENTICES, AND HANDICAPPED WORKERS

SEC. 12. The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulations or by orders provide for (a) the employment of learners, and of

apprentices under special certificates as issued pursuant to regulations of the Secretary, at such wages lower than the minimum wage applicable under section 4 and subject to such limitations as to time, number, proportion, and length of service as the Secretary shall prescribe, and (b) the employment of individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, under special certificates to be issued by the Secretary, at such wages lower than the minimum wage applicable under section 4 and for such period as shall be fixed in such certificates.

Mr. MURDOCK of Utah. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURDOCK of Utah: On page 59, line 11, after the word "certificates", strike out the period and insert a comma and the following:

"(c) The employment of individuals in mining operations in isolated sections under special certificate to be issued by the Secretary of Labor, for a longer workweek than the maximum fixed in section 5."

Mr. MURDOCK of Utah. Mr. Chairman, before offering this amendment I conferred with the chairman of the steering committee on this bill, with the chairwoman of the Labor Committee, and then conferred with the ranking Member on the minority side, and I was given to understand there was no opposition as far as they knew to my amendment.

All this amendment seeks to do is to take care of a situation prevalent in the Rocky Mountain mining districts, which is as follows: There are many mining operations out there where the operation is at least 30, 40, or 50 miles from any town. There is no picture show there and no recreation of any kind. The men go out there in the fall of the year and in all probability will be snowed in for a period of 3 or 4 months. If those men were unable or precluded from working every day they are out there it would be impossible to get anyone to go.

The very purpose of section 12 is to allow the Secretary of Labor to take care of conditions which would curtail employment, and that is exactly what would happen if this amendment were not adopted.

The amendment does not exempt anybody; all it does is to allow the Secretary of Labor to provide by regulations and rules promulgated by the Secretary to take care of this kind of a situation.

Mr. MURDOCK of Arizona. Mr. Chairman, will the gentleman yield?

Mr. MURDOCK of Utah. I yield.

Mr. MURDOCK of Arizona. The gentleman has found, has he not, from his correspondence that there are thousands of these small-mine operators throughout the Rocky Mountain region who do not object so much to the wage provision of this bill but do object to the hours provision, and it is for those men that we are appealing through this amendment? Let us vary this set rule to meet an unusual labor situation and help these pioneers.

Mr. MURDOCK of Utah. The gentleman is correct. The wages paid in all instances are much higher. I believe I could safely say they are 100 percent higher than the minimum provided here, but this is a condition that does not exist anywhere else in the United States; and if I thought there was any opposition from any member of the committee or any of the friends of this legislation, I would not have offered it, because I have gone down the line with you in signing the petition and in voting down amendments this afternoon.

Mr. WOOD. Mr. Chairman, will the gentleman yield?

Mr. MURDOCK of Utah. I yield.

Mr. WOOD. The amendment states "in isolated mining districts." It does not say "metal mining," and there are many large coal mines in isolated districts.

Mr. MURDOCK of Utah. I cannot imagine a coal mine being operated in such a locality, but I would personally be very happy to limit it to metal mining.

Mr. CASE of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. MURDOCK of Utah. I yield.

Mr. CASE of South Dakota. But if the amendment said "metal mining" you would eliminate miners engaged in mining feldspar and other minerals of that sort which are in a very similar situation.

Mr. MURDOCK of Utah. That is true and I cannot conceive of a coal mine anywhere in the United States that is in an isolated section or in a section where there is no recreation, no picture shows, and no entertainment, and where all the men can do is either to go down into the mine and work their 8 hours, or sit around and look at a lot of blank walls, or something of that sort.

Mr. KELLER. Mr. Chairman, will the gentleman yield?

Mr. MURDOCK of Utah. I yield.

Mr. KELLER. I take great pleasure in calling attention to the fact that I lived in that country and know that this condition does exist and it is one that ought to be met and the amendment will not hurt this measure in any way whatever, and I think everybody knows that I am as good a friend of this legislation as any man in this House.

Mr. MURDOCK of Utah. I thank the gentleman.

Mr. KELLER. Will the gentleman accept the amendment with respect to metal mining?

Mr. MURDOCK of Utah. If somebody else would offer it I would have no objection to it.

Mr. MURDOCK of Arizona. Mr. Chairman, will the gentleman yield?

Mr. MURDOCK of Utah. I yield.

Mr. MURDOCK of Arizona. Will the gentleman ask unanimous consent to amend his amendment by having it apply only to metal mining?

Mr. MURDOCK of Utah. The only trouble about that, as the gentleman from South Dakota has pointed out, is that there may be some mining that is not metallic which would be injured by doing that, but so far as I am concerned I am willing to accept that amendment.

Mr. WHITE of Idaho. Mr. Chairman, will the gentleman yield?

Mr. MURDOCK of Utah. I yield.

Mr. WHITE of Idaho. Why not exclude nonferrous and noncoal mining and include all other kinds of mining?

Mr. MURDOCK of Utah. I am just as sure as I am standing here that the Secretary of Labor can be trusted on this matter and would exclude any mining that was not isolated, as I have described here. I hope the Committee will adopt the amendment.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah.

The question was taken; and on a division (demanded by Mr. KELLER) there were—ayes 83, noes 139.

So the amendment was rejected.

The Clerk read as follows:

PROHIBITED ACTS

SEC. 13. (a) It shall be unlawful for any person—

(1) to violate any of the provisions of section 4 or section 5, or any of the provisions of any regulation or order of the Secretary issued under section 12;

(2) to transport, offer for transportation, ship, deliver, or sell in commerce, or to ship, deliver, or sell with knowledge that shipment or delivery or sale thereof in commerce is intended, any goods in the production of which any employee was employed in violation of section 4 or section 5, or in violation of any regulation or order of the Secretary issued under section 12; except that no provision of this act shall impose any liability upon any common carrier for the transportation in commerce in the regular course of its business of any goods not produced by such common carrier, and no provision of this act shall excuse any common carrier from its obligation to accept any goods for transportation;

(3) to willfully discharge or in any other manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this act, or has testified or is about to testify in any such proceeding;

(4) to violate any of the provisions of section 10;

(5) to violate any of the provisions of section 9 (c), or to make any statement, report, or record filed or kept pursuant to the provisions of such section or of any regulation or order thereunder, knowing such statement, report, or record to be false in a material respect.

(b) For the purposes of subsection (a) (2) proof that any employee was employed in violation of section 4 or 5, or in violation of any regulation or order of the Secretary issued under

section 12, in any place of employment where goods were produced, within 90 days prior to the removal of the goods therefrom, shall be prima facie evidence that the goods were produced by such employee.

PENALTIES

SEC. 14. Any person who violates any of the provisions of section 13 shall upon conviction thereof be subject to a fine of not more than $500, or to imprisonment for not more than 6 months, or both.

Mr. PETTENGILL. Mr. Chairman, a little while back I offered an amendment that orders and regulations issued by the Secretary shall be published in the Federal Register. A point was made that under the law that created the Federal Register that would follow anyway. I have looked that up and find that is not correct and that I was correct in offering the amendment.

Mr. SMITH of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. PETTENGILL. Yes.

Mr. SMITH of Connecticut. The gentleman is correct. The Register Act provides that these orders must be published only in case a Presidential order has placed them in the classification which must be published under the act. Unless we include them in this act, as they are included in the Senate bill, it will not be necessary in all cases for those to be published in the Register. I think they should be, and we have the assurance of the chairman that it will be taken up in conference and that it will be provided for if possible.

Mr. PETTENGILL. I thank the gentleman and upon the assurance of the chairman of the committee that the matter will be taken up in conference I have nothing further to say.

Mrs. NORTON. I am very glad to give that assurance.

Mr. DIES. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment by Mr. DIES: Page 61, after line 5, insert new section, which shall be known as section 14 (a), as follows:

"SEC. 14. (a) Any person in any State subject to this act who shall evade or attempt to evade the provisions of this act by increasing charges for housing, fuel, and lights furnished to his employees, or who shall decrease the wages of any of his employees now receiving in excess of the minimum wage provided in this act in order to offset the increase in the wages of those who receive less than the minimum provided in this bill shall be deemed guilty of the violation of this act and upon conviction shall be punished in accordance with the provisions of section 14."

Mr. BOILEAU. Mr. Chairman, I make the point of order that the amendment is not germane to the bill. The amendment proposes to fix the sale of commodities, and there is nothing in the bill to that effect.

Mr. DIES. It does not provide that.

The CHAIRMAN. Does the gentleman from Texas desire to be heard?

Mr. DIES. I see no reason why it is not germane. This simply says that any employer who increases charges for housing, fuel, or light, or who decreases the pay of those who now receive more in order to offset the increase in the pay of those who receive less shall be deemed guilty of a violation of the act. The purpose of the amendment is to protect those employees who are still left under the bill.

The CHAIRMAN. The Chair is prepared to rule. Without regard to the language of the amendment relating to housing, fuel, and light, the amendment of the gentleman from Texas relates to a group of employees who are not covered by the pending bill. This amendment relates to a group of employees whose wages are in excess of the minimum wage.

Mr. DIES. The Chair is entirely mistaken, if I may be permitted to say so. Throughout this country, especially in the Southland, a great many of the companies furnish housing, fuel, and lights at a nominal cost. The point involved here is that under this bill all they have to do is to increase those charges and thus evade the law.

The CHAIRMAN. The Chair calls attention to the fact that the language here is "or shall decrease the wages of any of his employees now receiving in excess of the minimum wage provided in this act."

Clearly that language applies to a group of employees not covered by this particular act. The Chair sustains the point of order.

The Clerk read as follows:

INJUNCTION PROCEEDINGS

SEC. 15. The district courts of the United States and the United States courts of the Territories shall have jurisdiction, for cause shown, and subject to the provisions of section 17 (relating to notice to opposite party) of the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended (U. S. C., 1934 edition, title 28, sec. 381), to restrain violations of section 13.

Mr. DIES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment by Mr. DIES: Page 61, after line 14, insert a new section which shall be known as section 15 (a):

"SEC. 15 (a) Any employer under collective bargaining contract with the union of his employees providing for higher minimum wage and shorter maximum hours shall be exempted from the provisions of this act as to the employees covered by such agreement and insofar as the agreement covers hours and wages. Any employer who voluntarily maintains higher minimum wages and shorter maximum hours shall be exempted from the provisions of this act as to employees who receive higher minimum wages and work shorter maximum hours."

Mr. BOILEAU. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. BOILEAU. Mr. Chairman, I make the point of order that the amendment is not germane to the bill, not germane to the committee substitute, and particularly is not germane to this part of the bill. The amendment relates to exemptions. We have already passed the point where exemptions could be made. If the amendment is germane to any part of the bill, it is to that part dealing with exemptions. I maintain, therefore, that it is subject to a point of order when offered at this place.

The CHAIRMAN. Does the gentleman from Texas desire to be heard on the point of order?

Mr. DIES. No.

The CHAIRMAN. The Chair is prepared to rule.

Without passing upon all of the grounds advanced by the gentleman from Wisconsin in support of his point of order, the Chair will confine itself to the point that the amendment is not germane to the section of the bill to which it is offered.

It is clear to the Chair that the amendment relates to exemptions. If at all germane, it should have been offered to another section of the bill. For this reason, the Chair sustains the point of order made by the gentleman from Wisconsin.

Mr. BIERMANN. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, at the end of section 11, an amendment was adopted which was offered by the gentleman from Kentucky. I think it is a first-class amendment. It exempted the country weeklies and semiweeklies but is limited to those having a 3,000 circulation. Any country newspaperman will tell you we have got to go back and change that or we will be discriminating between weeklies and semiweeklies below that point and those above it.

Mr. CREAL. Mr. Chairman, will the gentleman yield?

Mr. BIERMANN. I yield.

Mr. CREAL. The average circulation of 3,600 papers is 1,200.

Mr. BIERMANN. I agree that the gentleman's statement is correct; but in certain districts, in scores of districts over this country, there are weekly papers that have over 3,000 circulation. I am going to ask unanimous consent to return to that point, not now but sometime, to return to that section; and the Member who offers objections will in substance be saying that we should have one rule for country weeklies and semiweeklies with less than 3,000 circulation and another rule for those with 3,100 circulation; and there are plenty of newspapers in the country districts that have over 3,000 circulation. I was in the newspaper business myself for 23 years. When I started I had something like

1,500 circulation; when I finished I had 3,500 circulation. Many other editors have had the same experience. If you do not change that figure some of you are going to have to go back and tell the editors who supported you that you voted to keep them under the rule, but voted to take somebody else out from under it.

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. BIERMANN. I yield.

Mr. COX. What is the gentleman's understanding of the meaning of all these exemptions? Is it that the groups affected cannot live under the provisions of the bill?

Mr. BIERMANN. That is a philosophical question the answer to which I will leave to somebody else.

Mr. O'MALLEY. Mr. Chairman, will the gentleman yield?

Mr. BIERMANN. I yield.

Mr. O'MALLEY. Why should country newspapers under 3,000 be exempted? Is it not a fact that when you start exemptions there is no place where the line can be drawn?

Mr. BIERMANN. If there is a butcher on one side of the editor and a groceryman on the other and they are exempted I do not know of any reason why the editor should have to obey these hours. They do not object to the wages but they do object to the hours.

When they get out the paper or have a big bill to get out they have certain hours. You have exempted those with a circulation under 3,000. You should exempt them up to 5,000 circulation. If you refuse to make this exemption 5,000 you will have to go back and do the explaining to the editors of your papers.

Mr. FLETCHER. Are there many weekly newspapers with a circulation over 3,000?

Mr. BIERMANN. There are plenty of them.

Mr. FLETCHER. In what way will this benefit the weekly newspaper?

[Here the gavel fell.]

The Clerk read as follows:

RELATION TO OTHER LAWS

SEC. 16. No provision of this act or of any order thereunder shall justify noncompliance with any Federal or State law or municipal ordinance establishing a minimum wage higher than the minimum wage established under this act or a maximum workday or workweek lower than the maximum workday or workweek established under this act, and no provision of this act relating to the employment of child labor shall justify noncompliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established under this act.

Mr. CASE of South Dakota. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, the gentleman from Iowa has put his finger on a point that may well be recognized. It is something that many Members of this House will have to explain. I refer to the exemption recently adopted for weekly newspapers under 3,000 circulation. Some of the Members of the House know of small daily newspapers in their districts that have a circulation under 3,000. How will you justify exempting the weeklies and not the small dailies?

The problem of hours does not bother the weekly newspaper so much as it does the daily newspaper up to 3,000 circulation. Anyone who has had experience with or has attempted to publish a small daily paper with a circulation under 3,000 knows that the problem of hours is much more serious there than it is in the case of a small weekly newspaper. You have to publish six times a week. You have six times the chance for press trouble or other machinery trouble and that means overtime. If you exempt the weeklies, as you have, how can you justify failure to exempt the small dailies? I want to call to your attention the fact you have another problem of explanation on that point.

And, as already pointed out, the increasing number of exemptions developed in this bill points to an essential weakness in the bill. Each exemption is based on some unworkable feature as it relates to a particular problem that you know of in your district or that someone else knows of in his district.

I was much interested in the remarks of the gentleman from Utah [Mr. MURDOCK] but I doubt if Members got the significance of what he was saying about the problem that will be created in the back mining districts where you have a small company trying to provide jobs for men and keep them off of relief.

It is a real problem to limit them to work on a 40-hour-a-week basis where the men are away from towns and where reserves or substitute employees cannot be had for a continuous operation. You will have there a problem of unworkability that will throw men on relief. You have the same thing in connection with small lumber operations.

These problems make me honestly believe it would be a wise thing for the Committee to now rise and take time to give some little thought to these phases of the bill before final vote. It is now about 10 o'clock, and the House has been in continuous session for 11 hours.

[Here the gavel fell.]

Mrs. NORTON. Mr. Chairman, I ask unanimous consent that all debate on this section and all amendments thereto do now close.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

The Clerk read as follows:

SEPARABILITY OF PROVISIONS

SEC. 17. If any provision of this act or the application of such provision 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.

EFFECTIVE DATE

SEC. 18. No order under section 6 shall take effect prior to 120 days after the enactment of this act.

Mr. HOBBS. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. HOBBS: Page 62, lines 10 to 12, strike out section 18 and insert:

"SEC. 18. No order under section 6 shall take effect prior to 120 days after the enactment of this act, nor until the Secretary of Agriculture shall have certified that the average income of those engaged in work in agriculture in the United States of America is equal to, or greater than, the average income of those engaged in industrial work in the United States of America; and in making the calculations upon which such finding and certificate is based, the market value of those products of the farms consumed or used by those engaged in work in agriculture shall be taken into account and added to the amount of cash income."

Mr. BOILEAU. Mr. Chairman, I make the point of order that the amendment is not germane to the section to which it is offered and is not germane to the bill itself.

The CHAIRMAN. The Chair is ready to rule.

It is clear and evident that the amendment is subject to a point of order, in that it covers a new subject in no way related to the bill, is not germane to the bill, and the Chair therefore sustains the point of order.

Mr. BIERMANN. Mr. Chairman, on behalf of the country newspapers, I ask unanimous consent to return to section 11, and in the Creal amendment substitute the figure "5,000", in place of "2,000."

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

Mrs. NORTON and Mr. SABATH objected.

The CHAIRMAN. The question is on agreeing to the committee substitute for the Senate bill.

The Committee substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. MCCORMACK, Chairman of the Committee of the Whole House on the state of the Union, reported that the Committee, having had under consideration the bill S. 2475, to provide for the establishment of fair labor standards in employments in and affecting interstate commerce, and for other purposes, pursuant to House Resolution 478, he reported the same back to the House with sundry amendments agreed to in Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the third reading of the bill.

The bill was ordered to be read a third time, and was read the third time.

Mr. LAMBERTSON. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. LAMBERTSON. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. LAMBERTSON moves to recommit the bill S. 2475 to the Committee on Labor.

Mrs. NORTON. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on the motion of the gentleman from Kansas to recommit the bill to the Committee on Labor.

Mr. COX. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 96, nays 315, not voting 16, as follows:

[Roll No. 85]

YEAS—96

Allen, Ill.	Dies	Knutson	Robertson
Arends	Douglas	Lambertson	Robsion, Ky.
Atkinson	Doxey	Lambeth	Rockefeller
Bacon	Drewry, Va.	Lamneck	Rutherford
Bland	Driver	Lanham	Satterfield
Boykin	Ford, Miss.	Luce	Shafer, Mich.
Brown	Fuller	McClellan	Short
Burch	Fulmer	McGehee	Smith, Va.
Caldwell	Gamble, N. Y.	McLean	Sparkman
Cannon, Mo.	Garrett	McReynolds	Starnes
Carlson	Guyer	Mansfield	Taber
Case, S. Dak.	Gwynne	Mapes	Taylor, S. C.
Chapman	Halleck	Michener	Taylor, Tenn.
Church	Hancock, N. Y.	Oliver	Tinkham
Clark, N. C.	Hobbs	Owen	Turner
Cluett	Hoffman	Pace	Vinson, Ga.
Cole, N. Y.	Holmes	Patton	Wadsworth
Collins	Hope	Peterson, Ga.	Warren
Colmer	Jarman	Plumley	West
Cooper	Jarrett	Rankin	Whittington
Cox	Johnson, Luther A.	Reece, Tenn.	Wilcox
Cravens	Kerr	Reed, N. Y.	Wolcott
Crawford	Kitchens	Rees, Kans.	Woodruff
Deen	Kleberg	Rich	Woodrum

NAYS—315

Aleshire	Clason	Englebright	Havenner
Allen, Del.	Claypool	Evans	Healey
Allen, La.	Cochran	Faddis	Hendricks
Allen, Pa.	Coffee, Nebr.	Farley	Hennings
Amlie	Coffee, Wash.	Ferguson	Hildebrandt
Anderson, Mo.	Cole, Md.	Fernandez	Hill
Andresen, Minn.	Connery	Fish	Honeyman
Andrews	Cooley	Fitzgerald	Hook
Arnold	Costello	Fitzpatrick	Houston
Ashbrook	Creal	Flaherty	Hull
Barry	Crosby	Flannagan	Hunter
Barton	Crosser	Flannery	Imhoff
Bates	Crowe	Fleger	Izac
Beam	Crowther	Fletcher	Jacobsen
Beiter	Culkin	Forand	Jenckes, Ind.
Bell	Cullen	Ford, Calif.	Jenkins, Ohio
Bernard	Cummings	Frey, Pa.	Jenks, N. H.
Biermann	Curley	Fries, Ill.	Johnson, Lyndon
Bigelow	Daly	Gambrill, Md.	Johnson, Minn.
Bloom	Delaney	Gavagan	Johnson, Okla.
Boehne	Dempsey	Gearhart	Johnson, W. Va.
Boileau	DeMuth	Gehrmann	Jones
Boland, Pa.	DeRouen	Gifford	Kee
Boren	Dickstein	Gilchrist	Keller
Boyer	Dingell	Gildea	Kelly, Ill.
Boylan, N. Y.	Dirksen	Gingery	Kelly, N. Y.
Bradley	Disney	Goldsborough	Kennedy, Md.
Brewster	Dixon	Gray, Ind.	Kennedy, N. Y.
Brooks	Dockweiler	Gray, Pa.	Keogh
Buck	Dondero	Green	Kinzer
Buckler, Minn.	Dorsey	Greenwood	Kirwan
Buckley, N. Y.	Dowell	Greever	Kniffin
Bulwinkle	Drew, Pa.	Gregory	Kocialkowski
Burdick	Duncan	Griffith	Kopplemann
Byrne	Dunn	Haines	Kramer
Carter	Eaton	Hamilton	Kvale
Cartwright	Eberharter	Hancock, N. C.	Lanzetta
Casey, Mass.	Eckert	Harlan	Larrabee
Celler	Edmiston	Harrington	Lea
Chandler	Eicher	Hart	Leavy
Citron	Elliott	Harter	Lemke
Clark, Idaho	Engel	Hartley	Lesinski
Lewis, Colo.	Mouton	Reed, Ill.	Sumners, Tex.
Lewis, Md.	Murdock, Ariz.	Reilly	Sutphin
Long	Murdock, Utah	Richards	Sweeney
Lord	Nelson	Rigney	Swope
Lucas	Nichols	Robinson, Utah	Tarver
Luckey, Nebr.	Norton	Rogers, Mass.	Taylor, Colo.
Ludlow	O'Brien, Ill.	Romjue	Teigan
Luecke, Mich.	O'Brien, Mich.	Ryan	Terry
McAndrews	O'Connell, Mont.	Sabath	Thom
McCormack	O'Connell, R. I.	Sacks	Thomas, N. J.
McFarlane	O'Connor, Mont.	Sadowski	Thomas, Tex.
McGranery	O'Connor, N. Y.	Sanders	Thomason, Tex.
McGrath	O'Leary	Sauthoff	Thompson, Ill.
McGroarty	O'Malley	Schaefer, Ill.	Tobey
McKeough	O'Neal, Ky.	Schneider, Wis.	Tolan
McLaughlin	O'Neill, N. J.	Schuetz	Towey
McSweeney	O'Toole	Schulte	Transue
Maas	Palmisano	Scott	Treadway
Magnuson	Parsons	Scrugham	Umstead
Mahon, S. C.	Patman	Secrest	Vincent, Ky.
Mahon, Tex.	Patrick	Seger	Voorhis
Maloney	Patterson	Shanley	Wallgren
Martin, Colo.	Pearson	Shannon	Walter
Martin, Mass.	Peterson, Fla.	Sheppard	Wearin
Mason	Pettengill	Simpson	Welch
Massingale	Pfeifer	Sirovich	Wene
Maverick	Phillips	Smith, Conn.	Whelchel
May	Pierce	Smith, Maine	White, Idaho
Mead	Poage	Smith, Wash.	White, Ohio
Meeks	Polk	Smith, W. Va.	Wigglesworth
Merritt	Powers	Snyder, Pa.	Williams
Mills	Quinn	Somers, N. Y.	Withrow
Mitchell, Ill.	Rabaut	South	Wolfenden
Mitchell, Tenn.	Ramsay	Spence	Wolverton
Moser, Pa.	Ramspeck	Stack	Wood
Mosier, Ohio	Randolph	Stefan	Zimmerman
Mott	Rayburn	Sullivan	

NOT VOTING—16

Barden	Ditter	McMillan	Snell
Binderup	Doughton	O'Day	Steagall
Cannon, Wis.	Gasque	Rogers, Okla.	Thurston
Champion	Griswold	Smith, Okla.	Weaver

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On the vote:

Mr. Snell (for) with Mr. Griswold (against).
Mr. McMillan (for) with Mrs. O'Day (against).
Mr. Gasque (for) with Mr. Ditter (against).

General pairs until further notice:

Mr. Doughton with Mr. Binderup.
Mr. Weaver with Mr. Cannon of Wisconsin.
Mr. Smith of Oklahoma with Mr. Champion.
Mr. Rogers of Oklahoma with Mr. Barden.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mrs. NORTON. Mr. Speaker, on that I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 314, nays 97, not voting 17, as follows:

[Roll No. 86]

YEAS—314

Aleshire	Buckley, N. Y.	Curley	Fish
Allen, Del.	Bulwinkle	Daly	Fitzgerald
Allen, La.	Burdick	Delaney	Fitzpatrick
Allen, Pa.	Byrne	Dempsey	Flaherty
Amlie	Cannon, Mo.	DeMuth	Flannagan
Anderson, Mo.	Carter	DeRouen	Flannery
Andresen, Minn.	Cartwright	Dickstein	Fleger
Andrews	Casey, Mass.	Dingell	Fletcher
Arnold	Celler	Dirksen	Forand
Ashbrook	Chandler	Disney	Ford, Calif.
Barry	Church	Dixon	Frey, Pa.
Barton	Citron	Dockweiler	Fries, Ill.
Bates	Clark, Idaho	Dondero	Gambrill, Md.
Beam	Clason	Dorsey	Gavagan
Beiter	Claypool	Dowell	Gearhart
Bell	Cluett	Drew, Pa.	Gehrmann
Bernard	Cochran	Duncan	Gifford
Biermann	Coffee, Wash.	Dunn	Gilchrist
Bigelow	Cole, Md.	Eaton	Gildea
Bloom	Colmer	Eberharter	Gingery
Boehne	Connery	Eckert	Goldsborough
Boileau	Cooley	Edmiston	Gray, Ind.
Boland, Pa.	Costello	Eicher	Gray, Pa.
Boren	Creal	Elliott	Green
Boyer	Crosby	Engel	Greenwood
Boylan, N. Y.	Crosser	Englebright	Greever
Bradley	Crowe	Evans	Gregory
Brewster	Crowther	Faddis	Griffith
Brooks	Culkin	Farley	Haines
Buck	Cullen	Ferguson	Hamilton
Buckler, Minn.	Cummings	Fernandez	Hancock, N. C.

Harlan	Lewis, Colo.	O'Connor, N. Y.	Sirovich
Harrington	Lewis, Md.	O'Leary	Smith, Conn.
Hart	Long	O'Malley	Smith, Maine
Harter	Lord	O'Neill, N. J.	Smith, Wash.
Hartley	Lucas	O'Toole	Smith, W. Va.
Havenner	Luckey, Nebr.	Palmisano	Snyder, Pa.
Healey	Ludlow	Parsons	Somers, N. Y.
Hendricks	Luecke, Mich.	Patman	South
Hennings	McAndrews	Patrick	Spence
Hildebrandt	McCormack	Patterson	Stack
Hill	McFarlane	Pearson	Sullivan
Honeyman	McGranery	Peterson, Fla.	Sumners, Tex.
Hook	McGrath	Pfeifer	Sutphin
Houston	McGroarty	Phillips	Sweeney
Hull	McKeough	Pierce	Swope
Hunter	McLaughlin	Poage	Taylor, Colo.
Imhoff	McSweeney	Polk	Teigan
Izac	Maas	Powers	Terry
Jacobsen	Magnuson	Quinn	Thom
Jenckes, Ind.	Mahon, S. C.	Rabaut	Thomas, N. J.
Jenkins, Ohio	Mahon, Tex.	Ramsay	Thomas, Tex.
Jenks, N. H.	Maloney	Randolph	Thomason, Tex.
Johnson, Minn.	Martin, Colo.	Rayburn	Thompson, Ill.
Johnson, Okla.	Martin, Mass.	Reed, Ill.	Tobey
Johnson, Lyndon	Mason	Reilly	Tolan
Johnson, W. Va.	Massingale	Richards	Towey
Jones	Maverick	Rigney	Transue
Kee	May	Robinson, Utah	Treadway
Keller	Mead	Rogers, Mass.	Umstead
Kelly, Ill.	Meeks	Romjue	Vincent, Ky.
Kelly, N. Y.	Merritt	Ryan	Voorhis
Kennedy, Md.	Mills	Sabath	Wallgren
Kennedy, N. Y.	Mitchell, Ill.	Sacks	Walter
Keogh	Mitchell, Tenn.	Sadowski	Wearin
Kinzer	Moser, Pa.	Sanders	Welch
Kirwan	Mosier, Ohio	Sauthoff	Wene
Kniffin	Mott	Schaefer, Ill.	Whelchel
Kocialkowski	Mouton	Schneider, Wis.	White, Idaho
Kopplemann	Murdock, Ariz.	Schuetz	White, Ohio
Kramer	Murdock, Utah	Schulte	Wigglesworth
Kvale	Nelson	Scott	Williams
Lambeth	Nichols	Scrugham	Withrow
Lanzetta	Norton	Secrest	Wolfenden
Larrabee	O'Brien, Ill.	Seger	Wolverton
Lea	O'Brien, Mich.	Shanley	Wood
Leavy	O'Connell, Mont.	Shannon	Zimmerman
Lemke	O'Connell, R. I.	Sheppard	
Lesinski	O'Connor, Mont.	Simpson	

NAYS—97

Allen, Ill.	Driver	McClellan	Satterfield
Arends	Ford, Miss.	McGehee	Shafer, Mich.
Atkinson	Fuller	McLean	Short
Bacon	Fulmer	McReynolds	Smith, Va.
Bland	Gamble, N. Y.	Mansfield	Sparkman
Boykin	Garrett	Mapes	Starnes
Brown	Guyer	Michener	Stefan
Burch	Gwynne	Oliver	Taber
Caldwell	Halleck	O'Neal, Ky.	Tarver
Carlson	Hancock, N. Y.	Owen	Taylor, S. C.
Case, S. Dak.	Hobbs	Pace	Taylor, Tenn.
Chapman	Hoffman	Patton	Tinkham
Clark, N. C.	Holmes	Peterson, Ga.	Turner
Coffee, Nebr.	Hope	Pettengill	Vinson, Ga.
Cole, N. Y.	Jarman	Plumley	Wadsworth
Collins	Jarrett	Ramspeck	Warren
Cooper	Johnson, Luther A.	Rankin	West
Cox	Kerr	Reece, Tenn.	Whittington
Cravens	Kitchens	Reed, N. Y.	Wilcox
Crawford	Kleberg	Rees, Kans.	Wolcott
Deen	Knutson	Rich	Woodruff
Dies	Lambertson	Robertson	Woodrum
Douglas	Lamneck	Robsion, Ky.	
Doxey	Lanham	Rockefeller	
Drewry, Va.	Luce	Rutherford	

NOT VOTING—16

Barden	Ditter	McMillan	Snell
Binderup	Doughton	O'Day	Steagall
Cannon, Wis.	Gasque	Rogers, Okla.	Thurston
Champion	Griswold	Smith, Okla.	Weaver

So the bill was passed.

The Clerk announced the following additional pairs:

On the vote:

Mr. Griswold (for) with Mr. Snell (against).
Mrs. O'Day (for) with Mr. McMillan (against).
Mr. Ditter (for) with Mr. Gasque (against).

General pairs:

Mr. Doughton with Mr. Binderup.
Mr. Weaver with Mr. Cannon of Wisconsin.
Mr. Smith of Oklahoma with Mr. Steagall.
Mr. Rogers of Oklahoma with Mr. Barden.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DUNN. Mr. Speaker, if the gentlewoman from New York, Mrs. O'DAY, and the gentleman from Indiana, Mr. GRISWOLD, had been here, they would have voted "yea" on the passage of this bill.

EXTENSION OF REMARKS

Mr. REED of New York, Mr. MAVERICK, Mr. JOHNSON of Oklahoma, and Mr. MOSER of Pennsylvania asked and were given permission to revise and extend their own remarks in the RECORD.

Mr. HENNINGS. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein an editorial from the St. Louis Post-Dispatch.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. CELLER. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD in five different particulars, one on Mooney, one on radio, one on Nazi poison propaganda, the President and spending, and the State Department.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

THE WAGE AND HOUR BILL

Mr. DISNEY. Mr. Speaker, my colleague the gentleman from Oklahoma, Mr. SMITH, asked me to announce that had he been present he would have voted "nay" on the motion to recommit and "yea" on the passage of the bill.

EXTENSION OF REMARKS

Mr. BOREN. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD by including some testimony before the Joint Labor Committee.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. WHITE of Ohio. I ask unanimous consent to extend my remarks in the RECORD and to include therein a newspaper article on the farm bill.

The SPEAKER. Is there objection?

There was no objection.

Mr. SHAFER of Michigan. I ask unanimous consent to extend my own remarks on the wage and hour bill.

The SPEAKER. The gentleman already has that privilege.

Mr. JENKINS of Ohio. Mr. Speaker, I ask unanimous consent to extend my remarks and to insert a resolution by a farm group in my State.

The SPEAKER. Is there objection?

There was no objection.

Mr. PHILLIPS. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and insert therein correspondence I have had with the President and various members of the Cabinet on the subject of helium and its export.

The SPEAKER. Is there objection?

There was no objection.

LEAVE TO ADDRESS THE HOUSE

Mrs. ROGERS of Massachusetts. Mr. Speaker, I ask unanimous consent to address the House for 15 minutes after any special orders heretofore made and the conclusion of the legislative program on Thursday next.

The SPEAKER. Is there objection?

There was no objection.

PERSONAL EXPLANATION

Mrs. NORTON. Mr. Speaker, I ask unanimous consent to proceed for half a minute.

The SPEAKER. Is there objection.

There was no objection.

Mrs. NORTON. Mr. Speaker, I do this to express my very grateful appreciation to the members of the Committee on Labor and the Members of the House for the splendid support I have had throughout this entire bill.

Also, I have had a message from the gentlewoman from New York, Mrs. O'DAY, who has been quite ill, asking me to say that if she were present she would have voted for the bill.

Also, Mr. Speaker, the gentleman from Indiana, Mr. GRISWOLD, regrets very much that he was unable to be present

today and wants me to say that if he had been present he would have voted for the bill.

ENROLLED JOINT RESOLUTION AND BILLS SIGNED

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H. J. Res. 678. Joint resolution making an additional appropriation for grants to States for unemployment compensation administration, Social Security Board, for the fiscal year ending June 30, 1938.

The Speaker announced his signature to enrolled rolls of the Senate of the following titles:

S. 3526. An act to refund sums paid by the railroads and other carriers of the United States under the Railroad Retirement Act of 1934; and

S. 3949. An act to amend the Agricultural Adjustment Act of 1938.

JOINT RESOLUTION 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 joint resolution of the House of the following title:

H. J. Res. 678. Joint resolution making an additional appropriation for grants to States for unemployment compensation administration, Social Security Board, for the fiscal year ending June 30, 1938.

ADJOURNMENT

Mrs. NORTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 52 minutes p. m.) the House adjourned until tomorrow, Wednesday, May 25, 1938, at 12 o'clock noon.

COMMITTEE HEARINGS

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

There will be a meeting of the Committee on Interstate and Foreign Commerce, at 10 a. m. Wednesday, May 25, 1938. Business to be considered: Hearing on H. R. 10348, foreign radio-telegraph communication.

There will be a meeting of the Committee on Interstate and Foreign Commerce at 10 a. m. Thursday, May 26, 1938. Business to be considered: Hearing on H. R. 10127, railroad unemployment insurance.

COMMITTEE ON THE DISTRICT OF COLUMBIA

The Subcommittee on Public Health of the Committee on the District of Columbia will meet Wednesday, May 25, 1938, at 10:30 a. m., in room 345, House Office Building, to consider H. R. 10341, amending Dental Practice Act.

COMMITTEE ON IMMIGRATION AND NATURALIZATION

The Committee on Immigration and Naturalization will hold executive hearings Wednesday, May 25, 1938, at 10:30 a. m., in room 445, House Office Building, for the consideration of H. R. 9907, and other unfinished business.

COMMITTEE ON THE POST OFFICE AND POST ROADS

A hearing will be conducted by the full Committee on the Post Office and Post Roads at 10:30 a. m. Thursday, May 26, 1938, on H. R. 9917, obscene literature.

COMMITTEE ON FOREIGN AFFAIRS

There will be a meeting of the Committee on Foreign Affairs in the Capitol Building May 25, 1938, at 10 a. m. to consider the following: S. 3104, claims, Republic of Mexico; H. R. 9933, Golden Gate International Exposition; H. R. 10687, certain citizens, American republics, education.

COMMITTEE ON NAVAL AFFAIRS

There will be a full open hearing before the Committee on Naval Affairs at 10:30 a. m. Wednesday, May 25, 1938, on H. R. 10722, to authorize the attendance of the Marine Band at the national encampment of the Grand Army of the Republic to be held at Des Moines, Iowa, September 4 to 8, inclusive, 1938.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of the rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1378. A communication from the President of the United States, transmitting a record of a judgment rendered against the Government by the United States district court, as submitted by the Attorney General through the Secretary of the Treasury, and which requires an appropriation amounting to $4,885.83 (H. Doc. No. 684); to the Committee on Appropriations and ordered to be printed.

1379. A communication from the President of the United States, transmitting a record of judgment rendered against the Government by the United States district court as submitted by the Attorney General through the Secretary of the Treasury, and which requires an appropriation amounting to $4,800 (H. Doc. No. 685); to the Committee on Appropriations and ordered to be printed.

1380. A communication from the President of the United States, transmitting a list of judgments rendered by the Court of Claims, which have been submitted by the Attorney General through the Secretary of the Treasury and require an appropriation for their payment amounting to $37,688.53 (H. Doc. No. 686); to the Committee on Appropriations and ordered to be printed.

1381. A letter from the Chairman of the Reconstruction Finance Corporation, transmitting the report of the activities of the Reconstruction Finance Corporation for the month of April 1938 (H. Doc. No. 687); to the Committee on Banking and Currency and ordered to be printed.

1382. A letter from the Acting Secretary of Commerce, transmitting the draft of a proposed act to amend the act of March 2, 1929, entitled "An act to establish load lines for American vessels, and for other purposes"; to the Committee on Merchant Marine and Fisheries.

1383. A letter from the Acting Secretary of the Interior, transmitting one copy of the legislation passed by the Municipal Council of St. Thomas and St. John, and approved by the Acting Governor of the Virgin Islands; to the Committee on Insular Affairs.

1384. A letter from the Secretary of Agriculture, transmitting the draft of a bill to authorize the Secretary of the Treasury to make and carry out agreements of indemnity to banks paying him moneys to cover checks or drafts issued by such banks payable to the United States or any agency or officer thereof which have been or may be lost or destroyed; to the Committee on Expenditures in the Executive Departments.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. ATKINSON: Committee on Claims. H. R. 9202. A bill for the relief of certain disbursing officers of the United States and certain officers and employees of the Interior Department; with amendment (Rept. No. 2446). Referred to the Committee of the Whole House on the state of the Union.

Mr. GEARHART: Committee on the Disposition of Executive Papers. House Report 2447. Report on the disposition of executive papers in the Treasury Department. Ordered to be printed.

Mr. GEARHART: Committee on the Disposition of Executive Papers. House Report 2448. Report on the disposition of executive papers in the Department of the Interior. Ordered to be printed.

Mr. GEARHART: Committee on the Disposition of Executive Papers. House Report 2449. Report on the disposition of executive papers in the Post Office Department. Ordered to be printed.

Mr. GEARHART: Committee on the Disposition of Executive Papers. House Report 2450. Report on the disposition of executive papers in the Veterans' Administration. Ordered to be printed.

Mr. GEARHART: Committee on the Disposition of Executive Papers. House Report 2451. Report on the disposition of executive papers in the Home Owners' Loan Corporation. Ordered to be printed.

Mr. GEARHART: Committee on the Disposition of Executive Papers. House Report 2452. Report on the disposition of executive papers in the Panama Canal. Ordered to be printed.

Mr. GEARHART: Committee on the Disposition of Executive Papers. House Report 2453. Report on the disposition of executive papers in the Works Progress Administration. Ordered to be printed.

Mr. GEARHART: Committee on the Disposition of Executive Papers. House Report 2454. Report on the disposition of executive papers in the Department of Agriculture. Ordered to be printed.

Mr. GEARHART: Committee on the Disposition of Executive Papers. House Report 2455. Report on the disposition of executive papers in the Department of Commerce. Ordered to be printed.

Mr. GEARHART: Committee on the Disposition of Executive Papers. House Report 2456. Report on the disposition of executive papers in the Civil Service Commission. Ordered to be printed.

Mr. DINGELL: Committee on Ways and Means. H. R. 9610. A bill to amend the National Firearms Act; with amendment (Rept. No. 2457). Referred to the Committee of the Whole House on the state of the Union.

Mr. KELLER: Committee on the Library. S. 3699. An act authorizing the Library of Congress to acquire by purchase, or otherwise, the whole, or any part, of the papers of Charles Cotesworth Pinckney and Thomas Pinckney, including therewith a group of documents relating to the Constitutional Convention of 1787, now in the possession of Harry Stone, of New York City; without amendment (Rept. No. 2458). Referred to the Committee of the Whole House on the state of the Union.

Mr. BATES: Committee on Naval Affairs. S. 2276. An act to provide for an additional midshipman at the United States Naval Academy, and for other purposes; without amendment (Rept. No. 2459). Referred to the Committee of the Whole House on the state of the Union.

Mr. MAY: Committee on Military Affairs. S. 3095. An act authorizing the Secretary of War to grant to the Coos County Court of Coquille, Oreg., and the State of Oregon an easement with respect to certain lands for highway purposes; without amendment (Rept. No. 2461). Referred to the Committee of the Whole House on the state of the Union.

Mr. MAY: Committee on Military Affairs. S. 3126. An act authorizing the Secretary of War to convey a certain parcel of land in Tillamook County, Oreg., to the State of Oregon to be used for highway purposes; without amendment (Rept. No. 2462). Referred to the Committee of the Whole House on the state of the Union.

Mr. MAY: Committee on Military Affairs. Senate Joint Resolution 243. Joint resolution to provide for the transfer of the Cape Henry Memorial site in Fort Story, Va., to the Department of the Interior; without amendment (Rept. No. 2463). Referred to the Committee of the Whole House on the state of the Union.

Mr. DELANEY: Committee on Naval Affairs. H. R. 9258. A bill to authorize the Secretary of the Navy to accept on behalf of the United States certain land in the city of Los Angeles, Calif., with improvements thereon; with amendment (Rept. No. 2464). Referred to the Committee of the Whole House on the state of the Union.

Mr. MAAS: Committee on Naval Affairs. H. R. 10594. A bill to provide for the creation, organization, administration, and maintenance of a Naval Reserve and a Marine Corps Reserve; with amendment (Rept. No. 2465). Referred to the Committee of the Whole House on the state of the Union.

Mr. MAY: Committee on Military Affairs. S. 3209. An act to authorize the Secretary of War to grant an easement to the city of Highwood, Lake County, Ill., in and over certain portions of the Fort Sheridan Military Reservation, for the purpose of constructing a waterworks system; without amendment (Rept. No. 2467). Referred to the Committee of the Whole House on the state of the Union.

Mr. MAY: Committee on Military Affairs. S. 3242. An act to aid in providing a permanent mooring for the battleship *Oregon;* without amendment (Rept. No. 2468). Referred to the Committee of the Whole House on the state of the Union.

Mr. THOMASON of Texas: Committee on Military Affairs. H. R. 10154. A bill to authorize the Secretary of War to lend War Department equipment for use at the 1938 National Encampment of Veterans of Foreign Wars of the United States to be held in Columbus, Ohio, from August 21 to August 26, 1938; without amendment (Rept. No. 2469). Referred to the Committee of the Whole House on the state of the Union.

Mr. MAY: Committee on Military Affairs. H. R. 10605. A bill to authorize the appropriation of funds for the development of rotary-winged aircraft; without amendment (Rept. No. 2470). Referred to the Committee of the Whole House on the state of the Union.

Mr. CELLER: Committee on the Judiciary. S. 3820. An act to authorize membership on behalf of the United States in the International Criminal Police Commission; without amendment (Rept. No. 2471). Referred to the Committee of the Whole House on the state of the Union.

Mr. RAMSAY: Committee on the Judiciary. S. 3684. An act to provide for the holding of terms of the district courts of the United States for West Virginia at Fairmont and Beckley; with amendment (Rept. No. 2472). Referred to the Committee of the Whole House on the state of the Union.

Mr. WALTER: Committee on the Judiciary. H. R. 9468. A bill to amend the act of May 13, 1936, providing for terms of the United States district court at Wilkes-Barre, Pa.; without amendment (Rept. No. 2473). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. CASE of South Dakota: Committee on Claims. H. R. 725. A bill for the relief of Edwin L. Wade; with amendment (Rept. No. 2434). Referred to the Committee of the Whole House.

Mr. THOMAS of New Jersey: Committee on Claims. H. R. 4115. A bill for the relief of Roy M. Young; with amendment (Rept. No. 2435). Referred to the Committee of the Whole House.

Mr. ATKINSON: Committee on Claims. H. R. 7991. A bill for the relief of Anna Mattil and others; with amendment (Rept. No. 2436). Referred to the Committee of the Whole House.

Mr. ROCKEFELLER: Committee on Claims. H. R. 9132. A bill for the relief of Celia Koehler; with amendment (Rept. No. 2437). Referred to the Committee of the Whole House.

Mr. COFFEE of Washington: Committee on Claims. H. R. 9282. A bill for the relief of the estate of D. B. Carter, of Richmond, Va.; with amendment (Rept. No. 2438). Referred to the Committee of the Whole House.

Mr. EBERHARTER: Committee on Claims. H. R. 9451. A bill for the relief of Russell Anderegg, a minor, and George W. Anderegg; with amendment (Rept. No. 2439). Referred to the Committee of the Whole House.

Mr. SMITH of Washington: Committee on Claims. H. R. 9543. A bill for the relief of Mr. and Mrs. Harold E. Theriault; with amendment (Rept. No. 2440). Referred to the Committee of the Whole House.

Mr. EBERHARTER: Committee on Claims. H. R. 9640. A bill for the relief of Shoshone Garage; with amendment (Rept. No. 2441). Referred to the Committee of the Whole House.

Mr. SMITH of Washington: Committee on Claims. H. R. 9888. A bill for the relief of William Henry Johnston, Jr.;

with amendment (Rept. No. 2442). Referred to the Committee of the Whole House.

Mr. RYAN: Committee on Claims. S. 1987. An act for the relief of George J. Leatherwood; with amendment (Rept. No. 2443). Referred to the Committee of the Whole House.

Mr. RYAN: Committee on Claims. S. 2890. An act for the relief of the parents of Clarence Daniel; with amendment (Rept. No. 2444). Referred to the Committee of the Whole House.

Mr. POAGE: Committee on Claims. S. 3587. An act for the relief of Mr. and Mrs. P. F. Nixon, parents of Herschel Lee Nixon, deceased minor son; without amendment (Rept. No. 2445). Referred to the Committee of the Whole House.

Mr. MAVERICK: Committee on Military Affairs. S. 2594. An act authorizing the President of the United States to summon Sam Alexander before an Army retiring board, and for other purposes; without amendment (Rept. No. 2460). Referred to the Committee of the Whole House.

Mr. MAVERICK: Committee on Military Affairs. S. 1564. An act for the relief of Charles D. Birkhead; without amendment (Rept. No. 2466). Referred to the Committee of the Whole House.

CHANGE OF REFERENCE

Under clause 2 of rule XXII, the Committee on Invalid Pensions was discharged from the consideration of the bill (H. R. 10498) granting a pension to Agnes Helen Van Horn, and the same was referred to the Committee on World War Veterans' Legislation.

PUBLIC BILLS AND RESOLUTIONS

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

By Mr. CELLER: A bill (H. R. 10734) repealing the act of July 31, 1912, prohibiting the importation and the interstate transportation of films or other pictorial representations of prize fights, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. LAMNECK: A bill (H. R. 10735) to extend the act of December 17, 1919, granting gratuities to dependents of members of the Regular Army dying from wounds or disease, to members of the Officers' Reserve Corps, United States Army; to the Committee on Military Affairs.

By Mr. O'BRIEN of Michigan: A bill (H. R. 10736) to amend section 2169, United States Revised Statutes, being title 8, section 359, United States Code; to the Committee on Immigration and Naturalization.

By Mr. MAVERICK: A bill (H. R. 10737) to authorize the Secretary of War to grant rights-of-way for highway purposes and necessary storm sewer and drainage ditches incident thereto upon and across Kelly Field, a military reservation in the State of Texas; to authorize an appropriation for construction of the road, storm sewer, drainage ditches, and necessary fence lines; to the Committee on Military Affairs.

By Mr. McREYNOLDS (by request): A bill (H. R. 10738) to meet the cost of travel and transportation of household effects of Government employees transferred other than by their own request; to the Committee on Expenditures in the Executive Departments.

By Mr. WALTER: A bill (H. R. 10739) granting the consent of Congress to the State of New Jersey and the Commonwealth of Pennsylvania to enter into compacts or agreements with respect to constructing, maintaining, and operating a vehicular tunnel under the Delaware River; to the Committee on Interstate and Foreign Commerce.

By Mr. SOUTH: A bill (H. R. 10751) to authorize the transfer of 5.88 acres of land by the Veterans' Administration to the American Legion, Department of Texas; to the Committee on World War Veterans' Legislation.

By Mr. BLAND: House Resolution (H. Res. 505) for the consideration of H. R. 10650; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. BELL: A bill (H. R. 10740) granting a pension to Buena Vista McGannon; to the Committee on Pensions.

By Mr. BUCKLER of Minnesota: A bill (H. R. 10741) granting a pension to Marion L. Sargent; to the Committee on Invalid Pensions.

By Mr. CARLSON: A bill (H. R. 10742) granting a pension to Clara Belle Cross; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10743) granting an increase of pension to Maria J. Drabing; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10744) granting a pension to Deana Cross; to the Committee on Invalid Pensions.

By Mr. CASE of South Dakota: A bill (H. R. 10745) for the relief of Mr. and Mrs. Glen Kresha; to the Committee on Claims.

By Mr. CELLER: A bill (H. R. 10746) for the relief of Nicholas Geissler and Eva Geissler; to the Committee on Immigration and Naturalization.

Also, a bill (H. R. 10747) for the relief of Mr. and Mrs. Peter Galatro, parents of Michael Galatro, deceased minor son; to the Committee on Claims.

Also, a bill (H. R. 10748) for the relief of Anna Kusintzow, nee Anna Shephard; to the Committee on Immigration and Naturalization.

By Mr. EBERHARTER: A bill (H. R. 10749) for the relief of Herman Markowitz; to the Committee on Claims.

By Mr. GAMBRILL of Maryland: A bill (H. R. 10750) for the relief of Kenneth Armstrong; to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

5223. By Mr. FITZPATRICK: Petition of Locals Nos. 60, 61, 62, 65, and 66 of the United Shoe Workers of America of the Committee for Industrial Organization, endorsing the President's recovery program; to the Committee on Ways and Means.

5224. Also, petition of Locals Nos. 60, 61, 62, 65, and 66 of the United Shoe Workers of America of the Committee for Industrial Organization, urging the immediate enactment of the Wagner bill (S. 3390), which would force Federal officials to obey the law of the land and buy only from firms complying with the National Labor Relations Act; to the Committee on Labor.

5225. Also, petition of Locals Nos. 60, 61, 62, 65, and 66 of the United Shoe Workers of America of the Committee for Industrial Organization, urging the immediate enactment of the wage and hour bill, which would put a floor to wages and a roof to hours, thus increasing purchasing power and spreading the work; to the Committee on Labor.

5226. By Mr. FULMER: Resolution of the Richland County Bar Association, of Columbia, S. C., submitted by N. Heyward Clarkson, Jr., secretary, endorsing and approving the establishment of the third Federal district within the State of South Carolina with the clerk's office therefor at Columbia, S. C.; to the Committee on the Judiciary.

5227. By Mr. LAMBERTSON: Petition of Mrs. J. R. Whitaker and 104 other Shawnee County (Kans.) citizens, urging the Members of Congress not to enact into law the plan of the President of the United States to expend the vast sum of $7,500,000,000 in his so-called pump priming, and the enactment of taxation legislation which will permit business to employ once more the many millions of idle workmen in the production of articles of commerce, foodstuffs, and livestock so sorely needed by the citizens of this country; to the Committee on Ways and Means.

5228. By Mr. MERRITT: Resolution of the New York State Association of Manufacturing Retail Bakers, in convention, "that the Government withdraw from direct and competitive private business and eliminate radical and one-sided labor

legislation; that relief be given only to the aged, sick, lame, and disabled, and all others shall be compensated only for an honest day's work; and that the consuming public income should be created through real work and earnings instead of relief checks, thereby decreasing taxes and easing the minds of all Americans"; to the Committee on Labor.

5229. By Mr. SEGER: Petition of approximately 400 citizens of Paterson, N. J., and vicinity, submitted through the Paterson Morning Call, for enactment of the wage and hour bill; to the Committee on Labor.

5230. By the SPEAKER: Petition of the County Board of Lake of the Woods County, State of Minnesota, requesting consideration of their resolution dated May 18, 1938, with reference to House bill 4199, known as the General Welfare Act; to the Committee on Ways and Means.

5231. Also, petition of the Ladies Auxiliary, Switchmen's Union of North America, requesting consideration of their resolution with reference to railroad regulations; to the Committee on Interstate and Foreign Commerce.

5232. Also, petition of Louisiana Public Welfare Association, Baton Rouge, La., requesting consideration of their resolution dated April 30, 1938, with reference to social security; to the Committee on Ways and Means.

5233. Also, petition of the Board of County Commissioners of Skagit County, Wash., requesting consideration of their resolution with reference to House bill 4199, known as the General Welfare Act; to the Committee on Ways and Means.

5234. Also, petition of Nebraska Home Owners Association and the Women's Economic Federation, Omaha, Nebr., requesting consideration of their resolution dated May 20, 1938, with reference to the President's job relief program; to the Committee on Appropriations.

5235. Also, petition of Kern County Council, Labor's Nonpartisan League, Bakersfield, Calif., requesting consideration of their resolution with reference to appointing a commission to offer arbitration to the American Federation of Labor and the Committee for Industrial Organization; to the Committee on Labor.

SENATE

WEDNESDAY, MAY 25, 1938

(Legislative day of Wednesday, April 20, 1938)

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

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Tuesday, May 24, 1938, was dispensed with, and the Journal was approved.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Calloway, one of its reading clerks, announced that the House had passed the bill (S. 2475) to provide for the establishment of fair labor standards in employments in and affecting interstate commerce, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

STANDARDS OF WAGES AND HOURS OF LABOR

Mr. HARRISON. Mr. President, I rise to a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. HARRISON. I inquire what disposition will be made for the present of the measure which has just been transmitted to the Senate by the message from the House?

Mr. BARKLEY. Mr. President, I was going to suggest that it lie on the table in order that I may confer with members of the committee as to what disposition should be made of it.

The VICE PRESIDENT. Unless some motion is made from the floor, the Chair will hold the message and the bill on the table.

Mr. HARRISON. I hope before any motion is made that at least someone will let me know so that I may be in the Chamber, for I have so many duties to perform that it is difficult for me to be here constantly, and I should like to know about the measure and the disposition proposed of it.

The VICE PRESIDENT. Without objection, the message and the bill transmitted by it will lie on the table.

CALL OF THE ROLL

Mr. LEWIS. Mr. President, in order to secure the presence of a quorum, I suggest that the roll be called.

The VICE PRESIDENT. The clerk will call the roll.

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

Adams	Dieterich	King	Pepper
Andrews	Donahey	La Follette	Pittman
Austin	Duffy	Lee	Pope
Bailey	Ellender	Lewis	Radcliffe
Bankhead	Frazier	Lodge	Reynolds
Barkley	George	Logan	Russell
Berry	Gerry	Lonergan	Schwartz
Bilbo	Gibson	Lundeen	Schwellenbach
Bone	Gillette	McAdoo	Sheppard
Borah	Glass	McCarran	Shipstead
Brown, Mich.	Green	McGill	Smith
Brown, N. H.	Guffey	McKellar	Thomas, Utah
Bulkley	Hale	McNary	Townsend
Bulow	Harrison	Maloney	Truman
Byrd	Hatch	Miller	Vandenberg
Byrnes	Hayden	Milton	Van Nuys
Capper	Herring	Minton	Wagner
Caraway	Hill	Murray	Walsh
Chavez	Hitchcock	Neely	Wheeler
Clark	Holt	Norris	White
Connally	Hughes	Nye	
Copeland	Johnson, Calif.	O'Mahoney	
Davis	Johnson, Colo.	Overton	

Mr. LEWIS. I announce that the Senator from Arizona [Mr. ASHURST] and the Senator from Oregon [Mr. REAMES] are detained from the Senate because of illness.

The Senator from Nebraska [Mr. BURKE], the Senator from Oklahoma [Mr. THOMAS], and the Senator from Maryland [Mr. TYDINGS] are detained on important public business.

The Senator from New Jersey [Mr. SMATHERS] is unavoidably detained from the Senate.

Mr. AUSTIN. I announce that the Senator from New Hampshire [Mr. BRIDGES] is absent because of the death of his wife.

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

PETITIONS

Mr. HOLT presented a resolution adopted by the Common Council of the City of Morgantown, W. Va., favoring the making of an appropriation of $2,000,000,000 for the use of national mortgage associations, provided for by law, to buy urban home mortgages amortized over a period of 34½ years, at 4-percent interest; and further to secure the reduction of the interest rate on Home Owners' Loan Corporation mortgages to 4 percent, with an option to borrowers to have their amortization periods changed to 34½ years, which was referred to the Committee on Banking and Currency.

Mr. VANDENBERG presented petitions of sundry citizens of the State of Michigan, which were ordered to lie on the table, and one of the petitions was ordered to be printed in the RECORD, without the signatures, as follows:

CAMDEN, MICH., *May 19, 1938.*

To the Honorable ARTHUR H. VANDENBERG:

We, the undersigned, legal voters of Michigan, petition you to do all in your power to repeal the Crop Control and Wagner Acts, and to defeat the hour and wage bill; also, we urge you to use your influence to bring about a tariff high enough on farm products to create for the United States of America a favorable balance of trade.

PROMOTION OF PEACE—PETITION

Mr. AUSTIN. Mr. President, I wish to read the short text of a petition of young people, students, men and women, of Middlebury College. It starts with a quotation from Cordell Hull, Secretary of State, as follows:

What is most of all at stake today throughout the world is the future of the fundamental principle which must be the foundation of international order as opposed to international anarchy. (Secretary of State Cordell Hull, March 17, 1938.)