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UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 76th CONGRESS, FIRST SESSION

SENATE

FRIDAY, JULY 14, 1939

(Legislative day of Monday, July 10, 1939)

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

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

O Thou who abidest beyond all change, who art always better than our highest hopes and greater than our noblest thoughts, show us, we beseech Thee, how we may better serve Thee who hast made us in Thine image; and, in all our strivings for the Nation's weal, may we be conscious of our ability to meet the high demands of public service because of Thine indwelling.

Bless every citizen of our beloved country; make us all worthy of our freedom and faithful to our trust; and give us a wide and vivid sympathy for others, lest we forget the long suffering of Thy love toward us. Bestow upon us all the unmeasured gift of peace; keep us pure in thought, in word, and in deed, and grant that we may be a power for righteousness among our fellow men as the lesser things of time and sense fade before the vision of the perfect Man, Jesus Christ, Thy Son, our Lord. Amen.

THE JOURNAL

On request of Mr. MINTON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Thursday, July 13, 1939, was dispensed with, and the Journal was approved.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate, by Mr. Latta, one of his secretaries.

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 joint resolution (S. J. Res. 118) to provide for the establishment and maintenance of the Franklin D. Roosevelt Library, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the following concurrent resolutions of the Senate:

Senate Concurrent Resolution 24

Resolved by the Senate (the House of Representatives concurring), That there be printed 12,000 additional copies of Senate Report No. 610, a report of a subcommittee of the Committee on Finance submitted pursuant to Senate Resolution 215 (75th Cong.), entitled "Survey of Experiences in Profit Sharing and Possibilities of Incentive Taxation," of which 1,000 copies shall be for the use of the Senate document room, 10,000 copies for the use of the Senate Committee on Finance, and 1,000 copies for the House document room.

Senate Concurrent Resolution 25

Resolved by the Senate (the House of Representativec concurring), That, in accordance with paragraph 3 of section 2 of the Printing Act, approved March 1, 1907, the Committee on Finance of the Senate be, and is hereby, authorized and empowered to have printed for its use 10,000 additional copies of the hearings held before a subcommittee of said committee during the Seventy-fifth Congress pursuant to the resolution (S. Res. 215) providing for an investigation of existing profit-sharing systems between employers and employees in the United States.

Senate Concurrent Resolution 26

Resolved by the Senate (the House of Representatives concurring), That, in accordance with paragraph 3 of section 2 of the Printing Act approved March 1, 1907, the Committee on Interstate Commerce of the Senate be, and is hereby, authorized and empowered to have printed for its use 1,000 additional copies of the hearings held before said committee during the current session on the bill (S. 2009) entitled "Transportation Act of 1939."

The message further announced that the House had agreed to a concurrent resolution (H. Con. Res. 29), in which it requested the concurrence of the Senate, as follows:

Resolved by the House of Representatives (the Senate concurring), That there be printed with illustrations and bound, in such form and style as may be directed by the Joint Committee on Printing, the proceedings in Congress at the unveiling in the rotunda, together with such other matter as the joint committee may deem pertinent thereto, upon the occasion of the acceptance of the statue of Will Rogers, presented by the State of Oklahoma, 5,200 copies, of which 1,000 copies shall be for the use of the Senate and 2,700 copies for the use of the House of Representatives, and the remaining 1,500 copies shall be for the use of and distribution by the Senators and Representatives in Congress from the State of Oklahoma.

SEC. 2. The Joint Committee on Printing is hereby authorized to have the copy prepared for the Public Printer, who shall provide suitable illustrations to be bound with these proceedings.

The message returned to the Senate, in compliance with its request, the joint resolution (S. J. Res. 155) consenting to an interstate oil compact to conserve oil and gas.

CALL OF THE ROLL

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

The VICE PRESIDENT. The clerk will call the roll.

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

Adams	Burke	Frazier	Hatch
Andrews	Byrd	George	Hayden
Ashurst	Capper	Gerry	Herring
Austin	Chavez	Gibson	Hill
Barbour	Clark, Idaho	Gillette	Holman
Barkley	Clark, Mo.	Glass	Holt
Bilbo	Danaher	Green	Hughes
Bone	Davis	Guffey	Johnson, Calif.
Borah	Donahey	Gurney	Johnson, Colo.
Bridges	Downey	Hale	King
Bulow	Ellender	Harrison	La Follette

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Lee	Neely	Schwellenbach	Truman
Lodge	Norris	Sheppard	Tydings
Lucas	Nye	Shipstead	Vandenberg
Lundeen	O'Mahoney	Slattery	Van Nuys
McKellar	Overton	Smith	Wagner
McNary	Pittman	Stewart	Walsh
Maloney	Radcliffe	Taft	Wheeler
Mead	Reed	Thomas, Okla.	White
Miller	Reynolds	Thomas, Utah	Wiley
Minton	Russell	Tobey	
Murray	Schwartz	Townsend	

Mr. MINTON. I announce that the Senator from New Jersey [Mr. SMATHERS] is detained from the Senate because of illness in his family.

The Senator from North Carolina [Mr. BAILEY], the Senator from Alabama [Mr. BANKHEAD], the Senator from Michigan [Mr. BROWN], the Senator from South Carolina [Mr. BYRNES], the Senator from Arkansas [Mrs. CARAWAY], the Senator from Texas [Mr. CONNALLY], the Senator from Kentucky [Mr. LOGAN], the Senator from Nevada [Mr. McCARRAN], and the Senator from Florida [Mr. PEPPER], are absent on important public business.

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

AMENDMENT TO ARMY RETIREMENT ACT

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 839) to amend the Retirement Act of April 23, 1904.

Mr. SHEPPARD. Mr. President, I move that the bill and amendment be referred to the Senate Committee on Military Affairs.

The motion was agreed to.

PROBATIONARY APPOINTMENT OF REGULAR ARMY OFFICERS

The VICE PRESIDENT laid before the Senate the bill (S. 1155) to provide for probationary appointment of officers in the Regular Army.

Mr. SHEPPARD. I move that the bill and the amendment of the House be referred to the Committee on Military Affairs.

The motion was agreed to.

LANDS IN ALASKA FOR PARK AND OTHER PURPOSES

The VICE PRESIDENT laid before the Senate a letter from the Secretary of the Interior, transmitting a draft of proposed legislation to authorize the Secretary of the Interior to sell or lease for park or recreational purposes, and to sell for cemetery purposes, certain public lands in Alaska, which, with the accompanying paper, was referred to the Committee on Public Lands and Surveys.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate a resolution adopted by the Washington (D. C.) Youth Council, protesting against the lengthening of W. P. A. hours of labor, and favoring the prompt reestablishment of the Federal Theater under the W. P. A., and also that the 25-percent local sponsorship of Federal art projects be withdrawn, and so forth, which was referred to the Committee on Appropriations.

He also laid before the Senate a resolution of the Council of the City of Garfield Heights, Cuyahoga County, Ohio, favoring the enactment of legislation to liberalize the provisions of the recently enacted relief and work relief joint resolution, which was referred to the Committee on Appropriations.

He also laid before the Senate a letter from the Federation of Citizens' Associations of the District of Columbia, signed by its president, L. A. Carruthers, protesting against the enactment of legislation to reorganize the government of the District of Columbia without a reasonable opportunity to study the proposed legislation and to hold hearings thereon, which was referred to the Committee on the District of Columbia.

Mr. WALSH presented a resolution of the City Council of Fall River, Mass., favoring the adoption of a policy that all American flags bought, sold, and displayed be made in America, which was referred to the Committee on the Judiciary.

REGULATION OF CONDUCT OF FEDERAL JUDGES—PETITION

Mr. MEAD. Mr. President, I ask unanimous consent to have printed in the RECORD, and appropriately referred, a petition directed to Congress and to all State and local bar associations of the United States, the petition being signed by the special judiciary committee of the Federal Bar Association of New York, New Jersey, and Connecticut. It has to do with the opposition of this bar association to the enactment of the so-called Chandler bill, House bill 4038, to amend the criminal law to make certain necessary lawful official acts of Federal judges high misdemeanors.

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

Pursuant to resolutions adopted at a regular business meeting of the Federal Bar Association of New York, New Jersey, and Connecticut, held on May 2, 1939, in the Federal courthouse, Foley Square, New York City, at which the association unanimously condemned the Chandler bill, H. R. 4038, the president of the association, Henry Ward Beer, was directed to forward a copy of the resolutions to all members of the Judiciary Committees of the United States Senate and House of Representatives and to appoint a committee of nine members of the association to draft a petition to Congress on behalf of the association and to invite all State and local bar associations of the United States and other parties interested, to take immediate and active steps to prevent the enactment of the Chandler bill, H. R. 4038.

The petition drafted by said committee is herewith submitted to the Congress. Copies thereof are being sent to all State and local bar associations throughout the United States and to others whom it may concern, urging them to adopt and send to Congress like resolutions and actively to oppose the Chandler bill and all similar bills for the reasons set forth in said petition.

Respectfully submitted.

HENRY WARD BEER,
President, Federal Bar Association of New York, New Jersey, and Connecticut, 29 Broadway, New York, N. Y.

NEW YORK CITY, *May 18, 1399.*

In the Congress of the United States of America

PETITION OF THE FEDERAL BAR ASSOCIATION OF NEW YORK, NEW JERSEY, AND CONNECTICUT

To the Congress of the United States of America.
To all State and local bar associations of the United States.
To all others whom it may concern:

Against the enactment of the Chandler bill (H. R. 4038) to amend the criminal law to make certain necessary lawful official acts of Federal judges high misdemeanors

(By the special judiciary committee of the association)

On behalf of the Federal Bar Association of New York, New Jersey, and Connecticut, and because the judges of the Federal court, whose integrity is impliedly attacked in the Chandler bill, to amend the criminal law, are unfortunately not in a position to defend themselves against the attacks implied in the bill, we are voluntarily writing this protest.

We have carefully read the Chandler bill now pending before the House Judiciary Committee as to the amendment of the law concerning the Federal judiciary. The recent exposures concerning a very few of the many members of that body of splendid men have doubtlessly inspired the presentation of what we regard as about as harmful a piece of legislation as we have known in a long time.

The Federal judiciary, taken as a whole, are the finest body of men to be found in any country. They are able, faithful, industrious and public spirited. This bill we regard as wholly unnecessary, and its passage would be a wanton reflection upon the integrity of the Federal judiciary, against which we feel it our duty to enter our vigorous protest.

The Federal judiciary have not, in our judgment, fallen so low in the estimation of our fellow countrymen as to warrant the serious consideration of this insulting assault. It is an attempt to indict and intimidate the Nation's judiciary. There are ample laws to control and punish a Federal judge who befouls the administration of justice in our Federal courts.

The provisions of the bill that make it a crime for a judge to accept bribes, directly or indirectly, or to practice law while holding judicial office, or to encourage or promote inexcusable delays in the administration of justice, are all eminently well cared for by our present laws.

As illustrating the recklessness and unwisdom of the proposed law—it would make a Federal judge guilty of a high misdemeanor if he were to talk to a lawyer regarding ex parte matters in the absence of the representative of the opposing party. There is no occasion for such an insinuation against the courts as is involved in this provision.

The opportunities afforded by this section for an unsuccessful party to blackmail our judges can readily be imagined.

Another provision of the proposed law makes it a criminal offense for any Federal judge so to administer his judicial duties as to result in his being promoted to a higher court. That is about as loose and

foolish a provision as could possibly be imagined. Under the construction apparently placed upon it by the architect of this remarkable piece of proposed legislation, if a judge by honesty of purpose, industry, and understanding of his judicial obligations so exercises his judicial talents as to become, as many are, outstanding and deserving of promotion, he will have violated section 12 of the proposed bill, which provides against administering the office in any respect for the purpose of advancing the personal ambition of the judge or to increase his popularity. If he strikes a popular response from his countrymen by discharging his duty in declaring an act of Congress either constitutional or unconstitutional, as the case may be, thereby meeting with public approval, he stands every chance of being charged with being a criminal.

The whole framework of the bill and its purpose reflect upon the entire judiciary. It is for that reason, and because these gentlemen are so situated that they are unable to protect themselves, that we have ventured to address Congress.

This same section 12 makes it a crime for a judge to take any interest in politics, which is an incident of citizenship and one that should be encouraged. In all the years of the existence of the Federal judiciary, we do not know of a single case where, in the exercise of their rights of citizenship, the participation of judges in politics has been abused. There are many instances in which eminent Federal judges have exercised that right to the benefit of the community and in which their efforts have been rewarded with recognition. As will be remembered, President Taft was a Federal circuit judge who later became President. And the present Chief Justice Hughes was a distinguished member of the United States Supreme Court and of his party before he became Chief Justice, but we never heard of any criticism of either of these gentlemen on that score. There could be none.

All in all the bill is an undeserved rebuke to as fine and courageous a body of men as are anywhere in the world to be found.

In no country have the people's faith in all their judges been so gloriously justified, and in no country are they more highly respected than with us. For a century and a half the United States has grown and developed under a system of jurisprudence unequaled in the world. That peace and order are the keynote of our society is due to the all-abiding faith in our judges and our courts which have guided the destinies of this Republic throughout our history.

We have inherited, and up to this date have enjoyed, an incorruptible judiciary. Those who are sponsoring this bill must be actuated by the fear that our Federal judiciary have suddenly become corrupt, which is untrue. Among the hundreds of Federal judges who have occupied the bench there are only a rare few against whom criticism is aimed. From time immemorial in our glorious history, whenever commotion, distress, and lawlessness shake the country, there is, and there always has been, one safe and quiet haven for our citizens: It is our Federal courts of justice as administered by our Federal judiciary. Nothing has yet happened or will happen in the future to disturb our love, pride, and affection for the men who wear the Federal robes.

To advocate that the Chandler bill become a law is to unjustifiably inflame public feeling, not only against the Federal judges but against the Government.

Accordingly, upon the direction of the Federal Bar Association of New York, New Jersey, and Connecticut, we herewith respectfully petition you to condemn and reject the Chandler bill as a measure that was projected without proper understanding of the patriotic pride of our Federal judges in their daily task. There is not, in our judgment, any basis for such passionate, exaggerated fears that manifest themselves in the proposed bill. To enact such a law would be to gravely reflect, without cause, upon our whole judicial system. The consequences of this implied challenge against the integrity of our Federal courts will, on the whole, be unwholesome, even though Congressman CHANDLER's motives be of the highest. We, on the contrary, should continue to unite the country by a common affection and good feeling for our judiciary, who, by the way, are not any too well paid for the services they render. The post is considered one of great honor and dignity and will, we hope, continue to be so regarded notwithstanding implied insults of this sort upon the character of our judiciary.

Trusting that further consideration of the bill will lead to its rejection on the ground that it implies an affront to the entire judicial system and that our laws are ample to protect our citizens against every possible breach of faith or duty on the part of our judiciary, we are,

Respectfully,

Samuel Untermyer, chairman; Merritt Lane, vice chairman; Morgan J. O'Brien, William S. Bennet, George W. Grimm, Jr., Arthur B. Weiss, Maxwell H. Goldstein, Harold St. L. O'Dougherty, George A. Arkwright, H. Harvey Harwood, special judiciary committee of the Federal Bar Association of New York, New Jersey, and Connecticut.

REPORTS OF COMMITTEES

Mr. WALSH, from the Committee on Naval Affairs, to which was referred the bill (S. 2723) to provide a posthumous advancement in grade for the late Ensign Joseph Hester Patterson, United States Navy, reported it without amendment and submitted a report (No. 791) thereon.

Mr. JOHNSON of Colorado, from the Committee on Military Affairs, to which was referred the bill (H. R. 6070) to amend section 5 of the act of April 3, 1939 (Public, No. 18, 76th Cong.), reported it without amendment and submitted a report (No. 792) thereon.

Mr. WHITE, from the Committee on Patents, to which was referred the bill (H. R. 153) to transfer jurisdiction over commercial prints and labels, for the purpose of copyright registration, to the Register of Copyrights, reported it with amendments and submitted a report (No. 793) thereon.

Mr. AUSTIN, from the Committee on Immigration, to which was referred the bill (S. 21) relating to the citizenship of Harry Ray Smith, reported it with amendments and submitted a report (No. 794) thereon.

Mr. WHEELER, from the Committee on Agriculture and Forestry, to which was referred the bill (S. 2410) relating to the development of farm units on public lands under Federal reclamation projects with funds furnished by the Farm Security Administration, reported it without amendment and submitted a report (No. 795) thereon.

Mr. KING (for Mr. McCARRAN), from the Committee on the District of Columbia, to which was referred the bill (H. R. 1982) to amend the act entitled "An act to classify officers and members of the Fire Department of the District of Columbia, and for other purposes," reported it without amendment and submitted a report (No. 796) thereon.

Mr. PITTMAN, from the Committee on Foreign Relations, to which was referred the bill (S. 2788) to amend the act entitled "An act for the grading and classification of clerks in the Foreign Service of the United States of America, and providing compensation therefor," approved February 23, 1931, as amended, reported it without amendment and submitted a report (No. 797) thereon.

SURPLUS PRODUCTS OF THE FISHING INDUSTRY—HOUSE BILL PLACED ON THE CALENDAR

Mr. CLARK of Missouri. Mr. President, the bill (H. R. 5681) to authorize the Federal Surplus Commodities Corporation to purchase and distribute surplus products of the fishing industry, recently passed the House and was referred to the Committee on Commerce of the Senate. It transpires that a similar Senate bill has heretofore been considered by the Committee on Agriculture and Forestry, that it has been reported, and is now on the calendar. I ask unanimous consent that the Committee on Commerce be discharged from the further consideration of House bill 5681 and that it be placed on the calendar.

The VICE PRESIDENT. Is there objection to the request of the Senator from Missouri? The Chair hears none, and it is so ordered.

BILLS AND JOINT RESOLUTIONS INTRODUCED

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

By Mr. SCHWELLENBACH:

S. 2800. A bill for the relief of Edward J. Ross; to the Committee on Claims.

By Mr. NEELY:

S. 2801. A bill to make Younghill Kang eligible for naturalization; to the Committee on Immigration.

By Mr. SHEPPARD:

S. 2802. A bill to amend the act entitled "An act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes," approved June 20, 1936; to the Committee on Education and Labor.

S. 2803. A bill for the relief of C. E. Hendrickson and the Stephenville Hospital, Stephenville, Tex.; to the Committee on Claims.

By Mr. MILLER:

S. 2804. A bill for the relief of the Arkansas State Penitentiary; to the Committee on Claims.

By Mr. RADCLIFFE:

S. 2805. A bill to authorize the attendance of the United States Naval Academy Band at the New York World's Fair on the day designated as Maryland Day at such fair; to the Committee on Naval Affairs.

By Mr. BONE:

S. 2806. A bill authorizing the Secretary of the Interior to make a survey of the possible means and feasibility of supplementing the water supply for irrigation of the Ahtanum Creek Valley in the State of Washington; to the Committee on Indian Affairs.

By Mr. RUSSELL:

S. 2807. A bill to extend to July 1, 1940, the time for filing claims for refunds of amounts paid as taxes under the Bankhead Cotton Act of 1934, the Kerr Tobacco Act, and the Potato Act of 1935; to the Committee on Appropriations.

By Mr. ANDREWS:

S. 2808. A bill to provide for the incorporation of the National Institute of Metals; to the Committee on the Judiciary.

By Mr. LUNDEEN:

S. J. Res. 170. Joint resolution to provide for negotiations by the President with a view to acquiring certain islands owned by the Republic of Mexico;

S. J. Res. 171. Joint resolution to provide for negotiations by the President with a view to acquiring certain islands owned by the Republic of Ecuador;

S. J. Res. 172. Joint resolution to provide for negotiations by the President with a view to acquiring Malpelo Island and Gorgona from the Republic of Colombia;

S. J. Res. 173. Joint resolution to provide for negotiations by the President with a view to acquiring certain islands owned by the Republic of Panama; and

S. J. Res. 174. Joint resolution to provide for negotiations by the President with a view to acquiring Cocos Island, Cano Island, and Isla San Lucas (Golfo de Nicoya) from the Republic of Costa Rica; to the Committee on Foreign Relations.

ESTABLISHMENT OF SELF-LIQUIDATING PROJECTS—AMENDMENTS

Mr. CLARK of Idaho (for himself and Mr. O'MAHONEY) submitted two amendments intended to be proposed by them to the bill (S. 2759) to provide for the construction and financing of self-liquidating projects, and for other purposes, which were referred to the Committee on Banking and Currency and ordered to be printed.

IRRIGATION OF AHTANUM CREEK VALLEY, WASH.

Mr. BONE submitted the following resolution (S. Res. 165), which was referred to the Committee on Indian Affairs:

Resolved, That the Attorney General is requested to stay proceedings for adjudication of the rights to the waters available for the irrigation of the Ahtanum Creek Valley in the State of Washington until such time as the Secretary of the Interior transmits to Congress a report upon a survey to be made by him with respect to the possible means and feasibility of supplementing the supply of water for irrigation of the irrigable lands in such valley.

A POLITICAL PREVIEW OF 1940—ADDRESS BY SENATOR GUFFEY

[Mr. TRUMAN asked and obtained leave to have printed in the RECORD a radio address delivered by Senator GUFFEY on July 13, 1939, entitled "A Political Preview of 1940," which appears in the Appendix.]

LIFE INSURANCE; THE AMERICAN WAY—ADDRESS BY SENATOR TAFT

[Mr. HOLMAN asked and obtained leave to have printed in the RECORD an address delivered by Senator TAFT before Philadelphia's golden birthday party for the National Association of Life Underwriters, sponsored by the Philadelphia Association of Life Underwriters, Philadelphia, April 28, 1939, which appears in the Appendix.]

FAILURE—ADDRESS BY FRANK GANNETT

[Mr. TOWNSEND asked and obtained leave to have printed in the RECORD a radio address entitled "Failure," delivered by Frank Gannett on Friday, June 30, 1939, which appears in the Appendix.]

THE CONSTITUTION—ADDRESSES BY LAURENCE H. REILLY AND JOHN H. BERMINGHAM

[Mr. MEAD asked and obtained leave to have printed in the RECORD Memorial Day addresses on the subject of the Constitution by Laurence H. Reilly and John H. Bermingham, which appear in the Appendix.]

MEMORIAL DAY ADDRESS BY ELMER L. FRAKER

[Mr. LEE asked and obtained leave to have printed in the RECORD an address entitled "Keep America Out of War," delivered on Memorial Day in Oklahoma Cemetery, Cherokee, Okla., by Elmer L. Fraker, which appears in the Appendix.]

TRIBUTE TO THE LATE JUSTICE CHARLES H. ROBB

[Mr. GIBSON asked and obtained leave to have printed in the RECORD an editorial from the Bellows Falls (Vt.) Times of July 13, paying tribute to the memory of the late Justice Charles H. Robb, of the United States Court of Appeals for the District of Columbia, which appears in the Appendix.]

ADMISSION OF REFUGEE CHILDREN

[Mr. REYNOLDS asked and obtained leave to have printed in the RECORD an article published in the Cincinnati Post of June 1, 1939, entitled "Jury of Opinion Against Admitting Refugee Children," which appears in the Appendix.]

RADIO AND ITS RELATION TO GOVERNMENT—ADDRESS BY HON. STEPHEN EARLY

[Mr. BARKLEY asked and obtained leave to have printed in the RECORD an address delivered before the convention of the National Association of Broadcasters at Atlantic City, N. J., on July 11, 1939, by Hon. Stephen Early, secretary to the President, on the subject Radio and Its Relation to Government, which appears in the Appendix.]

ORDER OF BUSINESS

Mr. NEELY obtained the floor.

Several Senators addressed the Chair.

Mr. NEELY. I will yield to Senators for the purpose of transacting routine business, provided no debate will thereby be occasioned, as I am anxious to proceed with the unfinished business, which is the so-called anti-block-booking and blind-selling bill.

CONVEYANCE OF CERTAIN EASEMENTS TO NEW YORK CITY

Mr. WALSH. Mr. President, on yesterday, during the legislative session of the day, and while the Social Security Act was under consideration, the senior Senator from New York [Mr. WAGNER] asked unanimous consent to have Senate bill 2662, Calendar No. 825, considered. The bill was taken up for consideration and passed. The Senator from Vermont [Mr. AUSTIN] made some inquiries as to whether or not the measure had been heard by a committee, and a short discussion—not on the merits of the bill, but as to procedure—took place and is printed in the RECORD.

Mr. President, before the Senator from Texas [Mr. CONNALLY], who is chairman of the Committee on Public Buildings and Grounds, left the city day before yesterday he handed me this bill to report; and, being a member of the committee, I reported it, and found that it was a bill which had been approved by polling the committee. Yesterday morning I received some letters from apparently public-spirited and reputable citizens of New York protesting against the bill. The Senator from Maine [Mr. HALE] and other Senators called my attention to similar letters which they had received, and indicated that the bill ought not to be passed without a hearing by the committee.

I thereupon talked with the Senator from New York [Mr. WAGNER] and showed him some of the letters. He said that they were a small group that were dissatisfied with the location of the bridge but that the authorities were all in favor of it. I asked him, accordingly, to write me a letter which I could show to the Senator from Maine and other members of the committee who had received these letters from New York and let me have the other side of the matter in answer to these protests.

Sometime after that the bill was taken up when I was absent and passed by unanimous consent upon motion of the Senator from New York [Mr. WAGNER], who, of course, acted in absolute good faith. Because I had assured the Senator from Maine that the bill probably would not be taken up until the calendar was reached anyway for consideration, and that I would give him a copy of the letter which the Senator from New York was to write me before action was taken, I feel in honor bound to the Senator from Maine and to the others to serve notice that I now enter a motion to reconsider the vote by which the bill was passed. I do not want to prejudice the bill. I do not want my action to indicate what my personal position is; but I feel that, as the Senator re-

porting the bill, I should be betraying a trust and a responsibility I owe to my colleagues here not to take this action, so that they may have ample time to study the bill and consider it and decide whether or not it shoud go back to the committee for a hearing.

The VICE PRESIDENT. The motion will be entered.

Mr. WALSH. Mr. President, the Parliamentarian informs me that, in addition to entering the motion which I entered for a reconsideration of the vote by which Senate bill 2662 was agreed to, I should make a motion that the House return the papers. I now make that motion.

The VICE PRESIDENT. The question is on the motion of the Senator from Massachusetts.

The motion was agreed to.

NOMINATION AND CONFIRMATION OF ELMER D. DAVIES

Mr. BARBOUR. Mr. President, in further connection with the message from the President of the United States addressed to the Senate and submitted yesterday, in which the President stated that he was unable to accede to the request to return to the Senate the resolution advising and consenting to the appointment of Elmer D. Davies to be United States district judge for the middle district of Tennessee, I would like unanimous consent to have incorporated in the RECORD in further support of the opposition to this nomination an affidavit sworn to by W. S. Noble, a practicing attorney at the Nashville, Tenn., bar for over 30 years, dated April 1, 1939, and witnessed by Mr. Joe L. Jenkins, notary public, attesting to the fact that Mr. Noble became a member of the Ku Klux Klan soon after its organization, and that he was present with Mr. Davies in the Ku Klux Klan Lodge at Nashville during Klan meetings and on a number of occasions. I wish also to have incorporated in the RECORD a similar affidavit signed by C. D. Johns, of the county of Davidson, State of Tennessee, formerly sheriff of Davidson County, and affidavits to the same effect signed by E. B. Wilson, of 1404 Ashwood Avenue, Nashville, Tenn., and an additional affidavit signed by Mr. Noble again, attesting to the Ku Klux Klan membership of Mr. Davies. I wish to have included also in the RECORD resolutions opposing the confirmation of Mr. Davies' appointment passed by the following organizations: Brotherhood of Blacksmiths, Forgers, and Helpers; Lodge 154, International Association of Machinists; Nashville Trades and Labor Council; Tennessee State Federation of Labor; and four lodges of the Brotherhood of Locomotive Firemen and Enginemen; also, a telegram from Walter White, secretary of the National Association for the Advancement of Colored People.

There being no objection, the affidavits, resolutions, and telegram were ordered to be printed in the RECORD, as follows:

STATE OF TENNESSEE,
County of Davidson, ss:

I, W. S. Noble, being first duly sworn, make oath as follows:

That I have been a practicing attorney at the Nashville bar over 30 years and have known Mr. Elmer D. Davies ever since he began practicing law in Nashville.

I became a member of the Ku Klux Klan soon after its organization in Nashville and continued to be a member thereof from that time until it was disbanded in Nashville, Tenn., during the time that it was in active existence in Nashville, and if he ever resigned or severed his connection with it I never knew of it. I have been present with him in the lodge hall during Klan meetings on a number of occasions.

W. S. NOBLE.

Sworn to and subscribed before me this 1st day of April 1939.
JOE L. JENKINS, *Notary Public.*

STATE OF TENNESSEE,
County of Davidson, ss:

I, C. D. Johns, being first duly sworn, make oath as follows:

I have been a citizen of Nashville for 50 years and have known Mr. Elmer Davies only after he began the practice of law in Nashville.

I became a member of the Ku Klux Klan soon after its organization in Nashville, and was actively interested in its work for several years as an organizer.

I know that Mr. Elmer Davies was a member of the Ku Klux Klan, and have seen him in the meeting a number of times. I have no ill will toward Mr. Davies. I was formerly sheriff of Davidson County, Tenn.

C. D. JOHNS.

Sworn to and subscribed before me this 24th day of April 1939.
——— ———,
Justice of Peace of Davidson County.

STATE OF TENNESSEE,
County of Davidson, ss:

I, E. B. Wilson, being first duly sworn, make oath as follows:

That I have lived in Nashville for many years, and at present reside at 1404 Ashwood Avenue, and that I have personally known Mr. Elmer Davies since he began practicing law in Nashville.

I became a member of the Ku Klux Klan soon after its organization in Nashville and continued to be a member thereof from that time until it was disbanded in Nashville, Tenn., several years ago. I know that Elmer G. Davies was an active member of the Ku Klux Klan in Nashville, Tenn., during the time that it was in active existence in Nashville, and if he ever resigned or severed his connection with it I never knew of it. I have been present with him in the lodge hall during Klan meetings on a number of occasions. I have no ill feeling toward Mr. Davies.

E. B. WILSON.

Sworn to and subscribed before me this ___ day of April 1939.
——— ———,
Notary Public.

AFFIDAVIT

In re: Nomination of Elmer Davies for judge, middle district of Tennessee

William S. Noble, first having been duly sworn, states the following facts:

That he is and has been for more than 35 years a practicing attorney at the Nashville bar. That heretofore he made a sworn statement of fact in affidavit form relative to his personal knowledge of the membership and affiliation of Elmer Davies in and with the Ku Klux Klan in Nashville, Tenn.

That subsequently he gave to a representative of the Federal Bureau of Investigation a more detailed statement of fact relative to the same matter. That he is informed both said statements were intended to be filed and were in fact filed with the Department of Justice in Washington, D. C., and are today a part of the records of that Department relative to said nomination and judgeship.

That on June 29, 1939, he received a telegraphic notice and invitation from the Honorable TOM CONNALLY, chairman of United States Senate subcommittee to appear before the committee at its hearing July 6, 1939, 10:30 a. m., relative to the nomination of Elmer Davies for said judgeship. That he regrets his inability to be present at the hearing because of his physical condition, and that if present he would be unable to add one statement of fact to those embodied in the instruments of record hereinbefore referred to. That he reaffirms each and all statements of fact set forth in said instruments and refers to, adopts, and makes both of said instruments a part of this affidavit as fully and completely as if said facts were embodied herein by exact word and figure, and respectfully requests that this statement, together with the statements of record hereinbefore referred to be heard and considered by the committee as and for his oral statement if present.

That he has requested the Honorable W. F. Seigenthaler, a citizen and labor representative at Nashville, Tenn., in attendance before the committee, to present these matters to the committee in his behalf.

W. S. NOBLE.

Sworn to and subscribed before me this 5th day of July 1939.
JOE L. JENKINS, *Notary Public.*

APRIL 11, 1939.

Hon. FRANKLIN D. ROOSEVELT,
The White House, Washington, D. C.:

Our Nashville branch has telegraphed us requesting we protest nomination of Elmer Davies as judge of middle Tennessee district since there is definite evidence that he recently was member of Ku Klux Klan. We have wired for evidence of such membership. If you are contemplating nomination may we respectfully ask you hold it up until we have opportunity to examine evidence and, if it is found convincing, have opportunity to file formal protest with you based on facts?

WALTER WHITE, *Secretary,*
National Association for Advancement of Colored People.

RESOLUTIONS OPPOSING THE CONFIRMATION OF THE APPOINTMENT OF ELMER DAVIES

Whereas it is common knowledge that the United States Senators from this State have recommended for district judge from the middle district of Tennessee, Mr. Elmer C. Davies, of Nashville, Tenn., a man whose record—legislative and legal—is one of consistent opposition to everything in the interest of labor, and

Whereas on January 29, 1935, as a member of the State senate, said Davies characterized the T. V. A. planning bills (including housing measures) as "the most pernicious, socialistic, and paternalistic bills ever introduced in this legislature," thereafter broadening his remarks into a bitter general indictment of New Deal

legislation that was designed to reduce unemployment and otherwise better the condition of the workingman, and

Whereas Mr. Davies, as the senate proceedings clearly indicate, not only spoke against the T. V. A. planning bills, but exhausted without success every parliamentary means to bring about their defeat, declaring, at the same time, that the Roosevelt administration—by bribing the States with Federal funds—had done more than the Civil War itself to destroy States' rights, and

Whereas Mr. Davies, as chairman of the senate rules committee which strangled the child labor amendment without letting it come to a vote, is more than anyone else responsible for the failure of its ratification by the Tennessee Legislature, and

Whereas Mr. Davies has, in speaking of the President of the United States, the Honorable Franklin D. Roosevelt, used vile and uncouth language as descriptive adjectives in describing him,

Whereas Local Union, No. —, International Brotherhood of Blacksmiths, Dropforgers, and Helpers is impressed with the importance of having Federal judges who are at least open-minded in regard to liberal measures and who are sympathetic with all classes of people—qualifications in which Mr. Davies is entirely lacking: Now, therefore, be it

Resolved, That we most strongly protest the appointment of Mr. Elmer D. Davies as district judge of the Middle District of Tennessee, and

Be it further resolved, That a copy of these resolutions be sent to each of the following: To President Franklin Delano Roosevelt, to United States Attorney General Frank Murphy, and to Senators K. D. McKellar and A. Tom Stewart.

Whereas it is common knowledge that the United States Senators from this State have recommended for district judge from the middle district of Tennessee, Mr. Elmer D. Davies, of this city, a man whose record—legislative and legal—is one of consistent opposition to everything in the interest of labor; and

Whereas on January 29, 1935, as a member of the State senate, said Davies characterized the T. V. A. planning bills (including housing measures) as "the most pernicious, socialistic, and paternalistic bills ever introduced in this legislature," thereafter broadening his remarks into a bitter general indictment of New Deal legislation that was designed to reduce unemployment and otherwise better the condition of the working man; and

Whereas Mr. Davies, as the senate proceedings clearly indicate, not only spoke against the T. V. A. planning bills, but exhausted without success every parliamentary means to bring about their defeat, declaring, at the same time, that the Roosevelt administration—by bribing the States with Federal funds—had done more than the Civil War itself to destroy States' rights; and

Whereas Mr. Davies, as chairman of the senate rules committee which strangled the child labor amendment without letting it come to a vote, is more than anyone else responsible for the failure of its ratification by the Tennessee Legislature; and

Whereas Rock City Lodge 154, International Association of Machinists, is impressed with the importance of having Federal judges who are at least open-minded in regard to liberal measures and who are sympathetic with all classes of people—qualification in which Mr. Davies is entirely lacking: Now, therefore, be it

Resolved, That we most strongly protest the appointment of Mr. Elmer D. Davies as district judge of the middle district of Tennessee; and be it further

Resolved, That a copy of these resolutions be sent to each of the following: To President Franklin Delano Roosevelt; to United States Attorney General Frank Murphy; to Senators K. D. McKellar and A. Tom Stewart.

Whereas notice has been carried in the press that the United States Senators from this State have recommended for district judge for the middle district of Tennessee, Mr. Elmer D. Davies, of this city, one of the bitterest critics of the liberal policies that have distinguished the present national democratic administration; and

Whereas on January 29, 1935, when Mr. Davies was serving as State senator and the senate had under consideration certain planning bills endorsed by the T. V. A. and concerning which the chairman of the Tennessee Valley Authority had advised the senate, "that the Tennessee Valley Authority felt the planning bills would make possible a State program which would materially assist the T. V. A. in certain of its activities," Mr. Davies said, "In my opinion these are the most pernicious, socialistic, and paternalistic bills that ever were introduced in this legislature. I, for one, don't want the record to show in the future that I sponsored any of these, if unfortunately they should pass"; and

Whereas Mr. Davies further stated, "The only reason a State N. R. A. was not included was that it was so unpopular that they didn't have the nerve to present that"; and

Whereas Davies said further: "Ah, gentlemen, 'twas a sad day indeed when the several States bartered their birthright for Federal aid. You know and I know that the federalists within the past 2 years have done more by the aid of their money to eliminate all States' rights than the Civil War ever accomplished"; and

Whereas the Nashville Trades and Labor Council realizes the seriousness of placing on the Federal bench here at the heart of the T. V. A. development a man who is one of the most consistent opponents of the enlightened social philosophy which has characterized the present national democratic administration: Now, therefore, be it

Resolved, That we urgently protest the appointment of Mr. Elmer D. Davies as district judge for the middle district of Tennessee; and be it further

Resolved, That a copy of these resolutions be sent to each of the following: To President Franklin Delano Roosevelt; to United States Attorney General Frank Murphy; to Senators K. D. McKellar and A. Tom Stewart.

Whereas it is reported that the United States Senators from this State, disregarding the most urgent representations from organized labor, are continuing their advocacy of the appointment of Mr. Elmer D. Davies, of Nashville, as district judge for middle Tennessee; and

Whereas Mr. Davies is rather to be regarded as a lobbyist and contact man for special interests (as shown by his pernicious activities during the recent legislature) than as a lawyer; and

Whereas his social philosophy was well illustrated when on January 29, 1935, as State senator, he characterized the T. V. A. planning bills (including housing measures) as "the most pernicious, socialistic, and paternalistic bills ever introduced in this legislature," thereafter bitterly indicting New Deal legislation that was designed to reduce unemployment and otherwise better the condition of the workingman; and

Whereas said Davies, while bitterly opposing the T. V. A. planning bills, declared on the floor of the State senate that the present Democratic administration had—by bribing the States with Federal funds—done more than the Civil War to destroy State rights and to pervert the historic form of our American government; and

Whereas it was Mr. Davies, as chairman of the senate rules committee, who was primarily responsible for the strangling of the child labor amendment without allowing it to come to a vote; and

Whereas he has not hesitated to characterize the President of the United States, Franklin Delano Roosevelt, in language too vile and uncouth for repetition; and

Whereas organized labor bitterly resents this persistent attempt to elevate to the Federal bench, where he could do incalculable harm, a reactionary lobbyist whose whole carreer (public and private) has demonstrated his total lack of sympathy with labor's objectives: Now, therefore, be it

Resolved, That we, the Tennessee State Federation of Labor, protest with all the vigor at our command the proposed appointment of Mr. Elmer D. Davies as district judge of the middle district of Tennessee; and be it further

Resolved, That a copy of these resolutions be sent to each of the following: To President Franklin Delano Roosevelt; to United States Attorney General Frank Murphy; to Senators K. D. McKellar and A. Tom Stewart.

Whereas it is reported that the United States Senators from this State, disregarding the most urgent representations from organized labor, are continuing their advocacy of the appointment of Mr. Elmer D. Davies, of Nashville, as district judge for middle Tennessee; and

Whereas Mr. Davies is rather to be regarded as a lobbyist and contact man for special interests (as shown by his pernicious activities during the recent legislature) than as a lawyer; and

Whereas his social philosophy was well illustrated when, on January 29, 1935, as State senator he characterized the T. V. A. planning bills (including housing measures) as "the most pernicious, socialistic, and paternalistic bills ever introduced in this legislature," thereafter bitterly indicting New Deal legislation that was designed to reduce unemployment and otherwise better the condition of the workingman; and

Whereas said Davies, while bitterly opposing the T. V. A. planning bills, declared on the floor of the State senate that the present Democratic administration had, by bribing the States with Federal funds, done more than the Civil War to destroy State rights and to pervert the historic form of our American government; and

Whereas it was Mr. Davies, as chairman of the senate rules committee, who was primarily responsible for the strangling of the child labor amendment without allowing it to come to a vote; and

Whereas he has not hesitated to characterize the President of the United States, Franklin Delano Roosevelt, in language too vile and uncouth for repetition; and

Whereas organized labor bitterly resents this persistent attempt to elevate to the Federal bench, where he could do incalculable harm, a reactionary lobbyist whose whole career (public and private) has demonstrated his total lack of sympathy with labor's objectives: And therefore be it

Resolved, That we, the Brotherhood of Locomotive Firemen and Enginemen, Old Hickory Lodge, No. 833, Nashville, Tenn., protest with all the vigor at our command the proposed appointment of Mr. Elmer D. Davies as district judge of the middle district of Tennessee and request that all lodges of the Brotherhood of Locomotive Firemen and Enginemen in Tennessee concur in this resolution; and be it further

Resolved, That a copy of this resolution be sent to Mr. H. V. Reid, chairman, Tennessee State Legislative Board, Brotherhood of Locomotive Firemen and Enginemen, and Mr. Reid to protest this appointment with all the power vested to his good office and be it further

Resolved, That a copy of these resolutions be sent to each of the following: To Mr. D. B. Robertson, president, Brotherhood of Locomotive Firemen and Enginemen; to President Franklin Delano Roosevelt; to United States Attorney General Frank Murphy; to

Senators K. D. McKellar and A. Tom Stewart; to National Legislative Representative Author Lovell; to all Brotherhood of Locomotive Firemen and Enginemen lodges in Tennessee.

E. F. ROBERTSON,
Recording Secretary, Old Hickory Lodge, No. 833, Brotherhood of Locomotive Firemen and Enginemen.

Mr. McKELLAR subsequently said:

Mr. President, I have read the statement which was put into the RECORD this morning by the distinguished Senator from New Jersey [Mr. BARBOUR], together with several affidavits and resolutions coming from Tennessee, concerning the nomination of Hon. Elmer D. Davies as judge of the District Court for the Middle District of Tennessee. Mr. Davies was confirmed the day before yesterday.

I wish to say at the outset that all of these affidavits and resolutions and telegrams, except the one from Walter White dated April 11, 1939, were before the subcommittee and the full committee when they acted upon the nomination of Mr. Davies.

The statements made in these affidavits, resolutions, and letters were absolutely contradicted by the overwhelming testimony taken by the subcommittee. Mr. Noble did not appear before the subcommittee or the full committee at all, although he knew of the proceeding. Only two witnesses protesting the nomination appeared to testify against Mr. Davies.

Inasmuch as the Senator from New Jersey has put in the RECORD a portion of the testimony which came before the committee, I, at this point, ask unanimous consent that all of the testimony be printed in the RECORD. It is not very long, and it is absolutely necessary that it should be printed so that the Senate can be absolutely sure that the Judiciary Committee made no mistake whatsoever in reporting favorably the nomination of Mr. Davies. Mr. President, I have spoken to the Senator from New Jersey, and he says he has no objection to my putting in all the testimony as it appears in that case, so that the Senate may see exactly what occurred and on what ground the committee acted.

I ask unanimous consent to have printed in the RECORD immediately after the matter placed in the RECORD by the Senator from New Jersey the record of the hearings before the committee.

I may say, Mr. President, after this testimony was taken, the subcommittee and the full committee reported the nomination which was placed on the calendar. I heard of no opposition to it, and before I brought it up on the floor by a unanimous-consent request, I went to the Senator from Vermont [Mr. AUSTIN], the then acting leader of the minority, and told him that both my colleague [Mr. STEWART] and I were called out of the city by reason of the unfortunate death of Representative Sam D. McReynolds, and if he had no objection I would like to ask unanimous consent out of order to take up the nomination of Mr. Davies and get it disposed of before I went to Tennessee. He very readily and courteously agreed to my request.

Just a short time before I left the Chamber I asked the Senator from Oklahoma [Mr. LEE] to yield to me while I preferred the request.

I made the request. There was no objection, and the nomination was confirmed; and, inasmch as we have been without a judge in the middle district of Tennesse for 5 or 6 months, I asked unanimous consent that the President might be notified.

I had made many inquiries concerning the nomination of Senators on both sides of the aisle, and I did not have the slightest reason to believe that anyone objected to the confirmation. I did not speak to the Senator from New Jersey about the matter, as he was not on the committee, and I did not know that he had the slightest objection. The case had been pending a long time and I was very anxious to dispose of it before I left for Tennessee.

I hope that the Senators who have any doubt about the matter at all will read the testimony that was adduced before the subcommittee, and I call especial attention to the testimony of the two honorable witnesses who appeared in protest, and who really admitted, in a large part, that they had been misled as to the facts concerning Mr. Davies. If the Senators will look over this testimony just as it appeared before the committee, I am sure that all will agree that Mr. Davies should have been confirmed just as he was confirmed, and that he ought to have been confirmed.

To those who were interested in the matter because of allegations about the Klan, I call their especial attention to the letter of the secretary and treasurer of the Klan at Nashville, Tenn., who declared that there was no record that Mr. Davies was ever a member of the Klan.

I also call attention to Mr. Davies' testimony on the same subject.

Mr. President, I also ask that certain telegrams in relation to the nomination of Mr. Davies be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. HATCH in the chair). The Senator from Tennessee requests unanimous consent to have printed in the RECORD certain telegrams and the entire hearings before the Senate Judiciary Committee in relation to the nomination of Mr. Davies.

Mr. McKELLAR. All except that which is contained in the statement presented by the Senator from New Jersey.

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

The telegrams and hearings are as follows:

NASHVILLE, TENN., *July 11, 1939.*

Senator TOM CONNALLY:
Please make possible appointment of Davies for Tennessee judge.

ALPHA PHI ALPHA FRATERNITY,
WILLIAM HAFFORD.

NASHVILLE, TENN., *July 11, 1939.*

Senator TOM CONNALLY:
Members of our organization 100 percent for Elmer Davies.

NEGRO HISTORY STUDY CLUB,
MERLE R. EPPSE, *Advisor.*

NASHVILLE, TENN., *July 11, 1939.*

Senator TOM CONNALLY:
Your support of Elmer Davies for judge unconditionally solicited.

BETTER HOMES OF AMERICA,
E. T. BURT.

NASHVILLE, TENN., *July 11, 1939.*

Senator TOM CONNALLY:
Heartily endorse Elmer Davies for Federal judgeship. Your cooperation appreciated.

TENNESSEE NEGRO EDUCATION ASSOCIATION,
GEORGE W. GORE, Jr., *Executive Secretary.*

NASHVILLE, TENN., *July 11, 1939.*

Senator TOM CONNALLY:
Members of our organization strongly pulling for Elmer Davies.

DELTA PHI DELTA JOURNALISTIC FRATERNITY.

NASHVILLE, TENN., *July 11, 1939.*

Senator TOM CONNALLY:
Sincerely anxious for appointment of Elmer Davies as Federal judge.

SUMMER SCHOOL STUDENTS, A. & I. STATE COLLEGE.

NASHVILLE, TENN., *July 11, 1939.*

Senator TOM CONNALLY:
Davies affiliations have never affected his very fine attitude toward Negroes in Tennessee. We highly endorse him for judge.

ALPHA KAPPA ALPHA SORORITY,
G. L. JENKINS.

NASHVILLE, TENN., *July 11, 1939.*

Senator TOM CONNALLY:
Negroes in Tennessee believe they have friend in Davies who will stand for justice and fair play for all.

R. E. CLAY,
Secretary, Tennessee Interracial League.

NOMINATION OF ELMER D. DAVIES

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON THE JUDICIARY,
Washington, D. C., July 6, 1939.

The subcommittee met, pursuant to notice, in the committee room of the Committee on the District of Columbia, Capitol, at 10:30 a. m., Senator TOM CONNALLY (chairman) presiding.

Present: Senators CONNALLY (chairman) and NEELY.

Present also: Senators McKELLAR and STEWART, of Tennessee.

Senator CONNALLY. This is a hearing on the confirmation of Mr. Elmer D. Davies as United States district judge for the middle district of Tennessee.

We will hear the opposition first. You may proceed.

STATEMENT OF T. O. DENHAM, NASHVILLE, TENN., LEGISLATIVE CHAIRMAN, TENNESSEE FEDERATION OF LABOR

Mr. DENHAM. Mr. Chairman, I appear in behalf of the Tennessee Federation of Labor, as legislative chairman and member of the executive board of the Nonpartisan Committee, representing the A. F. of L. organizations in the State.

I first present you with a resolution that was carried in the State Federation of Labor convention held on June 5, 6, and 7.

Senator CONNALLY. That may be incorporated in the record.

I think perhaps I should read it, so that we may know just what the issues are:

"Resolution

"Whereas it is reported that the United States Senators from this State—disregarding the most urgent representations from organized labor—are continuing their advocacy of the appointment of Mr. Elmer D. Davies, of Nashville, as district judge for middle Tennessee; and

"Whereas Mr. Davies is rather to be regarded as a lobbyist and contact man for special interests (as shown by his pernicious activities during the recent legislature) than as a lawyer; and

"Whereas his social philosophy was well illustrated when, on January 29, 1935, as State senator, he characterized the T. V. A. planning bills (including housing measures) as "the most pernicious, socialistic, and paternalistic bills ever introduced in this legislature," thereafter bitterly indicting New Deal legislation that was designed to reduce unemployment and otherwise better the condition of the workingman; and

"Whereas said Davies, while bitterly opposing the T. V. A. planning bills, declared on the floor of the State senate that the present democratic administration had—by bribing the States with Federal funds—done more than the Civil War to destroy State's rights and to pervert the historic form of our American Government; and

"Whereas it was Mr. Davies, as chairman of the senate rules committee, who was primarily responsible for the strangling of the child-labor amendment without allowing it to come to a vote; and

"Whereas he has not hesitated to characterize the President of the United States, Franklin Delano Roosevelt, in language too vile and uncouth for repetition; and

"Whereas organized labor bitterly resents this persistent attempt to elevate to the Federal bench, where he could do incalculable harm, a reactionary lobbyist whose whole career (public and private) has demonstrated his total lack of sympathy with labor objectives: And therefore be it

"*Resolved*, That we, the Brotherhood of Locomotive Firemen and Enginemen, Caney Fork Lodge, No. 837, Nashville, Tenn., protest with all the vigor at our command the proposed appointment of Mr. Elmer D. Davies as district judge for the middle district of Tennessee, and request that all lodges of the Brotherhood of Locomotive Firemen and Enginemen in Tennessee concur in this resolution; and be it further

"*Resolved*, That a copy of this resolution be sent to Mr. H. V. Reid, chairman, Tennessee State Legislative Board, Brotherhood of Locomotive Firemen and Enginemen, and Mr. Reid, to protest this appointment with all the power vested in his good office; and be it further

"*Resolved*, That a copy of these resolutions be sent to each of the following:

"To Mr. D. B. Robertson, president, Brotherhood of Locomotive Firemen and Enginemen.

"To President Franklin Delano Roosevelt.

"To United States Attorney General Frank Murphy.

"To Senators K. D. McKELLAR and A. TOM STEWART.

"To National Legislative Representative Arthur Lovell.

"To all Brotherhood of Locomotive Firemen and Enginemen lodges in Tennessee.

"J. E. MOYERS,
"Recording Secretary, Caney Fork Lodge, No. 837, Brotherhood of Locomotive Firemen and Enginemen."

Senator CONNALLY. Is Mr. Davies here?

Senator McKELLAR. Yes.

Senator CONNALLY. You may proceed, Mr. Denham.

Mr. DENHAM. I would like next to read a letter from the chairman of the legislative committee of 1937:

TENNESSEE FEDERATION OF LABOR,
Nashville, Tenn., July 1, 1939.

STATEMENT

To whom it may concern:

I, W. C. Clark, who was legislative chairman of the Tennessee Federation of Labor during the legislative term of the year 1937, when Elmer D. Davies was representing Davidson County as a senator, make the following statement of facts relative to my experience in said session with Senator Davies. I concur in the photostatic copy that will be presented to you by our representative and also your reference to the senate journal of the above session on the matter of the senator trying to amend and rerefer all Tennessee Valley Authority bills that came before the senate during this session.

I served in the above capacity along with legislative chairmen representing Order of Railway Conductors, Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen, and the Brotherhood of Railway Trainmen, and they, along with me, were unable to have the senator to help us out with his vote in favor of the Federal child-labor amendment.

I am afraid that if Mr. Davies is confirmed by your committee that labor in middle Tennessee will get little consideration.

Very respectfully,

W. C. CLARK.

I would like to have that in the record.

Senator CONNALLY. That will be in the record.

Mr. DENHAM. I also wish to read a telegram from the president of the Central Labor Union of Nashville. I believe they call it the Trades and Labor Council.

NASHVILLE, TENN., *July 5, 1939.*

T. O. DENHAM,
Lee Hotel, Washington, D. C.:

Nashville Trade and Labor Council protest the appointment of Elmer Davies as Federal judge for middle Tennessee.

J. L. BEYRNE,
President, Nashville Trade and Labor Council.

Also a telegram from the president of the Nashville Building Trades Council.

NASHVILLE, TENN., *July 5, 1939.*

T. O. DENHAM,
Lee Hotel, Washington, D. C.:

We wish to protest the appointment of Elmer Davies as Federal judge for middle Tennessee.

C. N. VESTER,
President, Nashville Building Trade Council.

Senator CONNALLY. This is somewhat irregular, inasmuch as these documents are not subject to cross-examination; but unless there is objection they may go in the record.

Mr. DENHAM. This is a telegram from the secretary of Local 386:

NASHVILLE, TENN., *July 6, 1939.*

T. O. DENHAM,
Lee House, Washington, D. C.:

Use your influence against Elmer Davies appointment.

R. F. BATEY,
Secretary, Local 386.

Senator CONNALLY. These telegrams are addressed to you?

Mr. DENHAM. Yes, sir.

Senator CONNALLY. Did you contact these people? Did you ask them to send you these wires?

Mr. DENHAM. They were to send me some stuff, and I told them where to wire me.

Senator CONNALLY. Before you left, you arranged to get these wires?

Mr. DENHAM. Yes, sir.

Senator CONNALLY. You had already contacted them?

Mr. DENHAM. Yes, sir.

Senator CONNALLY. Go ahead.

Mr. DENHAM. This is a record from the Nashville Banner of January 29, 1935, when the T. V. A. bill came up that the resolution makes reference to.

Senator CONNALLY. We cannot print all this material in the record.

Mr. DENHAM. There are certain parts that ought to go in.

Senator CONNALLY. You may file this as an exhibit, but not for the record.

Do you have any charges against Davies' character or ability as a lawyer?

Mr. DENHAM. None.

Senator CONNALLY. It is just in his political views?

Mr. DENHAM. In regard to labor.

Senator CONNALLY. That is political. You are not attacking his character or his ability as a lawyer?

Mr. DENHAM. Not at all.

Senator CONNALLY. All right. Go ahead. We will admit the typewritten sheets, but not the newspaper articles in full.

Mr. DENHAM. I will read that part of it.

Senator CONNALLY. All right.

Mr. DENHAM. "Elmer Davies on T. V. A. housing and planning bill:

"Consideration was begun after a vigorous attack by Senator Davies on the companion planning and housing bills.

" 'In my opinion,' Davies said, 'these are the most pernicious, socialistic, and paternalistic bills that ever were introduced in this legislature. I, for one, don't want the record to show in the future that I sponsored any of these if, unfortunately, they should pass.' * * *

"Senator Sam R. Howell (Washington) said he was surprised at the apparent hostility of a great many members to these bills.

"Davies * * * declared that shortly before the legislature met 'coordinated Federal agencies' met in Nashville to consider legislation, and said at that time an agreement was reached on the companion bills. He said the agencies sought to 'put them through on the popularity of the T. V. A.' The only reason a State N. R. A. bill was not included, he continued, was that 'it was so unpopular that they didn't have the nerve to present that.' "

"(Report of State senate proceedings in the Nashville Banner of January 29, 1935.)

"Note: Senate journal, page 194, of this date, 1935."

Here is another I would like to submit, of January 30, 1935.

Senator CONNALLY. We will admit the typewritten statement, but not the article.

Mr. DENHAM. "Elmer Davies on the T. V. A. planning bills.

"* * * However, Elmer Davies, of Nashville, who had assumed the leading role in opposition to the measures along with Senator Atchley, of Knoxville, changed his vote to move reconsideration of the bill, and under the rules will have custody of the measure for reconsideration for 3 legislative days.

"* * * Senator Davies started the fight on the housing-planning measure early in the morning with the request that his name be stricken from the series of bills not strictly T. V. A. power bills, and launching against the others a bitter denunciation of 'socialism, radicalism,' and such. He charged that the planning-housing measures were entirely unrelated to the T. V. A. which he favored, and were attached to the T. V. A. series in order to ride them through on the popularity of the T. V. A. * * *"

"(Report of State senate proceedings in the Nashville Tennesseean of January 30, 1936.)"

Here is another of January 30:

"ELMER DAVIES ON T. V. A. BILLS

"* * * Before the bills were taken up Senator George H. Cate (Davidson) took the floor to endorse all the proposals, some of which had been opposed by his colleague, Senator Elmer D. Davies.

"* * * Davies said: 'Ah, gentlemen, 'twas a sad day indeed when the several States bartered their birthright for Federal aid. You know and I know that the Federalists within the past 2 years have done more by the aid of their money to eliminate all States' rights than the Civil War ever accomplished.'

"(Report of State senate proceedings in the Nashville Banner of January 30, 1935.)"

I will file these photostatic copies with the committee.

Senator CONNALLY. All right.

Mr. DENHAM. Here is the senate journal of the 1935 session, when the T. V. A. and housing bills were being voted on, which labor was sponsoring 100 percent. The vote was shown on January 29, on pages 194, 195, 196, 197, 198, 199, 201, 202, and 235.

Senator CONNALLY. That refers to acts supposed to have been enacted by the legislature?

Mr. DENHAM. Yes, sir; the resolution refers to it.

This is the record of the Tennessee Federation of Labor on resolution 26, on page 65.

Senator CONNALLY. What is that about?

Mr. DENHAM. That is the procedings of the Tennessee Federation of Labor.

Senator CONNALLY. In regard to these bills?

Mr. DENHAM. In regard to these bills and this resolution. I would like to read this resolution.

Senator CONNALLY. Proceed.

Mr. DENHAM (reading): "Resolution No. 26.

"Referred to the executive council.

"Whereas it is reported that the United States Senators from this State, disregarding the most urgent representations from organized labor, are continuing their advocacy of the appointment of Mr. Elmer D. Davies, of Nashville, as district judge for middle Tennessee; and

"Whereas Mr. Davies is rather to be regarded as a lobbyist and contact man for special interests (as shown by his pernicious activities during the recent legislature) than as a lawyer; and

"Whereas his social philosophy was well illustrated when, on January 29, 1936, as State senator he characterized the T. V. A. planning bills (including housing measures) as the 'most pernicious, socialistic, and paternalistic bills ever introduced in this legislature,' thereafter bitterly indicting New Deal legislation that was designed to reduce unemployment and otherwise better the condition of the workingman; and

"Whereas said Davies, while bitterly opposing the T. V. A. planning bills, declared on the floor of the State senate that the present Democratic administration had, by bribing the States with Federal funds, done more than the Civil War to destroy States' rights and to pervert the historic form of our American Government; and

"Whereas it was Mr. Davies, as chairman of the senate rules committee, who was primarily responsible for the strangling of the child-labor amendment without allowing it to come to a vote; and

"Whereas he has not hesitated to characterize the President of the United States, Franklin Delano Roosevelt, in language too vile and uncouth for repetition; and

"Whereas organized labor bitterly resents this persistent attempt to elevate to the Federal bench, where he could do incalculable harm, a reactionary lobbyist whose whole career (public and private) has demonstrated his total lack of sympathy with labor's objectives: Now, therefore, be it

"*Resolved*, That we, the Tennessee State Federation of Labor, protest with all the vigor at our command the proposed appointment of Mr. Elmer D. Davies as district judge of the middle district of Tennessee; and be it further

"*Resolved*, That a copy of these resolutions be sent to each of the following:

"To President Franklin Delano Roosevelt; to United States Attorney General Frank Murphy; to Senators K. D. MCKELLAR and TOM STEWART."

Senator CONNALLY. That resolution indicates that the Federation supported these bills.

Mr. DENHAM. That is right.

Senator CONNALLY. And Mr. Davies did not, and therefore you are against him.

Mr. DENHAM. That is right.

Senator CONNALLY. All right. Go ahead.

Mr. DENHAM. In the senate journal that I just referred to, on page 1934, it says:

"Mr. Davies moved that his name be stricken from senate bills Nos. 114, 115, 116, 117, 118, 119, 120, 121, 123, and 124, which motion prevailed.

"Mr. Davies moved that senate bills Nos. 113 to 124, inclusive, be re-referred to the judiciary committee.

"Mr. Todd moved that the motion be amended so as to except senate bills Nos. 113, 121, and 122, and that these bills be taken up at this time, which amendment was accepted by Mr. Davies."

That motion went to the table. Mr. Davies voted "no" on the motion to go to the table.

Then they went ahead with a lot of amendments that were made to senate bill No. 113.

On page 198 of the senate journal it says:

"Mr. Davies moved to amend as follows: To amend by striking out the last sentence in the first paragraph of section 7, reading as follows: 'Such bonds shall not be subject to taxation.'"

Mr. Davies voted for that amendment, but it did not carry.

Then on page 201 of the senate journal, it shows the vote on the passage of senate bill 124, to definite the authority of the utilities commission. Mr. Davies voted "no" on that bill.

Then on page 203 of the senate journal it says:

"Mr. Davies moved that senate bills Nos. 114, 115, 116, 117, 118, 119, 120, and 123 be re-referred to the judiciary committee."

That motion to re-refer went to the table, too. It shows the vote on the bill on page 204, where Mr. Davies voted "no."

Then on page 235 of the senate journal, it shows senate bill No. 116, to establish housing authorities. Mr. Davies voted "no" on that bill.

I believe that is all at this time.

Senator CONNALLY. Do you know Mr. Davies?

Mr. DENHAM. Yes.

Senator CONNALLY. How long have you known him?

Mr. DENHAM. I have been knowing him as an attorney for 15 or 20 years. I have been seeing Mr. Davies in the legislative halls a number of times, especially at the last session of the legislature.

Senator CONNALLY. During the last 15 or 20 years what has been his reputation as a lawyer?

Mr. DENHAM. Mostly corporation.

Senator CONNALLY. Is he a good lawyer or a bad lawyer?

Mr. DENHAM. He must have been good, or the corporations would not have employed him.

Senator CONNALLY. Do you mean that a man who works for a corporation is a bad man?

Mr. DENHAM. No, sir.

Senator CONNALLY. Most of labor works for corporations?

Mr. DENHAM. Yes, sir.

Senator CONNALLY. Just because a man works for a corporation he is not necessarily a bad man?

Mr. DENHAM. He has never favored legislation that labor wanted that I ever heard anything about.

Senator CONNALLY. Do you want to ask any questions?

Senator MCKELLAR. Yes.

Senator CONNALLY. All right; proceed.

Senator MCKELLAR. Do you know Mr. Lev Loring, of Memphis?

Mr. DENHAM. Yes, sir.

Senator MCKELLAR. He is a labor man, is he not?

Mr. DENHAM. Yes, sir.

Senator MCKELLAR. What position does he hold?

Mr. DENHAM. President of the Central Labor Union.

Senator MCKELLAR. He is a man of high character and standing, is he not?

Mr. DENHAM. As I know him. I have always known him that way.

Senator MCKELLAR. You presented a resolution that you say was passed by your organization.

I have a letter here, Mr. Chairman, that I want to introduce into the record at this time, and read, from Mr. Loring. It is addressed to me at the Senate Building, Washington, D. C., dated June 9, 1939:

"Hon. Senator K. D. MCKELLAR,

"*Senate Building, Washington, D. C.*

"DEAR SIR: I suppose by this time you have heard of the action taken by the executive council of the Tennessee Federation of Labor on the resolution condemning the appointment of Mr. Elmer Davies as Federal judge of middle Tennessee, introduced in the forty-second annual convention of the Tennessee Federation of Labor.

"I wish, as the chairman of the resolution committee, to state the true facts concerning the resolution, the action taken by the resolution committee, and the action taken by the executive council.

"There was a resolution introduced of condemnation of Mr. Davies' appointment to the Federal judgeship of middle Tennessee. This resolution was very strong in its condemnation of Mr. Davies' appointment and record. As the chairman of the resolution committee, I insisted that we hold a hearing and have those who presented the resolution appear before this committee and state their objections. There were only two who appeared before the committee who signed the resolution. A Mr. Hugh Bonham, a railroad man, appeared."

Do you know him?

Mr. DENHAM. Yes, sir.

Senator MCKELLAR. A Mr. W. F. Seigenthaler, who failed to give a business connection and stated that Mr. Millweed sent word to him regarding a resolution. As far as I know Mr. Millweed is

not a member of a labor union. A Mr. George H. Cates, who is an attorney and was a commissioner of institutions in the administration of ex-Governor Browning; Mr. G. Q. Millweed, an attorney of Nashville, Tenn., came to testify at the request of someone; Mr. Stanley O'Connor, one of the signers of the resolution, a member of the Machinists' Union and also city elevator inspector of Nashville and a part of Mayor Cumming's administration; Mr. W. C. Clark, a member of the Painters' Union of Nashville, one of the signers of the resolution, appeared before the committee.

"In my opinion, the people who appeared before this committee on resolutions were members of a political faction and opposed his appointment on political reasons rather than for the interest of organized labor. You will find enclosed a copy of the resolution submitted to the Tennessee Federation of Labor. Also a copy of a report from a member of the nonpartisan committee."

The nonpartisan league, immediately after the adjournment of the Tennessee Federation of Labor, met and passed on this resolution without seeing the transcript of the evidence that was given before the committee.

"Summing all of this up, I do not think that Mr. Davies had a fair opportunity to defend himself, and when the record is completed I will forward same to the nonpartisan league and also a copy to you."

That is signed by Lev G. Loring, president.

Senator CONNALLY. President of what?

Senator MCKELLAR. President of the Memphis Trades and Labor Council. He is a man very highly respected and esteemed and admired by all labor people generally in that city, is he not?

Mr. DENHAM. Yes, sir.

Senator MCKELLAR. I want to read to you this letter.

Senator CONNALLY. You are still examining this witness.

Senator MCKELLAR. I know, but it refers to his statement.

Senator CONNALLY. All right.

Senator MCKELLAR. It is dated June 9, 1939, and reads as follows:

"I was a member of the nonpartisan committee of the Tennessee Federation of Labor in Nashville, Tenn. At this meeting a resolution was presented against the appointment of Mr. Elmer Davies, who has been nominated for Federal judge of middle Tennessee.

"On this particular resolution a hearing was held by the resolution committee. This committee recommended that the resolution be turned over to the nonpartisan committee along with the evidence gathered at the hearing said resolutions committee held."

I pause long enough here to ask you, Mr. Denham, if it is not true that the Federation of Labor meeting did not pass this resolution at all, but simply referred the matter to the nonpartisan committee?

Mr. DENHAM. That is right.

Senator MCKELLAR. And the nonpartisan committee simply passed the resolution. This nonpartisan committee was a State organization, was it not? It was not a Federal organization?

Mr. DENHAM. It was a State organization, composed of the entire State Federation of Labor.

Senator MCKELLAR. Who is the president of the federation?

Mr. DENHAM. Gerald Foley is president.

Senator MCKELLAR. Where is he?

Mr. DENHAM. He is not able to be here.

Senator MCKELLAR. I read on:

"At this meeting of the nonpartisan committee I requested a copy of the record of the resolutions committee. I was informed that the record of this hearing was not complete and in my opinion the stenographer did not have time to complete the record in time for the meeting of the executive board, which was held immediately after the adjournment of the Tennessee Federation of Labor.

"I see by the morning press Mr. Carl Vester, vice chairman of the committee, declared Loring's statement was simply an effort to obstruct the will of all other organized labor in the State. I was in constant association with Lev Loring throughout the forty-second annual convention of the Tennessee Federation of Labor, and it did not appear to me at any time he was trying to obstruct the wishes of labor. If, in my opinion, he was doing so, I would have exposed and opposed his actions. I think he merely requested this matter be held in accordance with the direction of the body of the Tennessee State Federation of Labor."

That is signed by C. E. Miller. Do you know Mr. Miller?

Mr. DENHAM. Yes.

Senator MCKELLAR. He is an excellent man?

Mr. DENHAM. Yes.

Senator MCKELLAR. A man of high standing in organized labor, is he not?

Mr. DENHAM. Yes.

Senator MCKELLAR. I notice in the copy of the resolution which has been read here that a copy was also sent to Mr. Hollis Reid, chairman of the Tennessee State Legislative Board of the Brotherhood of Locomotive Firemen and Enginemen.

Mr. DENHAM. Yes.

Senator MCKELLAR. He is a man of high standing, is he not?

Mr. DENHAM. Yes.

Senator MCKELLAR. Where is Mr. Reid?

Mr. DENHAM. I could not tell you. I didn't know anything about him being a witness.

Senator MCKELLAR. A copy was sent to him, and a copy was sent to Senator STEWART and myself and the President of the United States and Attorney General Murphy. Do you know whether Mr. Reid had anything to do with making this protest?

Mr. DENHAM. No, sir; I don't.

Senator MCKELLAR. Do you know Mr. Brazzell, a labor man?

Mr. DENHAM. Yes, sir.

Senator MCKELLAR. Mr. H. V. Reid is the head of the organization to which you belong, is he not?

Mr. DENHAM. No, sir.

Senator MCKELLAR. What position does he hold with it?

Mr. DENHAM. He holds some kind of chairmanship with the Railroad Firemen, but not in the Tennessee Federation of Labor.

Senator MCKELLAR. He is a member of organized labor, is he not?

Mr. DENHAM. Oh, yes.

Senator NEELY. What is his standing in the organization? Is it good or bad?

Mr. DENHAM. Good, so far as I know; but he is not affiliated with the Tennessee Federation of Labor.

Senator CONNALLY. But he belongs to one of the brotherhoods?

Mr. DENHAM. Yes, sir.

Senator CONNALLY. He is a man of standing?

Mr. DENHAM. Yes, sir.

Senator CONNALLY. And character?

Mr. DENHAM. Yes, sir.

Senator MCKELLAR. Has he not been the chairman of this Nonpartisan League, composed of the brotherhoods of organized labor—the brotherhoods and the State Federation of Labor?

Mr. DENHAM. He was prior to this convention in June, when the nonpartisan committee was dissolved.

Senator MCKELLAR. It was dissolved after it passed this resolution?

Mr. DENHAM. No; before.

Senator MCKELLAR. Before it passed the resolution?

Mr. DENHAM. Yes, sir. We had a large nonpartisan committee composed of members of the American Federation of Labor.

Senator MCKELLAR. You just pulled away from the brotherhoods.

Mr. DENHAM. No, sir; they pulled away from us. There was too much C. I. O. to suit us.

Senator MCKELLAR. I will ask you about the C. I. O.

Do you know Mr. R. H. Brazzell, a member of the C. I. O., and an attorney in Nashville?

Mr. DENHAM. Yes, sir.

Senator MCKELLAR. He is a man of good character, is he not?

Mr. DENHAM. Yes, sir; personally, I think he is.

Senator MCKELLAR. You do not agree with him, but you think that personally he is a fine man?

Mr. DENHAM. That is correct.

Senator MCKELLAR. At this time, Mr. Chairman, in view of what has been said here in connection with this resolution, I desire to read a letter from Mr. Brazzell.

Senator CONNALLY. It will constitute a question.

Senator MCKELLAR. That is within senatorial bounds, I know.

It is dated June 9, 1939, and is addressed to Mr. Hugh Bonham, 1106 Gale Avenue, Nashville, Tenn., and reads as follows:

"In reply to certain questions that you asked me yesterday, I am pleased to give you the following information:

"During the 1935 sessions of the Tennessee General Assembly, although I was employed as chief clerk of factory inspection, I also represented the Order of Railroad Telegraphers, as their legislative representative, and was directly responsible for the introduction of certain bills which we felt would strengthen the enforcement of labor laws in Tennessee.

"Senate bill 302 was passed as chapter 73 of the act of 1935, and contained a new provision which required employers to notify employees the amount they were to receive for their labor, making same collectible in a civil action and providing a penalty for the violation thereof.

"Senate bill 303 was to amend section 6717 of the 1932 code to prohibit the words 'and hours' after the word 'wages' in the third line of the section. This gave the department of labor power to ascertain hours worked by men as well as women, authority which the department did not possess before.

"Senate bill 305 amended section 11361 of the code by adding the following: 'no employee shall be required, as a condition of employment, to trade at a store specified by the employer.'

"Senate bill 306 amended code section 6714 by substituting the word 'five' for the word 'twenty' in the third line of this section. This amendment brought the provisions of the pay-day law to apply to all employers who worked as many as 5 people instead of 20, and further clarified the section to conform to the number set out in the Workmen's Compensation Act.

"All of the above-mentioned bills passed the senate, and all with the exception of senate bill 303 passed the house. Senator Elmer D. Davies, who was a member of the 1935 senate, voted for all of these bills."

There is a question I want to ask before reading any further. It is this: Is Mr. Brazzell telling the truth when he says that Mr. Davies voted for all these labor bills?

Mr. DENHAM. I suppose so, if he copied those numbers.

Senator MCKELLAR. He must be telling the truth, then?

Mr. DENHAM. Yes, sir.

Senator MCKELLAR. I continue to read:

"At the first extraordinary session of 1935 labor representatives sought to amend the general appropriation bill by increasing the amount of the appropriation to a point where the department of labor could operate on an efficient basis. This was amendment No. 18, senate bill 53, which was passed by the house, but the nonconcurrence of the senate caused the amendment to be referred to a conference committee for adjustment.

"Mr. Davies was a member of this conference committee, supported this amendment, and joined the other members of said committee

in recommending that the senate concur therein. As a result of this recommendation by the conference committee the increased request for the department of labor was granted, and this placed the department upon a sound basis, permitting it to render much better service to the working people of Tennessee."

Is it true, as Mr. Brazzell states, that Mr. Davies, in the conference and in the senate, voted for this appropriation bill in the interests of labor?

Mr. DENHAM. If he quoted that correctly, he is undoubtedly telling the truth.

Senator MCKELLAR. He is a man of intelligence, a man of good standing, even though he is a member of an organization you do not agree with. Is that not true?

Mr. DENHAM. Yes, sir.

Senator MCKELLAR. But as a labor man you know that he is an excellent man. Is that not true?

Mr. DENHAM. Yes, sir.

Senator MCKELLAR. I have read the letter. It will not be necessary to put it in the record.

Senator CONNALLY. It will have to be placed in the record. You have read it.

Senator MCKELLAR. All right. It will go in the record, then. That is all right.

Now, we were talking about Mr. Reid. Mr. Reid has taken one of the most prominent stands as a labor man in and around the legislature for a number of years, has he not?

Mr. DENHAM. He has been up there quite a while.

Senator MCKELLAR. He is one of the most vigorous and active labor men in Nashville and in Tennessee. Is that not true?

Mr. DENHAM. He doesn't stay around Nashville all the time and I am not at Memphis.

Senator MCKELLAR. He is around Nashville a good deal, and you know that he has been very active in every legislature for a number of years, do you not?

Mr. DENHAM. Yes, sir.

Senator MCKELLAR. At this point, Mr. Chairman, I would like to read a telegram I received this morning from Mr. Reid. It is addressed to me, and reads as follows:

"MEMPHIS, TENN., *July 6, 1939.*

"Senator K. D. MCKELLAR,
"Senate Building:

"Information received within last few hours indicates that I may have been too severe in condemnation of Elmer Davies on labor record. Statements from sources I regard as reliable indicate that he assisted in passage of brotherhood safety bill and musicians' bill last session."

Is it true that Mr. Davies helped with those bills?

Mr. DENHAM. I couldn't say. If he did, it was not brought to my attention.

Senator MCKELLAR. You cannot say as to that?

Mr. DENHAM. No, sir.

Senator CONNALLY. Do not the labor organizations keep a record of legislation and the attitude of senators and representatives thereon? Did you not have that available?

Mr. DENHAM. No, sir; the secretary has it.

Senator CONNALLY. You know that he has it, and you could have brought it with you? It would show every senator's record on every bill in which you were interested.

Mr. DENHAM. The bill which the Senator read about was enacted in 1939. Mr. Davies was not a member of the State senate at that time. He was there as a lobbyist on various things.

Senator MCKELLAR. What was he lobbying for? You do not recall his lobbying for these particular bills, do you?

Mr. DENHAM. Nobody told me.

Senator MCKELLAR. You were there. You represented the organization before the legislature. It was your duty to know about these things, was it not?

Mr. DENHAM. On that musicians' bill you just spoke of, the president of the National Musicians' Union wanted to withdraw it after they amended it and tore it all to pieces. I told them I wouldn't do that if I was him; that he would have something to work on at the next session.

Senator MCKELLAR. It was passed, but you do not know whether Mr. Davies was for or against it?

Mr. DENHAM. That is correct.

Senator NEELY. Have you any reason to question the truth of the telegram just read by Senator MCKELLAR?

Mr. DENHAM. No, sir; I am not questioning the telegram.

Senator MCKELLAR. You differ from what Mr. Brazzell said and what Mr. Reid said, and what Mr. Loring said, and what Mr. Miller said, that Mr. Davies supported a good deal of labor legislation?

Mr. DENHAM. The only thing that I can say about Mr. Miller is that he was a member of the nonpartisan committee of the State Federation of Labor. He was president after the adjournment of the federation.

Senator MCKELLAR. At the time the resolution was passed by the nonpartisan committee, how many people were present?

Mr. DENHAM. There were nine on the committee, and nine present.

Senator MCKELLAR. And the committee had other functions, I suppose.

Mr. DENHAM. Yes, sir. That was in our own convention. We had nothing to do with outside people.

Senator MCKELLAR. But it was that committee that had been dissolved? Mr. Reid had been discontinued with the committee?

Mr. DENHAM. The former committee, because it went into the C. I. O.

Senator MCKELLAR. The information I want is this: This purports to have been a resolution of the Tennessee Federation of Labor, but, as a matter of fact, it is a resolution of the nine men on the Nonpartisan League.

Mr. DENHAM. After the convention referred it to the committee.

Senator MCKELLAR. After the convention referred it to the committee?

Mr. DENHAM. That is correct.

Senator MCKELLAR. Did the convention adopt that as a resolution of the convention, or take any action on it at all?

Mr. DENHAM. You will find it in the laws.

Senator MCKELLAR. But the federation, as a federation, has not adopted it?

Mr. DENHAM. Absolutely, through the committee.

Senator MCKELLAR. Through its committee?

Mr. DENHAM. The authority granted to the committee.

Senator MCKELLAR. But the convention did not adopt it. I believe that is all on that.

Do you know Mr. Perry Daly?

Mr. DENHAM. Yes, sir.

Senator MCKELLAR. He has been in organized labor a long time, has he not?

Mr. DENHAM. Yes, sir.

Senator MCKELLAR. He is a man of high standing, integrity, and honesty?

Mr. DENHAM. To my knowledge; yes, sir.

Senator CONNALLY. Speak out. The reporter cannot make a record of your answers when you nod your head.

Senator MCKELLAR. Do you know Mr. Hugh Bonham, of Nashville?

Mr. DENHAM. Not very well.

Senator MCKELLAR. Do you know his reputation as a man of truth and honor and intelligence?

Mr. DENHAM. The short time I have known him; yes, sir.

Senator MCKELLAR. You never heard anything against him?

Mr. DENHAM. No, sir.

Senator MCKELLAR. He is a man of high standing?

Mr. DENHAM. As far as I know, he is.

Senator MCKELLAR. Do you know Mr. Badgett of Knoxville?

Mr. DENHAM. I only know him through the last session of the legislature.

Senator MCKELLAR. You ought to know him. He was friendly to your organization, was he not?

Mr. DENHAM. That is right.

Senator MCKELLAR. You know him as a member of the legislature, as a lawyer, and as a man of good character and standing?

Mr. DENHAM. That is right.

Senator MCKELLAR. Did he not support your labor bills?

Mr. DENHAM. As far as we were able to get him; yes, sir.

Senator MCKELLAR. That is all you could ask for. He supported all your bills?

Mr. DENHAM. Yes, sir. A good many of them were lost in the committee.

Senator MCKELLAR. Mr. Badgett did not have anything to do with that, did he?

Mr. DENHAM. No, sir.

Senator MCKELLAR. I believe that is all.

Senator CONNALLY. Have you any further statement you wish to make?

Mr. DENHAM. I would like to read something from the report of the legislative committee that Mr. Loring was chairman of.

Senator CONNALLY. What committee is that?

Mr. DENHAM. The resolutions committee. They sent out all those laws.

Senator CONNALLY. The report to the convention?

Mr. DENHAM. Yes, sir.

Senator CONNALLY. And the convention acted on the resolutions?

Mr. DENHAM. That is right.

Senator MCKELLAR. The convention did not act on this resolution.

Mr. DENHAM. It accepted the report of the committee.

Senator MCKELLAR. It was not discussed or voted on in the convention.

Senator CONNALLY. Whatever the record shows. Read it.

Mr. DENHAM:

"Report of resolutions committee

"NASHVILLE, TENN., *June 7, 1939.*

"*To the officers and members of the Tennessee State Federation of Labor:*

"This committee on resolutions has endeavored to pass on the resolutions in a fair and impartial manner and always keeping in mind the best interests of the labor movement as a whole.

"I, as chairman of this committee, wish to thank each and every one of the members of this committee for their honesty and sincerity, and each and every member has done his best. This committee recommends to the Tennessee Federation of Labor that in its conventions in the future that all resolutions shall be presented to the secretary of the federation not later than 4 o'clock of the opening day of the federation."

That is on page 51 of these laws adopted by the convention.

Senator CONNALLY. Is there anything further you want to say?

Mr. DENHAM. That is all.

Senator NEELY. Mr. Witness, you made some reference to some alleged lobbying by Mr. Davies. Do you personally know the nature of the legislation that he was supporting or that he was opposing at the time he was going about this lobbying?

Mr. DENHAM. No, sir. I didn't think it was good policy to try to find out everything about a man lobbying.

Senator NEELY. How do you know he was lobbying at all?

Mr. DENHAM. He was always in one of the legislative chambers every day.

Senator CONNALLY. You were there, too, when you saw him, were you not?

Senator NEELY. Were you lobbying?

Mr. DENHAM. Probably he talked to the same men I did. I didn't ask any other man what he was talking about.

Senator NEELY. Were you lobbying?

Mr. DENHAM. I was a bona fide representative of the State Federation of Labor.

Senator NEELY. Do you know whom Mr. Davies represented?

Mr. DENHAM. No, sir.

Senator NEELY. And you have no personal knowledge concerning the nature of the duty he performed or the efforts he made either to expedite or obstruct the passage of legislation through the legislature.

Mr. DENHAM. That is right.

Senator NEELY. Do you think it is quite fair to say Mr. Davies was lobbying, and I suppose with the implication he was lobbying for some measure that was inimical to labor, unless you have some definite evidence you can present on that point?

Mr. DENHAM. That is why I said that I didn't ask those people what he was talking about.

Senator NEELY. You do not believe that this committee should be influenced or prejudiced against Mr. Davies' confirmation, by reason of any statement you have made about his lobbying activities, do you?

Mr. DENHAM. Oh, no.

Senator CONNALLY. If he had been lobbying against legislation sponsored by labor, and you found it out, you would have no doubt that he was a lobbyist?

Mr. DENHAM. That is true.

Senator CONNALLY. But you did not find that out?

Mr. DENHAM. No, sir; I didn't check it that close. I didn't know I would be called upon.

Senator CONNALLY. It is not a question of your being called upon here. You never heard anything specific about his lobbying against labor bills?

Mr. DENHAM. No, sir.

Senator NEELY. Can you tell the committee of a single specific hostile act of which Mr. Davies has ever been guilty toward organized labor?

Senator MCKELLAR. Of your own knowledge.

Senator NEELY. Yes.

Mr. DENHAM. The only things I know are those votes in the Senate Journal of 1935, where labor was 100 percent behind all the T. V. A. bills, which was around 15 or 16. The record is there and speaks for itself.

Senator NEELY. I did not reach the room until after you had discussed that matter.

Mr. DENHAM. Yes, sir. I gave the pages to put in the record.

Senator NEELY. Those were not known as labor bills, but were bills of a general character in which labor had an interest?

Mr. DENHAM. That is correct. They involved around $100,000,000 we were going to get for that territory.

Senator CONNALLY. Have you anything further you wish to say?

Mr. DENHAM. I believe not.

Senator CONNALLY. We will hear the other gentleman now?

STATEMENT OF W. F. SEIGENTHALER, VICE CHAIRMAN, TENNESSEE STATE LEGISLATIVE COMMITTEE, BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN

Mr. SEIGENTHALER. I want to beg the indulgence of the committee.

Senator CONNALLY. First give your name and whom you represent and your business.

Mr. SEIGENTHALER. W. F. Seigenthaler, vice chairman of the Tennessee State legislative committee of the Brotherhood of Locomotive Enginemen and Firemen.

Senator CONNALLY. All right. Proceed.

Mr. SEIGENTHALER. There were some charges made by Mr. Loring, of Memphis, that this is a political move. I want to read a letter addressed to Senator MCKELLAR, under date of January 20, 1937, which states the position of my organization on the bill to reform the Supreme and Federal Courts.

Senator CONNALLY. What does that have to do with this?

Mr. SEIGENTHALER. Just to show the position taken by the organization prior to the nomination of Mr. Davies.

Senator CONNALLY. I do not see the materiality of that. How long is the letter?

Senator MCKELLAR. I have the letter.

Senator CONNALLY. How long is it?

Mr. SEIGENTHALER. Just a couple of pages.

Senator CONNALLY. Read it. Who is it from?

Mr. SEIGENTHALER. From myself.

Senator CONNALLY. Just an individual letter representing your views?

Mr. SEIGENTHALER. Not my own views, but acting as chairman of the legislative board and writing to the Senators and Congressmen to urge them to support the bill.

Senator CONNALLY. Was this something that was acted on by the legislature?

Mr. SEIGENTHALER. No, sir.

Senator MCKELLAR. The chairman of the board is Mr. Reid.

Mr. SEIGENTHALER. This is a letter I addressed to you.

Senator MCKELLAR. Mr. Reid is a member of your board. He is chairman and you are vice chairman.

Mr. SEIGENTHALER. Yes, sir.

Senator MCKELLAR. Do you speak for the board when the chairman is against you?

Mr. SEIGENTHALER. I don't know why he isn't here.

Senator MCKELLAR. Who else is on the board?

Mr. SEIGENTHALER. There are 13 members.

Senator MCKELLAR. Are any of them here?

Mr. SEIGENTHALER. No, sir.

Senator CONNALLY. Did the board ever meet and pass on this matter?

Mr. SEIGENTHALER. We have had meetings since then.

Senator CONNALLY. I mean before then.

Mr. SEIGENTHALER. No, sir; when the President came out with that proposition.

Senator CONNALLY. To reform or deform?

Mr. SEIGENTHALER. We did it time and time again—write to our Senators and Representatives and request them to support legislation. We did that in this case—wrote to our Senators and Representatives in Congress and requested them to support the President in his proposition to reform the judiciary.

Senator CONNALLY. And you and the chairman did that? You had no meeting of the board?

Mr. SEIGENTHALER. We didn't have to. It was when the board was not in session.

Senator MCKELLAR. The board was not in session, and you were vice chairman and he was chairman.

Mr. SEIGENTHALER. Yes, sir.

Senator CONNALLY. I do not see the need of cluttering up the record with this sort of stuff.

Senator MCKELLAR. I have no doubt that the letter came to me, and I voted for the measure.

Senator CONNALLY. And you voted wrong when you did it. [Laughter.]

Senator MCKELLAR. I think I voted right, and I have no apology to make for it in differing from the distinguished gentleman at the end of the table.

Mr. SEIGENTHALER. There have been charges made that this is a political move. What I want to get in the record is the fact that we were recorded on that proposition before any Federal judgeship was involved. I don't think it is necessary to read it.

Senator CONNALLY. You wrote to Senator MCKELLAR advocating the President's Supreme Court bill?

Mr. SEIGENTHALER. Yes, sir.

Senator CONNALLY. What does that have to do with this matter?

Mr. SEIGENTHALER. Loring stated that it was a political move.

Senator CONNALLY. You say that it is not?

Mr. SEIGENTHALER. I say it is not.

Senator CONNALLY. Go ahead. What else did you do?

Mr. SEIGENTHALER. I wrote to Senator CONNALLY on January 29.

Senator MCKELLAR. You did not write him about the Supreme Court bill.

Mr. SEIGENTHALER. No, sir.

Senator CONNALLY. It would not have done any good if he had. I am not as easily influenced as the Senator from Tennessee. [Laughter.]

Mr. SEIGENTHALER. We will prove that Mr. Davies was an active member of the Ku Klux Klan.

Senator CONNALLY. How do you know. Are you a member?

Mr. SEIGENTHALER. No, sir; I am not a member.

Senator CONNALLY. Were you ever a member?

Mr. SEIGENTHALER. No, sir. This is a letter addressed to me that I received by air mail this morning.

Senator CONNALLY. Did you endorse the appointment of Mr. Justice Black to the Supreme Court?

Mr. SEIGENTHALER. Yes, sir.

Senator CONNALLY. He was a member of the Ku Klux Klan.

Mr. SEIGENTHALER. So they charged.

Senator CONNALLY. He admitted it. Are you in favor of impeaching him and taking him off the Supreme Court?

Mr. SEIGENTHALER. No, sir.

Senator CONNALLY. It is all right when a man is on the Supreme Court, and all wrong for a district judge.

Mr. SEIGENTHALER. May I read this?

Senator CONNALLY. Yes; go ahead.

Mr. SEIGENTHALER (reading):

IN THE SENATE, U. S. A.,
Washington, D. C.

In re: Nomination of Elmer Davies for judge, middle district of Tennessee:

Affidavit

William S. Noble, first having been duly sworn states the following facts:

That he is and has been for more than 35 years a practicing attorney at the Nashville bar. That heretofore he made a sworn statement of fact in affidavit form relative to his personal knowledge of the membership and affiliation of Elmer Davies in and with the Ku Klux Klan in Nashville, Tenn.;

That subsequently he gave to a representative of the Federal Bureau of Investigation a more detailed statement of fact relative to the same matter. That he is informed both said statements were intended to be filed and were in fact filed with the Department of Justice in Washington, D. C., and are today a part of the records of that Department relative to said nomination and judgeship.

That on June 29, 1939, he received a telegraphic notice and invitation from the Honorable TOM CONNALLY, chairman, United States Senate subcommittee, to appear before the committee at its hearing July 6, 1939, 10:30 a. m., relative to the nomination of Elmer Davies for said judgeship. That he regrets his inability to be present at the hearing because of his physical condition, and that if present he would be unable to add one statement of fact to those embodied in the instruments of record hereinbefore referred to. That he reaffirms each and all statements of fact set forth in said instruments and refers to, adopts, and makes both of said instruments a part of this affidavit as fully and completely as if said facts were embodied herein by exact word and figure, and respectfully requests that this statement, together with the statements of record hereinbefore referred to, be heard and considered by the committee as and for his oral statement if present.

That he has requested the Honorable W. F. Seigenthaler, a citizen and labor representative at Nashville, Tenn., in attendance before the committee, to present these matters to the committee in his behalf.

WILLIAM S. NOBLE.

Subscribed and sworn to before me this 5th day of July 1939.

LEO L. JENKINS, *Notary Public.*

My commission expires June 24, 1943.

And here is another one from Mr. Johns.

Senator CONNALLY. All right.

Senator MCKELLAR. Mr. Johns is dead, is he not?

Mr. SEIGENTHALER. Not that I know of. If you doubt this, you can check it.

Senator MCKELLAR. Oh, I am not doubting it. I want to ask you some questions about it.

Mr. SEIGENTHALER:

STATE OF TENNESSEE,
County of Davidson:

I, C. D. Johns, being first duly sworn, make oath as follows:

I have been a citizen of Nashville for 50 years and have known Mr. Elmer Davies only after he began the practice of law in Nashville.

I became a member of the Ku Klux Klan soon after its organization in Nashville and was actively interested in its work for several years, as an organizer.

I know that Mr. Elmer Davies was a member of the Ku Klux Klan and have seen him in the meetings a number of times. I have no ill will toward Mr. Davies. I was formerly Sheriff of Davidson County, Tenn.

C. D. JOHNS.

Sworn and subscribed before me this 24th day of April 1939.

H. L. JENKINS,
Justice of Peace of Davidson County.

My commission expires 1942.

Senator CONNALLY. Who is Mr. W. S. Noble? Is he here?

Mr. SEIGENTHALER. No, sir.

Senator CONNALLY. He was invited to be here.

Mr. SEIGENTHALER. He says in there that he regrets to ask to be excused due to ill health.

Senator CONNALLY. He made an affidavit. He said he is a member of the Ku Klux Klan himself.

Mr. SEIGENTHALER. Yes, sir.

Senator CONNALLY. What were you doing getting an affidavit from him to impeach somebody else for being a member of the Ku Klux Klan? It is all right for one man to be a member of the Ku Klux Klan, according to your idea, and all wrong for another. But go ahead. I think we had better have all this copied in the record.

Senator MCKELLAR. Do you know R. S. Patterson, of Nashville?

Mr. SEIGENTHALER. No, sir.

Senator CONNALLY. I would like to say that I never was a member of the Ku Klux Klan. I was elected to the Senate on an anti-Ku Klux Klan platform. I make that statement because, in view of some of the things that have been said, someone might think I was affiliated with it.

Senator MCKELLAR. I want to introduce a letter I would like to have both members of the committee listen to.

Senator CONNALLY. Let us see if he has finished about the Ku Klux Klan.

Mr. SEIGENTHALER. That is all I have, so far as the Klan is concerned.

Senator MCKELLAR. That is what I understood.

Senator CONNALLY. All right.

Senator MCKELLAR. This has a headline "Soveren Klan of the World, Columbian Union, Columbian Union Building, Sixth Avenue North, Nashville, Tenn." In the upper right-hand corner is a black star in a red triangle, and in the upper left-hand corner is a man dressed in white on a white horse. It is dated April 20, 1939, and addressed to me, and reads as follows:

"I just noticed in the Nashville Banner a Washington article that two (2) affidavits had been filed with you stating that Mr. Elmer Davies had been a member of the Klan."

That is the same affidavit—or the same two affidavits—you just submitted.

"I was a charter member, secretary and treasurer (also official photographer) of the Soveren Klan of the World from its organization, and can state that his name was not on any of the lists.

"The Klan was patterned after the original one and like it, was strictly a war measure. After the war, it was disbanded, as its work was over.

"I take issue with you as to his voting for Al Smith; as I not only voted, but contributed and worked for his election; however, as the lesser of two evils, as Cordell Hull was my choice and you no doubt remember how the nomination was secured."

I do not know Mr. Patterson. This came to me in a voluntary way. He says that he is secretary and treasurer and official photographer of the Klan.

Senator CONNALLY. That is not the real Klan, is it?

Senator MCKELLAR. Yes.

Senator CONNALLY. He says in the letter it is like the other Klan.

Senator MCKELLAR. He means that it is patterned after the one that followed the Civil War. I offer that at this time in connection with the statement just made.

Senator CONNALLY. Go ahead, Mr. Seigenthaler.

Mr. SEIGENTHALER. I want to read something from the legislative report of the Tennessee Federation of Labor, under the old nonpartisan committee. Senator McKellar calls that the nonpartisan league, but it is the nonpartisan committee.

Senator CONNALLY. What is the date of it?

Mr. SEIGENTHALER. The 1937 session of the seventh general assembly.

Senator CONNALLY. All right. What does the report say?

Mr. SEIGENTHALER. I want to bring this out by reading from the report.

Senator CONNALLY. All right.

Mr. SEIGENTHALER. House bill 1360, chapter 227, acts 1937. Authorize a Government-use system for penal institutions, preventing competition resulting from convict labor. That was in relation to the products of the State penitentiary.

Senator CONNALLY. Speak out louder.

Mr. SEIGENTHALER. It authorized the Government-use system in penal institutions. The vote on that bill was 20 ayes and 1 no. Mr. Davies voted "no."

Senator NEELY. Was that a convict labor bill?

Mr. SEIGENTHALER. Yes, sir; that was a convict labor bill.

Senator CONNALLY. Permitting State use or preventing State use?

Mr. SEIGENTHALER. To take the products of the penitentiary and use them for State institutions and take them out of competition with free labor.

Senator CONNALLY. And he voted against that?

Mr. SEIGENTHALER. He voted against that.

Senator MCKELLAR. Before you leave the Ku Klux matter, was there not a judgeship fight in which Mr. Noble was a candidate, and in which you took an active part?

Mr. SEIGENTHALER. Which one are you speaking of?

Senator MCKELLAR. Judge Gilbert and Mr. Noble.

Mr. SEIGENTHALER. No, sir; I didn't take any part in that fight.

Senator MCKELLAR. Mr. Noble was a candidate against Judge Gilbert, and Mr. Davies supported Gilbert?

Mr. SEIGENTHALER. I have no recollection about that.

Senator MCKELLAR. That is what is the matter with Mr. Noble. All right.

Mr. SEIGENTHALER. Here is what the report of the legislative committee says on this other matter:

"After many years of effort on the part of the officers of organized labor, the convict labor question has been settled, and the State-use system adopted. It will take about a year, however, before the law passed will go into effect. The fight that organized labor has made to eliminate the convict from competing with free labor and free manufacturers is not that we wanted convicts kept in idleness, because we think that they should be kept employed, but our principal argument has been that the evil of convict labor has permitted political favorites to build up enormous fortunes at the expense of unfortunate human beings, which brought about a shameful condition that prevented any true rehabilitation of the criminal."

That has been our attitude on that question for years and years and years. I want that to go into the record.

Senator CONNALLY. All right.

Mr. SEIGENTHALER. Now, may I say——

Senator NEELY. Have you a copy of the bill to which that report refers?

Mr. SEIGENTHALER. No, sir. I copied this from the Senate Journal. It is hard to get a copy of it.

Then there was Senate bill No. 99, at the special session in 1935, to authorize the University of Tennessee to cooperate with Federal agencies. That meant the T. V. A. and A. A. A. and all those other agencies. On that bill the vote was 24 ayes and 4 noes. Those who voted "no" were Davies, Morgan, Sprouse, and Wright.

During the 1937 session they had up Senate bill 1011, to establish a national-employment system. The vote on that was 22 ayes and 7 noes. Davies voted "no." I don't have a list of the others.

That is all the records we have of Mr. Davies while he was a member in those two sessions.

Senator MCKELLAR. Have you finished with that particular subject? I mean in relation to the bills on which he voted "no."

Mr. SEIGENTHALER. Yes, sir.

Senator MCKELLAR. Let me ask you if it is not a fact that all of those bills you referred to as T. V. A. bills were not T. V. A. bills, but some of them were bills that were presented by the State planning commission?

Mr. SEIGENTHALER. Senator, to the best of my recollection I will tell you exactly what happened. When those bills were introduced in the State legislature, they ran from No. 112 to 126. No. 113

was the main T. V. A. bill. The question was raised by Mr. Davies whether the T. V. A. authority was behind these bills. Governor McAllister wired Chairman Morgan, of the T. V. A., and he wired back that they were not behind it. All this information is in that photostatic copy that Mr. Denham furnished. All I know is that I was in and out from time to time when these bills were up.

Senator CONNALLY. Let us talk about bill No. 113. What was that bill?

Mr. SEIGENTHALER. I haven't got that in mind.

Senator CONNALLY. You supported it. Do you not know what was in it?

Mr. SEIGENTHALER. It was the main bill of the T. V. A.

Senator CONNALLY. Can you not give us something besides that in the way of a description of the bill?

Mr. SEIGENTHALER. It was called the main T. V. A. bill.

Senator MCKELLAR. Mr. Davies voted for it.

Mr. SEIGENTHALER. The record doesn't show that.

Senator MCKELLAR. The record shows that he voted for the T. V. A. bills. Why are you complaining of him if he voted for the T. V. A. bills?

Mr. SEIGENTHALER. What happened was this: Mr. George Cate was in the senate at the same time.

Senator MCKELLAR. Let me ask you about Mr. George Cate. He is a bitter personal and political enemy of Mr. Davies, is he not, and came up here and raised a roughhouse about his appointment?

Mr. SEIGENTHALER. I don't know about that.

Senator MCKELLAR. Do you not know that the papers in Nashville contained the statement that Mr. Cate was here seeking to block the appointment of Mr. Davies?

Mr. SEIGENTHALER. Senator, I don't know.

Senator MCKELLAR. Is not that true?

Mr. SEIGENTHALER. I am not in Nashville all the time.

Senator MCKELLAR. You do not remember anything about that?

Mr. SEIGENTHALER. No, sir.

Senator CONNALLY. Tell us what Mr. Cate did.

Mr. SEIGENTHALER. Mr. Cate introduced bills from 114 to 124. They were known as T. V. A. planning bills.

Senator CONNALLY. Did he know what was in them? Was it just because they were T. V. A. planning bills?

Mr. SEIGENTHALER. I will give you a general outline of what they covered. The main T. V. A. bill was one giving power to municipal corporations to deal with the State R. E. A. They were taking authority away from the public utilities commission and giving it to the T. V. A. I am honest when I say that I don't know what those bills were. That was 4 years ago. Very few men can pick out now just what they were.

When Mr. Davies came back to Nashville he took the roof off about his name being on these bills. That is shown on page 194 of the senate journal, where it says: "Mr. Davies moved that his name be stricken from senate bills Nos. 114, 115, 116, 117, 118, 119, 120, 121, 123, and 124, which motion prevailed."

Then it says:

"Mr. Davies moved that Senate bills 113 to 124, inclusive, be re-referred to the Judiciary Committee."

Senator MCKELLAR. That does not say that they were T. V. A. bills.

Mr. SEIGENTHALER. They were known as T. V. A. planning bills.

Senator CONNALLY. Who sponsored that group of bills?

Mr. SEIGENTHALER. The Railway Brotherhood did.

Senator CONNALLY. Who introduced them?

Mr. SEIGENTHALER. I couldn't tell you. That has been 4 years ago.

Senator MCKELLAR. Mr. Hollis Reid was head of the Railway Brotherhoods in the State at that time.

Mr. SEIGENTHALER. Yes, sir.

Senator MCKELLAR. You heard Mr. Reid's telegram that I read.

Mr. SEIGENTHALER. Yes, sir. On page 198 of the senate journal, Mr. Davies submitted an amendment to the main bill to read as follows: "To strike out 'such bonds shall not be subject to taxation.'" When that came to a vote one of the three Senators that voted for it was Davies.

Senator CONNALLY. What is the significance of that?

Mr. SEIGENTHALER. That would have destroyed the whole thing.

Senator CONNALLY. All the T. V. A. bonds are tax-free. Why should not the others be?

Mr. SEIGENTHALER. He made a move to subject the bonds to taxation.

Senator CONNALLY. I thought you said he moved to exempt them from taxation.

Mr. SEIGENTHALER. No, sir. Here was the idea of it. The amendment was to strike out the last sentence reading as follows: "Such bonds shall be subject to taxation." His amendment was to strike that out. Is that clear?

Senator CONNALLY. Yes.

Mr. SEIGENTHALER. I want to read something from page 201.

Senator CONNALLY. I think I can save some time. These are already in the record. You say he was against all of them?

Mr. SEIGENTHALER. I should say that he consistently fought these bills.

Senator CONNALLY. From 114 to 126?

Mr. SEIGENTHALER. He said he was for 113, and then tried to hamstring it.

Senator CONNALLY. What was that?

Mr. SEIGENTHALER. What I just read.

Senator CONNALLY. He voted to strike that out?

Mr. SEIGENTHALER. He voted to strike it out.

Senator CONNALLY. He offered an amendment to strike out a certain clause, and it failed to carry. Did he still vote for the bill?

Mr. SEIGENTHALER. No, sir.

Senator MCKELLAR. Do you not know that Mr. Davies voted for the bills? Do you not know that there were three principal T. V. A. bills, and that the Tennessee Planning Board undertook to graft onto them these other bills in which the planning board was interested, but in which the T. V. A. was not interested? Do you not know that Mr. Davies voted for all the T. V. A. bills and only voted against the bills of the State planning board?

Mr. SEIGENTHALER. I beg to differ with you. On page 204 of this appears——

Senator CONNALLY. What appears? Go ahead.

Mr. SEIGENTHALER. No; it is on page 203. Mr. Davies moved a rereference of all these bills, and you know what that means.

Senator MCKELLAR. You think because of that he was opposed to them? You would not tell the committee that Mr. Davies voted against the three T. V. A. bills in which the T. V. A. was interested, would you?

Mr. SEIGENTHALER. I can answer that in this way.

Senator MCKELLAR. Would you make that statement?

Senator CONNALLY. Let him answer to the best of his ability.

Mr. SEIGENTHALER. Let me answer in my own way.

I can say, in a broad sense, that in my study of this record I have been unable to find where he supported the T. V. A., but he fought it.

Senator CONNALLY. Did you not put in the record the numbers of the bills you claim he voted against? And those he voted for?

Mr. SEIGENTHALER. No, sir. It would take some time to do that.

Senator CONNALLY. I know it would. You say, on the whole, he voted against all of them, and Senator MCKELLAR says he voted for three of them.

Mr. SEIGENTHALER. Those bills were numbered from 113 to 124.

Senator CONNALLY. Which ones did he vote for?

Mr. SEIGENTHALER. I couldn't say.

Senator CONNALLY. Which ones did he vote against?

Mr. SEIGENTHALER. The only record is on page 194 of the senate journal of 1935, and on pages 198, 201, 203, and 205.

Senator CONNALLY. You contend that, because he made an amendment to modify certain language, that indicates that he was against the bill? Make your statement more accurately. We cannot go by those general statements.

Mr. SEIGENTHALER. I don't know how I could phrase it to give it any better than I have. I know we were for the bills.

Senator CONNALLY. You were for all of them?

Mr. SEIGENTHALER. We were for all of them, and we know there was opposition that developed and an attempt was made to hamstring them. Coming to the final point, he made a move to rerefer these bills, and they would have died in the committee. I am honest about this. I don't believe in making statements about something I don't know anything about.

Senator CONNALLY. All right. Go ahead.

Senator MCKELLAR. To keep the record straight, is it not a fact that there were three T. V. A. bills, and the rest of them were State planning bills which they tried to hitch onto the T. V. A. bills; and that the motion to which you refer was a motion by Mr. Davies to rerefer these bills that were not T. V. A. bills; that he voted for all the T. V. A. bills, but did not vote for some of these planning bills that were purely State matters?

Mr. SEIGENTHALER. May I beg leave to make this statement?

Senator MCKELLAR. All right.

Mr. SEIGENTHALER. The way we looked at it, these State bills were absolutely necessary for the T. V. A. to function in Tennessee.

Senator MCKELLAR. Every one of them was passed by the legislature, and not one of them has functioned as yet.

Mr. SEIGENTHALER. I will agree with you.

Senator MCKELLAR. Go ahead.

Mr. SEIGENTHALER. This hasn't been read out. Senator MCKELLAR asked some questions about it. This appeared in the Nashville Banner of January 29, 1935. This is Mr. Davies' statement in the press, and it hasn't been denied.

Senator MCKELLAR. Go ahead and read it.

Mr. SEIGENTHALER. "In my opinion," Davies said, "these are the most pernicious, socialistic, and paternalistic bills that ever were introduced in this legislature."

Senator CONNALLY. To what was he referring?

Mr. SEIGENTHALER. The T. V. A. and companion measures.

Senator CONNALLY. Let the statement speak for itself.

Senator MCKELLAR. You do not mean to say he was making a statement against the three T. V. A. bills he voted for and to which his name was attached, do you?

Mr. SEIGENTHALER. Senator, I am confused on what bills you have in mind.

Senator MCKELLAR. I think you are.

Senator CONNALLY. Go ahead and read the statement. Read what the paper said he said.

Mr. SEIGENTHALER. "In my opinion," Davies said, "these bills are the most pernicious, socialistic, and paternalistic bills that ever were introduced in this legislature. I, for one, don't want the record to show in the future that I sponsored any of these, if unfortunately they should pass."

Senator CONNALLY. Is that all of his statement?

Mr. SEIGENTHALER. "He moved that all but the bills authorizing cities and counties to operate their distribution system and fixing the venue for appeals from the railroad and public utilities commissions' orders be referred to the judiciary committee."

That I pointed out a few minutes ago.

Senator CONNALLY. Is that all of his statement?

Mr. SEIGENTHALER. I am not very familiar with this record, Senator.

Senator CONNALLY. If you are going to introduce the statement, read all of it.

Mr. SEIGENTHALER. Senator MCKELLAR brought up the question.

Senator CONNALLY. Read the statement.

Mr. SEIGENTHALER. "Davies wanted to know 'if these 12 bills had been so much a part of the T. V. A. program, why it was necessary for the Governor of Tennessee to wire Dr. Morgan to find out whether they were or not.

"'Why did he have to send a wire to find out whether these bills were a part of the T. V. A. program?' Davies asked. 'He could not find out by reading them, and I couldn't find out by reading them. I don't believe yet that a great number of these bills are a part of the T. V. A. program.'"

Senator CONNALLY. Is that all of the statement?

Mr. SEIGENTHALER. That is all.

Senator MCKELLAR. The Governor was McAllister?

Mr. SEIGENTHALER. Yes, sir.

Senator MCKELLAR. And he was referring to Governor McAllister wiring Dr. Morgan?

Mr. SEIGENTHALER. Yes, sir.

Senator MCKELLAR. And Dr. Morgan's reply to the Governor?

Mr. SEIGENTHALER. Yes, sir.

Senator CONNALLY. Is there any other statement you want to make?

Mr. SEIGENTHALER. There is one other statement, but I haven't been able to find it yet.

Senator CONNALLY. Can you find it?

Mr. SEIGENTHALER. I probably can by looking for it.

Senator CONNALLY. Have you anything further to submit?

Mr. SEIGENTHALER. I want to put that in the record.

Senator NEELY. Mr. Chairman, I am obliged to leave to keep another appointment. I should like to ask the witness a few questions.

Senator CONNALLY. You may proceed.

Senator NEELY. How long have you been acquainted with Senator MCKELLAR?

Mr. SEIGENTHALER. Speaking of me?

Senator NEELY. Yes.

Mr. SEIGENTHALER. For years.

Senator NEELY. You personally know, do you not, that Senator MCKELLAR has been one of the two or three most active members in the United States Senate in behalf of everything that pertains to the success of the T. V. A. project?

Mr. SEIGENTHALER. Yes, sir.

Senator NEELY. Do you not know that ever since he came to the House, away back 30 years ago, he has been an active supporter of almost every prominent labor measure before Congress?

Mr. SEIGENTHALER. I do.

Senator NEELY. Do you believe, from your knowledge of Senator MCKELLAR and your long intimate acquaintance with him that he would for a moment recommend or support the appointment of anyone as a judge, or any other high place in the Federal service, who, in his opinion, was either hostile to organized labor or in the slightest degree to the T. V. A. project?

Mr. SEIGENTHALER. He has been our consistent friend all these years, and the only quarrel we have ever had was over this appointment. Does that answer your question?

Senator NEELY. You have been and still are a loyal supporter of the President?

Mr. SEIGENTHALER. Yes, sir.

Senator NEELY. Just as Senator MCKELLAR and I have been, and still are?

Mr. SEIGENTHALER. Yes, sir.

Senator NEELY. And Senator MCKELLAR and I were both, of course, rather enthusiastic supporters of what you referred to as the court reform bill, although our distinguished chairman was very much opposed to it. You have no doubt, do you, that the President is friendly to organized labor and the T. V. A.?

Mr. SEIGENTHALER. No, sir; I have not.

Senator NEELY. Do you believe Mr. Roosevelt would appoint Mr. Davies, or nominate him, as he has nominated him, for judge of a Federal court if he thought he was unfriendly to labor or to the success of the T. V. A. project?

Mr. SEIGENTHALER. I don't think he would if he knew the facts.

Senator MCKELLAR. Do you not know that he had a most careful examination of the facts made through the Office of the Attorney General?

Mr. SEIGENTHALER. Senator, I am a little confused as to what happens in Washington.

Senator MCKELLAR. I think you are.

Mr. SEIGENTHALER. I have always tried to be fair and impartial. I have nothing against Mr. Davies personally. I know him as a perfect gentleman. The only conflict we have ever had was about political views and what I would call New Deal legislation.

Senator NEELY. Mr. Seigenthaler, I do not know what the remainder of this testimony will disclose; but as one who has consistently voted for labor measures for many, many years, and whom the railroad brotherhoods have, through their paper known as Labor, which I consider one of the best weekly papers in the world, given me a rating of 100 percent, because of my loyalty to labor legislation, I would not think of voting for a man who had the slightest prejudice against members of organized labor or any laboring men. I am an enthusiastic friend of what is known as labor organizations and their high objectives. I am also a warm supporter, and have been for years, of legislation in regard to the development of the T. V. A. and Muscle Shoals.

I should like to be with labor in this matter but candor compels me to tell you that it does not seem to me that you have so far made out a case of hostility to labor against Mr. Davies. You and I discussed this matter a week or two ago, and I felt at the time that you had not stated any specific acts on the part of Mr. Davies that constituted any sort of disloyalty or even remote hostility to labor. I even took it upon myself to discuss by telephone with prominent officers of one of the railroad unions, and also with officers of the American Federation of Labor, the matters you have discussed concerning Mr. Davies' record.

It does seem to me that unless you can point out to this committee—and I am saying this as your friend and one who knows nothing about Mr. Davies, never saw him until this morning—unless you can show this subcommittee that in some specific case Mr. Davies voted against some particular bill that had in it, not something you might say would be favorable to the labor movement, but something that would specifically indicate that it was a labor measure; unless you can tell us where we can find a record that will really show not just the opinion of one person but where some labor organization as a whole has held that Mr. Davies had in a particular case indicated a prejudice against labor, or has taken a position that resulted in some injury to or was calculated to injure it or impede its progress; unless you can point out something definite of that kind, I feel that the members of this subcommittee should not be expected to report adversely upon this nomination.

I have perhaps said more than I should have said, Mr. Chairman, but I want to make my position clear. I am obliged to go to keep another appointment. My mind is open and I shall be governed by the record as a whole, but in the light of our conversation and what I have heard this morning, unless further specific evidence along the lines I have suggested is produced, I feel that I cannot support the opposition to this nomination.

Mr. SEIGENTHALER. I want to answer this way: In telling this story I have told the truth so far as I know it.

Senator NEELY. I do not entertain any doubt about that.

Mr. SEIGENTHALER. I am very sincere. I made two trips to Washington. I have nothing against Mr. Davies, with the exception of his votes in the senate, where he voted "no" on the convict-labor law and the other laws that authorized the University of Tennessee to cooperate with Federal agencies.

Senator NEELY. I think you have been very courteous and truthful, so much so that you have almost talked yourself out of a case. I feel that you have been consistent with your belief, which I feel is inconsistent, in the light of the few facts brought forth this morning.

Mr. SEIGENTHALER. Senator McKellar has questioned Mr. Denham as to Mr. Davies' lobbying. I have heard quite a bit about his lobbying.

Senator MCKELLAR. I do not think that is relevant.

Senator CONNALLY. If you know anything about it, you may tell it.

Mr. SEIGENTHALER. I am not accustomed to accepting gossip. So far as my personal knowledge goes, I know nothing where I could connect him directly with lobbying in the Legislature of the State of Tennessee, but I want to add further that I have been suspicious of him.

Senator CONNALLY. You have been around the capitol in Tennessee yourself a good deal, have you not?

Mr. SEIGENTHALER. Yes, sir.

Senator CONNALLY. And you have been doing some lobbying yourself?

Mr. SEIGENTHALER. If you want to call it lobbying.

Senator CONNALLY. You were lobbying for what you thought was right.

Mr. SEIGENTHALER. In a true sense.

Senator CONNALLY. Any kind of sense. You have been lobbying for labor legislation.

Mr. SEIGENTHALER. Labor legislation looks toward what we are all interested in, and what is in the interest of humanity.

Senator CONNALLY. You were lobbying for labor legislation because you believe it is in the interest of humanity. That is all right. If you know anything about Mr. Davies' lobbying, you may tell it. The labor people lobby just as well as anybody else. They are around the lobby room all the time. I do not think there is any harm in lobbying.

Mr. SEIGENTHALER. These people I speak of are paid lobbyists.

Senator CONNALLY. Do you not get a regular salary?

Mr. SEIGENTHALER. Yes, sir.

Senator CONNALLY. You are not working for nothing.

Mr. SEIGENTHALER. That is true.

Senator CONNALLY. You get paid for lobbying?

Mr. SEIGENTHALER. Yes, sir.

Senator CONNALLY. Is there any more harm for these other people to be paid than for you to be paid?

Mr. SEIGENTHALER. I do not agree with you. It is the motive that causes them to lobby.

Senator CONNALLY. Your motive is honest, and that of somebody else is dishonest?

Mr. SEIGENTHALER. No; I do not say that. I am talking about working for corporations and people who are seeking special privileges. We are not seeking special privileges.

Senator MCKELLAR. Mr. Seigenthaler and I have been together a long time. I want to make a suggestion in the form of a letter

I just received. It is on the letterhead of the Memphis Trades and Labor Council, dated July 5, 1939, and addressed to me, as follows:

"DEAR SENATOR: Enclosed please find copy of telegram sent to President William Green of the American Federation of Labor.

"Our mutual friends, who are also desirous of seeing the confirmation of Mr. Elmer Davies as Federal judge of the middle district of Tennessee, and some who were in the Tennessee Legislature with Senator Davies have vouched for his labor record and say that he was friendly to labor legislation.

"In the last legislature he worked hard to override the Governor's veto of the local musicians' bill, and worked hard to assist in passing railroad safety-appliance bill.

"We are still for Mr. Davies, and if we may be of any assistance to you or Mr. Davies please do not hestitate to advise.

"With kindest regards, I am,

"Sincerely yours,

"LEV G. LORING, *President.*"

Senator CONNALLY. President of what?

Senator MCKELLAR. Of the Memphis Trades and Labor Council.

One or the other of you gentlemen wrote Mr. Green, and Mr. Green very courteously sent the letter down to the committee, and the committee held these hearings, one of the reasons being that Mr. Green asked it. This is the telegram from Mr. Loring to Mr. Green:

565 BEALE AVE.,
Memphis, Tenn., July 5, 1939.

President WILLIAM GREEN,
American Federation of Labor Building,
Washington, D. C.:

As local president Memphis Trades and Labor Council, wish to advise that interview with various friends of labor who know the facts establish that Elmer Davies has been friend of labor legislation. He worked to override Governor's veto of local musicians' bill. Also worked hard to assist in passing railroad safety-appliance bill. Complaints against Davies come from purely political sources. Labor will make a mistake in opposing his confirmation.

LEV G. LORING,
President, Memphis Trades and Labor Council.

I want that in the record.

Senator CONNALLY. It may go in.

Senator MCKELLAR. Of all those who made complaints against Mr. Davies, only you two gentlemen have come here. Is Mr. Denham an attorney?

Mr. DENHAM. I am not an attorney.

Senator MCKELLAR. Of all the complaints that have been made, you two are the only gentlemen who have appeared to testify. You have been fair in furnishing the information, which I wish to commend; but do you not feel that, under the circumstances, you gentlemen have been misled about the facts as to Mr. Davies being hostile to you? The labor organizations of Tennessee have the approval of the people generally, and of the courts. I would not recommend any man who, in my judgment, was opposed to any organization of labor. Do you not think it is your duty to withdraw this protest to this nomination and let this committee report favorably on the nomination of Mr. Davies? I address that question to both of you.

Mr. SEIGENTHALER. Senator McKellar, I have talked to Horris Reid over long-distance about this, time without number. At the last convention he made the statement that you and he went round and round about this appointment, and you asked him to withdraw it.

Senator MCKELLAR. Withdraw what?

Mr. SEIGENTHALER. The objection to Mr. Davies. So long as Mr. Reid's objection stands, and the copy of the telegram to our international president that was not withdrawn——

Senator CONNALLY (interposing). Where is Mr. Reid? Why has he not come here to testify?

Senator MCKELLAR. Here is his telegram to me, saying he has been misled about it. You heard that telegram read, did you not, Mr. Seigenthaler?

Mr. SEIGENTHALER. Yes, sir.

Senator MCKELLAR. I read it. He says he has been misled about it. You have both testified to the high character and standing and ability of Mr. Davies. Senator Neely, who is your friend, just as I am, feels that way. Do you not think that you gentlemen have not sufficient facts on which to base this protest? I am a friend to labor, and I have no apologies for it. I have been your friend, and I am your friend in this instance, although you may not think so. There are a good many people in labor who do not agree with you two gentlemen.

Mr. SEIGENTHALER. May I answer that?

Senator CONNALLY. Yes.

Mr. SEIGENTHALER. When you ask that you put me on a limb. I would like the best in the world to do that, but here is what I am confronted with: I have a copy of a resolution from my local lodge and from three other local lodges in Nashville. I haven't got the authority to do that. I want the Senator to understand that.

Senator CONNALLY. All right.

Mr. SEIGENTHALER. Here is the position I am in, with the resolution by my lodge and two other local lodges.

Senator MCKELLAR. I have no doubt, if they had heard your testimony, they would be in favor of withdrawing it. That is my judgment.

Mr. SEIGENTHALER. So long as they did that——

Senator MCKELLAR. You have no authority to withdraw it.

Mr. SEIGENTHALER. That is right.

Senator MCKELLAR. It seems to me it ought to be withdrawn.

Mr. SEIGENTHALER. When I drew that I had to notify the lodges.

Senator MCKELLAR. It seems to me, in the interest of good government and every other interest, you should withdraw the protest. Would you do it if you could?

Mr. SEIGENTHALER. I wouldn't like to say, Senator.

Senator MCKELLAR. All right. I will not press it any further.

Mr. SEIGENTHALER. I haven't made up my mind on that.

Senator CONNALLY. Is there anything further?

Mr. SEIGENTHALER. I would like to leave a copy of the resolutions from the local lodges.

Senator CONNALLY. Who prepared them? Do you know who prepared them?

Mr. SEIGENTHALER. No, sir. There have been quite a number of changes around there. I will be truthful and say that resolution did not originate in my lodge. I had nothing to do with it, or with any of the others that came up.

Senator CONNALLY. All right. Go ahead.

Mr. SEIGENTHALER. The first one is the resolution that was adopted by the Tennessee Federation of Labor.

The next one is from the local lodge of the International Association of Machinists:

"Resolution

"Whereas it is common knowledge that the United States Senators from this State have recommended for district judge from the middle district of Tennessee Mr. Elmer D. Davies, of this city, a man whose record—legislative and legal—is one of consistent opposition to everything in the interest of labor; and

"Whereas on January 29, 1939, as a member of the State senate, said Davies characterized the T. V. A. planning bills (including housing measures) as 'the most pernicious, socialistic, and paternalistic bills ever introduced in this legislature,' thereafter broadening his remarks into a bitter general indictment of New Deal legislation that was designed to reduce unemployment and otherwise better the condition of the workingman; and

"Whereas Mr. Davies, as the senate proceedings clearly indicate, not only spoke against the T. V. A. planning bills, but exhausted without success every parliamentary means to bring about their defeat, declaring at the same time that the Roosevelt administration—bribing the States with Federal funds—had done more than the Civil War itself to destroy States' rights; and

"Whereas Mr. Davies, as chairman of the senate rules committee, which strangled the child-labor amendment without letting it come to a vote, is more than anyone else responsible for the failure of its ratification by the Tennessee Legislature; and

"Whereas Rock City Lodge 154, International Association of Machinists, is impressed with the importance of having Federal judges who are at least open-minded in regard to liberal measures and who are sympathetic with all classes of people—qualifications in which Mr. Davies is entirely lacking: Now, therefore be it

"*Resolved,* That we most strongly protest the appointment of Mr. Elmer D. Davies as district judge of the middle district of Tennessee; and be it further

"*Resolved,* That a copy of these resolutions be sent to each of the following: To President Franklin Delano Roosevelt; to United States Attorney General Frank Murphy; to Senators K. D. MCKELLAR and A. TOM STEWART."

Senator MCKELLAR. Were they not drawn up by Mr. Cate, who came up here in a tremendous flurry by airplane to tell the President he could not do that and could not do this?

Senator CONNALLY. If you know, answer the question.

Senator MCKELLAR. Were not these resolutions drawn up in Mr. Cate's office?

Mr. SEIGENTHALER. No, sir; I don't think so.

Senator MCKELLAR. You do not know whether they were or not?

Mr. SEIGENTHALER. I am most sure they were not.

Senator MCKELLAR. You did not draw them?

Mr. SEIGENTHALER. No, sir.

Senator MCKELLAR. Who did draw them?

Mr. SEIGENTHALER. They were sent out by the recording secretaries of the lodges.

Senator MCKELLAR. Somebody originally drew them up. I may be mistaken, but my recollection is that Mr. Cate had resolutions from some of you gentlemen.

Mr. SEIGENTHALER. Senator, I think you have been misinformed.

Senator MCKELLAR. Maybe I have been.

Mr. SEIGENTHALER. I don't think that Mr. Cate had anything to do with those resolutions. I think they originated in the local lodges.

Senator CONNALLY. Attached to these resolutions is a slip handed "Robert E. Lee dining room, Washington, D. C.," and this pencil notation: "Thirteen lodges requested to concur; three in Nashville." You asked 13 and got 3.

Mr. SEIGENTHALER. There are four now.

Senator CONNALLY. Somebody sent them out. This memorandum indicates that somebody did prepare them and sent them to the lodges. Who was it?

Mr. SEIGENTHALER. The recording secretary.

Senator CONNALLY. Who is he?

Mr. SEIGENTHALER. J. E. Moyers.

Senator CONNALLY. Did he draw these three resolutions?

Mr. SEIGENTHALER. I don't know who drew them. The original resolutions were drawn up by lodges on the Tennessee Central Railroad. The secretary drew them up and sent them to the other lodges, asking them to concur.

Senator CONNALLY. Did you ever see these resolutions before they went to the lodges?

Mr. SEIGENTHALER. No, sir.

Senator CONNALLY. You did not see them in the office of the secretary?

Mr. SEIGENTHALER. No, sir. The only thing I have knowledge of, the secretary of my lodge called me up and told me about this resolution and Mr. Davies, and asked me if it was all right for the lodge to act on it, and I told him to go ahead. Is that clear?

Senator CONNALLY. Yes. Is there anything else?

Mr. SEIGENTHALER. I have one other thing. I don't know whether that would be of any use or not.

Senator CONNALLY. What is it?

Mr. SEIGENTHALER. An item that appeared in the press, where Reid called me over the long-distance phone and asked me for information as to Mr. Davies' political record.

Senator CONNALLY. Who did that?

Mr. SEIGENTHALER. Mr. Reid, our chairman.

Senator CONNALLY. I do not think that is material. Is there anything else?

Mr. SEIGENTHALER. That appeared in the press in Nashville.

Senator CONNALLY. That was a request that Mr. Reid made of you?

Mr. SEIGENTHALER. Yes, sir; that is what he asked me.

Senator MCKELLAR. What did he say to you?

Mr. SEIGENTHALER. He wanted to know what evidence we had of Mr. Davies' public record. That came out in the Tennesseean, I think. I don't have the date.

Senator MCKELLAR. Did you give it to the Tennesseean?

Mr. SEIGENTHALER. Yes, sir; I gave it to the Tennesseean.

Senator MCKELLAR. You have already testified to that.

Mr. SEIGENTHALER. I don't know about that.

Senator CONNALLY. No; I do not think so. Is there anything further?

Mr. SEIGENTHALER. Not that I know of.

Senator CONNALLY. Is there anybody else here opposed to this nomination?

FURTHER STATEMENT OF T. O. DENHAM, LEGISLATIVE CHAIRMAN, TENNESSEE FEDERATION OF LABOR

Mr. DENHAM. He asked about withdrawing the complaint.

Senator CONNALLY. All right.

Mr. DENHAM. In reply to that, I want to call attention to the report of the legislative committee of 1937, of which Mr. Reid was chairman and Mr. Daly was a member of the committee. I want to read that record.

Senator CONNALLY. Is that already in the record?

Mr. DENHAM. Not that point. This is the committee's own report, and Mr. Reid was chairman and Mr. Daly was a member of the committee.

Senator CONNALLY. All right. You may read it.

Mr. DENHAM. "Your committee desires to call attention to the following members of the general assembly who stood ready at all times to promote our legislation:

"Senators Thomas L. Cummings, of Davidson; Claude C. Toler, of Paris; Wesley Harville, of Shelby; Bland Maxwell, of Shelby; Gerald Stratton, of Shelby; A. J. Graves, of Knox; one lady member, Mrs. Ruth O'Dell, of Cocke County, incidated a responsive spirit."

Then there is a list of members of the house, but this only has to do with the senate.

Senator CONNALLY. That does not say anything about Senator Davies.

Mr. DENHAM. No, sir. He was not worthy of mention.

Senator MCKELLAR. There were 132 members of the senate. How many are there on your honor roll?

Mr. DENHAM. Seven. That was signed by Chairman Reid, Chrisman of the Engineers, Daly of the Railroad Trainmen, Clark of the Tennessee Federation of Labor, and Archer of the Railway Conductors.

Senator MCKELLAR. There were 132 members of the legislature, and you do not mention all of them. Were those the most prominent members?

Mr. DENHAM. That was in the senate. There was another group in the house that I didn't read.

Senator MCKELLAR. At any rate, they did not condemn Mr. Davies.

Mr. DENHAM. They didn't give him any place.

Senator CONNALLY. Answer the question.

Mr. DENHAM. No, sir.

I want to say that the first time I voted I voted for you, and I am not too old to vote for you yet.

Senator MCKELLAR. I thank you very much. I thank you on my own behalf and on behalf of Mr. Davies.

Mr. DENHAM. But I cannot withdraw the protest. I don't have the authority.

Mr. SEIGENTHALER. Senator, you and I understand each other?

Senator MCKELLAR. Oh, yes.

Senator CONNALLY. Have you any witnesses, Senator MCKELLAR?

Senator MCKELLAR. Yes; I have several.

Senator CONNALLY. Do you want Mr. Davies to make a statement?

Senator MCKELLAR. I do.

Senator CONNALLY. You may proceed with your witnesses.

STATEMENT OF PERRY DALY, ESQ., KNOXVILLE, TENN.

Senator MCKELLAR. Your name is Perry Daly?

Mr. DALY. Yes, sir.

Senator MCKELLAR. Where do you live?

Mr. DALY. Knoxville.

Senator MCKELLAR. How long have you lived there?

Mr. DALY. Fifty years.

Senator MCKELLAR. Are you connected with organized labor?

Mr. DALY. Yes, sir.

Senator MCKELLAR. In what capacity?

Mr. DALY. State legislative representative of the Brotherhood of Railroad Trainmen.

Senator MCKELLAR. How long have you held that position?

Mr. DALY. Since 1925.

Senator MCKELLAR. Do you take an active interest in that work?

Mr. DALY. Yes, sir.

Senator MCKELLAR. Do you know Mr. Elmer Davies?

Mr. DALY. Yes, sir.

Senator MCKELLAR. Do you recall when he was a member of the State senate in 1935; also, I believe, in 1937?

Mr. DALY. Yes, sir. I was there during the whole time he was in the senate.

Senator MCKELLAR. Was he opposed to labor measures?

Mr. DALY. I tried to find out and searched my recollection, and I can't find anything that would indicate that he was opposed to our legislation.

Senator MCKELLAR. As a labor man, you would endorse him?

Mr. DALY. Yes, sir.

Senator MCKELLAR. Do you know him as a man?

Mr. DALY. My acquaintance with him is very casual, Senator.

Senator MCKELLAR. You do not know him intimately?

Mr. DALY. No, sir.

Senator MCKELLAR. What is his reputation as a lawyer?

Mr. DALY. Excellent.

Senator MCKELLAR. And as a man?

Mr. DALY. Good; of the best.

Senator MCKELLAR. He has the reputation of being an honest, upright man?

Mr. DALY. Yes, sir.

Senator MCKELLAR. Will you state to the committee what you know about organized labor, in connection with this matter?

Mr. DALY. So far as I know, I don't have any acquaintance with it, except as it has been brought out here this morning by the State federation of labor. We have in Tennessee a State federation of labor, and we also have the four railroad brotherhoods. I represent the biggest of the four in Tennessee and in the United States. Mr. Reid represents the firemen and enginemen, Mr. Jacobs the conductors, and Mr. Chrisman the engineers. So far as I know, the local lodges around Nashville are the only ones that raised any objection. There was something said about Mr. Reid, but I think his position has been explained.

Senator MCKELLAR. So far as you know, there is no other opposition?

Mr. DALY. Not that I know of.

Senator MCKELLAR. And you believe that Mr. Davies is in every way worthy of this position?

Mr. DALY. I certainly do, or you would not have recommended him.

Senator CONNALLY. Do your duties require you to be around the capitol during sessions of the legislature?

Mr. DALY. I am paid by my organization to be there.

Senator CONNALLY. While you are not a member of the American Federation of Labor, is there not a community interest in labor measures?

Mr. DALY. Up until the last primary election we had what we call the nonpartisan committee in Tennessee, composed of the four transportation brotherhoods and three members of the State federation of labor. We made certain endorsements, and the State federation of labor later tried to repudiate them, and we kind of pulled apart.

Senator CONNALLY. I mean around the legislature, when so-called labor bills are up, the brotherhoods as well as the federation would support them, or oppose them if they contained antilabor legislation?

Mr. DALY. Our brotherhood would cooperate with the federation.

Senator CONNALLY. And being around the legislature, is it not likely that you would have ascertained the attitude of Mr. Davies, if he had been opposing labor legislation?

Mr. DALY. He was not so regarded. I regarded him as rather inclined to be friendly.

Senator MCKELLAR. Thank you, Mr. Daly.

STATEMENT OF HUGH BONHAM, ESQ., NASHVILLE, TENN.

Senator MCKELLAR. Please state your name to the committee.

Mr. BONHAM. Hugh Bonham.

Senator MCKELLAR. You live in Nashville, Tenn.?

Mr. BONHAM. Yes, sir.

Senator MCKELLAR. To what labor organization do you belong?

Mr. BONHAM. Brotherhood of Locomotive Engineers.

Senator MCKELLAR. How long have you been a member of that organization?

Mr. BONHAM. Thirty-five years.

Senator MCKELLAR. Were you present at the recent convention of the State federation of labor in Nashville?

Mr. BONHAM. Yes, sir.

Senator MCKELLAR. Do you know Mr. Elmer Davies?

Mr. BONHAM. Mighty well.

Senator MCKELLAR. Does he live in Nashville?

Mr. BONHAM. Yes, sir.

Senator MCKELLAR. Have you known him for a good many years?

Mr. BONHAM. Yes, sir.

Senator MCKELLAR. Do you know his reputation as a lawyer and as a man in that community?

Mr. BONHAM. As an excellent and very fine gentleman.

Senator MCKELLAR. Do you believe that he would make an excellent judge?

Mr. BONHAM. I believe so.

Senator MCKELLAR. Do you think that he would be unfair to organized labor?

Mr. BONHAM. No, sir. He has always been for the under dog, as the fellow says, in every kind of a case that I ever knew anything about. They talk about him lobbying. He was trying to get a law repealed about the water rights, but it was killed in the house. He has always been friendly to labor.

Senator MCKELLAR. His ability as a lawyer is excellent, I believe you stated.

Mr. BONHAM. That is his reputation.

Senator MCKELLAR. And his character is fine?

Mr. BONHAM. Very good.

Senator MCKELLAR. Mr. Chairman, have you any questions?

Senator CONNALLY. No.

Senator MCKELLAR. That will be all, Mr. Bonham. Thank you.

STATEMENT OF A. B. NEIL, ESQ., PRESIDING JUDGE OF THE CIRCUIT COURT OF NASHVILLE, TENN.

Senator MCKELLAR. Your name is A. B. Neil?

Judge NEIL. Yes, sir.

Senator MCKELLAR. Judge Neil, of what court are you the judge in Nashville?

Judge NEIL. I am presiding judge of all three of the circuit courts.

Senator MCKELLAR. How long have you been on the bench at Nashville?

Judge NEIL. Twenty-nine years.

Senator MCKELLAR. That is longer than any of the rest of them, is it not?

Judge NEIL. Yes; too long.

Senator MCKELLAR. Oh, no, Judge; oh, no. Judge Neil, are you acquainted with Mr. Elmer Davies?

Judge NEIL. Very well.

Senator MCKELLAR. How long have you known him?

Judge NEIL. Since he was first admitted to the practice.

Senator MCKELLAR. Does he practice in your court?

Judge NEIL. He does.

Senator MCKELLAR. Is he considered an excellent lawyer?

Judge NEIL. He is so regarded by all the courts.

Senator MCKELLAR. And you so regard him, yourself?

Judge NEIL. I do.

Senator MCKELLAR. He has been nominated by the President for the position of district judge in the Middle District of Tennessee, as you know. What do you have to say in reference to that nomination and appointment?

Judge NEIL. I think he will make an excellent judge, based upon his character as a man and his reputation as a lawyer. I think it is a good appointment, a splendid appointment.

Senator MCKELLAR. You think it is a splendid appointment?

Judge NEIL. Yes.

Senator MCKELLAR. Does he have any bias or prejudice of any kind against labor?

Judge NEIL. No. I never heard of any prejudice he ever had against organized labor. I do not feel that organized labor should feel the slightest uneasiness about appearing in his court.

Senator CONNALLY. You have testified that he is a very fine lawyer and a very fine man. What do you have to say as to his judicial temperament? Is he a man you would consider to be fair and impartial on the bench, rather than to follow the prejudices which sometimes affect men in the practice?

Judge NEIL. I think he is a man of poise and dignity. I do not think he has any prejudices of any kind. I do not think he would be influenced by any past connections or clients he may have had.

Senator CONNALLY. These gentlemen who have appeared here for the labor movement seem to have some doubt about it. In your view, if Mr. Davies were on the bench, and a matter came before him affecting labor, do you think he would act in a fair and impartial manner?

Judge NEIL. I am sure he would.

Senator MCKELLAR. Thank you very much. We appreciate your coming here.

STATEMENT OF R. B. C. HOWELL, ESQ., JUDGE OF CHANCERY COURT, NASHVILLE, TENN.

Senator MCKELLAR. Your name is R. B. C. Howell?

Judge HOWELL. Yes.

Senator MCKELLAR. And what position do you hold?

Judge HOWELL. I am judge of part 1 of the chancery court at Nashville.

Senator MCKELLAR. How long have you held that position?

Judge HOWELL. Eleven years last spring.

Senator MCKELLAR. Have you known, during that time and before, Mr. Elmer Davies?

Judge HOWELL. I have known him since he was admitted to the bar, and while he has practiced at the Nashville bar. Since I came on the bench he has had a good deal of business in my court. I know him well.

Senator MCKELLAR. How do you regard him as a lawyer and as a prospective judge?

Judge HOWELL. Elmer Davies is an honorable gentleman, a fine lawyer, is well educated, and in my opinion he would make a splendid judge.

Senator MCKELLAR. You heard the questions asked of the chairman of Judge Neil as to judicial poise and temperament. What would you say as to that?

Judge HOWELL. I agree fully with Judge Neil. I do not think that it would be possible for him to let anything that has happened in connection with this matter influence him in the least.

Senator MCKELLAR. Judge, I am a little tender on the subject of age.

Judge HOWELL. I think I know what is in your mind.

Senator MCKELLAR. I do not know whether to ask you this question or not.

Judge HOWELL. Senator, let me take care of that.

Senator MCKELLAR. I will let you explain it.

Judge HOWELL. I am sure that what you have in mind is that I was an applicant for the appointment, and had the endorsement of all these gentlemen; but a few months ago I became 60 years old. I found that old age had crept up on me. I had to bow to old age. I think the Senators from Tennessee have rendered splendid service in the recommendation of Elmer Davies.

Senator MCKELLAR. Thank you very much, Judge Howell.

STATEMENT OF S. L. FELTS, ESQ., ASSOCIATE JUSTICE, COURT OF APPEALS OF TENNESSEE

Senator MCKELLAR. Your name is S. L. Felts?

Judge FELTS. Yes, sir.

Senator MCKELLAR. What position do you hold?

Judge FELTS. Associate justice of the Court of Appeals of Tennessee.

Senator MCKELLAR. How long have you held that position?

Judge FELTS. A little over 2 years.

Senator MCKELLAR. Are you acquainted with Mr. Elmer Davies?

Judge FELTS. Very well.

Senator MCKELLAR. How long have you known him?

Judge FELTS. Ever since he got out of law school and started practicing law in Nashville.

Senator MCKELLAR. About 20 years ago?

Judge FELTS. As I recall it.

Senator MCKELLAR. What is his standing and reputation at the bar as a lawyer and an honest, upright, and conscientious man?

Judge FELTS. He enjoys the very best reputation as a lawyer and as an honest man.

Senator MCKELLAR. Do you think he has judicial poise and character to make a good district judge?

Judge FELTS. I think he has the character as a man, the learning as a lawyer, and the judicial temperament to make a splendid judge.

Senator MCKELLAR. You have heard the questions that were raised by two of our leading labor representatives concerning Mr. Davies. Do you think he would be prejudiced against organized labor in any way if he were selected as judge?

Judge FELTS. No; I am satisfied he would not.

Senator MCKELLAR. Thank you very much.

STATEMENT OF CHARLES GILBERT, ESQ., JUDGE OF THE CIRCUIT COURT, NASHVILLE, TENN.

Senator MCKELLAR. Please state your name to the committee.

Judge GILBERT. Charles Gilbert.

Senator MCKELLAR. You are one of the circuit judges at Nashville?

Judge GILBERT. One of the circuit court judges.

Senator MCKELLAR. That is the State court in Nashville?

Judge GILBERT. Yes.

Senator MCKELLAR. What other places have you held in Nashville?

Judge GILBERT. I was formerly an assistant prosecutor, and also assistant city attorney.

Senator MCKELLAR. You have heard some question raised this morning about Mr. Davies being connected in some way with the Ku Klux Klan. Do you happen to know anything about that? Let me explain just what I have in mind. You are a Jew, are you not?

Judge GILBERT. Yes, sir.

Senator MCKELLAR. And the Ku Klux Klan was supposed to be opposed to Jews.

Judge GILBERT. That is correct.

Senator MCKELLAR. Can you say whether or not Mr. Davies supported you as a candidate for judge?

Judge GILBERT. He did.

Senator MCKELLAR. And against whom did he support you?

Judge GILBERT. He supported me every time I ran. In one particular instance Mr. Noble, whose name has been mentioned here, ran against me. He was a Klansman, and Mr. Davies was active for me.

Senator MCKELLAR. Mr. Noble was a Klansman?

Judge GILBERT. He was.

Senator MCKELLAR. And was running against you?

Judge GILBERT. That is correct.

Senator MCKELLAR. And you are a Jew, and Mr. Davies supported you actively?

Judge GILBERT. Openly; yes, sir.

Senator MCKELLAR. May I read into the record a letter which you wrote to Attorney General Murphy some time ago concerning this matter?

Judge GILBERT. Yes, sir.

Senator McKELLAR. This is on the letterhead of Charles Gilbert, judge of division 2 of the criminal court, dated at Nashville, Tenn., June 10, 1939, and addressed to Hon. Frank Murphy, Attorney General of the United States, reading as follows:

"HONORABLE SIR: Some several months ago, Senators McKELLAR and STEWART, of this State, recommended Hon. Elmer D. Davies for appointment as judge of the United States District Court for the Middle Division of Tennessee. I understand their selection is now before you for your consideration.

"According to reports in the local press, an accusation has been made by Mr. W. S. Noble, an attorney of the Nashville bar, that Mr. Davies was a member of the Ku Klux Klan.

"I am a Jew and was born and reared in Nashville, Tenn., within a stone's throw of this courthouse. I am 50 years of age, was formerly an assistant prosecutor of this county, and also an assistant city attorney of Nashville. I was elected judge of division 2 of the Criminal Court in 1930, to fill out the unexpired term of the late Hon. Frank Garard, and reelected in 1934 for the constitutional term of 8 years. Insofar as I can ascertain, I am the only Jew ever elected to the judiciary south of the Ohio River. I might add that I was one of the original Roosevelt Democrats in Tennessee, as the correspondence in Mr. Farley's office will show.

"I am a member of the Vine Street Temple, have been for a number of years, have never renounced my religion, and never intend to; and every person in this community knows that I am a Jew.

"Back in 1925, when I first ran for the judgeship, the Klan was at its height, and at that time, and every time since then, Mr. Davies supported me. He knew I was a Jew then, and he knows that I am still a Jew. In 1934, in the Democratic primary, my opponent was Mr. W. S. Noble; and in all of his advertisements and in all of his public utterances, his motto was: "Put none but Americans on guard." Mr. Noble was a Klansman then and, insofar as I am informed, is still one, and a most active one. I do not know whether Mr. Davies ever belonged to the Klan, but I do know that he is free from religious prejudices of any kind. I have visited in his home time and time again, and he has visited in my home; and I cannot conceive of this man being imbued with any prejudices or disqualifications of any other nature that would render him unfit for the position of judge.

"His support of me was not a secret one, but he was actively engaged during the campaign and at the polls. If he believed in the principles of the Ku Klux Klan, certainly he would not have taken such active part openly here in the South.

"I would not have you believe for 1 minute that I am asking favorable action at your hands in the selection of Mr. Davies because he supported me; but I want you to understand distinctly the spirit in which this letter is written, that is, in fairness to an honorable, upright, Christian gentleman whose character and reputation are above reproach.

"Further than this, I would have you know that I bear no bitterness of any kind toward Mr. Noble. In fact, we are on friendly terms, and I believe him to be an honest man; but I can not subscribe to tactics which are being resorted to in an effort to defeat this appointment.

"This letter is being written by me without the knowledge of Mr. Davies."

Senator McKELLAR. In your opinion, what kind of a judge of the United States district court at Nashville would Mr. Davies make?

Judge GILBERT. He would make an excellent judge.

Senator McKELLAR. You have heard some question raised here concerning labor organizations. Would he be prejudiced against labor organizations?

Judge GILBERT. I would say no. I think he is very honorable and fair. He would be as fair to labor as he could.

Senator McKELLAR. He would be as fair as any man could be that was selected as judge?

Judge GILBERT. I think so.

Senator McKELLAR. What about his judicial poise and temperament?

Judge GILBERT. He possesses those qualities.

Senator McKELLAR. In a marked degree? Or how?

Judge GILBERT. To a marked degree.

Senator McKELLAR. Is there anything else you would like to say?

Judge GILBERT. He is an excellent lawyer and a fine gentleman. I think every member of the Nashville Bar will say the same thing about him.

Senator McKELLAR. How was his proposed nomination generally received at Nashville, if you know?

Judge GILBERT. It was generally acceptable.

Senator McKELLAR. Did you know that he was an applicant at the time he was appointed or nominated?

Judge GILBERT. It came as a surprise to me. I knew Judge Howell was an applicant. Most of the lawyers were for Judge Howell, as I understand it. He was precluded because of his age. I was surprised when Mr. Davies' name was mentioned. I saw it in the papers, the first I knew of it.

Senator McKELLAR. Thank you very much.

STATEMENT OF ROY O. BEELER, ESQ., ATTORNEY GENERAL OF THE STATE OF TENNESSEE

Senator McKELLAR. State your name to the committee.

Attorney General BEELER. Roy Beeler.

Senator McKELLAR. You live in Knoxville?

Attorney General BEELER. That is my home. I have been in Nashville for 13 years.

Senator McKELLAR. You are attorney general of the State of Tennessee?

Attorney General BEELER. I am.

Senator McKELLAR. How long have you held that position?

Attorney General BEELER. Since 1932.

Senator McKELLAR. Do you know Elmer Davies?

Attorney General BEELER. I do.

Senator McKELLAR. How long have you known Mr. Davies?

Attorney General BEELER. Approximately 15 years.

Senator McKELLAR. What is your estimate of him as a man, as a lawyer, and as a prospective judge of the United States District Court at Nashville?

Attorney General BEELER. He is a man of splendid integrity, fine legal attainments, excellent judicial poise; and I think he would make a splendid judge of the United States district court.

Senator McKELLAR. You heard the objections raised here by two members of organized labor. What would you say as to those objections?

Attorney General BEELER. I think when Judge Davies is sworn in he will be absolutely fair to every litigant that comes before him and will fairly and impartially discharge his duties as a judge.

Senator McKELLAR. What is his standing generally at the bar of Nashville?

Attorney General BEELER. He is one of the leading members of that bar, especially for his age.

Senator McKELLAR. You have know him virtually since he came to the bar?

Attorney General BEELER. Practically ever since then.

Senator McKELLAR. Thank you very much, General Beeler.

STATEMENT OF HON. HILL M'ALLISTER, FORMER GOVERNOR OF THE STATE OF TENNESSEE

Senator McKELLAR. Your name is Hill McAllister?

Mr. McALLISTER. That is correct.

Senator McKELLAR. And you were formerly Governor of the State of Tennessee?

Mr. McALLISTER. Yes.

Senator McKELLAR. When were you Governor of Tennessee?

Mr. McALLISTER. From January 1933 to January 1937.

Senator McKELLAR. Governor McAllister, do you remember what were known as the T. V. A. bills, which were spoken of here this morning by two of our excellent labor men in Nashville?

Mr. McALLISTER. Very well.

Senator McKELLAR. Were all those bills T. V. A. bills?

Mr. McALLISTER. No. Only three, or possibly four, were known as T. V. A. bills. The rest of them were bills in which the State planning board was interested. They were primarily bills to enable divisions of the State to get advantage of certain public funds from Washington. The question arose as to whether all those bills were T. V. A. bills. I communicated with Dr. Arthur E. Morgan, who was Chairman of the T. V. A. at that time. He told me that the T. V. A had no interest, except those three or possibly four; that they had possibly approved the others, but they were not their bills.

Senator McKELLAR. They were all passed, were they not?

Mr. McALLISTER. The T. V. A. bills?

Senator McKELLAR. The T. V. A. bills.

Mr. McALLISTER. Oh, yes.

Senator McKELLAR. And the others?

Mr. McALLISTER. Two were not introduced, because, if I recall correctly, Attorney General Beeler advised me there was some constitutional defect. They were not even presented to the legislature. The others were.

Senator McKELLAR. The others were passed?

Mr. McALLISTER. They were.

Senator McKELLAR. But have they ever been utilized?

Mr. McALLISTER. Some of them, which had a time limitation on them. They expired January 1, 1936.

Senator McKELLAR. It was temporary legislation?

Mr. McALLISTER. It was temporary legislation.

Senator McKELLAR. Do you know Elmer Davies?

Mr. McALLISTER. Very well.

Senator McKELLAR. How long have you known him?

Mr. McALLISTER. Since he has been a member of the Nashville bar, where I live, some 15 or 18 years.

Senator McKELLAR. What is his reputation as a member of the bar and as a man?

Mr. McALLISTER. The very best.

Senator McKELLAR. Do you recall what the letters following his name are in Martindale's Directory, the letters that indicate the standing of a man?

Mr. McALLISTER. I do not recall, but they could not be anything but the very best.

Senator McKELLAR. They are AB, and that means the best.

In your judgment, does he have judicial poise and temperament?

Mr. McALLISTER. Yes.

Senator McKELLAR. In your judgment, would he be unfair to labor or to any other organization or group of people?

Mr. McALLISTER. I do not think so, in any sense.

Senator McKELLAR. You believe he is very well qualified for this position?

Mr. McALLISTER. I feel certain of it.

Senator McKELLAR. What was the attitude of Mr. Davies in the two legislatures in which he served while you were Governor, in respect to labor, as to whether he cooperated or opposed?

Mr. McALLISTER. He was cooperative and friendly.

Senator McKELLAR. What about the national program, the T. V. A. program?

Mr. McALLISTER. He was known as an advocate of that. We were all elected in the fall of 1934; you, Senator Bachmann, myself, and Mr. Davies, and the national T. V. A. program was discussed in that campaign.

Senator McKELLAR. And all of us were speaking in favor of the T. V. A.?

Mr. McALLISTER. That is true. In my opinion, the same cooperation was given by Mr. Davies after the legislature convened.

Senator McKELLAR. And he was for these T. V. A. bills?

Mr. McALLISTER. Undoubtedly.

Senator McKELLAR. His name was signed to them, was it not?

Mr. McALLISTER. I would not be certain about that.

Senator McKELLAR. Is there anything else you would like to say?

Mr. McALLISTER. Nothing else.

Senator McKELLAR. Thank you very much.

STATEMENT OF F. M. BASS, ESQ., NASHVILLE, TENN.

Senator McKELLAR. Your name is F. M. Bass?

Mr. BASS. Yes, sir.

Senator McKELLAR. Where do you live?

Mr. BASS. Nashville, Tenn.

Senator McKELLAR. You served in the late war, did you not?

Mr. BASS. To a limited extent.

Senator McKELLAR. You were a major in that war?

Mr. BASS. I was.

Senator McKELLAR. Would it be embarrassing to you to tell how long you have practiced law at Nashville?

Mr. BASS. Not in the presence of our gray-haired friends here. I have practiced law in Nashville for 42 years.

Senator McKELLAR. How long have you known Elmer Davies?

Mr. BASS. Since he was a school boy at Vanderbilt University.

Senator McKELLAR. In your judgment, if confirmed as United States District Judge, to which position he has been nominated by the President, would he make an excellent and fair and able judge?

Mr. BASS. I am quite of the opinion that he would.

Senator McKELLAR. Does he have judicial poise and temperament, in your judgment?

Mr. BASS. He has, to much more than the average extent.

Senator McKELLAR. Do you know whether he has ever had any clients in the past in the way of corporations or others, that would tend to prejudice him in any way in the performance of his duty as United States district judge?

Mr. BASS. I don't think so. Mr. Davies has had a general practice. He has not been a corporation lawyer, in the sense usually referred to. He is a young man, widely known among the middle class, more especially, by the man in the street. His practice has been more largely with individuals rather than with corporations. His high sense of justice, his inherent honesty, and his pride in his character and reputation as a lawyer would combine to make him a fair and impartial judge, free from bias or prejudice.

Senator McKELLAR. Thank you every much.

STATEMENT OF SETH WALKER, ESQ., NASHVILLE, TENN.

Senator McKELLAR. Your name is Seth Walker?

Mr. WALKER. Yes, sir.

Senator McKELLAR. What is your business?

Mr. WALKER. Attorney at law, Nashville.

Senator McKELLAR. How long have you been practicing law in Nashville?

Mr. WALKER. Twenty-six years.

Senator McKELLAR. Have you known Mr. Elmer Davies during that time?

Mr. WALKER. I have known Mr. Davies since 1919, when he was in Vanderbilt University.

Senator McKELLAR. He was educated at that institution?

Mr. WALKER. He was.

Senator McKELLAR. He has been nominated by the President for the position of United States distict judge for the Middle District of Tennessee, and his confirmation is now pending before the Senate. In your judgment, if confirmed and made a United States district judge, would he make a fair and impartial judge?

Mr. WALKER. In my opinion, he would make an excellent district judge.

Senator McKELLAR. What about his judicial poise and temperament?

Mr. WALKER. My reasons for the statement just made that he would make an excellent district judge are several. In the first place, I think that Mr. Davies has a fine knowledge of men. I think that he is a good judge of human nature. I think he is eminently fair. I think he is a strong man, strong in his convictions. He has principle and courage. He is a good student. I think he possesses all the essentials to make a splendid judge.

Senator McKELLAR. Do you think he would be prejudiced against organized labor or any other body of our people?

Mr. WALKER. I think not.

Senator McKELLAR. How was his appointment received in Nashville? Was it generally approved or not?

Mr. WALKER. Of course, his appointment or recommendation by the Senators from Tennessee was quite a surprise, for the reason that Mr. Davies was not an applicant. However, when the news was flashed that he had been recommended, I can truthfully say that I never heard anything other than the finest things said about him and about the appointment. Everyone commended it.

Senator McKELLAR. Something has been said here about the Ku Klux Klan. Do you know Rabbi Julius Mark, of Nashville?

Mr. WALKER. Yes. He is an able man.

Senator McKELLAR. I will read a telegram from him, addressed to Senator STEWART and myself.

JULY 6, 1939.

Hon. K. D. McKELLAR and Hon. A. T. STEWART,
United States Senate:

Earnestly hope you will vote for confirmation of Hon. Elmer D. Davies, who, in my opinion, is eminently qualified by training and experience and temperament for Federal judgeship.

JULIUS MARK.

He is rabbi of the Vine Street Temple of Nashville, is he not?

Mr. WALKER. Yes, sir. He stands high and has the confidence and respect of all those who know him.

Senator CONNALLY. Have you ever observed anything in the character of Mr. Davies that would indicate intolerance or any danger of his becoming a tyrant on the bench?

Mr. WALKER. No, sir. On the other hand, I think his elevation to the bench would not take away from him what he has today.

Senator CONNALLY. There is a feeling over the country that some Federal judges, who have lifetime jobs of which they cannot be deprived, become more or less tyrannical and arbitrary.

Mr. WALKER. Yes. Mr. Davies is a kind-hearted man and has no evidence of bigotry about him.

Senator CONNALLY. Thank you, Mr. Walker.

STATEMENT OF W. D. MOSS, ESQ., JACKSON, TENN.

Senator McKELLAR. Please state your name to the committee.

Mr. MOSS. W. T. Moss.

Senator McKELLAR. You are a lawyer?

Mr. MOSS. Yes.

Senator McKELLAR. Of Jackson, Tenn.?

Mr. MOSS. That is right.

Senator McKELLAR. Were you ever in the State senate?

Mr. MOSS. Yes; I was in the Tennessee Senate in 1933 and again in 1935.

Senator McKELLAR. Were you speaker at either of these sessions?

Mr. MOSS. I was speaker in 1935.

Senator McKELLAR. Was Mr. Elmer Davies a member of that body?

Mr. MOSS. He was.

Senator McKELLAR. Did you know him intimately?

Mr. MOSS. I knew him very well. He and I went to college together at Vanderbilt University.

Senator McKELLAR. And you have been friends ever since?

Mr. MOSS. Yes, sir.

Senator McKELLAR. During all that time?

Mr. MOSS. That is right.

Senator McKELLAR. Did you have occasion to witness the conduct of Mr. Davies in the State senate in 1935?

Mr. MOSS. I did.

Senator McKELLAR. You have heard the testimony that has been adduced here concerning his opposition to labor. Did you have that understanding?

Mr. MOSS. If he was ever opposed to any measure recommended by organized labor, I did not know it.

Senator McKELLAR. Did he support the T. V. A. bills?

Mr. MOSS. He did. He talked to me about them. I remember he consulted me about them, because he said part of his platform pledge was that he would support the T. V. A. The bills that Governor McAllister referred to were understood by everybody to be T. V. A. bills, but later we learned most of them were not. I told Mr. Davies I thought he could feel free to oppose about 11 of them. There were three or four that were T. V. A. bills, and he voted for every one of them.

Senator McKELLAR. But he opposed those proposed by the planning commission?

Mr. MOSS. He and a good many other members of the senate.

Senator McKELLAR. Do you believe he will make an impartial and honest and faithful judge?

Mr. MOSS. I think undoubtedly he will.

Senator McKELLAR. Does he have judicial poise and temperament?

Mr. MOSS. Yes; he has a good deal of poise. Knowing him as I do, if he is confirmed and takes the oath as judge, he will have the ability and industry to learn what the law is and the integrity and the courage to enforce it.

Senator McKELLAR. Thank you.

STATEMENT OF J. D. MOSBY, ESQ., SOMERVILLE, TENN.

Senator McKELLAR. Please state your name to the committee.

Mr. MOSBY. J. D. Mosby.

Senator McKELLAR. You live in Somerville, Tenn.?

Mr. MOSBY. I do.

Senator McKELLAR. You are engaged in the practice of law and have been for many years?

Mr. MOSBY. Yes, sir.

Senator McKELLAR. Did you ever serve in the legislature?

Mr. MOSBY. Yes, sir.

Senator McKELLAR. What branch?

Mr. MOSBY. In the Tennessee Senate in 1935 and 1939.

Senator McKELLAR. Did you know Mr. Elmer Davies, who served in that same body?

Mr. MOSBY. I knew him very intimately.

Senator McKELLAR. Some question has been raised as to his support of the T. V. A. bills. Is that your recollection?

Mr. MOSBY. Senator and Mr. Chairman, he supported all of the so-called T. V. A. bills. He did oppose certain bills which were

first designated as T. V. A. bills, but which later developed to be planning bills. He opposed the planning bills. The gentleman said this morning those bills were designed to bring $100,000 to Tennessee.

Senator McKELLAR. One hundred million dollars.

Mr. MOSBY. Yes. When you get up that high, I don't know much difference. The bills they had in mind were the so-called T. V. A. bills which were passed at the extra session in 1935, and Senator Davies supported every one of them. I know because I assisted in piloting them through the legislature.

Senator McKELLAR. Do you mean the bills by which the counties and the cities took advantage of the 45 percent of the Federal appropriation?

Mr. MOSBY. Yes. I know he supported those bills. He was partly responsible for getting them through the senate. I consulted with him.

Senator McKELLAR. You were speaker at that time?

Mr. MOSBY. Not in 1935. I was in 1939.

Senator McKELLAR. But you worked and consulted with him about those bills.

Mr. MOSBY. Yes, sir.

Senator McKELLAR. Do you think he would make a good judge?

Mr. MOSBY. I think he would make an excellent judge. I think I told you when I was here shortly after his name was suggested that you could not have made a better appointment. At that time you said he was not an applicant, and I said it made no difference, but I would still stick to what I said first.

Senator McKELLAR. Thank you very much.

STATEMENT OF H. FRANK TAYLOR, ESQ., NASHVILLE, TENN.

Senator McKELLAR. Please state your name to the committee.

Mr. TAYLOR. H. Frank Taylor.

Senator McKELLAR. You are a lawyer?

Mr. TAYLOR. Yes, sir.

Senator McKELLAR. In Nashville, Tenn.?

Mr. TAYLOR. Yes, sir.

Senator McKELLAR. How long have you practiced law?

Mr. TAYLOR. I have lived there for 39 years, and have practiced law for 12 years.

Senator McKELLAR. You have lived there all your life?

Mr. TAYLOR. I have lived there all my life.

Senator McKELLAR. You were born there?

Mr. TAYLOR. Yes, sir.

Senator McKELLAR. What position do you hold now?

Mr. TAYLOR. I am now assistant district attorney for the tenth judicial district of Tennessee—prosecuting attorney.

Senator McKELLAR. At Nashville, Tenn.?

Mr. TAYLOR. Yes, sir.

Senator CONNALLY. Federal or State?

Mr. TAYLOR. State.

Senator CONNALLY. How long have you held that position?

Mr. TAYLOR. Approximately 18 months.

Senator McKELLAR. Do you hold any position in the Knights of Columbus?

Mr. TAYLOR. Not at present. Well, I do. I am a member of the board of directors of the local Knights of Columbus. I was formerly grand master in 1935 and 1937, and I was formerly district deputy for the middle district of Tennessee, district State deputy.

Senator McKELLAR. Do you know Mr. Elmer Davies?

Mr. TAYLOR. Mighty well.

Senator McKELLAR. How long have you known him?

Mr. TAYLOR. I have known him practically ever since he came to the Nashville bar.

Senator McKELLAR. He has been nominated for United States district judge for the middle district of Tennessee, and his nomination is now pending before the Senate Judiciary Committee and before the Senate. In your judgment, would he make an excellent district judge?

Mr. TAYLOR. He most certainly would.

Senator McKELLAR. Do you regard him as having judicial poise and temperament?

Mr. TAYLOR. I certainly do.

Senator McKELLAR. What about his character as a lawyer and as a man?

Mr. TAYLOR. He stands as one of the highest in the city of Nashville as a lawyer and as a man.

Senator McKELLAR. Something has been said about the Ku Klux Klan. Do you recall the election in 1928?

Mr. TAYLOR. Yes, sir. I was in close association with Mr. Davies in that election, and I personally know that he stumped the State for Governor Smith. I might further say that before I came here I discussed Mr. Davies with the church authorities at Nashville. The bishop was not in the city, and I talked to Rev. George Flanigen, who is the superintendent of the Catholic schools. He is also editor of the Register, the Catholic paper in Nashville. He stated to me that someone had called his attention to the fact that Mr. Davies was not a proper man to be Federal judge, so far as Catholicism was concerned, and might be a member of the Ku Klux Klan. He said he took it up with the church authorities and it was referred to him and he personally made an investigation and found those rumors to be untrue, and told me he was going to wire you to that effect.

Senator McKELLAR. He did. This is a telegram from him addressed to Senator STEWART and myself:

JULY 5, 1939.

Senators K. D. McKELLAR and A. T. STEWART:

After careful investigation we find no objection to Davies' qualifications and fitness for Federal judgeship.

GEO. J. FLANIGEN,
Superintendent of Catholic Schools.

That is the same Father Flanigen to whom you refer?

Mr. TAYLOR. Yes.

Senator McKELLAR. I believe you said you thought Mr. Davies had proper fitness for that place.

Mr. TAYLOR. I certainly do.

Senator McKELLAR. Thank you very much.

STATEMENT OF WILLIAM HUME, ESQ., NASHVILLE, TENN.

Senator McKELLAR. Please state your name to the committee.

Mr. HUME. William Hume.

Senator McKELLAR. You are a practicing lawyer at Nashville?

Mr. HUME. Yes, sir.

Senator McKELLAR. How long have you been practicing law there?

Mr. HUME. Since 1910.

Senator McKELLAR. What is your firm name?

Mr. HUME. Trabue, Hume & Armistead.

Senator McKELLAR. Do you know Elmer Davies?

Mr. HUME. I do.

Senator McKELLAR. How long have you known him?

Mr. HUME. From the time he became a member of the Nashville bar.

Senator McKELLAR. About 20 years?

Mr. HUME. I don't think quite that long.

Senator McKELLAR. About 18 years?

Mr. HUME. I think so.

Senator McKELLAR. He has been nominated for United States district judge of the middle district of Tennessee, and his nomination is now pending before the Senate. In your judgment, is he well qualified and a fit man for that place?

Mr. HUME. I would say so, without qualification. I have had a good deal of business with him, never on the same side of a question, I think. I regard him as a man of unusual moral courage and fine intellectual honesty.

Senator McKELLAR. Does he have judicial poise and temperament?

Mr. HUME. Yes, sir. I think he has the honesty and intelligence and the poise to be a fair and impartial judge.

Senator McKELLAR. Some question was raised about his prejudice against labor organizations. Would you say, from your knowledge of Mr. Davies, that he has any such prejudice against labor or any other organization?

Mr. HUME. I would say not. I would say any litigant would get a fair and impartial hearing before him.

Senator McKELLAR. Thank you very much.

STATEMENT OF W. R. MANIER, ESQ., NASHVILLE, TENN.

Senator McKELLAR. Your name is W. R. Manier?

Mr. MANIER. Yes, sir.

Senator McKELLAR. And you live at Nashville, Tenn.?

Mr. MANIER. Yes, sir.

Senator McKELLAR. You are a lawyer?

Mr. MANIER. I am a lawyer.

Senator McKELLAR. You are interested in the Rotary Club, I believe?

Mr. MANIER. Yes, sir. About 2 years ago I was more of a Rotarian than a lawyer, but I have returned to the practice.

Senator McKELLAR. Do you know Mr. Elmer Davies?

Mr. MANIER. Yes, sir.

Senator McKELLAR. How long have you known him?

Mr. MANIER. I have known him almost ever since he came to the bar at Nashville. I don't think I knew him before.

Senator McKELLAR. What is your judgment of him as a lawyer and as a man?

Mr. MANIER. I think he is an excellent lawyer, studious, industrious, and an excellent man.

Senator McKELLAR. Do you know of any reason why he would not make a fair and impartial judge?

Mr. MANIER. None whatever.

Senator McKELLAR. Do you think he has judicial poise and temperament?

Mr. MANIER. He has all the necessary qualities.

Senator McKELLAR. He stands high at your bar?

Mr. MANIER. Yes, sir.

Senator McKELLAR. Were you at one time international president of the Rotary clubs?

Mr. MANIER. Yes, sir.

Senator McKELLAR. That is the highest office they can give anyone, is it not?

Mr. MANIER. Yes, sir.

Senator McKELLAR. It is a very large organization?

Mr. MANIER. Yes, sir.

Senator McKELLAR. Thank you very much.

STATEMENT OF CECIL SIMS, ESQ., NASHVILLE, TENN.

Senator McKELLAR. Please state your name to the committee.

Mr. SIMS. Cecil Sims.

Senator McKELLAR. Where do you live?

Mr. SIMS. Nashville.

Senator McKELLAR. How long have you lived there?

Mr. SIMS. Since 1914.

Senator McKELLAR. What is your business?
Mr. SIMS. I am a lawyer.
Senator McKELLAR. How long have you been practicing law?
Mr. SIMS. Since 1914.
Senator McKELLAR. Have you known Elmer Davies during that time?
Mr. SIMS. Yes, sir; I have known him ever since he has been practicing law.
Senator McKELLAR. He came to Nashville about 1920?
Mr. SIMS. Approximately.
Senator McKELLAR. He is a Vanderbilt man?
Mr. SIMS. Yes, sir.
Senator McKELLAR. Was educated there?
Mr. SIMS. Yes, sir.
Senator McKELLAR. And you have known him ever since?
Mr. SIMS. Yes, sir.
Senator McKELLAR. In your judgment, would he make a good United States district judge?
Mr. SIMS. I think he would make an excellent United States district judge.
Senator McKELLAR. What are your reasons for saying that?
Mr. SIMS. They are based on my intimate personal knowledge of his ability, integrity, industry, and general character as a man.
Senator McKELLAR. Do you believe he would be prejudiced against any class of people in the world?
Mr. SIMS. I don't think so. I am quite sure he would not.
Senator McKELLAR. Thank you very much.

STATEMENT OF JOHN HOOKER, ESQ., NASHVILLE, TENN.

Senator McKELLAR. Your name is John Hooker?
Mr. HOOKER. Yes, sir.
Senator McKELLAR. And you are a lawyer at Nashville?
Mr. HOOKER. Yes, sir.
Senator McKELLAR. You are a practicing lawyer there, and your firm is what?
Mr. HOOKER. Walker & Hooker.
Senator McKELLAR. Mr. Walker has already testified?
Mr. HOOKER. Yes, sir.
Senator McKELLAR. And you have been practicing there how long?
Mr. HOOKER. Fifteen years; before I was of age.
Senator McKELLAR. I remember when you came. Mr. Hooker, do you know Elmer Davies?
Mr. HOOKER. Very well.
Senator McKELLAR. In your judgment, would he make a good Federal district judge?
Mr. HOOKER. An excellent one.
Senator McKELLAR. What is your estimate of him?
Mr. HOOKER. He is a man of the highest character, courage, ability; splendid gentleman in every respect.
Senator McKELLAR. Has he any bias that would prejudice him against any class or organization of people?
Mr. HOOKER. None whatever that I know of.
Senator McKELLAR. Thank you very much.

STATEMENT OF THOMAS TEMPLETON, ESQ., WINCHESTER, TENN.

Senator McKELLAR. State your name to the committee.
Mr. TEMPLETON. Thomas Templeton.
Senator McKELLAR. Where do you live?
Mr. TEMPLETON. Winchester.
Senator McKELLAR. How long have you lived there?
Mr. TEMPLETON. All my life.
Senator McKELLAR. You are a practicing lawyer there?
Mr. TEMPLETON. Yes, sir.
Senator McKELLAR. How long have you been practicing law there?
Mr. TEMPLETON. For 42 years.
Senator McKELLAR. Do you know Elmer Davies?
Mr. TEMPLETON. Yes, sir.
Senator McKELLAR. In your judgment, would he make a good United States district judge?
Mr. TEMPLETON. I think so.
Senator McKELLAR. Would he be fair and impartial as a judge, in his conduct, or would he be partial?
Mr. TEMPLETON. I don't think he would be partial. I observed him some years ago in court. I didn't know him at that time, and I later made inquiry about him, because he had so impressed me in his manner of handling the lawsuit and the conduct of it that I thought very favorably of him. He impressed me as a young man of great ability, and I wanted to know more about him. Later on he was a member of the senate, and I was up there a number of times and observed his conduct there, and he impressed me very favorably.
Senator McKELLAR. And you believe that he would make a fine United States district judge?
Mr. TEMPLETON. I think he would.
Senator McKELLAR. Thank you, Mr. Templeton.

STATEMENT OF JACK NORMAN, ESQ., NASHVILLE, TENN.

Senator McKELLAR. Your name is Jack Norman?
Mr. NORMAN. It is.
Senator McKELLAR. You are a practicing lawyer at Nashville?
Mr. NORMAN. Yes, sir.
Senator McKELLAR. Do you know Mr. Davies?
Mr. NORMAN. Yes, sir.
Senator McKELLAR. How long have you known him?
Mr. NORMAN. Ever since I have been at the bar; 13 years.
Senator McKELLAR. Tell the committee what sort of a United States district judge he would make.
Mr. NORMAN. I think he would make an excellent judge. I know him to be an excellent gentleman. I know something of his home life—and that goes a long way with me, and I know that is excellent. As a lawyer, we young lawyers have always regarded him as one of the leaders and have looked up to him in that way. There is no question in my mind, and I think I voice the opinion of all of our lawyers, particularly the younger group, that he would make an excellent judge. He possesses all the qualifications.
Senator McKELLAR. Thanks, Mr. Norman.

STATEMENT OF W. E. BADGETT, ESQ., KNOXVILLE, TENN.

Senator McKELLAR. State your name to the committee.
Mr. BADGETT. W. E. Badgett.
Senator McKELLAR. You live in Knoxville?
Mr. BADGETT. Yes, sir.
Senator McKELLAR. You are a practicing lawyer there?
Mr. BADGETT. Yes, sir.
Senator McKELLAR. Were you a member of the last legislature?
Mr. BADGETT. Yes, sir.
Senator McKELLAR. Were you a member when Mr. Davies was a member?
Mr. BADGETT. No, sir. Last term was my first term.
Senator McKELLAR. Do you know Mr. Davies?
Mr. BADGETT. I do.
Senator McKELLAR. Are you interested in labor?
Mr. BADGETT. I am, very much.
Senator McKELLAR. Are you a member of an organization?
Mr. BADGETT. No, sir.
Senator McKELLAR. But you are interested in labor?
Mr. BADGETT. Yes, sir. I know the musicians' bill mentioned this morning was backed by labor, and I worked for all the labor organizations. I know Mr. Davies was active in getting that bill passed over the Governor's veto.
Senator McKELLAR. It was passed over the Governor's veto?
Mr. BADGETT. Yes, sir.
Senator McKELLAR. And Mr. Davies was active in getting it passed over the veto?
Mr. BADGETT. Yes, sir.
Senator McKELLAR. Do you believe he would make a good, fair United States district judge?
Mr. BADGETT. I think he will make an excellent judge. I don't believe you could have made a better choice.
Senator McKELLAR. Thank you very much.

STATEMENT OF SYDNEY KEEBLE, ESQ.

Senator McKELLAR. State your name to the committee.
Mr. KEEBLE. Sydney Keeble.
Senator CONNALLY. Do you know Mr. Davies?
Mr. KEEBLE. Yes, sir.
Senator CONNALLY. How long have you known him?
Mr. KEEBLE. About 15 years.
Senator McKELLAR. In your judgment, would he make a good Federal judge?
Mr. KEEBLE. I think he would. I think he is a splendid lawyer, has a splendid character, and possesses the judicial temperament to make a good judge.
Senator McKELLAR. I want to ask you a question or two on my own hook. I am always interested in history and biography. You are a great grandson of John Bell, of Tennessee, are you not?
Mr. KEEBLE. Yes, sir. He was my father's grandfather.
Senator McKELLAR. And your father's name is John Bell Keeble?
Mr. KEEBLE. Yes, sir.
Senator McKELLAR. And you have a brother bearing the same name?
Mr. KEEBLE. Yes, sir.
Senator McKELLAR. I am asking that question for two reasons, Mr. Chairman.
Senator CONNALLY. One of which is to show your knowledge of Tennessee history. [Laughter.]
(Discussion off the record.)
Senator McKELLAR. Do you think Mr. Davies would make an excellent Federal district judge?
Mr. KEEBLE. I do.
Senator McKELLAR. Thank you very much.

STATEMENT OF B. B. GULLETT, ESQ., NASHVILLE, TENN.

Senator McKELLAR. Your name is B. B. Gullett?
Mr. GULLETT. Yes, sir.
Senator McKELLAR. You live in Nashville?
Mr. GULLETT. Yes, sir.
Senator McKELLAR. What is your occupation?
Mr. GULLETT. I am an attorney and clerk of the State senate.
Senator McKELLAR. Were you clerk of the State senate when Mr. Davies was a member?
Mr. GULLET. I was assistant clerk in 1935, when Mr. Davies was in the senate.
Senator McKELLAR. Do you know him very well?
Mr. GULLETT. Very well.
Senator McKELLAR. Do you think, from your knowledge of him, that he would make a good Federal judge?
Mr. GULLETT. I think that he would make a fine Federal judge.
Senator McKELLAR. Something has been said about his record against the T. V. A. bills when he was in the Senate. Do you know anything about that?
Mr. GULLETT. I prepared the Journal the gentleman quoted from here this morning, and I know that he very actively sup-

ported the bills that were the T. V. A. bills. He opposed some of the State planning bills, but I know he supported and was very active in behalf of the T. V. A. bills. These other bills were at the special session, by which they were to get the $100,000,000 that has been discussed, and he very actively supported them.

Senator McKELLAR. Has he ever been against organized labor?

Mr. GULLETT. I never heard of it.

Senator McKELLAR. Was he ever against Catholics or Jews?

Mr. GULLETT. He is one of the fairest and most impartial men I ever knew, and has never indicated any bias toward anyone.

Senator McKELLAR. And you think that he would make an excellent judge?

Mr. GULLETT. I certainly do. When the report came out, I felt that his appointment was fine and would be 99.44-percent satisfactory, and I still feel the same way about it.

Senator McKELLAR. Thank you, Mr. Gullett.

STATEMENT OF JOHN S. GLENN, ESQ., MADISON, TENN.

Senator McKELLAR. Your name is John S. Glenn?

Mr. GLENN. Yes, sir.

Senator McKELLAR. Where do you live?

Mr. GLENN. At Madison, 7 miles from Nashville.

Senator McKELLAR. How did you happen to come up here?

Mr. GLENN. On my own account.

Senator McKELLAR. You were not asked to come?

Mr. GLENN. No, sir.

Senator McKELLAR. Why did you come?

Mr. GLENN. I read about some opposition against Mr. Davies, whom I have known for several years.

Senator McKELLAR. What do you know about him?

Mr. GLENN. I have had occasion to be connected and associated with Mr. Davies in several matters, and knew his appointment was up, and knew his character and family, and thought it my duty to come up here.

Senator McKELLAR. Do you think he would make an excellent judge?

Mr. GLENN. I do.

Senator McKELLAR. To what church do you belong? The reason I ask that is because some question has been raised in regard to Mr. Davies being a member of the Ku Klux Klan.

Mr. GLENN. In the name of Al Smith, I belong to the Irish Catholic Church. Some call it "Roman." I represent the Irish.

Senator McKELLAR. You were for Al Smith in 1928, as I was, and as Mr. Davies was?

Mr. GLENN. Yes, sir.

Senator McKELLAR. You take no stock in the rumor that he was a Klansman?

Mr. GLENN. I wrote you a letter in regard to that.

Senator McKELLAR. I will take the liberty of reading that letter into the record.

Senator CONNALLY. If it is agreeable to you.

Mr. GLENN. Yes, sir; I want it there.

Senator McKELLAR. This is dated April 20, 1939, addressed to Senator STEWART and myself, and reads as follows:

"DEAR SENATORS: Upon your recommendation of Mr. Elmer Davies for the Federal judgeship of the Middle District of Tennessee, I wired you as follows:

" 'Congratulations to you and Senator STEWART for your selection of Elmer Davies for United States district judge. Comment on the streets is that the selection gives entire satisfaction to one and all.'

"My attention is directed to a news article in which Mr. Noble, admittedly a member of the Klu Klux Klan and possibly a violator of his own oath to that organization, has filed an affidavit against Mr. Davies.

"As an Irishman and a Catholic I feel it is my duty to state that I have known Mr. Davies for many years. I met him under adverse circumstances. He was defending a Catholic (and his client stated to me his financial circumstances and further stated Mr. Davies defended him without compensation) while I was acting under court orders to show certain facts from records against his Catholic client, and for a period of more than 30 days straight running Mr. Davies fought like a tiger in defending his Catholic client and was successful in his undertaking, even though I am of the same opinion I was then that his client, who was a Catholic, was guilty.

"From that time on I admired Mr. Davies and became a very close personal friend of his, and have had the honor of being a guest on an extended trip by automobile with Mr. Davies, his wife and children through Louisiana.

"Many years ago Mr. Davies, knowing that I was a Catholic and knowing his client was a Catholic, stated to me in sum and substance that when he was a kid, I believe in Arcadia, La., they got him to join the Klan. Later he came to Vanderbilt University, and while a student there at Vanderbilt at Nashville, Tenn., he visited the Klan one time and he saw enough of it to satisfy himself, and, as he termed it, he was like many a good citizen whose name had been appended to the roster of the K. K. K., and when they found out about the organization they took out, or, in the famous language of Al Smith, 'They walked out or took a walk,' and never considered the organization enough to even tender a resignation.

"When Al Smith was a candidate for the Presidency, I think it is a matter of record that only one Congressman from the State of Tennessee, namely, our deceased personal friend, Joseph W. Byrns, made a speech for Al Smith, and Mr. Elmer Davies was one of the very few lawyers in Tennessee who made a speech for the candidacy of Al Smith. Mr. Elmer Davies was also very active in the election of Judge Gilbert, a Jewish citizen, to the criminal bench in Davidson County, Tenn. If he were a Klansman, as some would have you believe, how could he have stood up gallantly for 30 consecutive days without compensation and defended a Catholic client, and how could he have openly taken the stump for Al Smith, a Catholic candidate for the Presidency of the United States, and how could he have taken the stump and worked diligently to elect Judge Gilbert, a Jew, to the judgeship?

"Certainly those who are now filing affidavits against him showing his purported Klan activities knew of these matters years ago. It would be interesting if some of the lawyers of the Nashville Bar Association would advise you correctly if there were at any time any suits filed against these same people who are so anxious to attach their names to affidavits and what was the basis of such suits. I am sure it would be interesting reading matter.

"Personally, I hope that any insinuations or reflections on Mr. Davies' character will be entirely removed, and that his appointment will be made and confirmed immediately, which I am sure will meet with the entire satisfaction of all good citizens except those living in glass houses.

"Sincerely,

"JOHN S. GLENN."

STATEMENT OF H. R. YOUNG, ESQ., NASHVILLE, TENN.

Senator McKELLAR. Your name is H. R. Young?

Mr. YOUNG. Yes, sir.

Senator McKELLAR. You are a practicing lawyer at Nashville?

Mr. YOUNG. Yes, sir.

Senator McKELLAR. How long have you been practicing law there?

Mr. YOUNG. Six or seven years.

Senator McKELLAR. Do you know Mr. Davies?

Mr. YOUNG. Very well.

Senator McKELLAR. In your judgment, what kind of a United States district judge would he make?

Mr. YOUNG. I think he would make an excellent judge.

Senator McKELLAR. You think he has the judicial temperament and poise and ability?

Mr. YOUNG. I think he has all the qualifications necessary, and has the courage of his convictions.

Senator McKELLAR. Thank you very much.

STATEMENT OF SAM R. HOWELL, ESQ., JOHNSON CITY, TENN.

Senator McKELLAR. State your name to the committee.

Mr. HOWELL. Sam R. Howell.

Senator McKELLAR. Where do you live?

Mr. HOWELL. Johnson City, Tenn.

Senator McKELLAR. How long have you lived there?

Mr. HOWELL. All my life.

Senator McKELLAR. Have you ever served in the Tennessee Senate?

Mr. HOWELL. In 1935.

Senator McKELLAR. When Mr. Davies was a member?

Mr. HOWELL. Yes, sir.

Senator McKELLAR. Did you ever know Mr. Davies to be prejudiced against labor organizations?

Mr. HOWELL. I never did, but quite the contrary. He is a very fair man, free from antagonism of any kind. I remember that Senator Davies asked me to vote for the T. V. A. bills. I said, "I don't want to support all of these, because some are not T. V. A. bills."

Senator McKELLAR. You are referring now to the State planning bills?

Mr. HOWELL. Yes, sir.

Senator McKELLAR. In your judgment, what kind of a United States district judge would he make?

Mr. HOWELL. Excellent. He is an excellent gentleman, well informed. In my opinion, he would make a splendid judge.

Senator McKELLAR. You were not asked to come here, were you?

Mr. HOWELL. No, sir. I was not asked to come. I was in the city, and heard about this, and thought I would come up.

Senator McKELLAR. Thank you very much.

Mr. Chairman, every Member of the House of Representatives from the State of Tennessee, except Representative McReynolds, who is ill, is here, irrespective of politics, in order to testify in approval of this nomination. I want to name those gentlemen: Hon. Walter Chandler, Hon. Herron Pearson, Hon. Jere Cooper, Hon. Clarence W. Turner, Hon. Joseph W. Byrnes, Jr., Hon. Albert Gore, Hon. J. Will Taylor, Hon. B. Carroll Reece. They are all here except Representative McReynolds, who could not come, on account of illness. They are all here and ready to testify, if desired.

Now, Mr. Chairman, I want to read to you a few of the telegrams and letters which have been received. The first is from the Governor of the State of Tennessee, dated at Nashville, July 5, 1939, addressed to me, reading as follows:

NASHVILLE, TENN., *July 5, 1939.*

Hon. KENNETH McKELLAR,
United States Senator, Washington, D. C.:

Will appreciate your doing all in your power to secure confirmation of Elmer Davies' appointment as United States district judge tomorrow.

PRENTICE COOPER.

The next one is from two justices of the Tennessee Court of Appeals, of which court Judge Phelps is a member. This telegram

is dated at Nashville, July 5, 1939, addressed to me, and reads as follows:

"We desire to commend Elmer Davies as well qualified for district judge in character, legal ability, and temperament, and you may use this endorsement wherever you may desire.

"W. W. FAW,
"ARTHUR CROWNOVER,
"Tennessee Court of Appeals."

The next one is from Hugh C. Anderson, an associate judge of the Tennessee Court of Appeals, dated at Jackson, Tenn., July 6, 1939, addressed to Senator STEWART and myself, and reads as follows:

"I heartily endorse the appointment of Hon. Elmer Davies as United States district judge and urge his confirmation.

"HUGH C. ANDERSON,
"Associate Judge, Court of Appeals of Tennessee."

We have five members of the supreme court of our State. Here is a letter from three of them, including the chief justice. It is dated at Nashville, July 3, 1939, addressed to the Senate Judiciary Committee, and reads as follows:

"This is to say that we have known Mr. Elmer Davies of the Nashville bar for a number of years and cordially testify as to his high character and fine professional ability. He has ably represented his clients in the cases in which he has appeared in our court. He is a gentleman of poise and fine manner and we are satisfied he would adorn the Federal bench."

This is signed by Hon. Grafton Green, chief justice of the Supreme Court of Tennessee; Hon. Colin P. McKinney, associate justice of the Supreme Court of Tennessee; and Hon. William L. Cook, associate justice of the Supreme Court of the State of Tennessee.

Then we have two additional telegrams from the other members of the court. The first one is from Hon. Alexander W. Chambliss, dated at Chattanooga, July 6, 1939, addressed to me, as follows:

"I join my court associates in endorsing heartily Hon. Elmer Davies.

"ALEXANDER W. CHAMBLISS."

And here is another from Hon. D. W. Dehaven, an associate justice of the Supreme Court of Tennessee, dated at Memphis, July 5, 1939, addressed to me, as follows:

"Heartily endorse Elmer Davies for United States judge middle Tennessee."

Protests were received including the resolution that was inserted in the record by Messrs. Denham and Seigenthaler, who appeared at the hearing, and from the following men and women: D. O. Skaggs, Memphis; Thomas J. Leech, Memphis; James Johnson, Nashville; M. L. Halmontaller, Nashville; Miss Griselda Kuhlman, Nashville; C. Vernon Hines, Nashville; Curry Drake, Nashville; John Garner, Nashville; J. E. Moyers, Nashville; Carl V. Vester, Nashville; Leonard P. Skeggs, Nashville; T. R. Cuthbert, Chattanooga; F. T. Carter, Chattanooga; G. F. Barnett, Nashville; W. L. Maraman, Nashville; and R. M. Walker, Nashville.

To all of these protestants I sent a copy of a letter similar to the letter to W. L. Maraman, which is as follows:

MAY 20, 1939.

Mr. W. L. MARAMAN,
Legislative representative, Brotherhood of Locomotive Firemen and Engineers, Nashville, Tenn.

MY DEAR MR. MARAMAN: Your letter of May 16 has been received. It requires a frank answer.

Senator STEWART and I had many applicants who desired our recommendation for the vacant middle Tennessee judgeship. We considered them all, and after the most careful examination we asked the Department, in accordance with the usual custom, to investigate several applicants whom we were thinking of recommending.

The applicant whom you recommend and my friend was one of these, and both Senator STEWART and I had the very definite idea in our minds that if the Department reports, after investigation, were favorable to him that we would recommend him. However, when the reports came in, the Department advised us that it would not consider him whether we recommended him or not.

We followed the usual course in such cases. Judges are always investigated by the Department before the names of the applicants are cleared and sent in to the President. The Department refusing to clear the application of the gentlemen you recommended, it became necessary for us to recommend someone else. After again very carefully considering the matter, we had the Department investigate Mr. Elmer Davies and some others. The Department investigators found Mr. Davies to be all right, and we recommended him to the Attorney General and to the President.

Mr. Davies was not an applicant for the place and did not know that he had been recommended until after Senator STEWART and I had recommended him.

I quote from your letter:

"May we remind you by repeating we are determined to keep a continued and jealous watch as to the type of the individual, his views and background, when he seeks office or aspires to the Federal bench."

In turn, I wish to remind you that you cannot be more watchful or more jealous in the interest of the Government and the people in the matter of appointments to the Federal judiciary than I am.

I supported very heartily the President's proposal to reform the judiciary. I have supported the President very heartily in practically all of his proposals. In recommending Mr. Davies, I did not act in any way in conflict with a previous position concerning the President's proposal to reform the judiciary. I believed at the time we recommended Mr. Davies, and still believe, that his appointment would conform in every way to the President's views concerning Federal judicial appointments, and that Mr. Davies' appointment would be timely and proper and in every way satisfactory to all fair-minded and honest men. The charges against him have been investigated and have not been found true.

Incidentally, at this point, I wish to say that the investigators reported, after making an examination of Mr. Davies, that he was in every way worthy and satisfactory to the Department, and the Department so assured us.

Mr. Davies is not opposed to the principles you lay claim to, or to the principles which I lay claim to. You will find that he will be an honest, upright, straightforward, and liberal-minded judge if he is appointed and confirmed, and I believe he will be. He has all the elements which make a good judge, and I believe he should be appointed and confirmed. I cannot imagine why you or your organization should be opposed to Mr. Davies, unless somebody has misled you as to his character and views.

You say that Mr. Davies has declared himself against President Roosevelt. I cannot but wonder where you got your information. As you know, I am a devoted friend of President Roosevelt's, was one of his first openly announced supporters, my announcement having been made at a great gathering of Democrats in east Tennessee on September 28, 1931. Very few in our State were outspoken for him then. I am still his devoted friend. I was present at our Democratic headquarters in Nashville a great deal of the time in 1932 and 1936. Mr. Davies made speeches for Mr. Roosevelt in both campaigns. He was around the headquarters almost daily when he was not out speaking and was tremendously enthusiastic. There were the two occasions when support was effective, and Mr. Davies was present and active then. I do not speak from hearsay, but from what I saw and heard myself. For this additional reason, I am quite sure you gentlemen from the Brotherhood of Locomotive Firemen and Enginemen, for whom I have the highest respect and esteem, are misled as to Mr. Davies.

Of course, you know that I have uniformly stood with labor during my public life. I have done so because I honestly and conscientiously believe in the organization of labor for the purpose of protecting its rights. I am still of the same mind. If I had any idea that Mr. Davies was opposed to labor as an organization, you ought to know from my past record that I would not be for him. I am absolutely sure that you have been misinformed as to Mr. Davies' real attitude on matters of this kind.

You speak of having aided in defeating the Browning regime, and you did. My interest in defeating the Browning regime, among other things, was to aid the cause of labor, which I believe he violently opposed. In defeating Mr. Browning, I believe you were acting in your own best interest. Indeed, I know you were. It never occurred to me that it was a trading proposition of any kind, nature, or description. I certainly gave you and your organization credit for being conscientiously and honestly opposed to the policies and actions of Mr. Browning, just as I was.

Regretting that you and your organization have seen fit to take the attitude that you have, I am,

Very sincerely, your friend,

——— ———.

Mr. Chairman, I wish also to read into the record a letter I wrote to Mr. R. M. Walker, of Nashville, which is as follows:

JULY 5, 1939.

Mr. R. M. WALKER,
Mission Ridge Lodge No. 444, Brotherhood of Locomotive Firemen and Enginemen, Nashville, Tenn.

DEAR MR. WALKER: I have received the resolution adopted by your national organization.

I doubt if you could find the record of any Senator who has more regularly and actively supported organized labor than I have. I have done it because I have felt that labor was not being treated fairly, and I honestly believe all American citizens should be treated fairly. I have a natural sympathy that way and it has shown in practically all the votes I have cast on the subject of labor. I would not recommend a man for appointment as judge who I thought would be unfair to labor. I am absolutely certain that Mr. Davies has not been unfair to labor and is not now. I am not criticizing those who take a different view because I believe you are honestly misled concerning Mr. Davies. I have known him a long time, and I believe he has the same views I have and that every fair-minded man has toward labor. I believe he will make a splendid judge. There are a great many laboring people who feel just as I do about this.

The record shows that Mr. Davies voted for all true T. V. A. bills, but he did vote against bills brought forward by the State planning commission. One of these, I am informed, was abandoned by the planning commission itself. I am informed also that when the T. V. A. wanted legislation passed the planning commission seemed to think that was a good time to get their special legislation through. I understand that all but one of the planning-commission bills passed but few of them have been actually used.

A careful investigation of Mr. Davies' record has been made by the Department of Justice; a careful investigation was made by me before I recommended him, and I had a special investigation made as to his views on labor before I recommended him. You can, therefore, see that I did not act carelessly or thoughtlessly.

Of course, Mr. Davies was not responsible for the strangling of the child-labor amendment. I am sure you cannot believe that because you were in Nashville and know it was voted on first in the house, where it was defeated. It was not even introduced in the senate. In the next place, you also know that Governor Browning came out very vigorously against it. He had at that time much power with the legislature and it was almost entirely his influence which defeated the measure in the house.

As you know, the child-labor amendment has been my hobby since I first came to the House of Representatives in 1911. I voted for it every time it came up, and it came up many times. President Taft vetoed it, as I recall, and I voted to pass it over his veto but we did not have enough votes. I voted for it again when Mr. Wilson was President—it was passed, and President Wilson vetoed it. Although I am a strong Democrat, as you know, I voted to pass the bill over President Wilson's veto. In season and out of season I have been for this legislation, and it was the source of the greatest disappointment to me that the legislature did not ratify the bill. I hope it will yet do so.

You speak of Mr. Davies having denounced Mr. Roosevelt. Mr. Davies says he never did such a thing in his life. In addition, to this, to my certain knowledge, Mr. Davies supported Mr. Roosevelt vigorously and actively, both in 1932 and 1936. He was at our headquarters in Nashville almost every day, except when he was out speaking for the ticket.

Your statement about Mr. Davies being a lobbyist is wholly incorrect. You have not gone into the matter carefully. As a matter of fact, some public-service corporations offered him a very substantial fee to aid them in some measures they had before the legislature, and he turned the offer down. He declined to represent them. I am afraid someone having a selfish interest in the matter has misled some of you gentlemen in the labor organization, and I say this in friendship and not in criticism.

I am quite sure Mr. Davies will be confirmed by the Senate, that he will make a splendid judge, and will be entirely fair to labor. I write as the friend of labor and my record in both the House and the Senate shows my uniform friendship for labor.

Very sincerely yours,

——— ———.

Mr. Chairman, you will no doubt remember a letter I read into the record a while ago from R. H. Brazzell to Mr. Hugh Bonham, setting out a number of senate bills and stating Mr. Davies' attitude on them. This is a letter from Mr. Bonham, addressed to me under date of June 15, 1939, stating how that letter came to be written, and elaborating somewhat upon the testimony he has given before the committee:

NASHVILLE, TENN., *June 15, 1939.*

Hon. K. D. MCKELLAR,
United States Senator, Washington, D. C.

MY DEAR SENATOR: As you know, I was for many years a locomotive engineer and was employed as such by numerous railroads. I later quit running engines and accepted employment in another line of work, in which I received an accidental injury that has incapacitated me from any active work.

During the years that I was a locomotive engineer I was a member of the Brotherhood of Locomotive Engineers and am still a member of that organization. I have always been interested in labor matters and always will be.

I have known Elmer Davies since he began the practice of law at Nashville; that is, throughout his professional life. When you and Senator STEWART united in recommending him for the Federal district judgeship for middle Tennessee I was very much gratified, and I promptly so advised you. I have never known of any suggested appointment to any Federal office that has been more universally acclaimed as a fine appointment by our citizens of all classes, and I was mighty glad to learn that hundreds of lawyers and citizens throughout the middle district of Tennessee had written to both you and Senator STEWART warmly commending your recommendation of Mr. Davies for the vacant district judgeship.

I was surprised and felt outraged when I learned that there were a few persons whose selfish interests I had no trouble in understanding were protesting Mr. Davies' appointment and were even charging when he served in our State senate in the 1935 and 1937 legislatures that he had not been friendly to labor, and were even charging that he had been opposed to T. V. A. and the humane and enlightened policies of President Roosevelt. Of course, you and Senator STEWART know, as I know, that there is no higher type man or Democrat in Tennessee than Mr. Davies, nor anyone who has been any more a warm or consistent supporter of President Roosevelt in the past.

I read in one of our local Nashville newspapers that the charge was being made that Mr. Davies, as a State senator in the 1935 legislature, had been opposed to labor legislation; and knowing that Mr. R. H. Brazzell at that time held a position as clerk in the Labor Department of Tennessee, and also knowing that he was the active legislative representative, at that time, of the Order of Railroad Telegraphers, I sought a talk with Mr. Brazzell, and found out from him that Senator Davies, as a member of that State senate, had supported and voted for the program of organized labor, as I felt sure would be the case. After my talk with Mr. Brazzell I requested that he write me a letter, over his signature, telling me these facts, so as to "nail" the false charge that had been made against Mr. Davies. Mr. Brazzell complied with my request, and I am herewith enclosing you the original letter that he wrote me under date of June 9:

"From the beginning I have been a warm supporter and admirer of President Roosevelt, just as you have been; and I am proud of the honor that I have a personal acquaintance with President Roosevelt, and have visited with him at both Warm Springs and at the White House; and, of course, I was familiar with the fact that you have always felt the same way about the President and were among the first, if not the first, public man in Tennessee who spoke out and advocated his election as President for his first term, and all Democrats in Tennessee know that this is your history; and the fact that you and Senator Stewart would agree on recommending Mr. Davies for this judicial appointment is sufficient, I think, in itself to answer all the false charges that have been made against that fine man."

With my very best wishes, I am,

Sincerely your friend,

HUGH BONHAM.

Senator MCKELLAR. I will not read all of these telegrams and letters. I do not think it is necessary; but I want to put them in the record. There are telegrams and letters from nearly all the lawyers in the various districts in middle Tennessee; not all but most of them. Some of them are from the opposition. I want to be fair to them, and ask that their letters and telegrams be placed in the record.

Senator CONNALLY. They will be admitted to the record.

(The various telegrams and letters referred to by Senator MCKELLAR are here printed in full, as follows:)

NASHVILLE, TENN., *July 6, 1939.*

Senator K. D. MCKELLAR,
United States Senate, Washington, D. C.:

We unqualifiedly endorse Hon. Elmer Davies for Federal judge for vacancy in Tennessee. No question as to his character and ability.

JAMES B. NEWMAN.
E. F. LANGFORD.
RICHARD P. DEWS.
LITTON HICKMAN.
GEORGE H. ARMISTEAD, Jr.

———

CLARKSVILLE, TENN., *July 6, 1939.*

Hon. K. D. MCKELLAR,
United States Senate, Washington, D. C.:

Urge you to recommend Hon. Elmer Davies, of Nashville, for Federal judge for the middle district of Tennessee. He is a man of integrity, fairly qualified, his character unquestionable. The people throughout my entire section of the State want him.

N. A. LINK.

———

LEWISBURG, TENN., *July 6, 1939.*

Senators K. D. MCKELLAR AND TOM STEWART,
Washington, D. C.:

Heartily, unequivocally, without any reservations, endorse Elmer D. Davies for judgeship. Anyone desiring a man of superior judicial ability will not be disappointed in him. He is a man of fine family, high moral character. He will be found worthy of our Chief Executive's confidence. Respectfully urge your every effort in obtaining confirmation.

S. E. WASSON.

———

ASHLAND CITY, TENN., *July 6, 1939.*

Hon. K. D. MCKELLAR AND TOM STEWART,
Senators, Washington, D. C.:

We strongly approve appointment of Elmer Davies as Federal judge for the middle district of Tennessee. He has excellent character and standing among the lawyers of the Nashville bar for ability and integrity. His character as a citizen is good in all respects.

S. A. MARABLE.
P. H. DUKE.
L. J. PARDUE.

———

CHARLOTTEVILLE, TENN., *July 5, 1939.*

Senator K. D. MCKELLAR,
United States Senate, Washington, D. C.:

We and all the Dickson County bar urge immediate confirmation of appointment of Elmer Davies, Federal judge. He is of high character and outstanding ability. His integrity and judicial ability cannot be questioned without prejudicial motives.

W. M. LEECH,
RAY STUART,
CLARK LEECH,
J. B. WHITE,
E. A. BROWN,
ROBERT S. CLEMENT,
EDWARD SUGG,
Attorneys.

———

FAYETTEVILLE, TENN., *July 5, 1939.*

Senator K. D. MCKELLAR,
Washington, D. C.:

We heartily approve Mr. Elmer Davies for appointment to the Federal judiciary. We think he is eminently qualified to fill the position in every respect.

W. B. Lamb, Jr.; B. E. Holman; Lawson H. Myers; E. A. Simms, county judge; W. T. McCown, Jr.; Robert W. Stevens; E. C. Templeton; J. B. Parks; H. T. Holman; J. W. Hollman; Robert Fulton, clerk; and Master Ira Stemens.

COOKEVILLE, TENN., *July 6, 1939.*

Senator K. D. MCKELLAR,
Washington, D. C.:

We the undersigned members of the Cookeville bar heartily endorse Hon. Elmer Davies both as to character and ability.

Worth Bryant, John D. Holladay, L. M. Bullington, H. H. Clark, Keith Bohannon, A. B. McKay, J. O. Paris, W. P. Flatt, E. H. Boyd, Hardin Boyd, and W. L. Swallows.

MCMINNVILLE, TENN., *July 5, 1939.*

Senator K. D. MCKELLAR:

McMinnville bar requests immediate appointment of Davies, whom we know to be able and of excellent character.

C. E. HASTON.
R. W. SMARTT.
ROBERT S. BRADY.

ERIN, TENN., *July 5, 1939.*

Senators K. D. MCKELLAR AND TOM STEWART:

We hereby endorse Hon. Elmer D. Davies for district Federal judge because he is an able lawyer and of good moral character and well fitted for the position.

SPENCER & SPENCER.
J. M. SPENCER.

SHELBYVILLE, TENN.

Senator KENNETH D. MCKELLAR,
Washington, D. C.:

Urgently solicit your efforts toward confirmation of Davies' nomination for district judge. Ability and character eminently qualify him.

BEN KINGREE, Jr.
W. P. COOPER, Sr.

MURFREESBORO, TENN.

Hon. K. D. MCKELLAR,
United States Senator, Washington, D. C.:

Murfreesboro bar believing in integrity and ability of Judge Davies in special session adopted resolution unanimously urging his confirmation. Please so advise Senator STEWART.

JAMES D. RICHARDSON.

CLARKSVILLE, TENN.

Senator KENNETH MCKELLAR,
Washington, D. C.:

Elmer Davies is outstandingly qualified for district court judge. He is intelligent, honest, well-trained, and patriotic.

ROBERT L. MCREYNOLDS.

CHARLOTTE, TENN., *July 6, 1939.*

Senator K. D. MCKELLAR,
United States Senator, Washington, D. C.:

We and all the Dickson County bar urge immediate confirmation of appointment of Elmer Davies Federal judge. He is of high character and outstanding ability. His integrity and judicial ability cannot be questioned without prejudicial motives.

W. M. LEACH.
RAY STUART.

MEMPHIS, TENN., *July 5, 1939.*

Hon. K. D. MCKELLAR,
Senator from Tennessee,
United States Senate Office Building:

I recommend and urge the confirmation of the Honorable Elmer Davies, of Davidson County, Tenn., as United States district judge from the middle division of Tennessee. His extensive experience and his ability and unquestioned integrity more than qualify him for the above position for which he has been recommended. I respectfully request that you use all your efforts to obtain his approval and confirmation.

JNO. T. SHEA.

MEMPHIS, TENN., *July 5, 1939.*

Hon. K. D. MCKELLAR,
United States Senate Office Building:

I was a member of the State senate with Hon. Elmer Davies. I found him to be capable, honest, intelligent, and a hard worker. He was not unfair to labor or any other group. I hope the Senate will vote to confirm him as judge for the middle district.

Regards,

MARION S. BOYD.

MEMPHIS, TENN., *July 5, 1939.*

Hon. K. D. MCKELLAR,
Senate Office Building:

Elmer Davies is an able lawyer and honorable gentlemen and will make a splendid Federal judge. There can be no legitimate objection to his confirmation. As city attorney of Memphis I know he has been friendly to important labor legislation. John Shea, president of Tennessee Bar Association, and Marion Boyd, president Memphis and Shelby County Bar Association, wiring you today advocating confirmation. He should be confirmed.

WILLIAM GERBER, *City Attorney.*

SPRINGFIELD, TENN., *July 5, 1939.*

Senator KENNETH MCKELLAR,
Senate Office Building:

Davies eminently qualified for Federal judge; has fine judicial temperament, excellent legal ability, and character unquestionable.

JOHN D. SPROUSE.

SPARTA, TENN., *July 5, 1939.*

Senator K. D. MCKELLAR,
Senate Office Building:

We sincerely vouch for the character and ability of Elmer Davies, and consider him eminently qualified for Federal judgeship.

MALCOLM HILL.
J. W. CAMP.

MEMPHIS, TENN., *July 5, 1939.*

Hon. K. D. MCKELLAR,
Senate Office Building:

Served in 1935 and 1937 State senate with Elmer Davies, and know him to be qualified from every standpoint for appointment as Federal judge. He is honest, loyal, and an outstanding lawyer. During my association with him in the senate found him to be favorable to labor legislation. He assisted me in the passage of many labor bills. As speaker of the senate in 1939 I know that Davies unofficially assisted on labor legislation. He should be confirmed without question.

BLAN MAXWELL.

COLUMBIA, TENN.

Senator K. D. MCKELLAR,
Senate Office Building, Washington, D. C.:

We, the undersigned members of the Columbia bar, strongly endorse Hon. Elmer Davies for the appointment of United States district judge for the middle division of Tennessee. This endorsement is based upon his outstanding ability and qualifications and integrity. If necessary a delegation from this bar will gladly appear before the Senate committee and testify in behalf of Mr. Davies.

Hugh T. Shelton, R. S. Hopkins, C. D. Hopkins, L. Z. Turpin, Pride Tomlinson, R. L. Harris, Jr., J. Shelby Coffey, Sr., J. Shelby Coffey, Jr., J. M. Ingram, R. D. Greenlaw, Horace Frierson, Jr., Thomas H. Peebles, Sr., Thomas H. Peebles, Jr., David E. Trice, J. C. Jackson, Harry T. Cook, T. B. Forgey, Sam Holding, M. E. Queener, C. A. Kennedy, W. M. Hart, J. C. Voorhies, Hugh Lee Webster, Norfleet Figuers, Sherrill Figuers.

COLUMBIA, TENN., *July 6, 1939.*

Hon. K. D. MCKELLAR,
United States Senator,
Senate Office Building, Washington, D. C.:

We, the undersigned attorneys, city officials, county officials, and citizens of Columbia, hereby wholeheartedly endorse the confirmation of Mr. Elmer Davies for Federal district judge, and urge your splendid efforts in his behalf. We consider Mr. Davies a man of the highest integrity and ability and he will be a distinct credit to the Federal judiciary.

Joe M. Dedman, Sherell Figuers, O. B. Nicks, Norfleet Figuers, Jr., W. J. Harbison, John C. Fleming, Jr., Munford Smith, Jr., J. D. Cathey, W. M. Fox, Franklin Fulton, Arthur P. Nexbit, Mora B. Farris, Walter Griffin, J. G. Lowman, W. J. White, J. T. Walker, Figuers Voss, M. S. King.

PULASKI, TENN., *July 5, 1939.*

Hon. KENNETH D. MCKELLAR,
Hon. TOM STEWART,
Senate Office Building, Washington, D. C.:

We earnestly recommend and heartily endorse Elmer Davies, of Nashville, for Federal judgeship of middle Tennessee. We know Mr. Davies to be an outstanding lawyer. He is of unquestionable character and is blessed with marked ability to fill this judgeship. Committee will satisfy people here by recommending Senate approval of his appointment.

J. L. JONES.
R. E. LEE.
LAVID RHEA.

COOKEVILLE, TENN., *April 5, 1939.*

Hon. K. D. MCKELLAR,
United States Senator,
Washington, D. C.:

We, the undersigned members of the Cookeville Bar Association, congratulate you on your recommendation of Hon. Elmer Davies as Federal district judge for middle district of Tennessee. We feel that his appointment will be a credit to you and that he will acquit himself with credit and distinction to the judiciary of the Nation.

John D. Holladay, H. H. Clark, W. P. Flatt, John E. Bryan, Keith Bohanon, W. L. Swallows, L. M. Bullington, Worth Bryant.

COOKEVILLE, TENN., *April 3, 1939.*

Hon. K. D. MCKELLAR,
Hon. TOM STEWART,
United States Senators,
Washington, D. C.:

Congratulations on your recommendation of the Honorable Elmer Davies for appointment as Federal judge for the middle district of

Tennessee. We, the undersigned citizens of Putnam County, feel that you have acted wisely and that Mr. Davies will acquit himself with honor and distinction to the judiciary of this Government.

Robert L. Bilbrey, representative; H. M. Judd, manager; Tom Bilbrey, John Pointer, Keith Bohanon, W. L. Murphy, Zeb Warren, J. H. Milligan, G. H. Lowe, John A. Moore, Sam E. Burton, Ernest Webster, W. V. Stamps, W. M. Warren, W. L. Bilbrey, Marsh Byers, F. M. Byers, W. T. Ray, J. H. Carlen, John W. Gill, V. D. Nunally, J. L. McDowell, W. D. McDowell, Homer C. Reeves, Mrs. Ann McDowell, Rex Vaughn, J. W. Moore, Callie Y. Jared, W. M. Bush, J. H. Roberson, W. C. Wade, Algood Moore, Sam McCulley, D. W. Cornwell, J. Don Nevill, C. M. Stone, W. E. Leftwick, Worth Bryant, Ernest Huddleston, L. E. Chaffin, J. H. Robinson, L. H. Clark, Will T. Sewell, W. A. Jared, I. D. Brown, A. C. Jared, W. L. Swallows, attorney; Burch Swalls, J. R. Denny, J. H. Jared, J. M. McCormick, B. E. Stockton, Donald Ferrell, J. M. Lee, R. C. Little, J. C. Thompson, J. M. Lamb, D. A. Mitchell, Hop Bohanon, Johnnie Bohanon, Charlie B. Whitaker, H. D. Whitson, Bob Breeding, E. A. Fox, W. D. Johnson, R. G. Milbros, Jarvis Matheny, H. L. Proffitt, Herman Mott, H. L. Quarles, R. N. Bryant, J. R. Mitchell, J. R. Adams, A. L. Waldron, B. C. Williams, P. Matheny, judge; Ridley Gaw, Matt Shipley, Henry Cumby, Isaac West, Howard Adkins, Thurman Bilbrey, Floyd Murphy, F. D. Brown, Arnold Benson, Ford Williams, Norman Pointer, Gaskell Gragg, Perry Wilmoth, Howard Holloway, Brown Minor, J. Mitchell, L. A. Allen, J. H. Milligan, George West, Denny Williams, Milton L. Acuff, Herbert West, Wheeler Harp.

SENATE CHAMBER, STATE OF TENNESSEE,
Nashville, April 6, 1939.

Hon. K. D. MCKELLAR,
Senate Office Building, Washington, D. C.

DEAR SENATOR: Having heretofore wired you relative to my personal reaction concerning your recommendation of Elmer Davies for Federal judge, I now desire to advise you of the general reaction concerning this appointment. Since this announcement was made public I have seen in Nashville many of the political leaders throughout middle Tennessee, who have been here seeking jobs for their various friends, and I have not heard one single dissenting vote in this matter. I have seen prominent lawyers from practically every county seat in middle Tennessee, and they are unanimous in their praise of you for naming Mr. Davies to the judgeship. The average man's reaction to the appointment is that you have named an able lawyer, who has been thoroughly honest in his dealings, both public and private, and in addition that he is a "regular guy."

Truly I do not believe that there is a single individual in middle Tennessee who could have been named to this high position who would have brought more favorable reaction and caused more people to sing the praise of Senator MCKELLAR.

I was never so pleased about a political appointment in all of my life, and thousands of others feel the same as I about it. Again, may I congratulate you on this selection.

With kindest personal regards, I am,

Yours very truly,

B. B. GULLETT, *Chief Clerk.*

COLUMBIA, TENN., *April 5, 1939.*

Senators K. D. MCKELLAR and TOM STEWART,
Washington, D. C.

MY DEAR SENATORS: It has come to our attention that some protest has been filed by George Cate, a member of the Nashville bar, as to the appointment of Elmer Davies to the Federal bench for the middle district of Tennessee.

Although this bar had two applicants for this appointment and we were somewhat disappointed that neither were selected, we do wish to be put on record as now endorsing Mr. Davies and condemning the objections filed by Mr. Cate. Of course, I am not attempting to speak for the entire bar of Columbia, but I have discussed this with quite a few members of the bar, and I am expressing the sentiments of those with whom I have discussed the matter.

I have known Mr. Davies for a number of years and think he is of the highest type citizen, as well as lawyer, and I think I owe it to one of his type and standing to condemn an unwarranted protest filed against him.

Yours very truly,

HUGH T. SHELTON.

SPARTA, TENN., *April 6, 1939.*

Senator KENNETH MCKELLAR,
Washington, D. C.

DEAR SENATOR: Since you were not in position to recommend the appointment of Judge Pat Officer, you could not have pleased us better than the selection of Elmer Davies for the Federal judgeship. He is a "man after my own heart". I am personally very fond of Elmer. He is able, capable, and courageous, and I feel sure will measure up to the responsibilities of the office and that you will find no reason to regret your action.

With kindest personal regards, I am,

Sincerely your friend,

MALCOLM C. HILL.

THE NASHVILLE, CHATTANOOGA & ST. LOUIS RAILWAY,
NASHVILLE, TENN., *April 5, 1939.*

Hon. K. D. MCKELLAR,
Senate Office Building, Washington, D. C.

DEAR SENATOR MCKELLAR: I have been out of the city and this is my first opportunity to write you, expressing my commendation of the designation by you and Senator STEWART of Judge Darr and Mr. Davies for Federal judgeships in Tennessee.

I know both of these gentlemen well and feel sure that you have done the public a service in recommending them.

Yours sincerely,

WM. H. SWIGGART.

CUMMINGS & MELTON,
WOODBURY, TENN., *April 5, 1939.*

Senator K. D. MCKELLAR,
Washington, D. C.

DEAR SENATOR: I wish to say to you that I am very much pleased and our people generally are satisfied with the recommendations which you and Senator STEWART have made for the filling of the two vacancies in Federal judgeships in Tennessee.

Senator Davies and I served together in the Tennessee General Assembly both in 1935 and 1937, and I have practiced in the court of Judge Darr. Both are lawyers of outstanding ability and men of the very finest type.

We of this county wanted Judge Officer to succeed Judge Gore, but appreciated the fact that you and Senator STEWART had many things to consider in the matter.

I see in the papers that some protest has been made against Senator Davies on account of his Tennessee legislative record relative to New Deal legislation. As you know, I was a Roosevelt man and voted for his nomination at Chicago. There is nothing in the record of Senator Davies even remotely justifying a challenge of his devotion to duty, integrity, or ability. His open fighting and ability made him a leader in his own right. Should these protests against his nomination and appointment be taken seriously I should welcome the opportunity to speak whereof I know in his behalf as a lawyer and as a man, and particularly as a legislator, recommending him for the duties and responsibilities of this high judicial office.

Yours very truly,

JAMES H. CUMMINGS.

FARMER, DENNEY & LEFTWICH,
Nashville, Tenn., April 5, 1939.

Senator K. D. MCKELLAR,
Senate Office Building, Washington, D. C.

DEAR SENATOR MCKELLAR: My friend, Mr. A. L. Dorsey, of Springfield has sent me a copy of a resolution unanimously adopted by the quarterly court of Robertson County on Monday, April 13, 1939, approving the recommendation of Elmer D. Davies for United States district judge for the middle district of Tennessee, and I am enclosing a copy of this resolution herewith.

With kindest regards, I am,

Yours very truly,

FYKE FARMER.

QUARTERLY COUNTY COURT,
Robertson County, Tenn., April 3, 1939.

Resolution regarding Hon. Elmer D. Davies

Be it Resolved by the County Court of Robertson County, Tenn., in quarterly session assembled at Springfield on the first Monday in April 1939, That we approve the selection of the Honorable Elmer D. Davies for the position of judge of the District Court of the United States for the Middle District of Tennessee, and most respectfully petition that he be appointed by the President and approved by the Senate.

Mr. Davies is an outstanding citizen and lawyer who has a wide range of experience in the affairs of the public, including his work as a legislator in the General Assembly of Tennessee, and his integrity is unimpeachable.

Passed:

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County Court Clerk.

Approved:

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Judge.

NASHVILLE, TENN., *April 1, 1939.*

Hon. K. D. MCKELLAR,
Washington, D. C.

MY DEAR SENATOR: It is with a great deal of pleasure I notice you have recommended Mr. Elmer Davies for appointment as Federal judge for the middle district of Tennessee. I think you are to be congratulated upon this selection, and I earnestly hope the appointment will be approved by the Senate.

Very sincerely yours,

C. F. STITH.

LEVINE & LEVINE, ATTORNEYS AT LAW,
Nashville, Tenn., April 1, 1939.

In re appointment of Elmer Davies.

Hon. K. D. MCKELLAR,
Senator from Tennessee, Washington, D. C.

MY DEAR SENATOR: I have read in the papers that a protest has been made against the confirmation of the Honorable Elmer Davies for the Federal judgeship in Nashville, and that the same has been presented to you.

Unsolicited by and unknown to Mr. Davies, I am writing this letter.

I did not support Mr. Davies in his candidacy (if such could be termed any activities prior to his recommendation). In fact, I affirmatively endorsed another applicant. On the other hand, the appointment of Mr. Davies reacted upon myself, and upon other members of the bar to whom I have spoken, as being a splendid choice, and I do not think any protest should be made, or could be made with any reason, in regard to his capacity, his ability, and his absolute fitness.

Elmer Davies is one of the finest gentlemen I have ever known and one of the most capable lawyers—he will grace the bench with dignity and poise. There is no reason for any objection from a judicial standpoint and I see no reason why this man should not be confirmed. I sincerely trust that he will not be embarrassed by any proceedings, however futile, attempting to keep him from assuming his position on the bench, where he is needed and where the bar of Nashville, regardless of whether they were for him or not for him, will be happy to have their affairs in this court presided over by such a capable gentleman.

Respectfully yours,

ALFRED T. LEVINE.

JACOBS H. DOYLE, ATTORNEY AT LAW,
306 Exchange Building, Nashville, Tenn., June 14, 1939.

Senator K. D. MCKELLAR,
United States Senate, Washington, D. C.

DEAR SIR: Enclosed you will find a copy of a letter that I have today written to the Honorable Frank Murphy, urging the appointment of Mr. Elmer Davies of the Nashville bar.

You and Senator STEWART could make no better appointment than that of Senator Elmer D. Davies. I certainly hope that you will be able to see that appointment through. Mr. Davies, when appointed and confirmed by the Senate, will never be a discredit and will stand out as a living example of the kind and caliber of men that you recommend to fill such important offices.

With every good wish, I remain,

Yours truly,

JACOBS H. DOYLE.

JUNE 14, 1939.

Hon. FRANK MURPHY,
Attorney General of the United States,
Washington, D. C.

SIR: The two distinguished Senators of Tennessee, MCKELLAR and STEWART, nominated Mr. Elmer D. Davies, of the Nashville bar, for Federal judge to fill the vacancy which now exists in the middle district of Tennessee as a result of the death of Judge John J. Gore.

I have heard a rumor to the effect that the hitch in Mr. Davies' appointment going through is that he is believed to be a member of the Ku Klux Klan. In order that you might know my stand on the Ku Klux Klan, may I inform you that I am a member of the Roman Catholic Church and attend the parish of the Cathedral of the Incarnation at Nashville, a member of the Altar Society of that parish, a member of the Knights of Columbus, Council No. 544 at Nashville, and a former officer of the Nashville Council. I have known Mr. Davies for many years and I know that he is anything but a member of the Ku Klux Klan. In 1928, when the Democrats had as their standard bearer Mr. Alfred Smith as President and when the anti-Catholics were very bitter against Alfred Smith, Mr. Davies stumped this territory for Mr. Smith and his speeches were on tolerance. He and I served on several committees of the local and State Democratic committee for the election of a Democratic President. He was also on the finance committee and he, personally, raised $1,200 for that campaign fund. Mr. Davies and I were delegates, along with others, to the State convention to select delegates to the national convention to choose a Democratic President. Mr. Davies, at that time, was a supporter of Mr. Alfred Smith. He tried to get the State convention to go on record as pledging its unanimous support to Mr. Smith. However, the convention pledged its delegation to support the Honorable Cordell Hull and, in the alternative, to support Mr. Smith which was the result of the efforts of Mr. Davies in the convention along with that of others.

I know these facts because I was a member of that convention. Mr. Davies and I also attended the conventions for the selection of Democratic nominees in 1932 and 1936 in which we supported the Honorable Franklin D. Doosevelt for President of the United States.

I have been informed that several persons, whose names have been referred to me, have been sending letters or affidavits to the effect that Mr. Davies is a member of the Ku Klux Klan and I know that these informants whose names I have are members of that order themselves, or at least that their beliefs lean in that direction and, if they regard Mr. Davies as a bad Ku Klux, in my opinion, that recommends him as a good citizen, because the Ku Klux doesn't want him.

I have been informed that, when Mr. Davies was going to high school in a rural district, a crowd of boys suggested joining the Ku Klux Klan and that he, like the rest of the boys, followed the leader and joined and attended several meetings, and dropped out. At about the same age, I joined the Knights of Columbus. I have retained my membership in the Knights of Columbus, but Mr. Davies repudiated his membership in the Ku Klux Klan after he had attended maybe a couple of meetings which indicates his disapproval of that order. The manner in which he has conducted himself since the time he began practicing law until now proves conclusively to me that he is anything but a Ku Klux.

Mr. Davies does not know that I am writing this letter, but I am writing to inform you of my opinion of Mr. Davies because I know he would make a good judge. He is a reputable citizen and he is anything but a Ku Klux and I would certainly hate to see that alleged obstacle stand in his way and have the appointment go to some other person who would be friendly to the Ku Klux Klan.

Respectfully,

JACOBS H. DOYLE.

WORKS PROGRESS ADMINISTRATION,
OFFICE OF THE STATE ADMINISTRATOR,
Nashville, Tenn., June 19, 1939.

Senator K. D. MCKELLAR,
Washington, D. C.

DEAR SENATOR MCKELLAR: I want to congratulate you on putting over Elmer Davies. It was a splendid selection and he will make a fine judge.

A most unjust fight was made upon him, and a fight that was cleverly managed, but I felt confident all along that the administration would have to go along with you in the matter.

Sincerely your friend,

HARRY S. BERRY,
State Administrator.

TENNESSEE TREASURY DEPARTMENT,
Nashville, June 19, 1939.

Hon. K. D. MCKELLAR,
Senate Office Building, Washington, D. C.

DEAR SENATOR: I want to offer my congratulations upon the wonderful and untiring work you have done in the fight for Hon. Elmer Davies here in Tennessee. I have watched you very closely from the day that you suggested his name, and I have said all along that we will have to stick to the guns and have him nominated regardless of time and cost.

This is a great victory for you and our party here in Tennessee. I feel now like we are more on our way to victory in 1940.

Again congratulating you, I am,

Your friend,

JOHN W. HARTON.

LOAN AGENCY
OF THE RECONSTRUCTION FINANCE CORPORATION,
Nashville, Tenn., June 20, 1939.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR: As one of your friends I am much gratified that the President has followed your recommendation and sent to the Senate the name of Hon. Elmer Davies for the position of United States district judge.

You are to be commended for your steadfast and persistent effort in this matter, and it reveals your loyal, energetic nature in every matter you undertake. I read your estimate of Mr. Davies, published in the Nashville paper, and I think it is quite appropriate. I have no doubt that Mr. Davies will fill the position with honor and credit, and that he will be known as a just judge, giving justice to all alike without regard to race, creed, religion, class, or group, and that he will interpret the Constitution in a spirit of true liberalism.

With kind regards, I am,

Sincerely your friend,

J. M. GARDENHIRE.

P. S.: I have not had any intimation as to what shake-up there may be under the reorganization bill. Presumably, Mr. Jesse Jones will be the head of the lending agency. Naturally, I am hoping that your friends will not be disturbed, and I am sure that you are on the watchtower.

J. M. G.

EWING AND EWING,
ATTORNEYS AT LAW,
Nashville, Tenn., June 20, 1939.

Hon. KENNETH D. MCKELLAR,
Washington, D. C.

DEAR SENATOR MCKELLAR: The announcement that the President had presented Elmer Davies' name to the Senate for confirmation as district judge has been the cause of much gratification to the lawyers and citizens of our section of the State.

Your firm attitude in this matter has resulted in much favorable commendation.

Yours very truly,

ALBERT G. EWING, III.

EWING AND EWING,
ATTORNEYS AT LAW,
Nashville, Tenn., June 21, 1939.

Senator KENNETH D. MCKELLAR,
Washington, D. C.

DEAR SENATOR: Personally I want to let you know that I appreciate the fine firmness, courage, and loyalty that you have displayed in the matter of sustaining your recommendation of Mr. Elmer Davies for judge of the Federal district court at Nashville. Your conduct was fine. Your courage was splendid and your manly, firm attitude under unpleasant circumstances has certainly deepened the appreciation of your friends in this section of the State.

With best regards, I beg to remain

Yours very truly,

A. G. EWING.

NASHVILLE, TENN., *June 29, 1939.*

Hon. EWING THOMASON,
Member of Congress, Washington, D. C.

DEAR MR. THOMASON: You will doubtless remember me as district manager of the Texas Co. at El Paso, Tex. when you ran for mayor of that city. Your law partners, Tom Lee and Gene Edwards, were very close personal friends of mine, and, as you doubtless remember, I heartily supported you in this race against Charlie Davis.

My object in writing you this letter is in the interest of my longtime personal friend, Elmer D. Davies, who has been nominated by Senators MCKELLAR and STEWART for Federal district judge of the middle district of Tennessee. I have known Mr. Davies many years. He is a straightforward, honest gentleman; is a lifelong Democrat, having supported Gov. Al Smith in 1928, and was very active in the campaigns for President Roosevelt in 1932 and 1936.

On June 7 the Tennessee Federation of Labor met here in Nashville and some of the members, through the instigation of former State Senator George H. Cate, introduced a resolution in the Tennessee Federation of Labor condemning Mr. Davies' record while he was a member of the Tennessee Senate with George H. Cate on his labor record. This resolution was turned over to the resolutions committee, and I personally appeared before the resolutions committee and, as a result of our discussion, the resolutions committee recommended to the federation meeting that this matter be turned over to the nonpartisan committee of the labor organizations, which included the Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen and Enginemen, Brotherhood of Railway Trainmen, Order of Railway Telegraphers, and the Order of Railway Conductors. After the convention was over the nonpartisan committee of the Tennessee Federation of Labor had their meeting and did not call in a single one of the committeemen of the railroad brotherhoods, and the resolution which was sent to the Senate Judiciary Committee does not represent, by any manner of means, the labor vote in this State.

Former Senator George H. Cate served in the senate with Senator Davies in 1935 and was afterward commissioner of institutions in this State under former Governor Browning, who engineered a county-unit bill through the house and senate, which Senator Davies did not support and which former Senator Cate did support, with the result that in last year's election Governor Browning and his entire cabinet, including former Senator Cate, were repudiated at the polls and the county-unit bill was declared unconstitutional by the supreme court of this State. This is the first time in history that a Democratic Governor only served one 2-year term as Governor of this State. This whole controversy is being fostered by former Senator Cate against Mr. Davies through personal and political jealousy.

I myself raised the question in the resolutions committee as to whether the committee had the authority to endorse or condemn a candidate for any office without the approval of the entire nonpartisan committee, and I was backed up by the resolutions committee.

Mr. Cate has never been a friend of Senator MCKELLAR or of President Roosevelt, and is only speaking for a small faction, including a small minority of the labor group in this State that is trying to condemn Mr. Davies.

My object in writing you is that I would appreciate it very much if you will speak to Senator TOM CONNALLY, of Texas, and Senator SHEPPARD, if he is on the Judiciary Committee, regarding this matter, and I feel that I am not taking any liberty in writing you, as I first went to Long View, Tex., in August 1907 as a locomotive engineer on the Texas & Pacific Railroad, between Long View and Fort Worth and between Long View and Texarkana, and, while I have not railroaded since May 1, 1918, I am still a member in good standing of Division No. 473, Brotherhood of Locomotive Engineers, and I certainly do not like to see a good, honest, true Democrat crucified on a cross of lies.

I would indeed appreciate it very much if you will show this letter to Senators CONNALLY and SHEPPARD and explain to them that my purpose in writing is to see that an honest and true Democrat is not mistreated.

With my very kindest personal regards, I am,

Sincerely yours,

HUGH BONHAM,
1106 Gale Lane, Nashville, Tenn.

JUNE 20, 1939.

Senator K. D. MCKELLAR,
Washington, D. C.

DEAR SENATOR: I just want to tell you that, in my opinion, you have appointed one of the best men available for the local Federal judgeship when you appointed Elmer Davies.

I have known Elmer since 1922, and I know that he is intelligent, capable, and honest, and I want to congratulate you on your firmness in appointing a man that I consider really an excellent man.

Yours very truly,

DAVID L. MCQUIDDY.

P. S.—No reply to this letter is necessary.—D. L. M.

JUNE 8, 1939.

Hon. FRANK MURPHY,
United States Attorney General,
Washington, D. C.

MY DEAR SIR: As a member of the Roman Catholic Church, I am taking the liberty of voicing my protest of the recent attempt from certain sources to reflect upon the character of Mr. Elmer Davies, of this city, who is now being considered for the appointment of Federal judge in this district.

I might say that anyone that knows me knows that I am rather prominent in the affairs of my local church and that I am a Roman Catholic. Mr. Davies has been my personal friend for many years, and has favored me with all his personal business, and extended me other favors, and the question of my religious beliefs has never entered into our relations. I know Mr. Davies so well that I consider it a rank injustice that an attempt has been made to injure his chance of confirmation by charging that he was at any time a member of the Ku Klux Klan. Mr. Davies has very frankly, at my request, explained his connection with the Ku Klux Klan, and he is so straightforward and honest in his statements on this issue as he is on all matters that his explanation of his connection with this society as a youth would not be doubted by anyone with any sense of fairness. Those who brought these charges against him know the full facts yet were willing to stoop so low as to turn it into a political weapon against him.

One of the first comments that I had to make upon learning of the nomination of Mr. Davies for this judgeship was my expression of confidence in his ability and broad sense of justice. I fully agree with the leading members of the bar in this community that he is a man who will lend dignity to this office; and to one who is not a politician and who has no ax to grind, there can be no question in my mind as to his toleration and eminent fairness and justice to all that might come before him.

This letter is entirely voluntary upon my part, was not even suggested by Mr. Davies, and without his knowledge.

Very respectfully yours,

HAYES H. HARTNETT.

NASHVILLE, TENN., *June 13, 1939.*

Hon. FRANK MURPHY,
United States Attorney General,
Washington, D. C.

DEAR SIR: I am a member of the Davidson County Democratic Executive Committee and for a number of years served as secretary of this committee. I was secretary of the committee during the Al Smith campaign.

I do not know of anyone in Davidson County who was a more loyal supporter of Al Smith than Elmer D. Davies. He not only took the stump in favor of Al Smith but worked many days at the headquarters and did everything within his power to help elect Governor Smith to the Presidency.

In a county election involving a criminal judgeship that was a contest between Charles Gilbert, who is a Jew, and W. S. Noble, who was an active klansman, Elmer D. Davies actively supported Judge Gilbert and materially assisted in his election.

I know few men who are freer from religious or racial prejudice than Elmer D. Davies. In addition thereto, he is a man of character and ability and has a fine legal training and experience.

I know he actively supported President Roosevelt and actively participated in the campaign for his election and reelection. During the last campaign I was candidate for Presidential elector and his work for President Roosevelt came under my observation.

Very respectfully,

ELKIN GARFINKLE.

NASHVILLE, TENN., *May 17, 1939.*

Hon. K. D. MCKELLAR,
United States Senator,
Senate Office Building, Washington, D. C.

DEAR SENATOR: We notice the President has recommended Leslie Darr for the Federal bench in Tennessee. We think that in justice he should also have recommended Elmer Davies for the middle district of Tennessee.

There is no man who has been suggested thus far for this position who approximates its qualifications so nearly as the gentleman recommended by the Senators from Tennessee.

We trust that you will reexamine his qualifications and insist upon his appointment to this post. We make this recommendation in the public interest. We believe that there is no name backed by as much popular approval and public good will as the name of Elmer Davies.

Sincerely yours,

WHITWORTH STOKES,
JAMES C. R. MCCALL, Jr.

NASHVILLE, TENN., *May 17, 1939.*

Hon. FRANK MURPHY,
Attorney General,
Washington, D. C.

DEAR SIR: We notice there is some delay in the appointment of Elmer Davies to the bench for the middle district of Tennessee. It is difficult to understand this attitude because we know of no valid objection to Mr. Davies.

The recommendation of Mr. Davies for this position caused nearly universal approval in middle Tennessee among the people generally and members of the bar particularly. The situation in middle Tennessee demands the service of a judge as soon as possible. It also calls for a youthful judge because of the necessity of traveling.

No person has been mentioned for this position who is as well qualified for it as Mr. Davies. So, in the interest of Tennessee, we urge a speedy and favorable report by your Department to the President.

Sincerely yours,

JAMES C. R. MCCALL, JR.

THIRD NATIONAL BANK,
Nashville, Tenn., April 14, 1939.

Hon. K. D. MCKELLAR,
Senate Office Building, Washington, D. C.

DEAR SENATOR MCKELLAR: Several weeks ago I wrote you in the interest of Hon. Lee Douglas, who is an aspirant for appointment to the Federal judgeship of middle Tennessee district. Since then it has been announced through the papers, and has been considerably discussed locally, that you, together with Senator STEWART, had recommended Hon. Elmer D. Davies for the position of Federal judge, to succeed the late Judge Gore.

Following your and Senator STEWART's decision to recommend Davies, there has been a handful of small people who are conducting somewhat of a whispering campaign against Mr. Davies, and I am writing this letter to urge upon you not to change your recommendation, but to stand firmly upon it, because I sincerely believe—as do many others in this section—that his appointment to the bench would give more general satisfaction among all factions than any appointment which has thus far been suggested.

You unquestionably know that Davies has been an ardent Democratic supporter throughout his residence in Tennessee. He is impartial, charitable, and tolerant, and possesses great ability. He also possesses poise and dignity, and I am confident that he would so conduct the affairs of the Federal court that great respect would be maintained therefor.

With kindest regards, I am

Very truly yours,

F. M. FARRIS.

APRIL 22, 1939.

Senator KENNETH MCKELLAR,
Washington, D. C.

DEAR SIR: There seems to be considerable discussion in our local papers relative to exceptions which have been made to your recommendation of Elmer Davies for United States district judge here.

I wanted to say to you that I have discussed this matter with quite a number of attorneys here, and am frank to say to you that a survey of the bar here will disclose that the bar generally is well pleased with your choice.

I have no personal interest in this matter; nor do I have any "crows to pick" nor "nest to feather."

Yours very truly,

ALFRED W. TAYLOR.

STATE OF TENNESSEE,
OFFICE OF THE ATTORNEY GENERAL,
July 1, 1939.

Senator TOM CONNALLY,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR: I desire to impart to you a statement made by Judge W. L. Cook, of the Supreme Court of Tennessee, several months ago, at the time Senator KENNETH D. MCKELLAR recommended the Honorable Elmer Davies for appointment as United States district judge for the middle district of Tennessee.

Judge Cook was in conversation with several gentlemen while attending court at Jackson, Tenn., and he stated, in substance, that he thought Senator MCKELLAR had made a very wise endorsement, and he considered Mr. Davies a splendid lawyer, thoroughly qualified, energetic, and a man of the very highest integrity.

Inasmuch as there has been a protest filed before your committee against Mr. Davies, I wanted to impart this statement of Judge Cook, who I consider one of the outstanding jurists in the United States. He has for many years occupied the place of associate justice of our supreme court. Before his appointment he was an outstanding circuit judge, and before that a successful practitioner at the bar of Tennessee.

I have only been connected with the attorney general's office of Tennessee for the past 3 months. Before that time I was an assistant United States attorney for the eastern district of Tennessee. I do not know Mr. Davies personally. I have met him and have a great many friends who are interested in his appointment to the Federal judiciary. Mr. Davies knows nothing of this letter and it is entirely unsolicited by any of his friends.

Very sincerely yours,

ERNEST F. SMITH.

JUNE 1939.

Hon. FRANK MURPHY,
Attorney General,
Washington, D. C.

SIR: I have known Hon. Elmer D. Davies, who has been suggested to the President by our two Senators for Federal judge of the middle district of Tennessee, for many years, and I consider him an able lawyer and a high-class gentleman. However, I am taking the liberty of writing you this letter because of one particular objection to his selection that I understood had been made by a few persons, viz, that he is narrow and illiberal in his religious views and is in sympathy with the Ku Klux Klan, etc.

I am a member of the Catholic Church; was grand knight of the Nashville Council of Knights of Columbus for 2 years, 1935 to 1937, was district deputy for the middle district of Tennessee for 1 year, 1938, and was quite active in the 1928 Presidential campaign, when the flames of religious prejudice were aroused in Tennessee and elsewhere, with great effect, as you know. The result was that many of those in this vicinity in political life or having political ambitions were either silent or in instances evidently quietly and unobtrusively opposed to Governor Smith because he was a Catholic. Mr. Davies was one of the few here who took the stump for Governor Smith, both in this and adjoining counties. He has always evidenced a liberal attitude and has given no indications of any prejudice against Catholics or others because of their religion. Indeed, I know that some Methodist preachers were so active in their opposition to Governor Smith in 1928, wholly or partially on account of his religion, that Mr. Davies, although a Methodist, was so outraged that for some time he refrained from attending his church.

He may or may not many years ago, when a youth in school or college, have joined the Ku Klux Klan, just as many young men join other organizations without thinking. But I am sure that since he became active as a lawyer in Nashville, which must have been some 18 years ago, at least, not only has there been no participation on his part in such activities and views, but quite the reverse.

Feeling that the few persons who have raised this objection to the selection of Mr. Davies as judge were, to say the least, misinformed, and feeling that I know the facts I thought in justice to Mr. Davies, the people of this district and Catholics in general I should write this letter. Indeed, I feel that I know the Catholics in Nashville as well as anyone else and can safely state that the great majority of them in this city who take any interest at all in such matters would be delighted in having Mr. Davies appointed and have the utmost confidence and faith in him. I further come in contact with the public generally in different ways and particularly in the practice of law and as an assistant State attorney general for the tenth judicial district, and what I have said above, I believe also meets the views, ideas, and feelings of the preponderant majority of the people here.

Respectfully yours,

H. FRANK TAYLOR.

JUNE 10, 1939.

Hon. FRANK MURPHY,
Attorney General,
Washington, D. C.

DEAR SIR: Under date of April 20, 1939, a letter was addressed to Senators MCKELLAR and STEWART relative to Mr. Elmer Davies for the Federal judgeship for the middle district of Tennessee, the letter being signed by John S. Glenn, of Nashville, Tenn., a copy of which is attached hereto. In this letter he refers to Mr. Elmer Davies defending a Catholic without compensation and that for a period of more than 30 days Mr. Davies fought like a tiger in defending his client without compensation and was successful in his undertaking.

I am the Catholic client referred to in that letter. I wish to state it was considerably more than 30 days that Mr. Davies defended me without compensation and at the time he was defending me he knew I was a Catholic, that Mr. Glenn, who was working under court instructions, was a Catholic, and was bitterly opposing me to almost persecution and if it had not been for the loyal and legal talent of Mr. Elmer Davies, who is a non-Catholic and who was defending me without compensation and was successful in his efforts, I may have found myself in a bad fix.

I read an article in the papers recently making mention of Mr. Elmer Davies being a member of the Ku Klux Klan. Whether he was at one time when he was a kid or a Vanderbilt student I am not advised, but I hardly think he would have stood up and defended me without compensation knowing I was a Catholic if he was a Klansman, as some would have you believe.

I agree with Mr. Glenn's letter with the exception of the statement on the first page in which Mr. Glenn states "even though he was of the same opinion that I (the Catholic client) was still guilty," I heartily endorse and hope and pray that the appointment of Mr. Elmer Davies will be made.

Further, I wish to state that I personally know Mr. Davies made speeches for Al Smith for President of the United States as I, a Catholic, went on many occasions with Mr. Davies while he was making speeches. Mr. Davies was one of the few lawyers in Nashville who made speeches for Al Smith, a Catholic.

This letter is being forwarded to you without the knowledge or consent of Mr. Davies.

Sincerely yours,

C. E. WEIS,
128 Eighth Avenue N., Nashville, Tenn.

Affidavit of B. B. Gullett

STATE OF TENNESSEE,
County of Davidson, ss:

Personally appeared before me, Rachel Ogilvie, a notary public in and for said State and county, duly commissioned and acting, B. B. Gullett, who makes oath as follows:

I have just read an item in the Nashville Tennessean, published on June 12, 1939, purporting to be a letter written by the nonpartisan committee of the Tennessee State Federation of Labor, protesting against the appointment of Elmer D. Davies to the United States district judgeship for the middle district of Tennessee, wherein it is stated that as a member of the State senate, Mr. Davies opposed ratification of the child-labor amendment, and as chairman of the senate rules committee was largely instrumental in preventing a vote on the amendment.

I am also advised that the resolution adopted by said nonpartisan committee, forwarded with said protest, also states that it was Mr. Davies, as chairman of the senate rules committee, who primarily was responsible for the strangling of the child-labor amendment without allowing it to come to a vote.

I held the office of assistant clerk of the senate of the Tennessee State Legislature in 1935, at which session Mr. Davies was chairman of the senate rules committee; he was not chairman of this senate committee in the Tennessee Legislature for 1937, although he was a member of that body.

I have made a personal search of the official journal of the State Senate for the years 1935 and 1937, and any statement to the effect that Mr. Davies as chairman of the senate rules committee was primarily responsible for the strangling of the child-labor amendment without allowing it to come to a vote, or that as chairman of said committee he was largely instrumental in preventing a vote on the amendment is absolutely false and without any foundation in fact.

In the 1935 session of the Tennessee Legislature, the resolution proposing ratification of the child-labor amendment originated in the house of representatives, as house joint resolution No. 10; the adoption of this resolution was defeated in the house of representatives on January 30, 1935, by a vote of 24 for adoption and 72 against adoption, and thereupon, on proper motion the resolution was rejected; the proceedings in this respect will be found on pages 274 and 275, official published house journal of 1935. The resolution having been defeated in the house was never transmitted to the senate and the senate journal for the year 1935 shows that said resolution was never introduced or voted on in the senate, and consequently was never referred to the rules committee of which Mr. Davies was chairman.

I have also made a search of the committee references on bills and resolutions and find that during the session of 1935, when Mr. Davies acted as chairman of the rules committee, there were no resolutions or bills referred to said committee.

In the session of 1937, the resolution proposing ratification of the child-labor amendment, originated in the house, as house joint resolution No. 21, and on May 7, 1937, a vote was taken on the adoption of the resolution with 34 votes for adoption, and 58 against adoption, and subsequently upon proper motion, the resolution was rejected by the same vote, and having been rejected by the house, was never transmitted to the senate.

Proceedings relative to the rejection of said resolution by the house may be found on pages 1160 and 1161 of the official published house journal for 1937.

I have also examined the senate journal for the year 1937, and I find that there was no resolution introduced in the Senate that year for the adoption of the child-labor amendment and none was ever voted on by the senate in 1937.

——— ———.

Sworn to and subscribed before me this — day of June 1939.

——— ———, *Notary Public.*

My commission expires —.

LIST OF BILLS PERTAINING TO COOPERATION ON THE PART OF THE STATE OF TENNESSEE WITH FEDERAL AGENCIES IN SUPPORT OF THE PRESIDENT'S PROGRAM COMING BEFORE THE TENNESSEE STATE SENATE AT THE FIRST EXTRAORDINARY SESSION FOR THE YEAR 1935, WHICH WERE SUPPORTED BY ELMER D. DAVIES AS A MEMBER OF THE STATE SENATE AND FOR THE PASSAGE OF WHICH HE AFFIRMATIVELY VOTED

The references to pages of the senate journal show the passage of the bills on third and final reading, together with a list of the senators voting for and against same, as shown by the official published senate journal for the first extraordinary session, 1935.

Senate bill No. 5 (Elkins et al.), to authorize municipalities to maintain public works (p. 200, senate journal).

Senate bill No. 9 (Elkins et al.), to validate obligations to the United States Government (p. 203, senate journal).

Senate bill No. 18 (Fowler et al.), to authorize issuance of bonds for public work (p. 203, senate journal).

Senate bill No. 19 (Fowler et al.), to provide exemptions for Federal savings and loan associations (p. 96, senate journal).

Senate bill No. 23 (Fowler et al.), to authorize building and loan associations to merge into Federal loan associations (p. 365, senate journal).

Senate bill No. 81 (Shelby delegation), to create housing authorities (p. 328, senate journal).

Senate bill No. 82 (Shelby delegation), to authorize housing authorities to exercise powers of eminent domain (p. 371, senate journal).

Senate bill No. 83 (Shelby delegation), to authorize municipalities to cooperate with housing authorities (p. 371, senate journal).

Extraordinary session, 1936

House bill No. 1 (Haynes et al.), to provide a system of unemployment compensation benefits (p. 19, senate journal, 1936).

(The above bill was the only bill considered at this session, it being called for that express purpose.)

LIST OF BILLS PERTAINING TO COOPERATION ON THE PART OF THE STATE OF TENNESSEE WITH FEDERAL AGENCIES IN SUPPORT OF THE PRESIDENT'S PROGRAM, COMING BEFORE THE TENNESSEE STATE SENATE AT THE REGULAR SESSION FOR THE YEAR 1937, WHICH WERE SUPPORTED BY ELMER D. DAVIES AS MEMBER OF THE STATE SENATE, FOR THE PASSAGE OF WHICH HE AFFIRMATIVELY VOTED

The references to pages of the senate journal show the passage of the bills on third and final reading, together with a list of the senators voting for and against same, as shown by the official published senate journal for the year 1937.

Senate bill 237 (Mr. Speaker Pope), to provide for soil conservation, Agricultural Conservation Act (p. 315, senate journal).

Senate bill 238 (Mr. Speaker Pope), to provide welfare of dependent children (p. 339, senate journal).

Senate bill 344 (Mr. Speaker Pope), to promote welfare of aged persons (p. 344, senate journal).

Senate bill 240 (Mr. Speaker Pope), to promote welfare of needy blind (p. 346, senate journal).

Senate bill 289 (Moore and Gordon), to authorize Federal Government to acquire certain lands as refuges for migratory waterfowl (p. 346, senate journal).

Senate bill 503 (Pope and Sprouse), to authorize refinancing of revenue-producing public works (p. 812, senate journal).

Senate bill 504 (Pope and Sprouse), to exempt property and bonds of housing authorities from taxation (p. 750, senate journal).

Senate bill 505 (Pope and Sprouse), to regulate cooperation between cities, towns, and housing authorities (p. 813, senate journal).

Senate bill 509 (Pope and Sprouse), to validate bonds sold to Federal Government (p. 1312, senate journal).

Senate bill 107 (Cummings), to authorize guardians and trustees to invest trust funds in F. H. A. bonds (p. 398, senate journal).

Senate bill 109 (Cummings), to authorize building and loan associations to invest in F. H. A. bonds (p. 399, senate journal).

Senate bill 108 (Cummings), to authorize domestic life insurance companies to invest in F. H. A. bonds (p. 398, senate journal).

House bill 246 (Oehman), to make F. H. A. bonds eligible to secure deposits (p. 554, senate journal).

Senate bill 821 (Cummings and Davies), to refund certain taxes to Federal land bank (p. 869, senate journal).

Senate bill 1029 (Sprouse), to authorize further cooperation with Federal copyright laws (p. 989, senate journal).

Senate bill 1209 (Loveless), to authorize city of Columbia to issue electric plant bonds (p. 1129, senate journal).

House bill 1238 (Haynes), to permit United States Government or any department or agency thereof to take chattel mortgages on loans (p. 1278, senate journal).

Senate bill 502 (Mr. Speaker Pope), to authorize housing authorities to condemn private property (p. 790, senate journal).

House bill 698 (Shelby delegation), to provide for the acquisition, betterment, and maintenance, etc., of revenue-producing public works (p. 1311, senate journal).

House bill 699 (Shelby delegation), to provide for the formation of electric membership corporations (p. 1164, senate journal).

House bill 720 (Haynes), to amend an act authorizing counties of this State to construct public works and issue bonds (p. 1312, senate journal).

House bill 727 (Haynes), to amend an act authorizing incorporated cities and towns to construct public works and issue bonds (p. 1313, senate journal).

TENNESSEE FEDERATION OF LABOR,
CHATTANOOGA, TENN., *July 3, 1939.*

To whom it may concern:

This is to certify that Mr. T. O. Denham, of Nashville, Tenn., legislative representative of the Tennessee Federation of Labor, is hereby authorized to represent the Tennessee Federation of Labor in all hearings pertaining to the appointment of Mr. Elmer Davies to the Federal judgeship for middle Tennessee.

GERALD FOLEY,
President, Tennessee Federation of Labor.

BROTHERHOOD LOCOMOTIVE FIREMEN AND ENGINEMEN,
CANEY FORK LODGE, NO. 837, TENNESSEE CENTRAL RAILWAY,
Nashville, Tenn.

Hon. KENNETH D. MCKELLAR,
United States Senator,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR: We, the legislative representatives of the two Railroad Brotherhoods, wish to register protest to the appointment of Elmer Davies to succeed Judge Gore to the middle Tennessee district Federal judgeship. We are of the opinion he would be totally unfit to occupy a seat on the Federal bench. We base this opinion upon his public record. This record and other data has been placed in your hands for consideration. To state it as a simple proposition we know that he is a person who is reactionary in his views, rabid anti-New Deal; acting as a paid lobbyist for corporations during the last session of legislature and on numerous occasions has expressed himself publicly in rather forceable language against reform legislation and referring to the President in an uncouth and profane manner. May we remind you by repeating, "we are determined to keep a continual and zealous watch as to the type of individual, his views and backgrounds when he seeks office or aspires to Federal bench." In the past very little attention has been paid to the remote consequence of bias and unfair judges. We have seen the results of unjust decisions of such judges wherein our boasted declaration of freedom was rejected utterly and without precedent or parallel insofar as the law is concerned.

We are very much disturbed over this appointment for it is in direct conflict with a previous position stated in your letter in reference to the President's proposal to reform the judiciary, you stated, "You would support the President because you believed it to be timely, constitutional, and most necessary." We wish to direct your attention to the fact that in the past we have supported you and were largely instrumental in the removal of Senator BERRY from the picture, helped to defeat the Browning regime, and put TOM STEWART in the United States Senate. In turn, we are requesting we be paid in like coin and urge that you select a person who is not opposed to the principles which we both lay claims to. We wish to reaffirm our endorsement and support which we gave to our first choice, Mr. Jay G. Stephenson. We are not retreating from this position.

We would like to know why it is that he did not get the appointment? We would also like to know if he is out of the picture. These two questions are not unfair and we believe you will agree they are worthy of an answer.

If conditions be such that Mr. Stephenson cannot be appointed, the only avenue of redress left open to us would be to submit other persons. The following gentlemen would be acceptable—Mr. Edward Walsh, Mr. J. G. Lackey, Mr. Houston Roberts, Mr. Thomas A. Shriver. In submitting these names for your consideration we are prompted solely by a desire to serve and place upon the Federal bench men whom we know will be found unbiased.

Sincerely yours,

W. L. MARAMAN,
Legislative Representative, Brotherhood Locomotive Firemen and Enginemen.

W. W. FIDLER,
Legislative Representative, Brotherhood Local Enginemen.

C. B. ALEXANDER,
Legislative Representative, Brotherhood Locomotive Firemen and Enginemen.

WILEY JOHNSON,
Legislative Representative, Brotherhood Locomotive Enginemen.

W. F. SEIGENTHALER,
Legislative Representative, Brotherhood Locomotive Firemen and Enginemen.

WALTER TURNER,
Legislative Representative, Brotherhood Locomotive Enginemen.

Senator MCKELLAR. Now, Mr. Chairman, if you would like to hear Mr. Davies, he is present.

Senator CONNALLY. Do you want him to appear?

Senator MCKELLAR. I do not care to ask him anything. You may ask him such questions as you wish.

Senator CONNALLY. You have been conducting the examination. You may go ahead with it, if you care to.

Senator MCKELLAR. I believe, as I have been instrumental in securing his nomination by the President, I will let you ask such questions as you desire.

STATEMENT OF HON. ELMER D. DAVIES, THE NOMINEE HEREIN

Senator CONNALLY. State your name, residence, and age.

Mr. DAVIES. Elmer D. Davies, Nashville, Tenn.; 40 years of age.

Senator CONNALLY. How long have you been a member of the bar?

Mr. DAVIES. Since 1921.

Senator CONNALLY. Have you been actively engaged in the practice?

Mr. DAVIES. Yes, sir.

Senator CONNALLY. What character of business?

Mr. DAVIES. I have had a general practice. I have represented some corporations. I have also represented litigants in damage suits. Most of my practice has been in chancery, in reference to estates and questions of that nature.

Senator CONNALLY. What other positions have you held than State senator, if any?

Mr. DAVIES. I have been chairman of the Democratic executive committee for the district where I live, and was also secretary-treasurer of the Nashville Bar and Library Association for 5 or 6 years.

Senator MCKELLAR. Have you held a place with the R. F. C.?

Mr. DAVIES. I was agency counsel for the national agency of the Reconstruction Finance Corporation about 4 years.

Senator CONNALLY. You never held any judicial office?

Mr. DAVIES. No.

Senator CONNALLY. Have you practiced in the Federal courts?

Mr. DAVIES. Yes, sir.

Senator CONNALLY. And the State courts as well?

Mr. DAVIES. Yes.

Senator CONNALLY. Chancery and law dockets?

Mr. DAVIES. Yes, sir.

Senator CONNALLY. Have you ever been in the criminal practice?

Mr. DAVIES. Very little. I had one murder case and a few other small cases.

Senator CONNALLY. You know something about criminal law?

Mr. DAVIES. Yes, sir.

Senator CONNALLY. A district judge would have to try a good many criminal cases, I would think.

Mr. DAVIES. That is true.

Senator CONNALLY. You may state anything you desire about your legislative experience.

Mr. DAVIES. I went to the State senate in 1935, which was the first legislative experience I had ever had. At the beginning of the session, before any of us had hardly got our feet on the ground, except some of the older members, while I was away there were some 12 bills introduced in the State senate. You have the record here that you can refer to. They were introduced on January 12, 1935, and were senate bills Nos. 113 to 124, inclusive.

Three of these bills were admittedly T. V. A. bills: No. 113, to authorize cities and counties to operate electric systems; No. 121, to regulate appeals from the Utilities Commission; and No. 112, to authorize municipalities to make certain contracts with Government agencies for the acquisition of electric power systems.

When I got back and looked over these bills I found the claim was being made that they were all T. V. A. bills, or T. V. A. planning and zoning bills. I did not know much about it at that time, but I got hold of the bills as soon as I could. They were introduced on January 12. At that time no permanent committees had been appointed by the speaker. The bills were held without reference. They passed second reading.

Senator CONNALLY. All of them?

Mr. DAVIES. All of them were held and passed second reading on January 22, a short time after they were introduced. On that day they were referred to the committee on public utilities. One day elapsed, and the committee reported back to the senate the following morning that they had carefully considered all those 12 bills and recommended them for passage. They were set for special order at 10:45 a. m. That was about 45 minutes after the session had convened.

When the time for the special order was reached, no one seemed to know anything about the bills. The committee had not held any hearings on them. By general consent, more or less, the matter was postponed over the week end, until the next Tuesday morning at 10 o'clock.

I went over the bills, and I found that one was a bill to enable the Highway Department of the State of Tennessee to purchase ferry landings. At that time in our State we had just finished a comprehensive highway program, and a large number of highway bridges had been built over some of the larger rivers. An attempt had been made by the owners of some of the ferries to have the State take over these ferries, as the bridges were operating in competition with them. Those attempts had been unsuccessful. I could not see how that was a T. V. A. bill. I talked with some of the other senators, and we felt that somebody was trying to put some of these bills through on the popularity of the T. V. A.

I went over all the bills as well as I could in that length of time. Not only that, I talked to Governor McAllister. I wanted to cooperate with the Governor in his program and the T. V. A. program. He said he was not sure that some of these bills were really T. V. A. bills.

In the session of 1933 the legislature had by a joint resolution authorized the Governor to appoint a temporary State planning board. Most of these bills, outside of the T. V. A. bills, had been drawn up by the State planning board, which had become almost a permanent body and made some positions for some people. So many senators made inquiry relative to the source of the bills that Governor McAllister sent the telegram he mentioned in his testimony to Dr. Morgan to ascertain whether or not the T. V. A. was backing these bills. The Governor was anxious to cooperate with the T. V. A., but he wanted us to be satisfied.

The entire Davidson County legislative delegation, which was composed of both the house and senate members, about nine in all, met on Monday afternoon in my office to go over these bills. We had with us the city attorney of Nashville and the county attorney of Davidson County. We made as good an examination as we could in that time, and the county attorney and city attorney advised us that they thought the bills were too comprehensive in their scope and that we should not support them. Furthermore, they pointed out that when we ran for the legislature, our platform provided that we would not make any changes in the governmental affairs of Davidson County and the

city of Nashville, except upon request and by consent and absolute approval of the county court and the county judges and the mayor, as well as the board of public works, and in their opinion these bills violated our pledges, as they did make drastic changes.

So when the senate met on Tuesday morning I made a motion to refer these planning or zoning bills, all except the admittedly T. V. A. bills that I have just described, to the judiciary committee, so we could have time to examine them and study them and see where they would benefit our particular section. These bills were new to our section of the country. They contained legislative ideas that were new. We were not familiar with them. There was no reason for any undue haste. The session was only about 16 days old at that time. I wanted an opportunity to go into them and find out what they were, and so I made that motion to rerefer.

Senator CONNALLY. I think that so much detail is not necessary. You finally supported the T. V. A. bills?

Mr. DAVIES. Yes; I voted for them.

Senator CONNALLY. And some of the others you opposed?

Mr. DAVIES. Yes, sir.

Senator CONNALLY. Have you ever had any prejudice against labor unions as such?

Mr. DAVIES. I have not. At the last session I was in the legislature a good deal. I had some clients I represented in some matters. I knew all the senators and a good many of the house members. Most of them were friends of mine. I liked to be around them.

I remember on one occasion, toward the end of the session, that Bill Gerber, from Memphis, came to see me and said the labor boys had a musicians' bill they were very much interested in, and the Governor had vetoed it. He said he thought the bill was a good bill, would not hurt anybody, and would help the musicians, and asked me to go around and get some votes to override the Governor's veto. I told him I would be glad to.

Senator CONNALLY. While you were in the legislature, were there any bills affecting labor against which you voted?

Mr. DAVIES. No, sir. As shown in the letter to Mr. Bonham that was read here, there were six labor bills before the senate, which were the only labor bills voted on at that session. They came up for a third and final reading, and I voted for every one of them. I served on the conference committee between the house and the senate on the appropriation for the department of labor. The house had put an amendment on the general appropriation raising the appropriation for the department of labor, and the senate refused to concur and appointed a conference committee. The committee brought in a report suggesting that the senate recede and the house amendment be adopted, which was done.

One matter was mentioned a few minutes ago about the Tennessee Employment Commission, I believe it was. There was a bill in the 1935 session to establish that commission. That bill made an appropriation of $25,000 a year to establish the commission and to appropriate the money. This was the amendment that was offered:

"*Be it further enacted,* That the sum of $25,000 annually for the next biennium is hereby appropriated for the purpose of establishing public employment offices under the supervision of the department of labor, and for the purpose of cooperating with the United States Employment Service."

The amendment was adopted, and the bill as amended passed the third and final reading and was adopted. I voted for that bill.

Senator CONNALLY. If you should go on the bench, would you or not entertain any prejudice against labor or any other organization or interest of any kind that would in anywise influence you in your judicial acts?

Mr. DAVIES. I have no prejudice against labor or any other organization.

Senator CONNALLY. This other matter is up to you. You may testify about it or not, as you please.

Mr. DAVIES. The Ku Klux Klan?

Senator CONNALLY. I don't know anything about it. You might or might not want to tell it. Mr. Noble made some reference to it.

Mr. DAVIES. Yes, sir. I am very well satisfied to go into it.

Senator CONNALLY. Go ahead.

Mr. DAVIES. I joined the Ku Klux Klan. I was living in Louisiana at that time. I was approximately 20 years of age, and was preparing to go to school at Vanderbilt University. Some of the boys I knew told me they had a new lodge they wanted me to join. I asked what it was, and they said it was a patriotic organization. I said, "Well, what is it?" They said it was the Ku Klux Klan. I told them I did not know whether I wanted to join it or not. They told me that So-and-so and So-and-so were going to join, and they were all friends of mine, and I said, "Well, all right; I will join it."

They took me down to the hotel, and there was one of these traveling organizers there. Whoever took me down introduced me to him. He swore me in up in the hotel room, and I left within the next 2 or 3 days and came to Nashville to go to school.

Some time after that—I do not recall whether it was the same year or the following year—one of these organizers came over to the fraternity house where I was living. He was soliciting the boys out there to join the Ku Klux Klan. When he came to me, I thought I was a big shot, and I told him I was already a member. He asked me where I had joined, and I told him down in Louisiana. He said, "We have two boys over in one of the other houses from Louisiana. We are going to have a meeting in a night or two. You get together with these boys and come." I said I would be glad to. I never had been to a meeting. I did not know what it was all about. We got together and went down to that meeting, on the top floor of a large building.

Senator CONNALLY. It was not out in a pasture?

Mr. DAVIES. No. I never did go out in the pasture. I could not get in. I did not have the password. They sent and got the organizer, and he vouched for me and got me in. I think we had an initiation there that night. I am not just sure about that. I stayed there and left after the meeting. It did not particularly appeal to me.

That is the entire extent of my connection with the Klu Klux Klan. I never went to another meeting. I never participated in any of their activities whatever.

Senator CONNALLY. You are not now a member in good standing?

Mr. DAVIES. I think I have been dropped for nonpayment of dues. I never did pay any dues. That is my recollection.

Senator CONNALLY. I will ask you whether or not, since that time, you have approved or participated in intolerance and things of that kind that are supposed to be sanctioned by the Ku Klux Klan.

Mr. DAVIES. I have not.

Senator CONNALLY. And whether or not you believe in religious freedom and the right of everybody to choose his own religion.

Mr. DAVIES. I certainly do, and my entire life will testify to that.

Senator CONNALLY. You have not been intolerant to any race or creed of any kind?

Mr. DAVIES. I have not.

Senator CONNALLY. And you would be fair and impartial in discharging your duties as a judge? And you would disregard any conditions of the character I have mentioned?

Mr. DAVIES. I certainly would. My friends, the labor boys, would get a square deal. I have no prejudice against them. They are only doing what they had a right to do, and it is perfectly all right.

Senator CONNALLY. That is a very generous attitude for you to take.

Senator MCKELLAR. Senator STEWART wants to ask some questions.

Senator CONNALLY. You may proceed, Senator STEWART.

Senator STEWART. Are you acquainted with the president of the A. and I. College, the Negro college?

Mr. DAVIES. Yes; very well. That is Dr. Hale of the Agricultural and Industrial College. I have a copy of a telegram that he sent.

Senator STEWART. I have a letter here from him.

Senator MCKELLAR. I suggest you put it in the record.

Senator STEWART. Do you want it in the record?

Mr. DAVIES. Yes, Senator.

Senator STEWART. He is president of the Tennessee Agricultural and Industrial College at Nashville, a colored school there?

Mr. DAVIES. Yes, sir.

Senator STEWART. I want to read into the record this letter from Dr. W. J. Hale, president of this college:

APRIL 13, 1939.

Hon. TOM STEWART,
United States Senate, Washington, D. C.

DEAR SIR: I notice from the press that you have nominated Hon. Elmer Davies for judge of this district. The Agricultural and Industrial State College and many friends join in congratulating you on the excellence of your selection. He has a passion for justice and has displayed it many times in Tennessee. He has the courage of his convictions.

With heartiest congratulations on the wisdom of your choice, I am,

Sincerely yours,

W. J. HALE, *President.*

Mr. DAVIES. The telegram is more comprehensive than the letter.

Senator STEWART. I will also read this telegram from him, addressed to Senator MCKELLAR:

JULY 10, 1939.

Senator KENNETH D. MCKELLAR,
Senate Office Building, Washington, D. C.:

Am informed a protest is being made of appointment of Elmer D. Davies, of Nashville, based upon charges that he is prejudiced against Negro race. Such protest must surely come from persons who do not know and have never had any dealings with him. I have known Mr. Davies for several years, and as president of the A. & I. State College for Negroes, I desire to state that during the two terms that he was a member of the State senate I always found him to be sympathetic, courteous, fair, and willing to do everything he could to help our college. When efforts were being made to cut appropriations Mr. Davies fought and made it possible for us to receive similar appropriations as given white schools. During his entire term of office in legislature on all occasions he willingly and ably fought for the interest of Negro education. According to our knowledge of him and his record he is fair-minded and unprejudiced. When I saw the unfair statement being made about him in the press, I voluntarily wrote you on April 11, congratulated you on your recommendation, and I want you to know that I feel that the attacks on Mr. Davies are not in keeping with his record and are resented by those of us who know him.

W. J. HALE.

Senator MCKELLAR. Dr. Hale is one of the outstanding colored educators of the country, is he not?

Mr. DAVIES. There is no doubt about that.

Senator MCKELLAR. And a very splendid American citizen.

Mr. DAVIES. Yes.

Senator CONNALLY. Are there any other questions?

Senator MCKELLAR. That is all.

Senator STEWART. That is all.

Senator CONNALLY. Is there anything further you want to say?

Mr. DAVIES. There is one thing I want to answer in reference to that resolution. It is stated in the resolution that was adopted that—

"Whereas, Mr. Davies is regarded as a lobbyist"——

Senator CONNALLY (interposing). Is that the resolution that was read into the record?

Mr. DAVIES. Yes.

Senator CONNALLY. All right. Go ahead.

Mr. DAVIES. "Whereas Mr. Davies is rather to be regarded as a lobbyist and contact man for special interests, as shown by his pernicious activities during the recent legislature, than as a lawyer."

I did represent some clients that had been connected with the firm I have been connected with for many years. On one matter I went to the Governor, and he approved it, and a bill was introduced in the legislature. In another matter I worked out a bill with the insurance commissioner, and it was introduced. On another matter I had it up with the commissioner of agriculture about his bill, and he approved what I wanted, and the bill went through the legislature. I did not take any active part in these matters, but was watching them to see that they got through. At the end of the session we got into a jam. The commissioner of insurance asked me to look after some of his bills, which I was glad to do, and helped get them through so that they would not be killed in the last-minute rush.

Then Senator Mosby asked me to look after some matters, and I was glad to do it. It was voluntary on my part. That is the extent of my lobbying.

The resolution also refers to the senate T. V. A. bills, but I think that I have already answered that. It further said:

"Whereas said Davies, while bitterly opposing the T. V. A. planning bill, declared on the floor of the State senate that the present democratic administration had—by bribing the State with Federal funds—done more than the Civil War to destroy States' rights and to pervert the historic form of our American Government."

I did not make any such statement.

The resolution further said:

"Whereas it was Mr. Davies, as chairman of the senate rules committee, who was primarily responsible for the strangling of the child-labor amendment without allowing it to come to a vote."

The facts are that in the 1935 and the 1937 sessions the resolution for the ratification of the child-labor amendment was introduced as a house joint resolution in the house. In each session it was defeated in the house and never came to the senate. Not only that, but no such resolution was ever referred to the rules committee, and no bills or resolutions were referred to that committee. We just made the rules, and that was all that committee did. Further, the resolution said:

"Whereas he has not hesitated to character the President of the United States, Franklin Delano Roosevelt, in language too vile and uncouth for repetition."

I am not in the habit of making such statements about the President, regardless of whether he is a Democrat or a Republican.

That is all.

Senator CONNALLY. Are there any other questions?

Senator MCKELLAR. I believe not.

Senator CONNALLY. I believe I forgot to ask you how old you are.

Mr. DAVIES. I am 40 years of age. I stated that in the beginning.

STATEMENT OF HON. TOM STEWART, A SENATOR IN CONGRESS FROM THE STATE OF TENNESSEE

Senator STEWART. I would like to make a brief statement.

Senator CONNALLY. Go ahead.

Senator STEWART. At the time it was necessary to make a selection of a Federal judge for middle Tennessee, to succeed Judge Gore, who died during the present term of Congress, Senator MCKELLAR and I considered the claims of many applicants and many who were not applicants, many very fine men and lawyers in middle Tennessee, the section to be served by this judgeship. Without going into detail to enumerate some of the difficulties we had to overcome, we finally decided upon Mr. Davies, who was not an applicant in the sense we ordinarily consider. He had given his endorsement to another man. The situation was such that we thought it was necessary to make a selection from among those who were not applicants, and having been personally acquainted with Mr. Davies for a number of years, we chose to recommend him. I am sure he was as much surprised, when the information was made public, as anyone else in the State of Tennessee.

This selection of Mr. Davies was made strictly because we thought he was as well fitted as any man who could be considered. Senator MCKELLAR is well known in Tennessee as a friend of labor. His attitude toward labor, as mine, has been and is one of complete sympathy. It would not be my purpose to recommend any man who would be unfair to labor, organized, or in any other group of people in Tennessee or elsewhere.

I am acquainted with these gentlemen who testified against Mr. Davies, and I have a high regard for them.

I want to call attention to a telegram addressed to me under date of April 1, 1939, immediately after the selection of Mr. Davies:

NASHVILLE, TENN., *April 1, 1939.*

Hon. TOM STEWART,
Senate Office Building:

You are to be commended upon the nomination of Elmer Davies as middle Tennessee district judge. The Nashville labor element will approve this selection.

W. M. TAFT,
Editor, Labor Advocate.

That is all I care to say.

STATEMENT OF HON. KENNETH D. M'KELLAR, A SENATOR IN CONGRESS FROM THE STATE OF TENNESSEE

Senator MCKELLAR. Mr. Chairman, I want to say that, of course, we had a most difficult task. I have no doubt you have had the same experience. We were required to select a judge where there were some 18 or 20 applicants, men of the highest character and standing. To have to choose one from among them was one of the most difficult things that ever confronted me as a Senator.

I will not attempt to go into details as to why Mr. Davies was selected. He was not an applicant. I never communicated with him beforehand, and I do not think Senator STEWART did. He was selected because we thought he would fill the position ably and to the satisfaction of the people of that district. We did not go into this matter carelessly but made a very painstaking investigation. I want to say to my esteemed labor friends that I telephoned to labor friends and asked them whether or not Mr. Davies would be acceptable to labor, and was assured that he would be.

I never was more astonished in my life when I learned that some of my labor friends were opposed to Mr. Davies. I regretted it, and regret it now.

These two gentlemen who testified against the nomination are excellent men and my friends. I regret to differ from them. I think they have been misled by statements of others about the matter. That is all I can say about it. I think Mr. Davies will make as fair and honest and upright a judge as could be found, and that he will not be in the slightest degree prejudiced against any organization of any kind but will deal out justice in a fair and impartial manner. It was for that reason that we recommended him, and for that reason only.

I want to say in conclusion that I am a lawyer and have been all my life, and I believe I know what kind of man a Federal judge should be. I went into the matter conscientiously, and I know that Senator STEWART did the same, because we conferred every day. What we did was done with the sole purpose of getting an honest, intelligent, faithful, and impartial judge who would mete out justice to the people of that district. It was for that reason that Mr. Davies was appointed, and I earnestly hope this committee and the Senate will unanimously confirm his nomination.

Senator CONNALLY. Thank you, Senator MCKELLAR.

Senator STEWART. Mr. Chairman, there are some telegrams and letters here which I will not take the time to read but would like to have in the record.

Senator CONNALLY. Very well. They may go in.

(The said telegrams and letters are here printed in full, as follows:)

NASHVILLE, TENN., *March 31, 1939.*

Senator TOM STEWART:

Appointment of Elmer Davies meets widespread approval of all classes of our citizens. Political friends and foes alike express satisfaction. Have spoken to many politically hostile to Davies and they admit his appointment to be a splendid one. I believe it will heal all disappointments. The bar is very well pleased over this appointment.

JACK NORMAN.

NASHVILLE, TENN., *March 31, 1939.*

Senator TOM STEWART,
Senate Office Building:

Appointment of Davies has given more general satisfaction than I have seen made in years.

REED SHARP.

CARTHAGE, TENN., *March 31, 1939.*

Senator TOM STEWART,
Senate Office Building:

Your appointment of the Honorable Elmer Davies as Federal district judge for the middle division of Tennessee was highly appreciated by the undersigned members of the Carthage Bar, and we heartily congratulate you on his appointment.

Messrs. H. B. McGinness, Dewitt Fisher, Frank Ammonett, L. A. Ligon, J. H. Ligon, W. H. Turner, Hugh Hailey, Solon Fitzpatrick, Clint Beasley, I. D. Beasley.

MEMPHIS, TENN., *March 31, 1939.*

Senator TOM STEWART,
Senate Building:

Congratulations on your recommendation of Elmer Davies to middle Tennessee judgeship. Your selection meets with hearty approval of local legal fraternity.

CANADA & RUSSELL.

MEMPHIS, TENN., *March 31, 1939.*

Senator TOM STEWART,
Senate Building:

Was delighted to learn you had recommended Elmer Davies to middle Tennessee judgeship. He stands high in the legal profession, and your friends here are very much pleased with your recommendation.

SAM COSTEN, COSTEN, TAYLOR & CRABTREE.

NASHVILLE, TENN., *March 31, 1939.*

Senator TOM STEWART,
Washington, D. C.:

We are very much pleased over selection of Elmer Davies.

CLINT JONES.

NASHVILLE, TENN., *March 31, 1939.*

Hon. TOM STEWART,
United States Senator,
Washington, D. C.:

I heartily endorse your recommendation of Elmer D. Davies for Federal judgeship of middle Tennessee. Have heard hundreds praise and none object to same.

COLLETT MAYFIELD.

NASHVILLE, TENN., *April 1, 1939.*

Hon. TOM STEWART,
Senate Office Building, Washington, D. C.:

As a supporter of Judge R. B. C. Howell candidacy for Federal judge of this district, and inasmuch as you in your wisdom saw fit to recommend Hon. Elmer Davies for this judgeship, I heartily endorse your action as my second choice. I consider him of good character and a lawyer of ability.

D. W. BINNS.

NASHVILLE, TENN., *April 1, 1939.*

Hon. TOM STEWART,
Senate Office Building, Washington, D. C.:

Congratulations on your selection of Elmer Davies for Federal judge, middle Tennessee. He will make a fine judge.

JOHN SLOAN.

NASHVILLE, TENN., *March 31, 1939.*

Senator A. T. STEWART,
Washington, D. C.:

Appointment of Elmer Davies as Federal judge is very satisfactory.

C. M. HAMILTON, M. D.

NASHVILLE, TENN., *March 31, 1939.*

A. T. STEWART,
United States Senator, Washington, D. C.:

In my opinion you couldn't have picked a better man than Elmer Davies as Federal judge for middle Tennessee, and I congratulate you upon your selection.

R. L. VOSS.

NASHVILLE, TENN., *April 1, 1939.*

Hon. TOM STEWART,
United States Senate:

Nothing could have given greater satisfaction to 95 percent of the Nashville bar than the recommendation of Davies for Federal judge. You and Senator MCKELLAR have made many new friends among our Nashville lawyers and have recommended a real man and lawyer who will make a fine judge.

WILLIAM WALLER.

NASHVILLE, TENN., *April 1, 1939.*

Senator TOM STEWART,
Senate Building:

Congratulations upon your selection of Elmer Davies for Federal judge.

JOHN R. MOTT.

FAYETTEVILLE, TENN., *April 1, 1939.*

Senator TOM STEWART:

Local bar pleased with recommendation for Federal judge.

DAY SUGG.

NASHVILLE, TENN., *April 1, 1939.*

Senator TOM STEWART,
Senate Building:

Your selection Elmer Davies as Federal judge excellent and meeting with hearty approval of lawyers and laymen. Please accept my congratulations and assurance that in my opinion you will never regret appointment of this honest and able lawyer who has proven his loyalty to you and the Democratic Party by his splendid service.

ROBT. L. ALEXANDER, JR.

NASHVILLE, TENN., *April 1, 1939.*

United States Senator TOM STEWART,
Carroll Arms:

Your selection of Davies is great. Congratulations. Yours for any service.

PAUL MANASCO.

NASHVILLE, TENN., *April 1, 1939.*

Senator TOM STEWART,
Senate Office Building:

Congratulations on selecting Elmer Davies for judgeship. His loyalty, ability, and integrity cannot be questioned.

E. E. MURREY.

NASHVILLE, TENN., *April 1, 1939.*

Senator TOM STEWART:

Congratulations on appointment of Hon. Elmer Davies. Most popular appointment I have ever seen made.

JOHN W. FREY,
House of Representatives, Nashville.

COLUMBIA, TENN., *April 2, 1939.*

Senator TOM STEWART,
Washington, D. C.:

I have talked to many lawyers here and they are all of the opinion that Davies is a splendid selection for judge of this district. They also resent the protest filed by Cate. I think Davies will make a fine judge.

HORACE FRIERSON, JR.

NASHVILLE, TENN., *April 1, 1939.*

Hon. TOM STEWART,
United States Senate:

Selection of Elmer Davies meeting widespread approval, scretoes notwithstanding.

BEN WEST,
Assistant Attorney General, Nashville, Tenn.

HARTSVILLE, TENN., *April 1, 1939.*

Senator TOM STEWART,
Senate Office Building:

We heartily endorse your selection of Davies and Darr for United States judges.

RUSSELL WRIGHT, *Attorney.*
W. A. BARRY, *Attorney.*
H. N. HARDY.
MANYE HAMMOCK, *Mayor.*

NASHVILLE, TENN., *March 31, 1939.*

A. TOM STEWART,
United States Senator:

Wish to extend my congratulations upon your selection Mr. Elmer Davies for Federal judge. He is fine and able lawyer. People I see are all pleased with the honor you have bestowed upon him. He will distinguish himself and be a credit to this community. You could not have made a better selection. Your brother Paul and I were fine friends for 25 years.

L. P. THWEATT.

NASHVILLE, TENN., *March 31, 1939.*

Senator TOM STEWART:

I wish to congratulate you and Senator MCKELLAR on your judgment in recommending Hon. Elmer Davies for Federal judgeship, middle district of Tennessee. He has, I am sure, all qualifications his office requires. Your friends throughout the State are much gratified as a result of his selection.

WILLIAM C. TERRY.

NASHVILLE, TENN., *March 31, 1939.*

Hon. TOM STEWART,
United States Senator,
Senate Office Building:

I wish to congratulate you on your selection of the Honorable Elmer Davies as Federal judge for this district.

JOE T. MCCARRY, *Attorney.*

NASHVILLE, TENN., *March 31, 1939.*

Hon. TOM STEWART,
United States Senator:

I want to join with the citizens of Tullahoma on congratulating you upon the appointment of Elmer Davies and Judge Darr. They are 100 percent our friends, as well as most competent and capable to fill these high positions of trust. More power to you. Your friend,

JOHN W. HARTON,
State Treasurer.

NASHVILLE, TENN., *March 31, 1939.*

Hon. TOM STEWART,
United States Senator:

The bar and the people will approve your selection of the judges. In my opinion, both will serve with ability, integrity, and satisfaction to lawyers and litigants. Congratulations.

J. M. GARDENHIRE.

CLARKSVILLE, TENN., *July 6, 1939.*

Hon. TOM STEWART,
United States Senate, Washington, D. C.:

Urge you to endorse Hon. Elmer Davies of Nashville as Federal judge of this district. He is a man of sterling character, fairly qualified, would make an able jurist. He ranks as one of the leaders in the legal profession of this State.

N. A. LINK,
County judge of Stewart County, Tenn.

MEMPHIS, TENN., *March 31, 1939.*

Senator TOM STEWART,
Senate Building, Washington, D. C.:

Allow me to congratulate you upon your recommendation of Elmer Davies for Federal judgeship. He is an outstanding member of the bar and a loyal Democrat. In our opinion he will make a fine judge.

GILLILAND & GILLILAND.

NASHVILLE, TENN., *March 31, 1939.*

Hon. A. T. STEWART,
United States Senator,
Washington, D. C.:

I do not think you could have recommended to the President any gentleman who could more capably perform the duties of Federal judge with integrity, fearlessness, and capacity than Mr. Davies, and congratulate you most heartily.

W. E. NORVELL, Jr.

NASHVILLE, TENN., *April 1, 1939.*

Senator TOM STEWART,
Senate Building, Washington, D. C.:

Congratulations upon your selection of Elmer Davies for Federal judge.

WILL BYERS, Jr.

NASHVILLE, TENN., *April 1, 1939.*

Senator TOM STEWART,
Senate Building, Washington, D. C.:

Sorry Judge Howell could not get appointed but think you made a wise selection in Elmer.

ALFRED T. ADAMS.

NASHVILLE, TENN., *March 31, 1939.*

Hon. TOM STEWART,
United States Senator,
Senate Office Building, Washington, D. C.:

Congratulations on recommendation Elmer Davies as Federal judge. Fine selection.

FRANK B. MOORE,
Ex-Fire Chief, City of Nashville.

NASHVILLE, TENN., *April 1, 1939.*

Senator TOM STEWART,
Senate Chamber, Washington, D. C.:

Nashville bar and public in general highly pleased with yours and Senator MCKELLAR's selection for district judge. Do not think that you could have made a better selection. Congratulations on your good judgment. Have heretofore signed telegram to the same effect but want you to know my personal observation both of bar and public.

J. M. PEEBLES.

NASHVILLE, TENN., *March 31, 1939.*

Senator TOM STEWART,
Senate Office Building:

Congratulations on your nomination of Hon. Elmer Davies. This appointment will be pleasing to all your friends here. Kindest regards.

DAVID S. MORSE.

NASHVILLE, TENN., *March 31, 1939.*

Senator TOM STEWART:

Congratulations on your selection of Elmer Davies as Federal judge of this district. Believe his selection will meet with universal approval throughout the State.

WENTWORTH CALDWELL,
Vice President, H. G. Higl Co.

NASHVILLE, TENN., *March 31, 1939.*

Senator TOM STEWART:

Your recommendation of Elmer Davies gives State-wide satisfaction. I want to congratulate you on this selection.

DOUG WHITE,
Commander, Nashville Post 5, American Legion.

NASHVILLE, TENN., *March 31, 1939.*

Senator STEWART:

Elmer Davies meets approval of medical profession.

ELKIN L. RIPPEY, M. D.

NASHVILLE, TENN., *March 31, 1939.*

Senator A. TOM STEWART:

Wish to congratulate you upon your selection of Mr. Elmer Davies for Federal judgeship. He is a most able lawyer. Man of highest type of character and integrity. I am highly pleased and everyone I see feels the same way.

J. W. BILLINGTON.

NASHVILLE, TENN., *March 31, 1939.*

Senator TOM STEWART:

We congratulate you most heartily upon your recommendation of Senator Elmer D. Davies for middle Tennessee Federal judgeship. He is well qualified to fill the judgeship.

PRITCHETT THOMAS CO.

NASHVILLE, TENN., *March 31, 1939.*

Hon. Senator TOM STEWART,
United States Senator,
Senate Building:

I want you to know I feel very happy in your appointment of Elmer D. Davies as judge of Federal court. I never have known of an appointment made that has met such unanimous approval of all the people in the city of Nashville and Davidson County. Congratulate you in your selection. Best wishes.

D. D. CANFIELD.

NASHVILLE, TENN., *March 31, 1939.*

Senator A. TOM STEWART:

Congratulations on your appointment of Elmer Davies for Federal judgeship.

D. E. EDDINS.

NASHVILLE, TENN., *March 31, 1939.*

Senator TOM STEWART:

Your choice of Elmer Davies more than satisfactory. Regards.

JAMES T. GRANBERY.

NASHVILLE, TENN.

Senator TOM STEWART: Congratulations your appointment Mr. Elmer Davies Federal Judge, had no idea he was being considered, but am sure the appointment will give general satisfaction.

C. H. SMITH,
Criminal Court Clerk.

NASHVILLE, TENN., *March 31, 1939.*

Hon. TOM STEWART,
Senate Office Building:

Having just learned that some small objection to Elmer Davies is proposed by certain parties in Nashville, we hasten to add to the endorsement of his many friends our testimony as to his ability as a lawyer, his high and unimpeachable integrity and his outstanding fitness for the position of judge of the United States District Court. The selection was most excellent and the bar and the public are indebted to you and Senator McKellar.

CHARLES L. CORNELIUS,
W. N. MCKINNEY,
C. C. GILBERT, JR.,
J. H. BALLEW,
CHAS. L. CORNELIUS, JR.

NASHVILLE, TENN., *April 1, 1939.*

Senator TOM STEWART,
Senate Office Building:

Sincerely congratulate you on your selection of Elmer Davies as United States District Judge to succeed Judge Gore. He is a man of splendid character a good lawyer and a highly respected citizen. I have heard many comments and can assure you that his selection is giving almost universal satisfaction. There is no objection or protest from any source based on any grounds worthy of consideration. I do not know Judge Darr personally but from information I am sure you have also made a wise selection in that case.

F. C. STAHLMAN.

JACKSON, TENN., *April 2, 1939.*

Hon. TOM STEWART,
United States Senate, Washington, D. C.:

The undersigned members of the Jackson bar who know Hon. Elmer Davies consider your recommendation of him for Federal judgeship most wise and gratifying. His character and ability will enable him to administer the office with credit. Please accept our hearty congratulations on the wisdom of the nomination. Highest regards.

Keith Short, W. P. Moss, David L. Murray, Roger Murray, Barham & Heiskell, Chas. L. Hancock, John F. Hall, Thomas McCorry, Hughlon Akin, Albert D. McCollum, Karl K. Wilkes, Hearn Spragins, Lamar Spragins, Victor Woerner, R. H. Bond.

LAFAYETTE, TENN., *April 1, 1939.*

Senator TOM STEWART,
Washington, D. C.:

I wish to hearily commend your recommendation of Elmer Davies for Federal judge. I regard him highly as a young man of much ability and merit. While serving with him in the State senate my esteem for him incurred daily. You have made a wise choice. I take this opportunity to assure you that I supported you and the entire coalition ticket last year, and look ahead to again support you in the future.

Kindest personal regards,

MERLIN A. WEST.

NASHVILLE, TENN., *April 1, 1939.*

Hon. TOM STEWART,
Senate Office Building, Washington, D. C.:

The appointment of Elmer Davies is eminently satisfactory. No valid objection can be made.

M. S. Ross, W. K. Cook, Tom Ed Murray, B. H. Hagey, Chas. E. Embry, Wm. M. Martin, Jr., John J. Hooker, E. W. Eggleston, W. F. Carpenter, Henry Goodpasture, John L. Draper, Wm. N. Byers, Jr., William J. Wade, Andrew J. Doyle, Robt. L. Alexander, Paul A. Green, G. Henry Tyne, W. Raymond Denny, Louis Leftwich, Fyke Farmer, Roy D. Cooper, Dodson Batson, Wm. C. Suggs, Dan Garfinkle, John K. Maddin, Percy D. Maddin, J. N. Daniel, Norman Minich, Lawson Davis, Joseph Martin, John Bell Keeble, W. M. Fuqua, Henry F. Todd, J. M. Peebles, Chas. L. Cornelius, J. H. Ballew, W. N. McKinney, Chas. C. Gilbert, Jr., Chas. L. Cornelius, Jr., J. Conley Edwards, John M. Barksdale, Lindsay M. Davis, Trabue Hume & Armistead, Thos. O. H. Smith, Ernest N. Haston, J. C. R. McCall, Jr., Thos. J. Malone, Newton Ellis, Ross J. Cheshire, Owen W. Hughes, Douglas Henry.

STATE OF TENNESSEE,
County of Davidson:

County quarterly court of said county met pursuant to adjournment at the courthouse in Nashville, Monday morning, April 3, 1939. Present and presiding, His Honor Litton Hickman, judge and chairman, and a quorum of the justices of the peace: W. H. Binns, Earl Bruce, W. C. Clark, L. B. Corley, A. G. Ewing, W. B. Hager, E. K. Hardison, Thos. E. Hill, J. W. Jakes, W. T. Jones, Robert T. Lee, H. J. Lovelace, G. Allen Rather, Joe S. Reeves, Leon Taylor, Smith Wall, Felix Z. Wilson, Herman Zander, Ben B. Rice, Lee Maxwell, D. P. Caldwell, J. M. Omohundro, Garner Robinson, Atwell Alston, C. A. Briley, A. J. McMahon, W. H. McMurray, Laurence B. Howard, Ira E. Parker, J. J. Archey, Frank Hutton, Jordan Stokes, Jr., J. D. Peay, W. C. Myers, Jordan Pardue, Jno. S. Glenn, Jr., G. Hume Marshall, H. L. Jenkins, Chas. H. Smith, W. G. Buchanan, E. B. Smith, J. J. Harper, G. Howard Wilkinson, H. F. Nees.

When, among other things, the following proceeding was had:

In re appointment of Elmer D. Davies as judge of the United States District Court for the Middle District of Tennessee

The following resolution in re Elmer D. Davies as judge of the United States District Court for the Middle District of Tennessee, offered by Felix Z. Wilson et al. was read:

"Whereas it has been reported through the press that both Senators from this State, the Honorable K. D. MCKELLAR and Hon. THOMAS STEWART, have concurred in recommending to the Department of Justice that Elmer D. Davies of the Nashville bar be appointed as judge of the United States District Court for the Middle District of Tennessee to fill the vacancy caused by the death of Judge John J. Gore; and

"Whereas Elmer D. Davies has for many years been one of the outstanding members of the Nashville bar and a respected and influential citizen of this State; and by virtue of his splendid legal attainments, his genial personality, his devotion to democratic ideals, and his high character and unimpeachable integrity is eminently qualified to preside over that tribunal: Therefore be it

"*Resolved,* That the Davidson Quarterly County Court heartily commends and endorses the action of Senator MCKELLAR and Senator STEWART in selecting Elmer D. Davies for said judgeship; be it further

"*Resolved,* That a copy of this resolution be furnished the President of the United States, the Attorney General for the United States, and both of the Senators of this State, and further that this resolution be spread upon the minutes of this court and copies be furnished to the press."

B. B. Rice, J. J. Archey, G. Hume Marshall, Chas. H. Smith, Joe S. Reeves, Laurence B. Howard, Earl Bruce, G. Allen Rather, Leon Taylor, Felix Z. Wilson, Thos. E. Hill, J. J. Harper, D. P. Caldwell, Ira E. Parker, W. T. Jones, G. H. Wilkerson, W. H. Binns, J. M. Omohundro, W. C. Myers.

Resolution unanimously adopted by the court.

STATE OF TENNESSEE,
Davidson County:

I, Jno. B. Cobb, clerk of the County Court of Davidson County, State aforesaid, do certify that the foregoing is a full, true, and complete copy of resolution In re: Appointment of Elmer D. Davies, as judge of the United States District Court for the Middle District of Tennessee, adopted at the April term quarterly county court, 1939, which remains of record on file in said office.

Given under my hand and official seal, at office, in Nashville, this 26th day of April, 1939.

[SEAL]

JNO. B. COBB,
Clerk of the County Court.
By LOTTIE M. HATFIELD,
Deputy Clerk.

NASHVILLE, TENN., *March 31, 1939.*

Hon. A. TOM STEWART,
United States Senator,
Washington, D. C.

MY DEAR SENATOR: The appointment of Elmer Davies as United States district judge for middle Tennessee meets with general approval in Nashville. He is known in this section of the State as a splendid lawyer and an honorable gentleman. Had I been naming a judge, he would have been my choice.

I am not unmindful of the great difficulty you and Senator MCKELLAR had in determining your course in the matter.

I want you both to know that my relationship with you gentlemen in the future will be the same as it has been in the past.

If at any time I can serve you here in any way, call on me.

Sincerely yours,

J. CARLTON LOSER,
District Attorney General, Nashville, Tenn.

FARMER, DENNEY & LEFTWICH,
Nashville, Tenn., April 5, 1939.

Senator THOMAS STEWART,
Senate Office Building, Washington, D. C.

DEAR SENATOR STEWART: My friend, Mr. A. L. Dorsey, of Springfield, has sent me a copy of a resolution unanimously adopted by the quarterly court of Robertson County on Monday, April 3, 1939, approving the recommendation of Elmer D. Davies for United States district judge for the middle district of Tennessee, and I am enclosing a copy of this resolution herewith.

Yours very truly,

FYKE FARMER.

QUARTERLY COUNTY COURT,
Robertson County, Tenn., April 3, 1939.

Resolution regarding Hon. Elmer D. Davies

Be it resolved by the County Court of Robertson County, Tenn., in quarterly session assembled at Springfield on the first Monday in April 1939, That we approve the selection of the Honorable Elmer D. Davies for the position of judge of the District Court of the United States for the Middle District of Tennessee and most respectfully petition that he be appointed by the President and approved by the Senate.

Mr. Davies is an outstanding citizen and lawyer who has a wide range of experience in the affairs of the public, including his work as a legislator in the General Assembly of Tennessee, and his integrity is unimpeachable.

Passed.

——— ———,
County Court Clerk.

Approved.

——— ———, *Judge.*

TENNESSEE CONGRESS OF PARENTS AND TEACHERS, INC.,
Nashville, Tenn., March 31, 1939.

The Honorable TOM STEWART,
United States Senate, Washington, D. C.

DEAR SENATOR STEWART: May I take this opportunity to commend you and Senator MCKELLAR on the very excellent recommendation you have made in selecting Hon. Elmer D. Davies to succeed the late Judge John J. Gore.

In my humble opinion, Mr. Davies' dignity, poise, courtesy, brilliance as a lawyer, his rare good judgment, absolute honesty and dependability in the smallest matters, as well as his clean personal record, make him the outstanding man for this high office.

With best wishes, I remain,

Faithfully yours,

CLARA S. SMITH
(Mrs. Buford Smith).

NASHVILLE, TENN., *April 1, 1939.*

Re Federal judge, middle district of Tennessee.

Hon. TOM STEWART,
United States Senate, Washington, D. C.

DEAR SENATOR: May I take this opportunity, sir, of commending you for your recommendation of our mutual friend, Elmer D. Davies, to be the Federal judge for the middle district of Tennessee.

I should not be frank were I not to state that for personal reasons I had a preference among the known applicants for the place. However, since you did not see fit to recommend any one of these, but chose instead a comparatively younger member of the bar, it is my honest opinion, taking all elements into consideration, that you could not have made a better choice.

The recommendation came as a surprise to the members of the Nashville bar, and from my point of view it was a most happy and pleasant surprise. Personally, I have heard nothing but the most

favorable comments among the members of the bar and other citizens here with whom I have discussed the matter.

I realize that this has caused you a great deal of concern, and, while I take no active part in politics, I think it only fair that you should be complimented on a recommendation which is most pleasing. I am convinced that Elmer Davies will be a good judge—in the course of time a great judge. He is thoroughly honest and capable and a man of courage, and by temperament I believe that he is particularly fitted for the bench.

Inasmuch as we need a Federal judge to carry on the business of the court, I cannot urge you too strongly to press for the immediate confirmation of Elmer Davies as judge of the United States District Court for the Middle District of Tennessee.

With best wishes, I am,

Sincerely yours,

JOSEPH MARTIN.

NASHVILLE, TENN., *March 31, 1939.*

Senator TOM STEWART,
Washington, D. C.

DEAR SENATOR: I wish to congratulate you for the splendid selection you made in nominating Senator Elmer Davies for the office of United States district judge for the middle district of Tennessee. I have been acquainted with Senator Davies for the past 10 years and know him intimately, both as a lawyer and as a man. In my humble judgment Mr. Davies is possessed with every fundamental qualification to make a great judge and render a service to his people and his Government which will be a credit to his name and to those who are responsible for his appointment.

Senator Davies enjoys the respect and esteem of the bench and bar of middle Tennessee. Neither his integrity nor ability as a lawyer is subject to any question. I have always found him to be honest, able, and courageous, and his friends are numbered by his acquaintances.

His nomination for this exalted position came as a surprise, he not having sought the position himself.

My primary interest in this appointment, as a lawyer, has been and is to see a man appointed who is in every material respect qualified and able to discharge with justice the duties incumbent upon this office, and to preserve and maintain those high standards and the administration of justice for which this office has been so distinguished during the tenure in which it was held by the late Justice Sanford and Judge John J. Gore.

It is my humble judgment and belief that you will not have an occasion to regret the selection which you made, and I personally wish to commend you for the wisdom which you have exercised in making this difficult selection.

Yours very truly,

H. H. CHITWOOD,
Attorney at Law.

STATE OF TENNESSEE,
SUPREME COURT,
Nashville, April 1, 1939.

Hon. A. T. STEWART,
Senate Office Building, Washington, D. C.

DEAR TOM: I understand that certain disappointed and envious people in and around Nashville have been writing and wiring you in regard to Elmer Davies. As I know him as well as anyone else, and better than most, I venture to put my oar in, too.

I have known him since before he was licensed to practice; saw him court his wife, marry, raise his family, and begin the practice of law. There is nothing that can truthfully be said against him in any manner, except that he was fortunate enough to receive the appointment. He has always been a loyal Democrat, working for the party and ably so, and has had the courage of his convictions.

This letter is entirely unsolicited and I feel probably it is unnecessary, but I cannot stand by without defending a friend who deserves it.

With best wishes, I am

Sincerely yours,

DAVID S. LANSDEN.

SMITH & BEASLEY,
Franklin, Tenn., April 1, 1939.

Senator TOM STEWART,
Senate Office Building, Washington, D. C.

DEAR SENATOR: I am enclosing you herewith request signed by every member of the Franklin bar, requesting you to use all of your influence in having the nomination of Hon. Elmer Davies confirmed as United States district judge at Nashville.

I think your selection and nomination was a very fine one, and the middle district should be congratulated as well as yourself.

With kindest personal regards, I am

Very truly yours,

W. J. SMITH.

Senator TOM STEWART,
Senate Office Building, Washington, D. C.:

The undersigned, members of the Franklin bar, most earnestly request you to use your influence in having the nomination of Hon. Elmer Davies for the United States district judge at Nashville, confirmed by the Senate.

Tyler Berry, Jr., W. J. Smith, Earl Beasley, R. W. Richardson, Jr., E. W. (Ned) Eggleston, Thos. P. Henderson, R. H. Crockett, J. F. Eggleston, E. Ward Harris, Alvin Quinn, J. H. Campbell.

SEAY, STOCKELL, EDWARDS & BARKSDALE,
Nashville, Tenn., April 1, 1939.

Senator A. T. STEWART,
Senate Office Building, Washington, D. C.

DEAR TOM: I wish to commend your recommendation of Elmer Davies for appointment as district judge at Nashville. In my opinion, this is a most excellent appointment.

Elmer is level-headed, a good lawyer, and is young enough to develop while on the bench, which in my opinion, is a most important consideration.

Yours very truly,

A. W. STOCKELL.

UNITED STATES POST OFFICE,
Nashville, Tenn., March 31, 1939.

The Honorable TOM STEWART,
United States Senator,
Washington, D. C.

MY DEAR SENATOR: I realize you had a difficult task in selecting an individual for your recommendation in filling the Federal judgeship for middle Tennessee, and you are to be congratulated on your choice. Have heard many favorable comments.

I take the position there is no harm in the asking as we sometimes miss something good by not asking. At the same time a good winner must be a good loser, and that is what I want to be and try to be when the occasion arises.

Am happy it was given to Davidson County.

Sincerely, your friend,

WM. GUPTON.

FARMER, DENNEY & LEFTWICH,
Nashville, Tenn., March 31, 1939.

Hon. THOMAS STEWART,
Senate Office Building, Washington, D. C.

DEAR SENATOR STEWART: The news that Senator MCKELLAR and you have recommended Elmer D. Davies for the local Federal judgeship is very gratifying to his many friends at the Nashville bar.

Mr. Davies is a young man of outstanding ability and the very highest character and integrity. The people of this section are very fortunate, in my opinion, in having a man of his type to fill the vacancy created by Judge Gore's death.

I may add that the public comment is very favorable of your decision.

With kindest regards, I am

Yours very truly,

FYKE FARMER.

THE AMERICAN NATIONAL BANK,
Nashville, Tenn., April 1, 1939.

Hon. A. T. STEWART,
United States Senator,
Senate Office Building, Washington, D. C.

DEAR SENATOR: I wish to congratulate you upon your recommendation of Elmer Davies of Nashville, Tenn., for Federal judge of this district.

I have known Elmer for a number of years and know him to be a man of fine character and one of the best lawyers in this section. He is honest, conscientious, and fair in every respect and I am sure that your recommendation of him has pleased your many friends in this State.

Very truly yours,

A. W. WILLEY.

YOUNG MEN'S DIVISION,
NASHVILLE CHAMBER OF COMMERCE,
Nashville, Tenn., March 31, 1939.

Senator A. T. STEWART,
Washington, D. C.

DEAR SENATOR STEWART: The Junior Chamber of Commerce of Nashville, Tenn., wishes to express its gratitude and appreciation for the appointment of a Nashville attorney as Federal judge of the middle Tennessee district.

This appointment has met with wide approval and is in full accord with the request of the Nashville Junior Chamber of Commerce.

Yours very truly,

NED LENTZ, *Acting President,*
Junior Chamber of Commerce.

NASHVILLE TRADES AND LABOR COUNCIL,
Nashville, Tenn., April 15, 1939.

Hon. TOM STEWART,
Senator of the United States,
Washington, D. C.

DEAR TOM: Please find enclosed a resolution passed by the Nashville Trades and Labor Council which is more or less self-explanatory.

Labor of Nashville cannot see the consistency of the appointment of Mr. Elmer D. Davies as Federal judge of the middle district of Tennessee.

Sincerely yours,

[SEAL] JOHN GARNER,
Secretary, Nashville Trades and Labor Council.

Whereas notice has been carried in the press that the United States Senators from this State have recommended for district judge for the middle district of Tennessee, Mr. Elmer D. Davies of this city, one of the bitterest critics of the liberal policies that have distinguished the present national Democratic administration; and

Whereas on January 29, 1935, when Mr. Davies was serving as State senator and the senate had under consideration certain planning bills endorsed by the T. V. A. and concerning which the chairman of the Tennessee Valley Authority had advised the senate "that the Tennessee Valley Authority felt the planning bills would make possible a State program which would materially assist the T. V. A. in certain of its activities," Mr. Davies said: "In my opinion these are the most pernicious, socialistic, and paternalistic bills that ever were introduced in this legislature. I, for one, don't want the record to show in the future that I sponsored any of these, if unfortunately they should pass," and

Whereas Mr. Davies further stated: "The only reason a State N. R. A. was not included was that it was so unpopular that they didn't have the nerve to present that," and

Whereas Davies said further: "Ah, gentlemen, 'twas a sad day indeed when the several States bartered their birthright for Federal aid. You know and I know that the federalists within the past 2 years have done more by the aid of their money to eliminate all States rights than the Civil War ever accomplished," and

Whereas the Nashville Trades and Labor Council realizes the seriousness of placing on the Federal bench here at the heart of the T. V. A. development a man who is one of the most consistent opponents of the enlightened social philosophy which has characterized the present national Democratic administration: Now, therefore, be it

Resolved, That we urgently protest the appointment of Mr. Elmer D. Davies as district judge for the middle district of Tennessee, and be it further

Resolved, That a copy of these resolutions be sent to each of the following:

To President Franklin Delano Roosevelt,
To United States Attorney General Frank Murphy,
To Senators K. D. McKellar and A. Tom Stewart.

C. N. VESTER,
STANLEY O'CONNOR,
W. C. CLARK,
J. W. AVERITT.

Sincerely yours,

[SEAL] JOHN GARNER,
Secretary, Nashville Trades and Labor Council.

LOCAL UNION NO. 192, INTERNATIONAL BROTHERHOOD OF BLACKSMITHS, DROP FORGERS, AND HELPERS,
Nashville, Tenn., May 25, 1939.

Senator TOM STEWART,
United States Senate, Senate Office Building, Washington, D. C.

DEAR SENATOR: You will find herewith enclosed a resolution, which was unanimously adopted by our local last night.

It is our unanimous opinion that Mr. Elmer Davies is not suitable by temperament and training to fill the important position for district Federal judge in middle Tennessee.

Probably no district judge in the South would be called upon to pass upon liberal legislation and policies put forth by the Roosevelt administration so much as the judge of this district, and we think that the man should be at least tolerant. All we ask is that we be given a judge with liberal views, which we know that Mr. Davies does not possess.

Yours very truly,

M. L. HALMONTALLER,
Recording Secretary.

BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN,
SILVER POINT LODGE, NO. 100,
Nashville, Tenn., June 19, 1939.

Senator TOM STEWART,
United States Senate Building, Washington, D. C.

DEAR SENATOR STEWART: Silver Point Lodge, Brotherhood of Locomotive Firemen and Enginemen, in their regular meeting June 13 took action on the proposed appointment of Elmer D. Davies for Federal judge of middle Tennessee and adopted the enclosed resolutions.

We are hoping that you will not recommend his appointment.

Sincerely yours,

C. F. BARNETT,
Recording Secretary.

CONSOLIDATED BUS LINES, INC.,
Smithville, Tenn., March 31, 1939.

Senator TOM STEWART,
Washington, D. C.

DEAR SENATOR STEWART: I just noticed from the press that you have recommended Hon. Elmer Davies for appointment as Federal judge in middle Tennessee.

This is a splendid appointment. You could not have made a better one, in my opinion, from Davidson County. From a political viewpoint I agree with you that this appointment should be from Davidson County.

Permit me to congratulate you upon your choice.

Your friend,

J. E. EVINS.

NASHVILLE, TENN., *March 30, 1939.*

Hon. A. T. STEWART,
United States Senator,
Washington, D. C.:

The appointment of Elmer Davies would be an affront to every Roosevelt supporter in Tennessee. He fought every New Deal measure on the floor of the senate of Tennessee in 1935 and called the housing program socialistic and communistic. He is strictly a "Liberty Leaguer."

GENERAL HOME INSULATING CO.

CHATTANOOGA, TENN., *July 4, 1939.*

Senator TOM STEWART,
Washington, D. C.:

Chattanooga Typographical Union No. 89 has instructed me to inform you that we are bitterly opposed to appointment of Elmer Davies to Federal judgeship. We hope you will not vote to confirm this appointment.

F. T. CARTER, *Secretary.*

NASHVILLE, TENN., *March 31, 1939.*

Senator A. TOM STEWART,
United States Senate, Washington, D. C.

MY DEAR SENATOR: Congratulations on your selection of Elmer Davies for the judgeship at Nashville. He is a fine man, capable lawyer, and a working Democrat. He is very popular among the lawyers at the Nashville bar.

You need not acknowledge this letter as I know you have had a floodtide of mail along these lines.

I am always at your service and command.

With best wishes, I am,

Cordially yours,

W. B. MARR.

CHATTANOOGA, TENN., *June 9, 1939.*

Hon. TOM STEWART,
Washington, D. C.

DEAR SENATOR STEWART: The convention of the Tennessee Federation of Labor, which has just adjourned, had before it a resolution opposing the appointment of Mr. Elmer D. Davies, of Nashville, as district judge for middle Tennessee. The resolution committee held extensive hearings on said resolution and the convention referred it, together with the record of the hearing, to the executive council which is also the nonpartisan committee of the Tennessee Federation of Labor.

The nonpartisan committee has unanimously instructed me, as secretary, to write you stating our vigorous and unqualified opposition to the appointment of Mr. Davies to the Federal bench. Our reasons for opposing this appointment are that he has demonstrated his opposition to New Deal policies, notwithstanding that he was a supporter of the Democratic Party in the elections. As a member of the State senate he bitterly opposed the T. V. A. planning bills, characterizing them as "pernicious, socialistic, and paternalistic." He also opposed ratification of the child-labor amendment, and as chairman of the senate rules committee was largely instrumental in preventing a vote on the amendment. Mr. Davies has been an outspoken opponent of New Deal policies, and it is inconceivable to us that a man holding these views should be placed on the bench by the present administration.

We hold that it would be particularly obnoxious to have a man holding the views that Mr. Davies does on T. V. A. sitting as a Federal judge in the heart of the T. V. A. territory.

In making the above statements we do not bring into question Mr. Davies' personal integrity or his right to hold the views he does, but we do question the propriety of the appointment of a man holding such views.

We, therefore, respectfully ask that he not be appointed.

Respectfully yours,

TENNESSEE FEDERATION OF LABOR,
T. R. CUTHBERT, *Secretary-Treasurer.*

(Whereupon, at 2:10 o'clock p. m., the hearing was closed and the subcommittee adjourned.)

THE SPENDING PROGRAM

Mr. KING. Mr. President, I ask unanimous consent to have printed at this point in the RECORD, as a part of my remarks, an editorial from the New York Times of this date entitled "The Spending Program." It seems to me that this editorial ought to challenge the attention of Senators who are determined to appropriate all the money we have and then impose additional burdens on the taxpayers.

The VICE PRESIDENT. Is there objection to the request of the Senator from Utah?

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

[From the New York Times of July 13, 1939]

THE SPENDING PROGRAM

The administration's newest lending-spending program is now before Congress in the form of a bill calling for credits of $2,660,000,000 for various kinds of public works. Only one major change has been made in the plan since it was first advanced by the President. The proposal for an extension of $500,000,000 in

foreign credits has been dropped like a hot cake. It has been dropped because opposition in Congress to foreign loans is politically much the safest kind of opposition to any spending program. Foreign governments have no votes.

As it stands, the plan calls for loans to be made by various credit agencies of the Government for waterworks, sewage-disposal plants, bridges, hospitals, toll roads, railway equipment, rural electrification, and farm-tenant programs—all of which are light-heartedly lumped together by the President as self-liquidating projects which will add nothing to the national debt. But if these projects are actually self-liquidating, if there is every reasonable prospect that they can pay their way commercially, there is no shortage of idle private capital ready to go into them, and if they are not self-liquidating in this sense they are bound to add to the Government's contingent debt, which is just as real a debt from the taxpayer's point of view as the formal public debt which the Treasury carries on its books.

Despite the temptation to spend more money in an election year, the plan ought to be voted down in Congress for three solid and convincing reasons: (1) This type of public spending—spending outside the Budget—is in fact the most dangerous of all kinds of public spending, since it conceals the real extent of the Government deficit by means of a bookkeeping device. (2) Five years of experience with "pump priming" on a gigantic scale has shown that Government spending cannot by itself achieve a sound and lasting recovery of business. (3) To the extent that Government spending succeeds at all, it succeeds merely in producing a series of minor speculative booms that tend to obscure the necessity of changes in governmental policy.

With the greatest debt in the country's history and a Budget completely out of hand, it is time to call a halt on spending and to face the realities of the situation.

REPATRIATION OF AMERICAN NEGRO IN AFRICA

Mr. BILBO. Mr. President, since introducing in the Senate a bill to repatriate the American Negro on the West Coast of Africa I have received thousands of communications endorsing the proposal, many of them coming from foreign lands. Among them I hold in my hand a letter of exceptional interest, not because of its literary value nor because of its faultless sentential structure, for in these things it may be adjudged by men of much learning merely mediocre. It was penned by the black hand of a descendant of a Zulu tribe in Zululand, South Africa, and represents the overpowering impulse of an Afro-American to plead in his simple, peculiar native way for race nationality. He does not want to see his race, of which he is justly proud, submerged and forever lost in the blood stream of the Caucasian. He is possessed of the inherent urge to rebel against amalgamation, the inevitable end which the Negro race is gradually and alarmingly approaching in this country. Every line of this letter echoes with the cry of a lost soul for an opportunity to return to the continent from which it was stolen, to be transplanted in a land unsuited to its growth and development, a clime lacking in congeniality to its freedom and happiness. This letter is to be valued more for the sentiments that strove for expression than for those actually set down. The dark hand of the suppliant is stretched forth without adequate words to express the full measure of his desire. I believe this message will kindle a new light in the mind of some doubting Thomas if he will only dare to read it.

I most respectfully ask, Mr. President, that the letter be printed in the RECORD following the remarks I have now concluded.

The VICE PRESIDENT. Is there objection? The Chair hears none.

The letter is as follows:

NEW YORK CITY, N. Y., *July 1, 1939.*

Hon. THEODORE G. BILBO,
United States Senator for Mississippi,
Senate Chamber, Washington, D. C.

SIR: After perusing the edition of the CONGRESSIONAL RECORD of the Seventy-sixth Congress re the Bilbo bill, I felt that not only I, but the Afro-American as an entity, are, or should be, greatly indebted to you for the great efforts you are exerting in our behalf.

There are those within our own racial group represented by the professional doctor and clergy, the successful businessman, and the one-half or three-fourths caste mulattoes who believe that the day and time will come when the American democratic institution which was established by the blood and suffering of the Pilgrim Fathers will retrograde to the status of a socialistic-communistic state, in which the black man and the white man will abide cheek by jowl on terms of social, economical, and political equality, contrary to the principles laid down by such immortals as George Washington, Thomas Jefferson, and Abraham Lincoln, and as now made manifest by the Bilbo bill.

This group of men and women may be appropriately classified not only as the real drones of the African race, but ipso facto the parasites who survive merely by clinging to and sucking the life-blood from the poor and the unthinking masses of their own ilk.

They are so absorbed by the spirit of exploitation, greed, and avarice and selfishness, the thought of miscegenation, and the wish for universal racial amalgamation that they are not in the least mindful of the cruel injustices and inhumanities being suffered by the overwhelming majority of their own race and people.

It is doubtless true that the black man has served the white man in America as a chattel slave from 1620 to 1863, but in my humble opinion as a direct descendant of the Zulu Tribe, of Zululand, South Africa, I do not believe that this fact is a justification of the black man's claim, aided and abetted by the N. A. A. C. P. and the Communist Party of Russia in America, to social, economic, and political equality with the Nordic or Anglo-Saxon white man in America any more than if I stopped and ordered a white man today to shine my shoes, and he did so, would justify that man in claiming social and economic equality with me in my private home.

Not so very long ago the late President Warren G. Harding, in a speech delivered at Birmingham, Ala., in 1921, I recall, said in part: "There is a difference—a great, big difference—an inescapable difference, between the white man and the black man."

And the black man should seek to be—he should be encouraged to be—the best possible black man, and not the best possible immitation of the white man. He should have ideas, ideals, ambition, aspirations, and a whole set of traditions all his own.

The sentiment of the American white people, as expressed by the administrator of the affairs of the Nation, to my mind is prima facie proof that the white man will not tolerate social, economic, and political equality as between the white man and the black man in America. This sentiment requires that he should have a social, economic, and political system of his own. This being so, the white man, speaking through Washington, Jefferson, Lincoln, and Harding, could not mean, and certainly does not mean, that the black man should have, or strive to have, a black government within a white government, or a black empire within the American empire.

Yet it is so strange, so baffling, to me, Mr. BILBO, that neither the American Government or the American press is willing to accept and to promulgate the principles of separation and repatriation of the Afro-American back to his motherland, Africa, as advocated by the Bilbo bill.

Less than a year ago the dictum of one man—Adolf Hitler—actually forced the American Government and national press to the point of advocating an independent national homeland for German refugee Jews even in far-off British Guiana in South America, and suggesting such places as east and west Africa. Yet it is so strange, so confusing to me, Mr. BILBO, that the same American Government and press ignore so thoroughly, so completely, the dictum of at least four Presidents of the United States—George Washington, Thomas Jefferson, Abraham Lincoln, and Warren Gamaliel Harding.

In 1620 there were only 433,000 black chattel slaves. In 1939 there are approximately 22,500,000 descendants of those slaves, freed by Abraham Lincoln and now competing with the white man for food, clothes, and shelter in the economic and political battle of the survival of the fittest. This is a problem that must be solved sooner or later.

It was a distressing problem in 1776. It was a bloody problem in 1863, and I make bold to state that it is an acute problem in 1939. If it is to be solved—and it must be solved—its only solution is, to my mind, the Bilbo bill. As for me, I am not half as eager to get away from sin as I am to rid myself of the curse of amalgamation of the white man and the black man. Such a policy, to my mind, would be contrary to the divine scheme.

Hoping that the Bilbo bill will have the wholesale support of the United States Congress and press, I am, sir,

Very respectfully yours,

J. MILTON BATSON.

THE WORKS PROGRESS ADMINISTRATION IN WYOMING

Mr. SCHWARTZ. Mr. President, a United Press dispatch from Albany, N. Y., under date of June 26, referring to the thirty-first annual conference of Chief Executives in session there at that time, states that Gov. Nels Smith, of Wyoming, complained to the conference of Governors that Wyoming ranchers in his State "are unable to get help because persons on relief are unwilling to give it up temporarily."

Mr. President, Governor Smith's ignorance of the Wyoming W. P. A. and labor situation is only exceeded by his general hostility to the whole relief program.

Recently I sought to find ranch work in Wyoming for a deserving young man. I wrote several friends who might be in position to know of any vacant job. A sample reply received by me reads, in part:

> As you well know, Harry, there are many youngsters around here wanting to go out on these ranches and also from various parts of the country, and naturally there is scarcity of work for them.

Mr. President, the youngsters referred to by my friend are boys from 18 to 25, most of whom have for the past 3 or 4 years been unable to find regular work; others each summer go out on the ranches and earn money to carry

themselves through the university. They are anxious to work. They are rising young Americans. Most of them are familiar with all ranch work.

As to the Wyoming W. P. A. workers: On January 1st last there were 4,166 workers on the rolls in Wyoming. As the season for agricultural work opened the number on the rolls had decreased to 3,157, and on July 1st the number of W. P. A. workers was 3,052. This is a decrease of 1,114, or about 25 percent. Practically all of them sought private employment, and the official records show that 850 of them went into private employment.

Mr. President, as a part of my remarks, I should like to have printed in the RECORD at this point a statement by the W. P. A. administrator of Wyoming as it appeared in the Wyoming Eagle, of Cheyenne, on June 27, 1939, setting forth the official notices to W. P. A. workers that if they accept private employment they may go back to work again when the employment terminates.

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

Mr. NEELY. Mr. President, have I the floor?

The VICE PRESIDENT. The Senator from West Virginia has the floor.

Mr. NEELY. I refuse to yield for any colloquies or any discussion.

The VICE PRESIDENT. Without objection, the article referred to by the Senator from Wyoming will be printed in the RECORD.

The article is as follows:

[From the Wyoming Eagle, Cheyenne, Wyo., June 27, 1939]

FLANNERY ANSWERS ATTACK OF GOVERNOR

Governor Smith's statement at the Governors' conference yesterday in Albany, N. Y., regarding the failure of W. P. A. workers to take private employment, was challenged last night by L. G. (Pat) Flannery, Wyoming W. P. A. administrator.

Flannery said: "The Cheyenne Tribune of June 26 attributes the following statement at the Governors' conference in Albany, N. Y., to Gov. Nels Smith, of Wyoming, that Wyoming stockmen 'can't get labor on our ranches because W. P. A. workers are told if they leave they can't get back on the W. P. A.'

"If the Governor is correctly quoted, his statement was not in accord with established W. P. A. policy in regard to private employment or with facts."

A CHALLENGE

And here is Flannery's challenge—

"If Governor Smith or anyone else has knowledge of any employee of this administration who has told W. P. A. workers they cannot get back on the program if they leave to accept a private job, we would like to have that employee's name.

"If the Governor or anyone else knows a W. P. A. worker who has refused a private job, this office would like to know about it, so we can terminate that worker if his refusal was not justified.

"And if the Governor or any other person knows of a W. P. A. worker who quit to accept a private job and lost that job through no fault of his own, and who is still in need, who has been refused reemployment on W. P. A., we would appreciate that information.

"FOILS WELFARE MOVE

"Recently the State department of public welfare undertook, and is still attempting, to cancel the W. P. A. certifications of a number of persons who quit W. P. A. to take private jobs, which would have eliminated them from reemployment, but the Wyoming Works Progress Administration has refused to accept such cancelations of certification.

"Since June 19 the only assignments that have been made to W. P. A. have been the assignment of persons who quit to accept private employment and have lost that employment through no fault of their own and are found to be still in need, and of persons who are returning because of temporary separation due to illness or injury. And the Wyoming Works Progress Administration will continue to give preference and jobs to persons returning from private employment who are still in need, so long as quota and funds are available."

NOTICES SENT

Flannery explained further:

"May 12, 1939, the following instructions were issued to all offices of the Wyoming Works Progress Administration:

"Your attention is called to section 24 of Federal Administrative Order No. 67, which states:

"'Section 24: Project employees and unassigned certified persons shall be expected to accept bona fide offers of private employment, whether of a permanent or temporary nature, provided that:

"'(a) The project employee is capable of performing such work.

"'(b) The wage for such employment is not less than the prevailing wage for such work in the community.

"'(c) Such employment is not in conflict with established union relationships.

"'(d) Such employment provides reasonable working conditions.'

"A certified person who takes such private employment shall at the expiration thereof be entitled to reemployment on a project if he is still in need and otherwise eligible and if he has lost the private employment through no fault of his own. However, project employees and certified persons awaiting assignment who refuses to accept such private employment shall be ineligible for employment on any project for the period such private employment would be available.

"The provisions in section 24 are to be strictly adhered to without exception."

The same day the following notice was sent to each individual W. P. A. worker:

"TO ALL W. P. A. PROJECT WORKERS

"Your attention is again called to the fact that opportunities for private employment are gradually increasing, and all W. P. A. employees are to take advantage of such opportunities. Workers refusing private employment when working conditions are reasonable and the wage for such employment is not less than prevailing wage for such work in that community, will be terminated from W. P. A. for the period such private employment would be available.

"When workers are notified that jobs are available for them, they must report immediately as instructed by the county W. P. A. office. Failure to comply with these instructions will be considered as refusal of private employment.

"Further, workers are instructed to contact the U. S. E. S. offices on or before June 1, 1939, and every 60 days thereafter. In localities where there are no U. S. E. S. offices, such contacts are to be made by letter or telephone. Arrangements have been made whereby we will be notified as to whether the workers have made such contacts. Failure to make contacts will be sufficient reason for termination.

"Workers leaving projects to accept private employment will be given every preference under regulations for returning to W. P. A. at the time the private employment is terminated, if they are still in need.

"RECEIVE PREFERENCE

"As the result of these instructions the rolls of the Wyoming Works Progress Administration have decreased from 4,166 January 1, 1939, to 3,157 June 15, 1939. This reduction of more than 1,000, about 25 percent of the total, is almost entirely accounted for by the voluntary acceptance of seasonal work by W. P. A. employees on Wyoming farms, ranches, and in private industry.

"'Every specific case of a W. P. A. worker refusing a bona fide offer of private employment at work which he could do, under reasonable working conditions and at the prevailing rate of pay for similar work in the community, which was reported or otherwise came to the attention of this office has been investigated, and if substantiated, the worker has been terminated,' Flannery said.

"Let it be said to the credit of Wyoming W. P. A. workers that only in a few instances has it been necessary to terminate persons for refusing private employment. Most of the men and women who have been forced by grim necessity to come to this program in order to live and feed their dependents are, like men and women in all walks of life, happy and grateful when opportunity comes to stand on their own feet and make their own way."

RECIPROCAL-TRADE AGREEMENTS

Mr. MEAD. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a statement by myself on the subject of the reciprocal-trade agreements.

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

STATEMENT BY MR. MEAD

There have been some conflicting statements made respecting the benefits accruing to this Nation as a result of the operation of the reciprocal-trade agreements. With especial reference to the trade agreements and fish imports, and the trade agreements and poultry imports, sometime ago I wrote to the Secretary of State seeking some facts. I now have two letters from the Secretary, and I desire to incorporate portions of these letters in this statement.

It has been asserted that the trade agreements have helped foreign countries to recover their markets for fish in this country while the concessions that have been received from agreement countries have not been of any assistance to us in reacquiring our former foreign markets for fish. In this connection, the Secretary makes the following comment:

"The nature of our foreign trade in fish differs in the case of the different species. Domestic production is inadequate to supply the large and increasing demand of the country for fish of most species. Important exceptions are canned salmon and sardines (pilchards), exports of which are large. Total United States imports of fishery products are approximately three times as great as exports, in value, and they constitute a rather large fraction of total fish consumption. This situation is due in part to the consumption demands of the large population of the United States and the fact that so relatively small a part of the population engages in commercial fishing. Fisheries represent a very small fraction of the business, even of those sections of the country which rank high in the fishing industry.

"The most important concessions with respect to fish granted by the United States were provided in the old and new trade agreements with Canada and in the agreement with the United Kingdom. Imports affected by the United Kingdom agreement

come mainly from Newfoundland. These concessions include bindings on the free list of certain items which are free of duty and reductions of the duties on a number of other fresh- and salt-water fish.

"Total United States imports of fish declined greatly during the depression but subsequently recovered in 1937 to almost 90 percent of the 1929 figure. In the last 3 years, 1936 to 1938, when the first agreement with Canada was in effect, imports averaged $30,872,000 annually. The lowest figure reached during the depression was $21,673,000 in 1932. In 1929 our imports were valued at $38,753,000. The following table shows the value of our imports over a period of years:

Total United States imports for consumption of all fish and fish products, including shellfish

1925–29 (average)	$34,515,000
1929	38,753,000
1930	35,036,000
1931	28,937,000
1932	21,673,000
1933	21,783,000
1934	23,174,000
1935	27,535,000
1936	30,356,000
1937	33,911,000
1938	28,349,000

"While duty reductions undoubtedly have facilitated imports of fish in the last 3 years, it will be observed that the increases have not yet restored imports to predepression levels. In 1938, moreover, the total value of imports was considerably smaller than in 1937. Imports of fish in 1937 were no doubt stimulated by the relatively high prices of meat in that year resulting from the severe droughts of 1934 and 1936.

"It must not be inferred that the difference in the value of imports before and after the reductions were made provides a measure of the effects of these reductions. Other factors as well, such as price changes and variations in consumer purchasing power, have, of course, been important influences.

"It has been implied that the increase in imports of fish measures the extent to which domestic producers have been injured. This, of course, is not so. As in the case of practically all other industries, the prosperity of our fishing industry depends primarily upon consumer purchasing power. While imports of fish were $10,737,000 greater in 1937 than in 1934, the year the Trade Agreements Act was adopted, the income of our fishermen, as measured by the value of the domestic catch, was $26,682,000 greater. Although other factors tending to enhance domestic demand, such as the relatively high prices of meat, were also important, our fishermen were undoubtedly benefited by the general improvement in economic conditions, to which trade agreements contributed.

"It might be added also that concessions have been obtained benefiting American exports to Canada and Newfoundland which are of great value to the industry and agriculture of those sections of the United States in which fisheries are relatively important, notably New England, the Industrial States along the Great Lakes, and the Pacific Coast States.

"It has been contended that trade agreements have not been of help in restoring our foreign markets for fish on a comparison of the value of United States exports to trade-agreements countries which granted us concessions on fish, and other countries, respectively, in 1929 and 1937. Such comparisons do not measure the effectiveness of trade-agreement concessions. The many influences affecting trade with individual countries were very different in 1937 than they were in 1929. We have been confronted with the extremely difficult task of restoring the damage to our commerce which resulted from the collapse of world trade after 1929—a disaster to which our own high-tariff policies had contributed. The trade-agreements program has already contributed substantially to the restoration of many of our foreign markets.

"The United States has obtained in trade agreements highly valuable concessions for types of fish that this country exports. Most important among these are the concessions pertaining to canned salmon and sardines, which account for approximately three-fourths of our total fishery exports.

"Exports of fish from the United States, especially canned fish, have increased substantially since the trade-agreements program was inaugurated. While not all of this increase can be attributed to trade agreements, it is significant that in 1938 our exports of canned fish to countries which had given us concessions on such products were 59 percent greater than in 1934 while our exports to all other countries were but 11 percent greater."

There have been repeated charges, some of which have appeared in the CONGRESSIONAL RECORD, that increased imports of live poultry have been a definite handicap to the domestic industry, and that these increases are attributable to a reduction in the duty on live poultry under the two reciprocal-trade agreements with Canada.

The duty on live poultry was reduced from 8 cents a pound to 4 cents a pound in the first trade agreement with Canada, which became effective January 1, 1936, and this concession was continued in the new agreement which became effective January 1, 1939.

In response to my inquiries concerning the effect of the increased imports of poultry, the Secretary writes:

"Imports of live poultry did increase after the first agreement went into effect, but the actual increases have not been great; and, except in the unusual year 1937, imports have not been as great as they were in 1929. Moreover, to express the increases in imports in percentages is quite misleading, because the actual amount of poultry imported, even in the peak year 1937, has been relatively small. Imports amount to only a small fraction of 1 percent of domestic production.

"Imports of poultry from countries other than Canada are very small. Below is given a table of statistics showing the value of imports of live poultry from Canada, from other countries, and from all countries during certain years:

United States imports of live poultry

Year	From Canada	From other countries	Total
1929	$346,748	$9,108	$355,856
1932	12,465	4,551	17,016
1933	3,991	3,850	7,841
1935	9,383	13,978	23,361
1936	176,740	17,370	194,110
1937	732,769	55,030	787,799
1938	165,657	62,937	228,594
1938 (1st quarter)	(1)	(1)	83,600
1939 (1st quarter)	(1)	(1)	27,680

[1] Not available.

"You will note from the table that imports of poultry in 1937 increased considerably. These imports were, of course, abnormal. The severe 1936 drought in this country had increased tremendously the price of beef, and the result was a great increase in domestic demand for poultry as a substitute. Domestic producers were unable to meet entirely the increased demand for poultry, and imports therefore increased considerably.

"Statistics of prices available show that the average prices per pound received by farmers for live chickens in 1932 and 1933 were 11.1 cents and 9.1 cents, respectively. The average prices received in 1936, 1937, and 1938 were 15 cents, 16 cents, and 15 cents, respectively. Chickens constitute from 85 to 95 percent of our poultry imports. A part of the increase in value of imports after 1935, as compared with imports in 1932 and 1933, was of course due to the higher prices received for poultry.

"In view of the facts set forth above it is extremely unlikely that the concession in regard to live poultry granted by the United States in the two trade agreements with Canada has injured the domestic industry. On the other hand, American poultry producers are clearly benefited by the trade-agreements program. The agreements thus far concluded have substantially increased domestic purchasing power by making possible a greater recovery in American foreign trade than otherwise would have occurred. This is specially important to producers of commodities such as poultry, the demand for which is sensitive to changes in consumer purchasing power.

"It was, as you know, because of deep concern for agriculture, industry, and workers suffering as a result of great decline in our foreign trade after 1929 that the Congress enacted the Trade Agreements Act of 1934, since extended. Under this legislation an effort is being made to restore and expand our foreign trade by means of mutually profitable agreements involving reciprocal adjustments of excessive trade restrictions. Of the trade agreements now in effect, agreements with 10 countries have been in effect for more than 3 years, and agreements with 4 other countries have been in effect for more than 2 years. Because of the great care taken in the formulation of these agreements, domestic producers have found no real cause for complaint. On the other hand, by helping to stimulate our foreign trade, these agreements have helped to increase employment and consumer purchasing power to the benefit of domestic producers and workers generally. While no claim is made that trade agreements alone have been responsible for the increase in foreign trade, nevertheless, it is significant that, in the 2 years, 1937–38, exports to the trade-agreement countries increased by 61.2 percent over exports to these countries in the 1934–35 period, while exports to all other countries increased by 37.9 percent."

PROHIBITION OF BLOCK BOOKING AND BLIND SELLING OF MOTION-PICTURE FILMS

The Senate resumed the consideration of the bill (S. 280) to prohibit and to prevent the trade practices known as compulsory block booking and blind selling in the leasing of motion-picture films in interstate and foreign commerce.

Mr. NEELY. Mr. President, according to ancient legend, Pythagoras, after he discovered the forty-seventh problem of Euclid—the theorem that the square of the hypotenuse of a right-angled triangle equals the sum of the squares of the other two sides—celebrated his achievement by sacrificing a hecatomb of 50 white oxen.

The millions who, through their organizations and spokesmen, have petitioned the Congress to pass the motion-picture anti-block-booking bill, have as much occasion to rejoice today as Pythagoras had to celebrate 24 centuries ago, because the stranglehold of the fleshless fingers of parliamentary rigor mortis in which this proposed legislation has been held for the last 6 months has at last been

miraculously broken, and the Senate is now about to consider this measure on its merits.

A recent book lists the motion-picture industry as the fourth greatest in America from the standpoint of wealth. But from the point of view of the religious, moral, and mental training of the people, the importance of this agency transcends that of all others, excepting the churches and the schools. On the average, 88,000,000 people of the United States see at least one picture every week in the year. Thirty million of these are under the age of 21. In the congested sections of the great cities, 17 percent of all moving-picture theatergoers are under the age of 14. The influence upon the minds of these young patrons of the movies defies exaggeration.

Mr. President, the bill before us is designed to prohibit the trade practices known as the compulsory block booking and blind selling of motion-picture films in interstate and foreign commerce. It is identical with a bill that was passed by the Senate a year ago by a majority of more than 10 to 1.

During the last 11 years the appropriate committees of the Senate and House have conducted five comprehensive hearings on anti-block-booking measures. Every feature of the bill has been repeatedly considered. Every question relevant to its operation has been answered again and again.

Ever since 1928 there has been a constantly increasing public demand for this legislation.

Religious, educational, and welfare organizations with millions of members are today hopefully looking to the Congress for relief from the two indefensible trade practices of the moving-picture industry which the supporters of the bill seek to abolish.

In all the 11 years that have elapsed since the first hearing on an anti-block-booking bill, the opposition has advanced no new arguments and has adduced few new facts that have any bearing on the merits of the case. The only new points made this year are:

First. That due to disturbed conditions in Europe and Asia, the foreign business of the industry has declined, and therefore no additional burden should be placed upon it; and

Second. That the industry has initiated a program of self-regulation which makes unnecessary the enactment of the bill.

Unfortunately for the first contention, on the very day that it was advanced by Mr. S. R. Kent, the president of the Twentieth Century-Fox Corporation, the Treasury Department released a statement showing the fabulous salaries paid to the various stars and executives, including Mr. Kent, from the extraordinary profits of the Moving Picture Trust. Mr. Pettijohn, counsel for the Hays organization, in replying to a question by the Senator from Kentucky, said:

> We have gained in South America almost as much, if not as much, as we have lost in Germany and Italy.

The proposals made by the major companies in pursuance of their plan for self-regulation are not satisfactory because the relief which they suggest does not even approximate the objectives of the bill.

The proposals, as usual, simply represent an effort by the trust to create sentiment against legislation by the Congress or prosecutions in the courts.

PRACTICES DEFINED

To define the evils at which the bill is aimed is to condemn them. To understand them is to oppose them. Compulsory block booking is the practice whereby each of the principal motion-picture distributors, known as the Big Eight, leases to the independent exhibitors its production of pictures for the ensuing year in large blocks, thus affording the exhibitors no choice but to accept all or reject all of the films so offered.

The Department of Justice, in the Government's verified bill of complaint filed in the Federal court last year, supplies the following authoritative definition and observations:

> Block-booking is a practice whereby unaffiliated or independent exhibitors are compelled to take blocks or groups of pictures in order to obtain any of them. Compulsory block-booking, such as is enforced against the independent exhibitor, should not be confused with voluntary block-booking whereunder a group or block of pictures is purchased as the result of a voluntary agreement freely entered into between distributor and exhibitor. Block-booking is seldom, if ever, enforced by the producer-exhibitor defendants against each other. On the contrary, the exhibition contracts between and among the defendants herein are usually placed upon a selective basis, whereunder each defendant and its affiliated theaters may play such product or pictures of the other, or others, as it may select. In the case of the independent exhibitor, however, he is compelled to contract and pay for a whole block or group of pictures in order to obtain any of them which he may desire. This practice has the effect of imposing upon the independent exhibitor a great number of pictures that are not desired by him, and tends to arbitrarily fill up and consume his screen time, thus preventing him from securing other pictures through other distributors.

A more relevant or convincing argument in favor of the bill than the Department of Justice has thus made it would be difficult to conceive and impossible to phrase.

If compulsory block booking is so baneful that the Big Eight protect their own 2,500 theaters against it, why should the trust be permitted to afflict 15,000 independents with it?

To forestall the argument that the pendency of the suit mentioned constitutes a reason for delaying the passage of the bill, let me emphasize the fact that this litigation, even if successful, would not, for reasons specified at page 15 of the committee report, afford the effective relief which would flow from the legislation under consideration.

The purpose of the bill and the objective of the Government's suit are complementary and not antagonistic to each other.

Blind selling is the trade practice by means of which the Big Eight lease their moving pictures to the independent exhibitors, usually before the pictures are produced, and with little or no information concerning their quality or the nature of the stories embodied in them. Thus the independent exhibitor, in leasing a feature picture, must, in effect, "buy a pig in a poke."

At the beginning of a selling season each of the Big Eight announces an average of 52 feature pictures for release during the ensuing year, which extends from the 1st of September to the 31st of August. Formerly these announcements consisted of highly illustrated books, which, with an extravagance of superlatives, set forth the money-making potentialities of the attractions to be released. Only a few pictures were ever identified by titles and practically no descriptive matter accompanied them.

The announcement books were destitute of information that would enable an exhibitor to determine whether the pictures offered would be suitable for his patrons, and devoid of assurance that the pictures vaguely indicated in them would ever be produced. All such announcements contained the substance of the following, which appears in Warner Bros.' book for the 1937–38 season:

> The information supplied herein is intended only as an indication of material which may be produced and individuals who may appear in motion pictures, and is not a representation made by the distributor to induce any exhibitor to enter into a contract.

It thus appears that the sole purpose of these announcements was to beguile the exhibitors into signing contracts for the output of the companies which issued them, but which expressly exempted themselves from responsibility for their contents.

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

Mr. NEELY. I yield.

Mr. TYDINGS. I am not as familiar with this subject as is the Senator from West Virginia, and I have not been a member of the committee which considered it. In the event the Senator's bill becomes law, to what extent, if any at all, will it increase the price of pictures to the exhibitors?

Mr. NEELY. Mr. President, in my opinion it will never increase picture prices. The efforts of the trust to create a false impression concerning this matter will be discussed later if time permits.

At one time all pictures were identified in the contracts between the distributors and exhibitors by title. If a picture bearing the contract title did not conform to its identification, or if the stars advertised to be featured in it did not appear, the exhibitor could cancel it on the ground that it was a substitution. But the practice of identifying pictures

in the leases even by title has been discontinued. For the 1937–38 season one producer identified six pictures in this manner. To the best of my information not one of the Big Eight identified a single picture by title in its contracts for the present year.

In brief, it appears that blind selling has steadily increased until it is now complete.

Congress has passed numerous label laws requiring full disclosure of the contents of many commodities. Section 4 of the bill is simply a label law for moving pictures. The law requires food, drugs, fertilizer, insecticides, and prison-made goods to be labeled. Is it not as important to protect the minds and the morals of children against known means of subversion as it is to protect the farmers against adulterated fertilizer or the public against prison-made goods?

Under the standard contracts used by the Big Eight, the distributor covenants that he will release not more nor less than a stated number of pictures. Certain price categories are specified in the contract and the unidentified pictures are, as released and delivered, assigned to the several price brackets solely in accordance with the discretion or pleasure of the distributor. The exhibitor's benefits under the contract are limited to the assurance that he will receive an indeterminate number of unidentified pictures at prices fixed by the distributor within the limits specified in the agreement.

In no other industry is the buyer or lessee so completely at the mercy of the seller or lessor. In no other industry does monopoly so defiantly rule or imperiously reign.

The Big Eight distribute more than 80 percent of the better motion pictures released in the United States. An exhibitor in order to operate his theater successfully must have the products of three or more of these companies. In order to obtain them he must submit to distributors' terms, whatever they may be.

Of the Big Eight, one, United Artists, is simply a distributor. Columbia and Universal are both producers and distributors. Paramount, Loew's, Twentieth Century-Fox, Warner Bros., and R. K. O., are both producers and distributors, and also the operators of vast chains of theaters which they own or control.

The Department of Justice, in the verified complaint before mentioned, thus summarizes conditions in the industry:

> In securing control of the motion-picture theaters of the United States, particularly the first-run metropolitan theaters and the larger and better chains of theaters, coupled with production facilities, the defendant producer-exhibitors herein have effectually monopolized the market for motion pictures upon a Nation-wide scale and have drawn unto themselves the power of effectually excluding from the market both independent producers and independent exhibitors.

In such circumstances, how can any legislator who believes in the philosophy of our antitrust laws justify his opposition to the pending bill?

THE SUPPORTERS OF THE PROPOSED LEGISLATION

The merits of a legislative measure are frequently indicated by the character and motives of those who favor it and those who oppose it. Therefore, attention is invited to the fact that the following national religious, educational, and welfare organizations are vigorously supporting the bill:

American Association of University Women.
American Home Economics Association.
American Baptist Publication Society.
Associated Film Audiences.
Association for Childhood Education.
Board of Temperance and Social Welfare of the Disciples of Christ.
Catholic Boys' Brigade of the United States, Inc.
Catholic Central Verein of America.
Catholic Daughters of America.
Catholic Order of Foresters, Inc.
Committee on Moral and Social Welfare of the Lutheran Church in America.
Council of Women for Home Missions.
Editorial Council of the Religious Press.
Federal Council of Churches of Christ in America.
Girls' Friendly Society of United States of America.
International Order of the King's Daughters and Sons, Inc.
Knights of Columbus.
Motion Picture Research Council.
National Board of Young Women's Christian Associations.
National Congress of Parents and Teachers.
National Council of Catholic Women.
National Council of Protestant Episcopal Churches.
National Education Association.
National Grange.
National Motion Picture League, Inc.
National Sentinels.
National Woman's Christian Temperance Union.
National Women's Trade Union League of America.
Service Star Legion, Inc.
Allied States Association of Motion Picture Exhibitors.
Independent Motion Picture Producers' Association.

Members of these great associations of serious and socially minded men and women frequently have cause to protest against the showing of undesirable pictures. In such cases they almost invariably find that, due to the practice of compulsory block bocking and blind selling, the exhibitors are not free agents in the selection of their programs; that they have had to buy or lease blindly and in blocks, and that to refrain from showing pictures for which they have been compelled to pay would entail a financial loss which they can seldom afford to bear. They also find that the exhibitors are helpless in the matter of obtaining many desirable pictures not included in the blocks for which they have contracted because the blocks they have been obliged to take have virtually preempted their playing time and they could not obtain the meritorious pictures of other distributors without also leasing their entire blocks, which, in the circumstances, they could not possibly use.

It is to the local exhibitor, not to far-off Hollywood or the Hays office in New York, that the people look for the satisfaction of their desires in the realm of motion-picture entertainment. If they object to the showing of a particular film, they protest to the exhibitors; if they want to see one about which they have read or heard, they apply to them. Exhibitors should at once be emancipated and deprived of the alibis to the effect that, because of compulsory block booking and blind selling they cannot supply the high quality of moving picture entertainment their patrons desire.

In a footnote on page 3 of the committee report is a long list of prominent educators and persons engaged in social and welfare work, including probation officers and judges of juvenile courts, who have unqualifiedly endorsed the bill.

Mr. Pettijohn, the spokesman for the Big Eight and the Hays organization, unable to cite a single national group that opposes the legislation, attempted to minimize the significance of the extraordinary support it has received by suggesting that there ought to be a law against anyone's taking a position on a bill which he had not read. This insinuation is annihilated by the following excerpts from the record:

The Catholic Daughters of America, after indicating the reasons for their interest, say:

> This bill has been circulated throughout our entire membership, has been studied and universally approved, and its indorsement duly authorized.

Mrs. Mary T. Bannerman, in behalf of the Motion Picture Research Council, said:

> I would like to say at this point, Mr. Chairman, that over a hundred thousand copies of the Neely bill, in one form or another, have been distributed over the country, so that people are thoroughly well-informed about it.

The representative of the National Board of Young Women's Christian Associations testified that the board, through its public-affairs committee, had "given careful consideration to the subject; studied the testimony presented at hearings" and had concluded that the bill should pass. She added:

> Interest in this measure is widespread throughout our national constituency—in cities, towns, and rural communities.

The American Home Economics Association demonstrates its clear understanding of the bill by saying in its behalf:

The opportunity to choose deliberately and wisely among competing goods is a first principle of wise spending.

The National Grange stresses the benefits which rural communities would derive from the enactment of the bill.

The National Women's Trade Union League supports the bill because it is opposed to—

Un-American monopolistic control of any industry, and especially one which has so important a bearing on the social standards of the Nation.

And who are the opponents of this legislation? Of the 34 witnesses presented by Mr. Pettijohn, 10 were industry employees; 7 were representatives of the Motion Picture Theater Owners of America, which is directly subsidized by the Hays Association; 14 were persons who, for the most part, represented only themselves, were marshaled by Governor Milliken, of the Hays Association, and who preach Mr. Hays' gospel of "boost the best and ignore the rest"; 1 was an exhibitor who contradicted the testimony he had given in favor of a similar bill in 1928; 1 was a chain operator known to stand well with Messrs. Hays and Pettijohn; and 1 was the junior Senator from California, the State in which the production department of the moving-picture trust is located.

The minority report emphasizes the circumstance that more witnesses appeared against the bill than for it. But the authors of the report ignore the important facts that the proponents were admonished to restrict their testimony in behalf of speedy action on the bill; and that the few witnesses who testified for it represented millions, while the witnesses against the bill represented either the moving-picture monopoly or themselves alone.

Senators who wish to make a qualitative evaluation of the testimony are urged to read the summation in behalf of the bill by Miss Katharine Van Etten Lyford, of the Massachusetts Civic League, which appears at pages 520–530 and 532–547 of the record. Her analysis was devastating in the superlative degree. It included the following:

In regard to Mr. Pettijohn's ladies—those who were passing through Washington and stayed a week in order to testify, those who had to testify before their trains left and were still with us next day—those who came to take pictures of the cherry blossoms, and those whom I could not help hear thanking Mr. Milliken effusively for his generous hospitality as they had enjoyed the trip so much: they are best described, I think in all kindness, as "deluded women" as in the title of an article appearing in the Christian Century, a copy of which I offer here. (Hearings, p. 553.)

In my opinion, excepting the junior Senator from California [Mr. DOWNEY], every witness who appeared against the bill came to the hearing at the expense or under the auspices of the Hays office or the Big Eight producers and distributors. In my opinion, every letter or telegram sent to Washington in opposition to the bill has been, directly or indirectly, instigated by the representatives of the moving-picture trust. To the extent that such communications state any grounds of opposition, they merely repeat or reflect the propaganda concerning the bill with which the Hays organization and the Big Eight have flooded the entire country.

COMPULSORY BLOCK BOOKING IS A RECOGNIZED EVIL WITH BUT FEW DEFENDERS

The severest critics of compulsory block booking are found among publications and persons associated with the industry. The practice has no champions and few defenders.

Carl Laemmle, the grand old man of the movies, a pioneer producer and distributor and until recently the chairman of the board of Universal Pictures Corporation, of which he was the founder, speaking from years of experience, says:

Abolition of the block-booking system will be a good thing for the industry. Of course, the picture producer won't like it because it means that he will be obliged to make only good pictures. The exhibitor will not be obliged to buy the bad ones, therefore the producer who hopes to ring in a few cheaters will not have a market for them and he will be left with the "duds" on his hands.

However, in the course of time, the producer will not worry if block booking is ruled out. He will not be obliged to make trash to compete with trash, but can concentrate on high-grade productions, make better pictures, and make more money.

Sam Goldwyn, maker of fine pictures, recently filed a suit against United Artists to terminate his contract with that company for the distribution of his productions because it had departed from the principle of disposing of his pictures on their merits.

Max Steuer, Goldwyn's attorney, issued this statement:

Abuse had existed in the distribution of pictures. These abuses United Artists pledged itself not to practice and if possible to completely eradicate them from the industry. It is deemed that by this action taken by the Goldwyn Corporation that result may be achieved for the industry, but particularly for United Artists.

As shown by the context, the abuse of which Mr. Goldwyn particularly complained was that of block booking.

Variety, a leading screen and stage publication, in an article entitled "Block Booking Not Showmanship" on December 14, 1938, said:

Every sales executive in the business knows too well that under block booking the weak are carried along with the strong, and if pictures of the major companies were forced to stand on their own quality as attractions and entertainment there would be an explosion in Hollywood which would eliminate the drones and properly focus approval on the real creators. * * *

* * * * * * *

Block booking is the Moloch which consumes good, bad, and indifferent product in its insatiable machinery. The wonder is not the scarcity of outstanding, smashing film hits, but that under the present system of industry operation there are any hits at all.

The Motion Picture Herald for December 17, 1938, carried an editorial by its publisher, Martin Quigley—a motion-picture authority—which contained the following:

The industry's greatest asset is the reputation of the motion picture. It should be cherished and preserved. This most decidedly is not done when pictures which are known to be below acceptable standards are forced upon the screens of thousands of theaters, not by any demand that exists for them—on the part of either the public or the exhibitor—but rather by a system which automatically insures their distribution.

Phil Goldstone, an independent producer of motion pictures and president of the Independent Motion Picture Producers' Association, telegraphed:

Block booking has gradually killed off and almost eliminated independent production. If independent producers had a fair opportunity to market their product it would cause a complete revival of their industry and the employment of additional hundreds.

I. E. Chadwick, a distinguished producer, who expects the enactment of the bill to enable him to resume activity, says:

Abolition of block booking will emancipate the independent producer, distributor, and exhibitor, encourage competition and new capital, and reemploy hundreds now inactive and unemployed.

E. B. Derr, an independent producer, says:

I believe the elimination of block booking is a good thing for the industry in general, and it should surely improve the quality of independent production, as it should open the screens not now available to us for our product.

Several of the witnesses against the bill expressed or intimated their opposition to compulsory block booking and blind selling, but insisted that the bill does not provide the proper means of eliminating these evils. For example, Russell Potter, who read a paper for the National Board of Review, which appraises motion pictures for a price, engaged in the following colloquy:

Senator NEELY. Your board is in favor of block booking and blind selling?

Dr. POTTER. No; not necessarily. I have not said that. I did not intend to imply that.

Senator NEELY. Is it in favor of those two practices or against them?

Dr. POTTER. Senator, I cannot speak for the board on that; I don't know.

Senator NEELY. Are you personally in favor of block booking and blind selling, or opposed to them?

Dr. POTTER. Personally, I am opposed.

Mr. Ed Kuykendall, president of the Motion Picture Theatre Owners of America, who testified against the bill, nevertheless said:

We are all agreed, including myself, that the uniform and inflexible application of compulsory block booking and blind selling to our business is highly objectionable.

Strangely enough the exhibitors whom I represent, who oppose the Neely bill, are utterly opposed to compulsory block booking and blind selling. We are not at all unsympathetic with all ostensible purpose of this legislation.

THE BILL, IF ENACTED, WILL SPEEDILY CURE THE TWIN EVILS, BLOCK BOOKING AND BLIND SELLING

The bill is designed to accomplish its purpose of prohibiting compulsory block booking and blind selling without imposing any form of governmental regulation or censorship on the motion-picture industry. Rules of conduct are prescribed which may be enforced by the Federal district courts by means of civil or criminal proceedings. No new or expensive regulatory board or commission is to be created, and no appropriation is requested or desired.

The bill declares that compulsory block booking and blind selling are contrary to public policy, because they—

(a) Interfere with the free and informed selection of films on the part of exhibitors;

(b) Prevent the people of local communities from influencing such selection in the best interests of the public; and

(c) Tend to create a monopoly in the production, distribution, and exhibition of films.

Section 3 makes it unlawful for a distributor to require an exhibitor to lease all of a block of films in order to obtain the few that he desires, and forbids the fixing of prices in a manner that would operate to defeat the purpose of the bill.

Section 4 provides that it shall be unlawful for a distributor to lease or offer to lease any film over 2,000 feet in length—that is, any feature film—without furnishing the exhibitor, at or before the time of making such lease or offer to lease, a synopsis of the contents of the film.

The bill is limited in its application to films leased for public exhibition in the course of interstate commerce. It expressly excludes from its operation newsreels, short subjects, and cartoons such as are produced by the eminent Walt Disney. The enforcement provisions are identical with those of the Sherman antitrust law, which has been on the statute books for almost 50 years. The measure becomes effective 12 months after its enactment.

Under the proposed law the exhibitors will be supplied the information necessary to enable them to choose the pictures that will please and refuse those that will offend their patrons. There is no reason to doubt that exhibitors will be kept fully informed relative to what those most concerned desire to see and wish to be spared from seeing on the silver screen.

Mrs. Mary T. Bannerman, legislative chairman of the National Congress of Parents and Teachers, testified:

There is no question but that when community freedom in the selection of films is achieved, parent-teacher associations and thousands of civic groups supporting the Neely bill will engage enthusiastically in making their influence effectively felt with their local motion-picture exhibitors. The long-standing and deep-seated indignation regarding present practices is sufficient evidence that a consistently better product is desired. Passage of the Neely bill will permit the attainment of long-thwarted ideals.

Col. H. A. Cole, of Dallas, president of the Allied States Association, thus spoke to the point:

As an exhibitor who has been in the business for 20 years, and as a leader who has talked with scores of exhibitors and known the operation of a local theater, I wish to state * * * undesirable pictures would certainly not be run in the theater where the community at all expressed its feelings in reference to them if the exhibitor himself has the power to make the selection.

Opponents of the bill criticize it on the grounds that it establishes no standard for the guidance of exhibitors and communities in the selection of pictures, and that existing standards are high enough.

One of the merits of the bill lies in the fact that it does not atempt to fix standards or establish censorship. The bill aims at freedom, not regulation. The ideal of the supporters and the sponsor of the bill has been happily stated by the distinguished journalist, Mr. Walter Lippmann, as follows:

I would rest reform of the movies on this basic principle: That audiences shall have greater freedom to choose their pictures and that artists and producers shall have greater freedom to make pictures. Within the obvious limits of the ordinary law about obscenity and provocation to crime, the best regulation would be that exercised by the customers at the box office. The best way to improve the movies would be to open the door to intense competition by independent and experimenting producers.

If the customers had freedom of choice, each community would be able to enforce the moral standards it believes in. Each exhibitor would have to take the business risk of estimating correctly the tastes of his customers, and educators, dramatic critics, moral leaders in each community would be able to exert effectively whatever influence they can command.

The composite good taste of the public is certainly to be preferred to that of the motion-picture producers. The influence of the screen on education, morals, and customs is much too great to be left in the hands of a few men in Hollywood, however worthy they may be. Experience and the facts of the record prove that with rare exceptions the public, if given a fair opportunity to express its desires, chooses the best in motion-picture entertainment.

Dr. Fred Eastman, associate editor of the Christian Century and an enthusiastic supporter of the bill, points out that—

The fact that every one of the 10 best-paying pictures last year was on the approved list of practically every group which appraises pictures is convincing evidence that the public supports the better pictures. There are, of course, occasional exceptions to this, but they are only occasional.

Admission by the proponents that moral standards of the movies have increased since 1934 has been tortured into a concession that present standards are satisfactory, and that the bill presents no moral issue. The facts are that public indignation at the salacious films released by the Big Eight reached a climax in 1934, when, under the auspices of the Catholic Church, the Legion of Decency was formed. The legion is said to have obtained pledges from communicants of the church not to patronize motion pictures unless the legion had approved them. The effect of this action on Hollywood was instantaneous and salutary, and conditions improved overnight. The Hays morality code, which had been promulgated many years before and had been consistently ignored, finally was put into effect, and an industry agency known as the Breen board was created to enforce it.

The contention that this necessary step, taken under compulsion, is all that is required, overlooks the facts that present standards, while greatly improved over those which caused the revolt of 1934, are still imperfect; that many pictures are still being released which, although not strictly immoral, are highly objectionable; and that the public is entitled to choose between good pictures and bad, although no question of morality be involved.

Hollywood has not yet reached, and probably never will reach, a standard to which all can subscribe. Charles B. Foelsch, in an article in the Lutheran Quarterly for October 1938 entitled "Toward Better Motion Pictures," speaks of the revolt of 1934, and adds:

Definite as the improvement has been, there are still too many films produced that prostitute the motion picture's potentially wholesome possibilities. Evaluation of films by recognized agencies, published week by week by numerous periodicals, include too many "weighed in the balance and found wanting" comments—"poor," "unsuitable," "certainly not," "cheap," "vulgar," "unwholesome," "mediocre," "doubtful value."

The Boston Post for April 26, 1938, under a New York date line, says:

Sam Goldwyn thinks the Hollywood motion-picture industry smells to high heaven. He said so, very vehemently, when he returned on the *Queen Mary* today * * *.

"It used to be," said Goldwyn, "that you could go to a movie theater and only expect that one picture would be bad. Now you got to expect both of them will be terrible."

Frank Nugent, dramatic critic for the New York Times, in an article in that paper dated March 5, 1939, declared:

These are the ides of March, but anyone who has weathered the preceding 2 months in the movies has nothing to fear.

After mentioning a "happy handful" of five good pictures and an equal number of fair ones released since the 1st of January, he continues:

And beyond these the record grows increasingly grim, smudged with such opera as "King of the Underworld," "Disbarred," "Homi-

cide Bureau," "Federal Man-Hunt," "St. Louis Blues," "Beauty for the Asking," etc. * * *

Hollywood still seems to be pursuing its old production policy: Turning out four class B pictures for every class A.

Harrison's Reports, a motion-picture trade paper, of May 13, 1939, says:

Let us glance at the crime pictures that have been reviewed in Harrison's Reports since the first week in January: In the 19 weeks since the first week in January, 142 pictures have been reviewed. Of these 82 * * * have been founded on some kind of crime theme—either murder or stealing. Of course, not all of them are demoralizing—perhaps one-third of this number is harmless; but when one takes into consideration the extraordinary high percentage of vicious crime pictures, one wonders whether the Hollywood producers realize what the outcome may be.

The New York Times for the 25th of June brought the subject to date by the following, which was written in Hollywood by Mr. Harold Heffernan:

Those in a position to know declare the movies have lost 10 percent of their audiences because producers have stubbornly persisted in making gangster pictures. They estimate, too, that another 10 percent, possibly more, has been lost because of the many remade stories parading under different titles.

In the light of this symposium, it becomes as clear as the noonday that by enacting the bill the Congress would help to rescue the moving-picture industry from the indignation of a disgusted people, and save Hollywood from its perishing self.

THE CONTENTIONS OF THE OPPOSITION

The contention that compulsory block booking is not practiced: The opponents of the bill admit blind selling, and attempt to justify it. But the industry's representatives contend that compulsory block booking is not practiced, and that the number of films leased by an exhibitor is simply the result of negotiations between him and the distributor. This contention is conclusively disproved by the evidence in the record.

Additional proof on the point is contained in a memorandum by Assistant Attorney General Harold M. Stephens, now a justice of the Court of Appeals of the District of Columbia, which, on the 2d of March 1936 was transmitted to the House Committee on Interstate and Foreign Commerce, and appears at page 83 of the record of the House hearing on an anti-block-booking bill.

In the memorandum, Judge Stephens contributes this pertinent comment:

During the course of extensive investigations growing out of complaints by exhibitors that the Federal antitrust laws had been violated, it has been found that the practices of block booking, blind selling, and blind booking are widely used by the motion-picture producing and distributing companies, and place the exhibitors, especially the independent exhibitors, at a disadvantage in dealing with the producer-distributors. * * *

After showing that under the decision in the case of *Federal Trade Commission* v. *Paramount Famous Lasky Corporation* (57 Fed. (2d) 153), it would be necessary for the Government to prove that these practices were utilized as a result of a conspiracy among the several distributors in order to maintain an action against them under the Sherman law, Judge Stephens added:

Nevertheless, the practices of block booking, blind selling, and blind booking appear to have curbed independence of action by the independent exhibitors. * * *

* * * * * * *

Because of the close relationship of the motion-picture industry as a whole with the practices mentioned in the foregoing paragraphs and their direct effect upon the distribution and exhibition of motion-picture films, it is believed that legislation affecting block booking, blind selling, or blind booking should be sustained by the courts.

According to the affidavit attached to the bill filed by the Department of Justice against the Big Eight last year, the complaint was based on—

statements and correspondence of the defendants and their officers and agents and others, the statements and official reports of Government investigators, and other records, reports, and information relating to the motion-picture industry in the possession of the Department of Justice.

In view of this evidence and the trust's persistent, frantic opposition to the abolition of the practice of block booking, it seems impossible for anyone in good faith to doubt the existence of this evil, or the necessity for a law to end it.

Mr. Pettijohn, in support of the contention that the independent exhibitors are not subject to block booking, produced some figures purporting to show the number of engagements or runs which certain pictures of the Big Eight companies had in the theaters.

The proponent of these figures fails to state whether they relate to independent theaters or those which are operated by the trust. Consequently, they are utterly worthless so far as the present issue is concerned, because, as shown by the Government's bill of complaint in the suit previously mentioned, the trust theaters are not subject to compulsory block booking. The discrepancies noted are perhaps almost entirely due to the privileges of acceptance and rejection enjoyed by the producer theaters under their selective contracts. I will now discuss the contention that exhibitors in selecting films will be controlled by commercial considerations and that standards will not be raised. The opponents contend that the facts show that exhibitors rarely cancel box-office successes, no matter how objectionable they may be and cancel the box-office "duds" regardless of their virtues. From this contention the opposition deduces the conclusion that if the bill were enacted, exhibitors, in exercising their right of cancelation, would be controlled exclusively by commercial considerations and that existing standards would not be raised.

The conclusion is fallacious because it appears that the alleged "facts" concerning cancelations relate to "rejections" and "failures to play," and consequently they are subject to the same infirmity that vitiates the figures considered under the preceding caption.

In other words, the opposition merely named pictures which had received many or few play dates; and since it was not shown whether the theaters involved were independents or trust-controlled, the illustration was of no evidential value.

It must be borne in mind that when these selections and rejections were made by the producer-owner or controlled theaters, the organizations and groups which are supporting the bill, and which, after its enactment, will exercise a wholesome influence over the exhibitors, were not functioning.

The contention that section 3 of the bill is unworkable and will lead to Government price fixing: The minority report contains a hypertechnical criticism of section 3, the substance of which appeared in a brief circulated by the Hays association while a similar bill was before the Senate last year. The burden of this criticism is to the effect that the section is unworkable, will subject distributors to severe penalties without prescribing standards of conduct, and will result in governmental price fixing.

In stressing the penalty clause the minority overlooked section 5 (2) of the bill, which provides for proceedings in equity. In proper or doubtful cases the Attorney General would certainly resort to civil rather than criminal proceedings to enforce the law.

Sufficient justification for the enforcement provisions of the bill is found in the fact that they are verbatim with those of the Sherman Act.

It is argued that under section 3 the distributor cannot know whether a price differential which he quotes will "operate as an unreasonable restraint upon the freedom of an exhibitor to select and lease * * * such films * * * as he may desire."

This argument is equivalent to a complaint by the producers and distributors against a rule which the law requires all other types of business to obey. The moving-picture industry is not affected by the Robinson-Patman Act because the law applies only to sales in interstate commerce and motion-picture films are distributed by lease instead of by sale. But the industries that are subject to the act must, at their peril, continually make determinations that are as difficult as any that are required by the pending bill. For example, they must fix their discounts so as to avoid discrimination between customers and limit such discounts to the economies actually realized through volume sales.

All industries subject to section 3 of the Clayton Act, in establishing price differentials, are obliged to solve a problem identical with that which will confront the motion-picture distributors when the bill becomes a law. For section 3 of this bill, like section 3 of the Clayton Act, deals with the compulsion exerted upon a buyer's discretion by subjecting him to a penalty for making a certain choice, or granting him a bonus for making another.

The bill is not only similar to the Clayton Act in language, but the objectives of both measures are practically the same. By the Clayton Act, business in general is prohibited from making contracts with its customers to the effect that they will not use the goods, wares, and merchandise of competitors of the sellers or lessees. But the "big eight," by means of compulsory block booking, evade the act and achieve what it forbids by forcing so many of their pictures on the exhibitors that they cannot find playing time for the products of competing distributors. Should not the immunity to the penalties of the law which the motion-picture industry has so long enjoyed be discontinued without delay?

The enemies of the bill attempt to make much of the fact that section 3 embodies the substance of an order issued by the Federal Trade Commission in a proceeding against Paramount Famous Lasky Corporation about 12 years ago. The fact that this order was not sustained by the circuit court to which the Commission applied for an enforcement order is proof of the inadequacy of existing statutes to remedy the evils which will be prohibited by the bill when it becomes a law.

The necessity for additional law is made manifest by the following excerpts from Judge Stephens' memorandum previously mentioned:

It has been held by the Circuit Court of Appeals for the Second Circuit that where one distributor refused to lease films other than in groups or blocks, there was no violation of the Federal Trade Commission Act, since the distributor of motion-picture films may select its own customers and sell such quantities at given prices or refuse to sell to any particular person for personal reasons without being subject to charges of unfair competition (*Federal Trade Commission* v. *Paramount Famous Lasky Corporation*, et al., 57 Fed. (2d) 152). In view of this decision, in order to successfully attack such practices under the antitrust laws, it would be incumbent upon the plaintiff to demonstrate concerted action among two or more of the producer-distributors, and because of the type of practices involved, it is difficult to obtain legally sufficient evidence of a combination among the motion-picture companies to impose such terms on exhibitors. Nevertheless, the practices of block booking, blind selling, and blind booking appear to have curbed independence of action by exhibitors.

The complaint that the words "designated lump-sum price" will not cover a block that includes a number of pictures supplied at a rental which is a specified percentage of future box-office receipts is a captious objection that pertains to the form and not to the substance of the bill. "Twenty-five percent" or "thirty-five percent of the gross receipts" states an understandable price in the language of the motion-picture industry. An increase in percentage is an increase in price; a reduction of percentage is a reduction of price.

But as a gratuitous appeasement to the opposition, an effort will be made, at the proper time, to eliminate the ground of this objection by proposing the following amendments.

On page 4, at the end of section 2 insert this paragraph:

(7) The terms "aggregate price" and "price" as used in section 3 (1) shall mean the aggregate of all flat rentals, and of all rentals based upon a percentage of prospective receipts together with any other consideration named in the lease or offer to lease.

On pages 4 and 5, strike out all of section 3 (1) and insert in lieu thereof:

SEC. 3. (1) It shall be unlawful for any distributor of motion-picture films in commerce to lease or offer to lease for public exhibition films in a block or group of two or more films and to require the exhibitor to lease all such films or permit him to lease none; or to lease or offer to lease for public exhibition films in a block or group of two or more at an aggregate price for the entire block or group and at separate and several prices for separate and several films, or for a number or numbers thereof less than the total number, which aggregate price and separate and several prices shall bear to each other such relation (a) as to operate as an unreasonable restraint upon the freedom of an exhibitor to select and lease for use and exhibition only such film or films of such block or group as he may desire and prefer to procure for exhibition, or (b) as tends to require an exhibitor to lease such entire block or group or forego the lease of any number or numbers thereof, or (c) that the effect of the lease or offer to lease of such films may be substantially to lessen competition or tend to create a monopoly in the production, distribution, and exhibition of films; or to lease or offer to lease for public exhibition films in any other manner or by any other means the effect of which would be to defeat the purpose of this act.

The contention that section 4 of the bill is unworkable and will prevent the production of fine pictures; will force the selling of completed pictures one at a time after preview; and will increase the price of pictures and reduce employment. This is a most duplicitous complaint. If the producers, as predicted, abandon fine productions under the bill, it will obviously be unnecessary to await the completion of pictures that will never be made, and in their naked nonexistence "sell them one at a time." If the producers adopt the threatened revolutionary selling methods and abandon voluntary block booking—thus increasing the work of distribution—employment would consequently and inevitably be increased, not diminished.

All objections to section 4—the synopsis provision—including those in the minority report are based on the wording of the bill in its present form. The labored attempt of the minority to prove that this section would be unworkable stresses language which the sponsor of the bill is willing to modify, because the particular phraseology used is not indispensable to the attainment of the principal purposes of the legislation. Therefore, at the proper time, the following substitute for section 4 will be proposed:

SEC. 4. It shall be unlawful for any distributor of motion-picture films in commerce to lease or offer to lease for public exhibition any motion-picture film or films over 2,000 feet in length unless such distributor shall furnish the exhibitor at or before the time of making such lease or offer to lease an accurate synopsis of the contents of such film. Such synopsis shall be made a part of the lease and shall include (a) a general outline of the story and descriptions of the principal characters, and (b) a statement describing the manner of treatment of dialogs concerning and scenes depicting vice, crime, or suggestive of sexual passion. It is the purpose of this section to make available to the exhibitor sufficient information concerning the type and contents of the film and the manner of treatment of questionable subject matter to enable him to determine whether he wishes to select the film for exhibition and later to determine whether the film is fairly described by the synopsis.

Those opposed to the bill attempt to fortify their stock arguments against it by reference to two pictures. They enlarge upon the difficulties experienced in finding an actor to play the part of Micawber in David Copperfield. During the production of the film, W. C. Fields was substituted for Charles Laughton. Of course, there is nothing in the bill to prevent the substitution of one actor for another.

Alexander Graham Bell is the other picture used to illustrate the alleged disasters that would result from the abolition of blind selling.

Colonel Joy, formerly of the Hays organization, but now with Twentieth Century-Fox, described the development of the scenario in detail. But nothing in his long narrative indicates that the producer could not have supplied in advance a general outline of the story portrayed by the film. It would have been neither more nor less than a brief account of the life of Bell, his early struggles, the romance of his courtship and marriage, his invention of the telephone, and his efforts to protect his right to his great achievement.

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

Mr. NEELY. I gladly yield to the Senator from New Hampshire.

Mr. BRIDGES. What does the Senator from West Virginia, the sponsor of this bill, say as to the argument which is pretty generally put forth that the passage of the bill will make rarer in the future such great productions as Cavalcade, Abraham Lincoln, and other outstanding pictures?

Mr. NEELY. Mr. President, in my opinion, the enactment of the bill will not decrease but tend to increase the number of outstanding productions. Unfortunately for me, the Senator from New Hampshire, who is always interested

in important legislation, was not in the Chamber when I read informative excerpts from a number of moving-picture authorities and publications. These excerpts indicate that moving pictures would be improved as a result of the enactment of the bill.

Mr. BRIDGES. Just how do they arrive at that conclusion? It is my understanding—and I am merely trying to get an intelligent comprehension of the effect of the bill—that if the producers could not sell their pictures, we will say, in block or by future contract, then, there would be no guaranty that if they produced certain pictures at tremendous expense, the pictures would be sold, therefore, there would be less likelihood of the producers taking the chance involved in the production of high-class pictures.

Mr. NEELY. If the bill is passed, producers will find it necessary to sell their pictures on their merits. They should, and doubtless will, assume the risk to which the proprietors of all other industries are subject, namely, the loss of patrons and profits for failure to supply satisfactory commodities.

Mr. BRIDGES. If the Senator will yield further, I do not desire to interrupt his trend of thought, but there are one or two questions that I want to ask.

I have had various communications, for example, regarding such a picture as Jesse James, complaining on the ground that in the picture horses were supposedly driven off a cliff, and that the horses were killed in the jump. Would the Senator's bill correct that situation, for example?

Mr. NEELY. The Senator means, would it prevent cruelty to animals?

Mr. BRIDGES. Yes.

Mr. NEELY. Frankly, it would not. The bill establishes no censorship. If it did, neither the able Senator from New Hampshire nor I would support it. The bill is not designed to regulate the industry. Its sole purpose is to prohibit the specific monopolistic practices of block booking and blind selling.

Mr. BRIDGES. There is one other problem about which I should like to inquire of the Senator, and that is whether, in his judgment, his bill would bring about an increase in admission prices. I have had several complaints, in the form of letters and telegrams, and so forth, stating that if the bill were enacted, the admission prices to be charged the public in the future, particularly in some places and some classes of theaters, would have to be materially raised. I wish to know if that is true, and, if it is true, whether it will not put a serious burden on the one modest form of entertainment that a large group of people in this country have—in fact, a large part of our population.

Mr. NEELY. Mr. President, in my opinion, the enactment of the bill will not increase the price of admission to motion-picture theaters.

Mr. BRIDGES. Does the Senator believe that if the bill were enacted, it would not only have a tendency to improve, but it actually would improve the morality of pictures; or does he believe that when it allowed the average exhibitor in some cities, we will say, to cater to a group of persons in his community—who perhaps may be small in most communities—who like to see rather risqué pictures, it would give certain exhibitors a little more leeway in that respect? I mean, will it or will it not work both ways?

Mr. NEELY. Mr. President, in my opinion a result of the enactment of the bill will be greatly improved moving pictures.

Mr. BRIDGES. The Senator has not answered my question. I do not know whether he cares to do so or not.

In the Senator's judgment, will the passage of the bill do what a great many worthy people in this country believe it will do, namely, will it have a tendency to improve the moral standing, we will say, of pictures?

Mr. NEELY. Yes. If I did not think so I should not be pleading for its passage.

Mr. BRIDGES. Just how will it do that?

Mr. NEELY. Mr. President, I explained that matter to the Senator a year ago. I am sorry that he has forgotten the explanation. It will accomplish the desired purpose by emancipating the independent exhibitors from the slavery of block booking and blind selling. Thereafter, the exhibitors will lease and show only the pictures which their patrons desire. As people of good taste are in the majority everywhere, they will demand and their exhibitors will supply pictures designed to elevate moral standards instead of degrading them.

Mr. BRIDGES. May I ask the Senator another question? Let us take a typical example, not in my home town or home State or in the home town or home State of the Senator from West Virginia. Let us take another city somewhere, in the case of which we have not a knowledge of the status of the people as familiarly in our minds as in our own communities or in our own State. If an exhibitor felt that by exhibiting a Mae West picture he could draw a big gate, even though the picture perhaps might not be the type of picture that some persons in the community would like to have their children see, would not that be the tendency of the exhibitors, rather than to show, perhaps, a picture with not such a well-known name?

Mr. BRIDGES. I gather from what the Senator says that exhibitor's desire. But the law of self-preservation would assert itself, and under its influence the exhibitor would cater to the desire of the better element in his community and show pictures that would harmonize with the Christianity and culture of the locality his theater served.

Mr. BRIDGES. I do not mean to imply by these remarks that a Mae West picture is necessarily a bad picture in any sense of the word. I am referring to a Mae West picture as purely an example. I judge entirely from some that I have seen, as perhaps not being in the same class with other pictures I have seen having as the main characters some other actors or actresses.

Mr. NEELY. Mr. President, resuming at the point at which I was interrupted.

Only one alteration in the development of the Story of Alexander Graham Bell, as related by Colonel Joy, might have been at variance with the synopsis that would be required by the bill if it should be amended in accordance with the proposals previously described; and that variance would have arisen from the fact that a new character was added to the cast.

If the bill had been a law, doubtless all concerned could have been reconciled to this slight change in the cast of characters by means of ordinary negotiations, without serious difficulty, and without any of the Moving Picture Trust's million-dollar-a-year officials having been fined or sent to jail.

The attention of the Senate is now invited to the extraordinary efforts of the Big Eight and the Hays organization to defeat the bill by means that will perhaps be more effective than the argumentation of the opposition which has just been considered. These efforts on an extensive scale began in the year 1935, when a predecessor of Senate bill 280, known as the Pettengill bill, was before the House of Representatives. At that time an officer or an employee of Metro-Goldwyn-Mayer circulated among independent exhibitors a form letter, which contained the following:

> Do you want churches, schools, and civic organizations, who do not pay taxes, put on a competitive basis with you?
>
> Do you want the Government to run the motion-picture business?
>
> Do you want the machinery of motion-picture supply set up on a day-to-day basis so that your requirements cannot be assured further ahead than the photoplays which are currently in the process of production?

Of course, the bill never expressed nor implied an intention to accomplish or attempt to accomplish any of these purposes.

The letter in question also said:

> If you are acquainted with your Congressman, approach him personally. If not, write to him, as well as to the chairman and members of the committee listed on an attached sheet. And get your banker, your chamber of commerce, your Kiwanis or Rotary Club, and others with whom you have social or business contact to do likewise.

Mr. BRIDGES. Mr. President, if the Senator will yield for a moment in order that I may put the record straight, I

may say that I have received many communications from both sides. Many of the very fine people of New Hampshire are in favor of the Senator's bill, and many of the fine people of New Hampshire are opposed to it, but I have heard from both sides, and probably with equal force.

Mr. NEELY. Mr. President, I am glad that the Senator from New Hampshire has heard from the people, and I sincerely hope that for once he will vote with them instead of with the Moving Picture Trust. Let me warn the Senator, who is mentioned as a probable nominee for President on the Republican ticket, that neither he nor any other member of his party should in existing circumstances be deluded into believing that the Big Eight or the Hays organization will finance any Republican candidates in 1940. In my opinion the cards have been stacked hopelessly against the Grand Old Party in this matter. It is superfluous for me to add that I have not helped to do the stacking. [Laughter.]

Mr. BRIDGES. I gather from what the Senator says that most of the so-called Motion Picture Trust in California is not only Democratic, New Deal, but Roosevelt.

Mr. NEELY. Oh, no, Mr. President; the motion-picture magnates are neither Democratic nor Republican. They have no politics. They make alliances, if possible, with whatever party is in power, and contribute most to the primary campaign funds of those who are believed to be able to help them most. But, to the best of my information, a majority of the weathiest motion-picture producers profess to be Republicans.

Mr. BRIDGES. When I used the name "Roosevelt" I did not have reference to President Roosevelt, but I did have reference to James Roosevelt, his eldest son, who is now the $50,000 or $100,000 executive of one of the picture companies.

Mr. NEELY. Of course, the Senator from New Hampshire will not expect me to be diverted to that matter, because I know nothing about it excepting that I am very fond of the estimable gentleman whom the Senator has named. Let me suggest to my friend from New Hampshire that he comment on the employment by the moving-picture trust of two prominent former members of Republican Presidents' Cabinets, or that he inquire of the Senator from Maine [Mr. WHITE], who intends to speak against the bill, about the employment of former Governor Milliken, who is now with Mr. Hays' organization and apparently rendering it yeoman service in the matter of opposing the pending bill.

Mr. President, in the record, at pages 584 to 588, appear pertinent and more recent letters than those previously mentioned. They are addressed to independent exhibitors by Mr. S. R. Kent, president of Twentieth Century-Fox; Mr. Ned Depinet, vice president of R. K. O.; and former Gov. Carl E. Milliken, of the Motion Picture Producers and Distributors of America. These communications all stress the contention that there is no justification for the bill and threaten that, if it becomes a law, the exhibitors will be compelled to buy their pictures "one by one" after they have been screened at a branch office in a film center. They all contain importunities to the recipients to write to their Senators to oppose the bill and to send copies of their letters to the executives who request this barrage of opposition correspondence.

As support for the bill increases throughout the country by leaps and bounds, the opposition grows more desperate. In my possession are letters from independent exhibitors in New Hampshire to the effect that they have recently received calls from the managers of the M. & P. circuit, a Paramount subsidiary, urging them to oppose the bill on the ground that it will necessitate coming to Boston to buy pictures one at a time and would increase film rental and booking charges by 25 percent.

Mr. President, I send to the desk two exhibits, marked "A" and "B," relating to this, and ask unanimous consent that they be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. BULOW in the chair). Is there objection? The Chair hears none, and it is so ordered.

(See exhibits A and B.)

Mr. NEELY. Mr. President, these threats of the trust's officials are idle, because to sell pictures one at a time would unnecessarily dislocate the business and call for vast increases of capital, which it is doubtful whether even the Big Eight could supply. Furthermore, the amendments to be offered will entirely eliminate the element of risk, if any there be, in connection with the synopsis.

The suggestion with which the much-photographed actor, Mr. Robert Montgomery, enriched the hearing to the effect that the enactment of the bill will reduce employment is truly the high light of the comedy of errors in which the trust has reveled ever since it began to oppose the abolition of its blighting monopolistic practices of block booking and blind selling. This contention has not only been completely answered by Messrs. Chadwick, Goldstone, and Derr, the independent producers, who are looking to this bill to clear the channels of interstate commerce so that they can find an open market for their productions, increase their output, and give employment to hundreds who are now idle, but the argument on its face is in conflict with common sense. To improve moving pictures, as the bill will do, will be to increase the demand for them. To satisfy the increased demand will require additional employees and result in increased employment.

The contention that the bill is unnecessary because of the trade-practice proposals submitted by the Big Eight. A short time before the beginning of the last hearings, the major distributors brought forth a voluntary trade practice code which has been suggested as a substitute for the bill. The proposals contained in the code are, in the opinion of the proponents, wholly inadequate to protect the interests of the exhibitors or the public.

The negotiating committee of Allied States Association of Motion Picture Exhibitors has, in a report recently made, recommended the rejection of these proposals. This report was approved by the board of directors of the association and by more than 300 exhibitors from all parts of the United States who attended the annual convention of the association in Minneapolis 3 weeks ago. The grounds on which the rejection was ordered are stated as follows:

(1) They do not provide an effective remedy for the major abuses of which Allied States Association has complained and for the correction of which it has waged a long, aggressive, and increasingly successful campaign.

(2) The proposals, as drafted and submitted by the distributors, do not fully and accurately reflect the substance of the negotiations and representations made by the distributors in the course thereof;

(3) Reports coming from many sections of the country show convincingly, if not, indeed, conclusively, that the distributors already are taking steps to circumvent and nullify the moderate concessions offered; and

(4) Acceptance of the proposals, particularly in view of the preamble thereto, would handicap the exhibitors in seeking further relief from oppressive and monopolistic trade practices, would hinder the Government in the prosecution of pending actions under the antitrust laws, and would supply the distributors with additional ammunition with which to combat the Neely bill and other remedial legislation.

* * * * * * *

Based on the statement made by a principal executive of one of the major distributors at the open forum yesterday, your committee must conclude that the purpose of the distributors is to exact increased rentals which will compensate for any possible loss under the proposals. That being so, the effect of the code on the exhibitors will be to compel them to pay more money than last year for fewer pictures; or, stated differently, to require the exhibitors to pay in full for all pictures canceled under the privilege granted.

Thus if the policy declared by one of the principal executives of the Big Eight is carried out, the effect of the proposals will be to deprive the independent exhibitors of the meager cancelation privileges which they now enjoy, and require them to pay in full for all pictures canceled. This report tends to show bad faith on the part of the Big Eight in making the proposals; it shows how such proposals are being used to defeat the bill and hinder the Department of Justice in the prosecution of pending suits against the Motion Picture Trust. I ask unanimous consent that the report be printed in the record at the conclusion of my remarks.

During the hearing, a letter from Dr. Ray Lyman Wilbur, president of the Motion Picture Research Council and ardent supporter of the bill, was read into the record by the chairman of the subcommittee. In it, Dr. Wilbur said, in effect, that if the problems to which the bill relates could be satisfactorily adjusted within the industry, such adjustment would be preferable to legislation. Since the close of the hearing, Dr. Wilbur has sent me the following telegram:

PALO ALTO, CALIF., *July 6, 1939.*

Senator M. M. NEELY,
Senate Office Building, Washington, D. C.:

During the recent hearings on the Neely bill (S. 280) before the subcommittee of the United States Senate Interstate Commerce Committee, the Motion Picture Research Council made every effort to test out the sincerity of the producer-distributors' proposals to reform voluntarily the distribution system of the industry.

By the end of the hearings we were convinced that at this time the industry had no intention of making an effective reformation.

Due to this effort on the part of the council, erroneous information appears to have been circulated that we were changing our position. On behalf of the board of directors I wish to inform you that we have not changed our stand and that we will continue to support Neely (S. 280) to eliminate compulsory block booking and blind selling of motion pictures.

RAY LYMAN WILBUR,
President, Motion Picture Research Council.

Dr. Wilbur is one Republican former Cabinet officer whom the Motion Picture Trust has not been able to employ. He is still fighting for the people, not against them.

The contention is that there is no existing monopoly of the motion-picture business and that existing laws are adequate in case there is. In an apparent attempt to refute the charge that the motion-picture industry is monopolized by the Big Eight the minority members of the subcommittee, in their report, say:

It may be significant to note that since this legislation was first introduced 10 or 12 years ago, and under the monopolistic and burdensome trade practice complained of, four new companies have established national wholesale-distribution systems for motion-picture films. These are known as Republic Pictures, Corporation, Monogram Pictures, Grand National Pictures, and Gaumont-British Pictures.

Mr. P. A. Powers, an independent motion-picture producer, who introduced Mickey Mouse, has voluntarily sent me a letter in which he supplies, in words or substance, the following information concerning the companies named:

Republic: Originally called Monogram Pictures Corporation, in considerable financial difficulty, was taken over by creditors, especially film-laboratory interests. It is reported that Republic's loss in operation last year was very serious. It has shown a continuous loss since its inception and it is only by securing new finance that it is able to keep going.

Monogram: Former owners started anew after they had turned their business over to Republic and secured some finance from Wall Street. The new Monogram has not been operating long enough for one to judge of the possible success of the venture.

Grand National: Started from "scratch" with a bank roll of approximately $2,000,000. This concern was obliged to go into receivership after a very short period. My information is that it is still in the hands of receivers.

Gaumont-British: Have been endeavoring to market Gaumont-British pictures in the United States, without any negative cost to this concern, as negatives are shipped from England. They have been unable to continue operation. That is, they have been unable to secure enough money from the sale of their pictures to pay for the print cost and selling expense. Consequently, they have also had to discontinue business.

This data from Mr. Powers indicates the remote possibility of establishing independent moving-picture production in existing circumstances.

During the last 27 years the Government has prosecuted no fewer than 20 separate proceedings against film producers and distributors in an effort to prevent the monopolization of the motion-picture business. As soon as an improper practice has been outlawed another has been adopted to take its place. Three suits by the Government against the industry are now pending. If they are successful they will accomplish much for the public and the independents in the motion-picture business. Still they will not cure the evils at which this bill is aimed.

Blind selling is not involved in any of these proceedings, nor could it be, because it is not, in itself, a restraint on commerce within the meaning of existing antitrust laws. And the abolition of block booking without the elimination of its twin evil—blind selling—would accomplish but little of the reformation which the public demands of the Motion Picture Trust. For of what avail would a right of selection be if no information were at hand upon which intelligently to exercise it? These indefensible evils require a remedy which legislation alone can provide.

The contention that action on the bill should be delayed because of pending negotiations with the Secretary of Commerce: The latest reason advanced by the opposition for delaying the passage of the bill is that the Secretary of Commerce, Hon. Harry Hopkins, recently held conferences and plans to hold others with prominent moving-picture executives and Mr. Will Hays relative to the problems of the industry, and that pending the outcome of these conferences, no legislation on the subject of block booking or blind selling should be enacted. This contention is sufficiently answered by a letter which Mr. Hopkins wrote me on the 20th day of June, a part of which is as follows:

I am greatly concerned over the rumors, speculations, and inaccurate reports appearing in the trade press as a result of conferences between officials of the Department of Commerce and individuals associated with the motion-picture industry. I am even more concerned to learn that some groups of exhibitors and organizations interested in the problems of the industry are convinced that these conferences may interfere with the consideration of the Neely bill by Congress. I, therefore, wish to make the position of the Department of Commerce so clear that there can be absolutely no misunderstanding regarding our objectives and motives.

Mr. Hopkins, after indicating that the conferences had no unusual significance and that they were held in pursuance of the recently announced policy of the Department of Commerce to cooperate with industry in the solution of its problems, says:

We have only just started our study of the motion-picture industry. We plan to confer not only with the producers but with the exhibitors and other interested groups. It will be some time before we can complete the examination of essential facts and reach sound conclusions. Congress, after the long months of consideration it has given to the subject, should not be influenced in its legislative program by the fact that we have so recently undertaken to give special attention to the problems of the motion-picture industry.

THE BILL WILL NOT INFLICT A FINANCIAL LOSS ON THE INDUSTRY

Some Senator asked whether the bill would have that effect. That the bill will not unduly interfere with the processes of production and distribution of films has been demonstrated.

The proponents confidently contend that its passage will not subject the industry to financial loss. Nothing in it can reduce the amount of playing time in the theaters. But under its operation the independent theaters will allot more of this playing time to good pictures and less of it to the bad ones that tend to incite immorality and crime. The result of this substitution of superior for inferior attractions will mean increased not diminished box-office income.

The published salary lists of the motion-picture officials show that the industry has so much money that it can virtually give it away in staggering amounts. To compel such an industry to abandon two of its oppressive monopolistic practices will cause no financial injury or distress.

Mr. President, I ask unanimous consent that the list of the higher-paid executives and stars, which I send to the desk, be printed in the RECORD at the conclusion of my remarks as exhibit C.

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

(See exhibit C.)

Mr. NEELY. Mr. President, I also ask unanimous consent that the report of the negotiating committee, to which I have referred, be printed in the RECORD as exhibit D.

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

(See exhibit D.)

Mr. NEELY. Mr. President, exhibit C—the salary list—shows, for example, that Mr. Louis B. Mayer, production director of Loew's, Inc., last year received salaries from the

motion-picture industry which aggregate $1,296,503. This vast sum exceeds the combined salaries of the President of the United States, the 96 Members of the Senate, and all the members of the Supreme Court.

It is hoped that Senators will read this salary list from beginning to end, in order that they may know to their entire satisfaction that the industry's financial affairs will not be embarrassed by the abolition of block booking and blind selling.

The Securities and Exchange Commission on the 7th day of last month issued a report entitled "Selected Information on Motion Picture Producers and Distributors," the preface to which, in relation to the combined operating profit of six of the Big Eight and a small independent company, states:

> A combined operating profit of forty-one millions, or 10.1 percent of sales, was reported for the fiscal year ended on or about December 31, 1937, compared with an operating profit of thirty-three millions, or 8.7 percent of sales, for the fiscal year ended on or about December 31, 1936, and twenty-four millions, or 7.2 percent of sales, for the fiscal year ended on or about December 31, 1935. These results were after combined charges for depreciation, depletion, etc., of fourteen millions, or 3.5 percent of sales, in 1937; fourteen millions, or 3.8 percent of sales, in 1936; and fourteen millions, or 4.2 percent of sales, in 1935.

Fourteen million dollars was deducted for depreciation and obsolescence, and these profits were left after that deduction.

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

Mr. NEELY. I gladly yield to the Senator.

Mr. HOLMAN. I have been listening with close attention and great interest to the Senator's remarks, and am very much in sympathy with his aims and purposes. However, I am wondering whether or not it is possible to legislate intelligence and decency into the morons who jam the motion-picture theaters which show salacious, immoral, and indecent pictures. Repeatedly municipal boards of censorship have banned the showing of such pictures, and immediately the banned pictures have been advertised in surrounding areas as being clearly improper pictures. Immediately those unscrupulous and indecent theaters have been crowded with patrons. My query is, How can any law remedy the situation?

Mr. NEELY. Mr. President, the able Senator asked a very specific question at the beginning of his inquiry, and that is, Can the Congress legislate morality into the morons who wish to see salacious pictures? Of course, the answer to that question is "No." It cannot do so directly; but indirectly the answer is "Yes," because by the passage of this bill the Congress will place the power in the hands of decent citizens, like the Senator, in every local community in the United States to protect morons against salacious films by excluding such pictures from the screens through the force of public opinion. At the present time they cannot be excluded because the exhibitors are forced to take their pictures in blocks and to buy them sight unseen.

Mr. President, not only is the industry powerful in itself but the financial roots of the Big Eight extend all the way from Wall Street to Hollywood. At pages 103 and 104 of a book entitled "Film and School" are charts which show, respectively, the direct control over the film industry by the leading financial groups, and also the indirect control over it which the great financiers exercise by virtue of their sound-patents monopoly. These charts are strikingly similar to those relating to other great industries, which the distinguished Senator from Nebraska [Mr. NORRIS] has displayed in the Senate on other memorable occasions. In both these charts the towering pillars from which all diverging financial lines emanate are labeled "Morgan" and "Rockefeller."

This multi-billion-dollar industry, nurtured in the cradle of monopoly, most potent money maker in the family of industries, is today regulating interstate commerce in motion-picture films not by constitutional authority but by virtue of the monopolistic power which it has usurped. But for the Big Eight's restrictions on commerce, exhibitors would share the freedom of the buyers of all other commodities in obtaining without restriction the desirable and refusing the undesirable. The enactment of the pending bill will simply rescue the trade and commerce of this great enterprise from strangulation by one of the most exclusive, defiant, and aggressive monopolies in the history of the world.

Mr. President, this measure has had a perilous parliamentary journey. The way has been long, the road has been rough, the delays have been numerous, the obstacles countless. The enemies have been resourceful, the discouragements infinite. But we are encouraged by the thought that every hardship has its compensation. After the wilderness came the promised land; after the darkest hour of the night comes the splendor of the morning, the glory of the sunrise, and the grandeur of a new-born day.

As a result of the long-continued struggle against the indefensible monopolistic practices of block booking and blind selling in the moving-picture industry a great battle will eventually be won, a great victory will at last be achieved, and the Motion Picture Trust will be at least partially reformed and compelled to contribute in a larger measure to the transformation of one of the greatest of industries into a greater blessing to the American people than it has ever been.

The darkest hour of this struggle has passed and now—

> The morn in russet mantle clad
> Walks o'er the dew on yon high eastern hill.

Success will eventually crown the arduous efforts of those who have so long labored in this vineyard, because no question is ever settled with finality in favor of the wrong. For—

> However the battle is ended,
> Though proudly the victor comes
> With fluttering flags and prancing nags
> And echoing roll of drums;
> Still truth proclaims this motto
> In letters of living light,
> No question is ever settled
> Until it is settled right.

EXHIBIT A

IOKA THEATER,
Exeter, N. H., June 23, 1939.

Mr. ARTHUR K. HOWARD,
Independent Exhibitors, Inc.,
20 Shawmut Street, Boston, Mass.

DEAR MR. HOWARD: A few days ago Mr. Al Bevans, of the M. & P. Circuit, called upon me to ask me to write my Senator and Representative to oppose the Neely bill. He told me that the passage of this bill would increase my film rental and booking charges 25 percent and that he knows his company cannot afford to increase its costs that amount and did not suppose any exhibitor could.

I told him I understood that the bill did not prevent an exhibitor from buying pictures in blocks if he so desired and he told me that distributors would refuse to sell pictures in blocks if the bill is passed because of the penalty clause. He said it would be necessary for me to spend considerable time in Boston buying and booking pictures, and where I now buy pictures on the basis of 8 or 10 percentage pictures, I would find that after I had booked them singularly, instead of having 8 or 10 percentage pictures I would have 20 during the course of a year.

I have been under the impression that the Neely bill would have no effect on exhibitors who did not desire to change their policy of buying pictures in blocks and I would like your opinion in this. Has the Neely bill been changed recently to substantiate Mr. Bevan's statement?

Very truly yours,

IOKA THEATER,
By FRED L. MARKEY, *Manager.*

EXHIBIT B

GEM THEATER,
Peterborough, N. H., June 21, 1939.

INDEPENDENT EXHIBITORS, INC.,
20 Shawmut Street, Boston, Mass.

MR. HOWARD: Last Thursday Mr. Al. Bevan called at my house and was covering New Hampshire to get exhibitors to telegraph the Senators to oppose the Neely bill. His idea of the bill would be that our pictures would be sold one or two at a time and the cost would be 25 percent more expensive to operate our film account.

Of course Al is with Maine and New Hampshire and affiliated with Paramount. I have let you know so that when you hear about these telegrams you will know what has happened.

Yours very truly,

GEM THEATER,
By WARREN J. NICHOLS.

EXHIBIT C

ALLIED STATES ASSOCIATION OF
MOTION-PICTURE EXHIBITORS,
Washington, D. C., April 7, 1939.

On April 6, Sidney R. Kent, president of Twentieth Century-Fox Film Corporation, testified before a subcommittee of the

Senate Committee on Interstate Commerce which is considering the Neely bill (S. 280) to prohibit the compulsory block booking and blind selling of motion pictures.

Although Charles C. Pettijohn, counsel for the Hays association, who spoke to the committee on Monday, took great pride in the gains which the industry is making in South America, Mr. Kent cited as a reason why the bill should not be passed the falling of business in Europe and Asia.

While Mr. Kent was testifying, the Treasury Department sent to Congress a report on corporate salaries paid in 1937. This report, according to today's Evening Star (Washington, D. C.), disclosed that "movie companies paid 40 of the 63 salaries of $200,000 or more.

It is pertinent to consider these salaries in the light of the opposition to the bill offered by the New York executives and Hollywood stars. It is fair to say that Mr. Kent's salary was one of the more modest ones—$179,220—only a little over $100,000 more than was received by the President of the United States.

Louis B. Mayer, production director of Loew's, Inc., topped the salary list with $1,161,753. This was complemented, according to the article, by another $134,750 which Mr. Mayer received as vice president of Metro-Goldwyn-Mayer Corporation.

It is interesting to note that Mr. Mayer received considerably more than the Government paid to the entire membership of the United States Senate.

Loew's, Inc. (represented at the hearing by William F. Rodgers), apparently was the most generous with its executives and stars. In addition to its payments to Mr. Mayer, it was able to pay J. M. Rubin, a vice president, $651,123, putting him second on the list. Fourth on the list was Nicholas M. Schenck, president of Loew's, Inc., who received $489,602.

Other movie salaries were: Greta Garbo (Loew's), $472,499; Marlene Dietrich (Paramount), $370,000; A. M. Loew (Loew's), $356,074; Joan Crawford (Metro), $351,538; Frederic March, $334,687 from Selznick-International, and $150,000 from Paramount; David Bernstein (Loew's), $320,416; Spyros Skouras (National Theaters, Twentieth Century affiliate), $320,054.

Clark Gable (Metro), $289,000; Fred Astaire (R-K-O), $271,711; Joe E. Brown (D. L. Loew), $267,500; Hunt Stromberg (Metro), $265,500; Charles Boyer (Wanger), $265,191; Darryl Zanuck (Twentieth Century), $260,000; Ernst Lubitsch (Paramount), $260,833; Claudette Colbert (Paramount), $248,055; William Powell (Metro), $246,110; Bob Burns (Metro), $242,856; Gary Cooper (Paramount), $238,416; Jeanette MacDonald (Metro), $238,299.

The pleasant young man, Robert Montgomery, who gave the committee his expert opinion as an actor on complicated problems of production and distribution, received from Metro a mere $243,250.

Warner Baxter (Twentieth Century), $225,961; George Ruth (Paramount), $219,399; Sonja Henie (Twentieth Century), $210,729; Adolph Zukor (Paramount), $210,479; Kay Francis (Warner), $209,100; Hal Wallis (Warner), $208,083; Wesley Ruggles (Paramount), $203,051; David O. Selznick (Selznick International), $203,500; Katherine Hepburn (R-K-O), $203,751.

Herbert Marshall (R-K-O), $198,166; Samuel J. Briskin (R-K-O), $197,333; Wallace Beery (Metro), $190,000; Ginger Rogers (R-K-O), $184,776; William LeBaron (Paramount), $183,929; W. S. Van Dyke (Metro), $178,816; Dick Powell (Warner), $176,249; Robert Taylor—listed as Arlington Brugh—(Metro), $173,362; Jack Conway (Metro), $168,621; Frank Lloyd (Paramount), $166,208; B. H. Hyman (Metro), $165,456; Jack Oakie (R-K-O), $164,416; Carole Lombard (Paramount), $164,000, also $150,000 from Selznick; Sam Goldwyn (S. Goldwyn. Inc.), $163,000, also $26,000 as president of United Artists; Roy del Ruth (Twentieth Century), $162,144; Victor Fleming (Metro), $160,000; R. Z. Leonard (Metro), $160,000; Clarence Brown (Metro), $159,000.

E. J. Mannix (Metro), $157,500; Sam Katz (Metro), $156,000; Louis Ligon (Metro), $158,250; Henry King (Twentieth Century), $157,444; S. Eckman, Jr. (London office of Loew's), $154,302; Mervyn Le Roy (Warner), $153,517; Myrna Loy (Metro), $152,583; Ronald Colman (Selznick), $150,000; Eddie Cantor (Twentieth Century), $150,000; Walter Winchell (Twentieth Century), $150,000; Loretta Young (Twentieth Century), $150,000. Among the Hollywood writers were Preston Sturges (Paramount), $134,250, and Joel McRea (Goldwyn), $106,500.

Little Shirley Temple trailed with $110,256 from Twentieth Century, in addition to which her mother, Gertrude Temple, as her guardian, received $52,166.

Numerous others are listed at salaries in excess of that paid the President of the United States, but the foregoing are enough to indicate what occurred in Big Eight circles in 1937.

EXHIBIT D

JUNE 15, 1939.

REPORT OF THE NEGOTIATING COMMITTEE

The board of directors of Allied States Association on June 13 unanimously approved the informal report of the negotiating committee recommending rejection of the proposed Trade Practice Code and Rules of Arbitration and directed the committee to prepare a detailed written report which would serve as the basis of a recommendation by the board of directors to the tenth annual convention of the association now being held. This report is submitted to the board in compliance with its direction.

The grounds on which the committee recommended rejection of the proposals were: (1) They do not provide an effective remedy for the major abuses of which Allied States Association has complained and for the correction of which it has waged a long, aggressive, and increasingly successful campaign; (2) the proposals as drafted and submitted by the distributors do not fully and accurately reflect the substance of the negotiations and representations made by the distributors in the course thereof; (3) reports coming from many sections of the country show convincingly if not, indeed, conclusively, that the distributors already are taking steps to circumvent and nullify the moderate concessions offered; and (4) acceptance of the proposals, particularly in view of the preamble thereto, would handicap the exhibitors in seeking further relief from oppressive and monopolistic trade practices, would hinder the Government in the prosecution of pending actions under the antitrust laws, and would supply the distributors with additional ammunition with which to combat the Neely bill and other remedial legislation.

These points will be discussed in the order in which they have been enumerated.

1. The proposals do not afford an effective remedy for major abuses. These major abuses were enumerated in a memorandum presented by the negotiating committee to the distributors' committee on October 27, 1938, and are as follows: (a) Compulsory block booking and blind selling; (b) ownership and operation of theaters by the producer-distributors; (c) forcing of shorts, newsreels, and trailers; (d) designated play dates; (e) unreasonable clearance; (f) selling away from an established customer; (g) the "right to buy"; (h) overbuying; (i) lack of availability of prints; (j) coercion in the selling of pictures.

The distributors' proposals carried out in good faith would mitigate the evils of compulsory block booking by granting a graduated cancelation privilege based on the average film rentals paid. They would not abolish compulsory block booking; on the contrary, they would perpetuate it by requiring that an exhibitor, in order to secure the right to cancel, must contract for all of the feature pictures offered him at one time.

The proposals provide no remedy whatever for blind selling, the distributors having rejected all suggestions by your committee for the identification of pictures in the contracts and for the allowance of an enlarged cancelation privilege for unidentified pictures.

The terms and conditions upon which a limited cancelation privilege is offered are calculated to permit of circumvention and evasion and, as we shall later point out, the indications are that the distributors are preparing to make use of the obvious loopholes in the proposals.

The distributors made it plain at the outset that they were not willing to discuss the question of theater divorcement and, consequently, the proposals contain no provision in reference thereto.

The provision relating to the forcing of shorts, newsreels, and trailers contains conditions and limitations which greatly impair the effectiveness thereof and which would enable the distributors to deprive an exhibitor of the right to arbitrate disputes arising thereunder by simply refusing to accept his application.

The provision against designated play dates on flat rentals and guaranties as against percentage is utterly hollow and the provision for arbitrating the suitability of a particular percentage picture for preferred playing time conveys only the doubtful privilege of relieving the exhibitor of that picture in order that the distributor may designate another in its place. The proposal offers no relief from the increasing abuse of monopolizing all of the exhibitors' preferred time, representing sometime as much as 80 percent of their total weekly revenue, with high percentage pictures.

Provision is made for arbitrating clearance but this has been marred by the insistence of the distributors—contrary to assurances given your negotiating committee—that they shall have the right to designate one member of the board of arbitrators. In cases where the dispute is between an affiliated theater and an independent theater, this participation by the distributors would throw the board out of balance.

Selling away from an established customer is made arbitrable but the many conditions attached to the provision make it easy of evasion and of value only in case the distributor acts in utmost good faith. The same comment is pertinent with respect to the provision that some run shall be made available to an exhibitor applying therefor.

The "right to buy," as contended for by Allied and as sought by the Government in the pending suit against the Griffith Circuit and others, is not mentioned in the proposals.

Overbuying is arbitrable so far as the number of pictures is concerned; no authority is given the board to apportion the product on the basis of quality, thus guaranteeing the offending exhibitor his choice of the better features and leaving for the complainant nothing but culls.

Lack of availability of prints is not provided for. Arbitration of contract disputes would not be helpful on this, as the distributors have so carefully protected themselves in their contracts against demands for prints.

The provision relating to coercion in the selling of pictures contains terms and conditions similar to those included in the provision with respect to the forcing of short subjects which greatly impair its usefulness.

2. The proposals as drafted do not conform to representations made during the negotiations. In Chicago, in November 1938, after the distributors had outlined to your committee the nature and extent of the concessions they were willing to grant, they announced that they would undertake the task of reducing the same to writing, as they wanted the proposals to be stated in simple, understandable

language without the complications characteristic of lawyers' productions. The following are some of the instances in which the proposals as thus drafted materially depart from the representations made during the negotiations. (The following references are to the draft dated June 10, 1939:)

Preamble: Never discussed, appeared for the first time in the March 30 draft. The significance of this innovation and its probable effect on the efforts of exhibitors to secure additional relief will be discussed later in this report.

Page 3, subparagraph (d): Providing that cancelations not exercised in top brackets shall be relegated to the lowest bracket. This was never mentioned in the negotiations and appeared for the first time in the draft submitted to us on January 16.

Page 5, III, "Public demand for exceptional pictures": Nullifying conditions appeared for the first time in the March 30 draft of proposals.

Page 5, III, second paragraph: Entirely new limiting clause, never discussed with your committee and appearing for the first time in the March 30 draft.

Page 7, V (a), "Not arbitrable": Appears for the first time in the March 30 draft.

Page 9, VII, second paragraph: Was not discussed with your committee, appeared for the first time in the March 30 draft, and, as above pointed out, materially affects the effectiveness of the provision against the forcing of shorts.

Page 11, XIII, second paragraph: New, nullifying, and not discussed.

Page 12 (iii): Clause imposing greater burden of proof on complaining exhibitor than is imposed on a complaining distributor was never discussed with your committee.

Page 12 (2), clearance: Clause recognizing propriety of clearance, whether legally or illegally imposed, was included without consultation, is new, and extremely dangerous.

Page 13 (3), overbuying: Form was never discussed.

Page 14 (XV), "agreement to arbitrate": Neither this nor other arbitration features were ever discussed in the negotiations, except with reference to clearance. Numerous suggestions made by the general counsel are included in the latest draft, but the adoptions and rejections of his suggestions were not discussed even with him.

Pages 15–16 (XVII), term: No discussion. The references to the effect on the code of possible legislation was never discussed and is out of line with assurances given in reference to the Neely bill.

Page 20 (3), disputes relating to clearance: Contrary to all discussions during the negotiations, as above pointed out, and appeared for the first time in the March 30 draft.

In order to appreciate the significance of these changes, most of which appeared for the first time in the March 30 draft, it should be remembered that your committee had no contact with Mr. Rodgers' group after January 16; that the distributors produced nothing in the way of a revised draft between January 16 and March 30, and this in spite of the fact that it was published in the trade press and generally known that the authority of the Allied committee would lapse on March 1. The foregoing fully vindicates the position taken by Allied on December 1 and restated on numerous occasions since then, that it would not take final action on the proposals until it had a complete program which the distributors would pronounce final.

3. Reports of steps being taken to circumvent the provisions of the code: While your committee does not take the position that in this matter the prospects for the future must be judged solely by the experiences of the past, they feel that as an introduction to what follows they may properly refer to matters that occurred under the N. R. A. Code. During our negotiations the assertion was made by a member of the committee that in order to defeat the cancelation privilege allowed by the N. R. A. Code the distributors deliberately padded their blocks with low-cost "cheaters" in order that the exhibitors would exhaust their cancelation privilege thereon. This was confirmed by one of the distributor group. And certainly it is well known that the practice of selling shorts on the weekly payment plan was devised to defeat the N. R. A. provision against forcing shorts except in proportion to the number of features licensed.

From reports received from credible exhibitor informants in various parts of the United States your committee is convinced that the following practices are now being employed by some, at least, of the major distributing companies which are advocating approval of the proposals by the exhibitors:

(a) Requiring exhibitors to negotiate for and license short subjects before they will even discuss selling their features.

(b) Shorts are being forced.

(c) Foreign pictures are being forced.

(d) Despite poorer business conditions now prevailing, price of flat rental pictures raised and number of percentage pictures increased to offset possible loss through exercise by exhibitors of the cancelation privilege.

(e) Special inducements offered in price and terms for waiver of the cancelation privilege.

(f) Waiving of guaranties and selling on straight percentage in order to secure preferred playing time.

(g) Score charges being added to all flat rentals for 1939–40. In addition, distributors are increasing film rentals to equal the amount of the score charge formerly paid on percentage pictures.

(h) National allocations discontinued, thus retarding free use of cancelation and restricting same to the lowest price bracket.

Based on the statement made by a principal executive of one of the major distributors at the open forum yesterday, your committee must conclude that the purpose of the distributors is to exact increased rentals which will compensate for any possible loss under the proposals. That being so, the effect of the code on the exhibitors will be to compel them to pay more money than last year for fewer pictures; or, stated differently, to require the exhibitors to pay in full for all pictures canceled under the privilege granted.

4. Acceptance of the proposals would jeopardize prospects of exhibitors for additional relief. At the very first interview which Messrs. Yamins and Myers had with Mr. Rodgers on the subject of the negotiations, about the middle of September 1938, the question was posed, "Will participation on our part mean that we will be precluded from seeking passage of the Neely bill?" They were told that the negotiations would have no bearing on the Neely bill or the Government suit, except as the experience might bring about better relations which would lead us voluntarily to abandon such methods. This statement was later repeated in substance by Mr. Rodgers in a telephone conversation with Mr. Yamins.

It was upon this assurance that Allied entered into the negotiations.

Since then the distributors have made every possible use of the negotiations to defeat the Neely bill, to influence the attitude of the Department of Justice in pending litigations and otherwise to handicap Allied in its efforts to secure real and lasting benefits for the independent exhibitors.

Because we regard this as the most important factor entering into our decision that the proposals should be rejected, we feel that we should retrace our steps and give an outline of the manner in which this program was developed.

At hearings on the Neely bill in 1936 a suggestion was made by spokesmen for the distributors that negotiations be initiated to settle problems within the industry—obviously to prevent favorable action on the bill.

The next serious proposal along this line came coincident with a visit of Big Eight executives to Washington to head off the Government's suit.

The first draft of the proposals (December 1) was sent to the Department of Justice with a statement that they had been agreed to in principle, notwithstanding the fact that your committee had stated—and they hereby reiterate that statement—that no such agreement had been reached.

The long silence after the January 16 meeting was suddenly broken when the distributors burned the midnight oil—to quote one of the trade papers—to get out the March 30 draft on the eve of the hearings on the Neely bill.

That draft was presented to the Senate committee by Mr. Rodgers as a reason why the bill should not be passed. It is set forth in the minority report of the Senate committee as a reason why the bill should not pass.

According to press reports, the draft has been carried by the distributors to the Secretary of Commerce in an effort to induce him to use his influence with the Department of Justice to settle the Government suit on the basis of the proposals.

The preamble, which appeared for the first time in the March 30 draft, would require that exhibitors agree that the provisions of the code—including the continuation with slight modifications of compulsory block booking and illegally imposed clearance, not to mention many other abuses—are the fair-trade practices of the industry. Moreover, the effect of agreeing to the code would be to in effect validate all other practices observed in the industry and not specifically mentioned in the code.

Mr. Rodgers has made it plain that these proposals represent the maximum concessions that the distributors are willing to yield. Therefore no further progress can be made along this line. If the exhibitors agree to the proposals, they will be greatly handicapped in, if not actually debarred from, seeking further relief by other means. This demonstrates the fallacy of the argument that this is a "step in the right direction." It is not a step in any direction; it is the end of the trail.

Respectfully submitted.

NEGOTIATING COMMITTEE,
By H. A. COLE, *Chairman*.

The foregoing report was considered by the board of directors of Allied States Association on June 15, 1939, and was approved. The board directed that the report be presented to the tenth annual convention of the association as embodying the views of the board in respect of the proposed trade-practice code and rules of arbitration.

H. A. Cole, Texas; P. J. Wood, Ohio; H. A. Blum, Maryland; Fred J. Herrington, Pennsylvania; Jack Kirsch, Illinois; Edw. F. Maertz, Wisconsin; David Milgrim, east Pennsylvania; Maurice Rubin, Indiana; Nathan Yamins, Massachusetts; C. H. Olive, District of Columbia; L. W. Newberry, New Jersey; Max Cohen, New York; James C. Quinn, California, Arizona, and Nevada; Sidney E. Samuelson, New Jersey; W. A. Steffes, Northwestern Allied; Ray Branch, Michigan; Abram F. Myers, Chairman of Board of Directors.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

Adams	Barkley	Bulow	Clark, Idaho
Andrews	Bilbo	Burke	Clark, Mo.
Ashurst	Bone	Byrd	Danaher
Austin	Borah	Capper	Davis
Barbour	Bridges	Chavez	Donahey

Downey	Holman	Murray	Stewart
Ellender	Holt	Neely	Taft
Frazier	Hughes	Norris	Thomas, Okla.
George	Johnson, Calif.	Nye	Thomas, Utah
Gerry	Johnson, Colo.	O'Mahoney	Tobey
Gibson	King	Overton	Townsend
Gillette	La Follette	Pittman	Truman
Glass	Lee	Radcliffe	Tydings
Green	Lodge	Reed	Vandenberg
Guffey	Lucas	Reynolds	Van Nuys
Gurney	Lundeen	Russell	Wagner
Hale	McKellar	Schwartz	Walsh
Harrison	McNary	Schwellenbach	Wheeler
Hatch	Maloney	Sheppard	White
Hayden	Mead	Shipstead	Wiley
Herring	Miller	Slattery	
Hill	Minton	Smith	

The PRESIDING OFFICER. Eighty-six Senators have answered to their names. A quorum is present.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Latta, one of his secretaries.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Chaffee, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 6635) to amend the Social Security Act, and for other purposes, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. DOUGHTON, Mr. CULLEN, Mr. MCCORMACK, Mr. COOPER, Mr. TREADWAY, Mr. CROWTHER, and Mr. KNUTSON were appointed managers on the part of the House at the conference.

NEUTRALITY—MESSAGE FROM THE PRESIDENT (S. DOC. NO. 94)

Mr. BARKLEY. Mr. President, I suggest that the President's message be handed down at this time.

The PRESIDING OFFICER (Mr. BULOW in the chair) laid before the Senate the following message from the President of the United States, which was read together with the statement of the Secretary of State, and, with the accompanying paper, referred to the Committee on Foreign Relations and ordered to be printed:

To the Congress of the United States of America:

I am advised that by a vote of 12 to 11 the Senate Committee on Foreign Relations has deferred action on peace and neutrality legislation until the next session of the Congress.

I am appending hereto a statement from the Secretary of State which has my full approval, and which I trust will receive your earnest attention.

It has been abundantly clear to me for some time that for the cause of peace and in the interest of American neutrality and security, it is highly advisable that the Congress at this session should take certain much-needed action. In the light of present world conditions, I see no reason to change that opinion.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *July 14, 1939.*

[Enclosure: Statement.]

STATEMENT ON PEACE AND NEUTRALITY BY THE SECRETARY OF STATE

The cornerstone of the foreign policy of the United States is the preservation of the peace and security of our Nation, the strengthening of international law, and the revitalization of international good faith. The foreign policy of this Government may be misinterpreted or it may be misunderstood, but it cannot be destroyed. Peace is so precious and war so devastating that the people of the United States and their Government must not fail to make their just and legitimate contribution to the preservation of peace.

The Congress has pending before it at the present time certain proposals providing for the amendment of the existing so-called neutrality legislation. Some of these proposed changes I regard as necessary to promote the peace and security of the United States.

There is an astonishing amount of confusion and misunderstanding as regards the legislation under consideration, and particularly with regard to the operation of the existing arms embargo.

I shall try to bring out as clearly as I can the important points of agreement and disagreement between those who support the principles contained in the six-point peace and neutrality program recommended by the Executive branch of the Government and those who oppose these recommendations.

In substance and in principle both sides of the discussion agree on the following points:

1. Both sides agree that the first concern of the United States must be its own peace and security.

2. Both sides agree that it should be the policy of this Government to avoid being drawn into wars between other nations.

3. Both sides agree that this Nation should at all times avoid entangling alliances or involvements with other nations.

4. Both sides agree that in the event of foreign wars this Nation should maintain a status of strict neutrality, and that around the structure of neutrality we should so shape our policies as to keep this country from being drawn into war.

On the other hand, the following is the chief essential point of disagreement between those who favor the adoption of the recommendations formulated by the Executive branch of the Government and those who are opposing these recommendations:

The proponents, including the executive branch of the Government, at the time when the arms embargo was originally adopted called attention to the fact that its enactment constituted a hazardous departure from the principle of international law which recognizes the right of neutrals to trade with belligerents and of belligerents to trade with neutrals. They believe that neutrality means impartiality, and in their view an arms embargo is directly opposed to the idea of neutrality. It is not humanly possible, by enacting an arms embargo, or by refraining from such enactment, to hold the scales exactly even between two belligerents. In either case, and due to shifting circumstances, one belligerent may find itself in a position of relative advantage or disadvantage. The important difference between the two cases is that when such a condition arises in the absence of an arms embargo on our part no responsibility attaches to this country, whereas in the presence of an embargo the responsibility of this country for the creation of the condition is inevitably direct and clear.

There is no theory or practice to be found in international law pertaining to neutrality to the effect that the advantages that any particular belligerent might procure through its geographic location, its superiority on land or at sea, or through other circumstances should be offset by the establishment by neutral nations of embargoes.

The opposition to the present substitute proposal joins issue on this point and stands for existing rigid embargo as a permanent part of our neutrality policy. And yet by insisting on an arms embargo in time of war they are to that extent, for the reasons I have stated, urging not neutrality but what might well result in actual unneutrality, the serious consequences of which no one can predict.

Those who urge the retention of the present embargo continue to advance the view that it will keep this country out of war, thereby misleading the American people to rely upon a false and illogical delusion as a means of keeping out of war.

I say it is illogical, because while the trade in "arms, ammunition, and implements of war" is at present banned, the trade in equally essential war materials, as well as all the essential materials out of which the finished articles are made, can continue. For example, in time of war we can sell cotton for the manufacture of explosives, but not the explosives; we can sell the steel and copper for cannon and for shells, but not the cannon nor the shells; we can continue to sell to belligerents the high-powered fuel necessary for the operation of airplanes, but we are not able to sell the airplanes.

I say it is a false delusion because a continuation of the trade in arms is a clearly recognized and traditional right of the nationals of a neutral country in time of war, subject only to effective blockade and to the right of belligerents to treat any such commodities as contraband. The assertion frequently made that this country has ever engaged or may become engaged in serious controversy solely over the fact that its nationals have sold arms to belligerents is misleading and unsupportable. All available evidence is directly to the contrary. Every informed person knows that arms, as absolute contraband, are subject to seizure by a belligerent and that neither the neutral shipper nor his government has the slightest ground for complaint. There is, therefore, no reason to suppose that the sale of arms may lead to serious controversy between a neutral and a belligerent. Furthermore, under the proposals that have been made American nationals would be divested of all right, title, and interest in these and other commodities before they leave our shores and American citizens and ships would be kept out of danger zones. As regards possible complications which might arise as a result of the extension of credits to belligerents or of extraordinary profits accruing to any group of producers in this country, it is wholly within the power of Congress at all times to safeguard the national interest in this respect.

Controversies which would involve the United States are far more likely to arise from the entrance of American ships or American citizens in the danger zones or through the sinking on the high seas of American vessels carrying commodities other than those covered by the arms embargo. In the recommendations formulated by the Executive as a substitute for the present legislation it was especially urged that provisions be adopted which would exclude American nationals and American ships from zones where real danger to their safety might exist and which would divest goods of American ownership, thereby minimizing to the fullest extent the danger of American involvement.

Those of us who support the recommendations formulated for the elimination of the embargo are convinced that the arms embargo plays into the hands of those nations which have taken the lead in building up their fighting power. It works directly against the interests of the peace-loving nations, especially those which do not possess their own munitions plants. It means that if any

country is disposed toward conquest, and devotes its energy and resources to establish itself as a superior fighting power, that country may be more tempted to try the fortunes of war if it knows that its less well-prepared opponents would be shut off from those supplies which, under every rule of international law, they should be able to buy in all neutral countries, including the United States. It means also that some of those countries which have only limited facilities for the production of arms, ammunition, and implements of war are put in a position of increased dependence. During peacetime they would feel the compulsion of shaping their political as well as their economic policy to suit the military strength of others; and during wartime their powers of defense would be limited.

For these reasons those who are supporting the recommendations for the amendment of existing legislation recognize definitely that the present embargo encourages a general state of war both in Europe and Asia. Since the present embargo has this effect its results are directly prejudicial to the highest interests and to the peace and to the security of the United States.

In the present grave conditions of international anarchy and of danger to peace, in more than one part of the world, I profoundly believe that the first great step toward safeguarding this Nation from being drawn into war is to use whatever influence it can, compatible with the traditional policy of our country of non-involvement, so as to make less likely the outbreak of a major war. This is a duty placed upon our Government which some may fail to perceive or choose to reject. But it must be clear to everyone of us that the outbreak of a general war increases the dangers confronting the United States. This fact cannot be ignored.

I would emphasize that the course proposed through the substitute legislation recommended by the Executive is consistent with the rules of international law and with the policy of our own country over a period of 150 years. The basis for the recommendations made is the firm intention of keeping this country from being drawn into war. If there existed any desire to assist or to injure particular foreign countries, this Government would not have been endeavoring persistently, within the limitations of our traditional policy, over a period of many years to do its utmost to avoid the outbreak of a general war. I earnestly hope that the Congress will lend the fullest measure of its cooperation in the endeavor to avoid war in the first place and to place this country in a position of the greatest security possible, should war break out. In the tragic event that peace efforts fail and that a major war occurs, there will be general agreement within the United States that every effort must be exerted to keep this country from being drawn therein.

I must also refer to the impression sedulously created to the effect that the sale of arms, munitions, and implements of war by this country is immoral and that on this ground it should be suppressed in time of war.

As a matter of fact almost all sales of arms and ammunition made in recent years by our nationals have been made to governments whose policies have been dedicated to the maintenance of peace, but who have felt the necessity of creating or of augmenting their means of national self-defense, thereby protecting otherwise helpless men, women, and children in the event that other powers resort to war. In the face of the present universal danger all countries, including our own, feel the necessity of increasing armament, and small countries in particular are dependent upon countries like the United States which have the capacity to produce armaments. Our refusal to make it possible for them to obtain such means of necessary self-defense in a time of grave emergency would contribute solely toward making more helpless the law-abiding and peace-devoted peoples of the world. If such action is moral, and if, on the contrary, sales of the means of self-defense for the protection of peaceful and law-abiding peoples are immoral, then a new definition of morality and immorality must be written. This task might be left to the proponents of the arms embargo.

I must also refer to another impression created by propaganda to the effect that the abandonment of the arms embargo would increase power of action on the part of the executive branch of the Government and, conversely, that the maintenance of the embargo would serve as an additional check on the powers of the Executive. It is difficult to see how either of these propositions could possibly hold true. An impartial granting of access to American markets to all countries without distinction gives the Executive no additional power to choose among them and to commit this country to any line of policy or action which may lead it either into a dangerous controversy or into war with any foreign power.

The legislative proposals which were recomended to the Congress through the communications which I transmitted to Senator PITTMAN and to Congressman BLOOM on May 27 providing for the safeguarding of our Nation to the fullest possible extent from incurring the risks of involvement in war contemplate the elimination of the existing arms embargo and are as follows:

(1) To prohibit American ships from entering combat areas;

(2) To restrict travel by American citizens in combat areas;

(3) To require that goods exported from the United States to belligerent countries shall be preceded by the transfer of title to the foreign purchasers;

(4) To continue the existing legislation respecting loans and credits to belligerent nations;

(5) To regulate the solicitation and collection in this country of funds for belligerents; and

(6) To continue the National Munitions Control Board and the licensing system with respect to the importation and exportation of arms, ammunition, and implements of war.

This six-point program was the best that could be devised after much painstaking thought and study, and after many conferences with Members of the Congress, of how best to keep this country out of a conflict should it arise. It rests primarily on the established rules of international law, plus the curtailment of certain rights of our nationals, the exercise of which is permitted under international law but which might lead to controversies with belligerents and eventual involvement in foreign wars.

There has thus been offered as a substitute for the present act a far broader and more effective set of provisions, which in no conceivable sense could breed trouble, but which to a far greater extent than the present act would both aid in making less likely a general war, and, while keeping strictly within the limits of neutrality, would reduce as far as possible the risk of this Nation being drawn into war if war comes.

In connection with our foreign affairs, I think all must agree that, unless a spirit of collaboration and cooperation characterizes the relations between the executive and legislative departments of the Government, the peace and other vital interests of this country will inevitably be jeopardized.

Having spent the best years of my life as a member of the two Houses of Congress, I have the warmest feeling of friendliness toward the membership of, and the greatest respect for, the legislative department, and, in that spirit, I earnestly hope for the closest possible cooperation in matters affecting our country's best interests and its security in the present grave international situation.

At this time when critical conditions obtain throughout the greater part of the world I am sure that we are all equally persuaded that while the fullest measure of constructive criticism is helpful and desirable, and is of course most welcome, partisanship should play no part in the determination of the foreign policy of this country.

In the present situation of danger a peaceful nation like ours cannot complacently close its eyes and ears in formulating a peace and neutrality policy, as though abnormal and critical conditions did not exist. The entire question of peace and neutrality at this serious juncture in its possible effects upon the safety and the interest of the United States during coming months is of the utmost importance. This question should, in my judgment, receive full and careful consideration and be acted upon by this Government without unnecessary or undue delay.

CORDELL HULL.

PROHIBITION OF BLOCK BOOKING AND BLIND SELLING OF MOTION-PICTURE FILMS

The Senate resumed the consideration of the bill (S. 280) to prohibit and to prevent the trade practices known as compulsory block booking and blind selling in the leasing of motion-picture films in interstate and foreign commerce.

Mr. SMITH. Mr. President, unfortunately I must leave the city at 3 o'clock, and though I should like to discuss at length the bill which is now the unfinished business, time forbids. I heard the testimony of those interested in the bill, and, in my opinion, no greater calamity could befall the most marvelous industry of modern times than the enactment of the pending bill at this time.

I am afraid those of us who legislate on these matters do not take the pains to acquaint ourselves intimately with the steps which have to be taken in order to produce such a miraculous development as has been brought about in the moving-picture industry. It is second only to that miracle of modern times, the radio. I challenge any Member of this body to parallel in all history the ingenious device which synchronizes one's voice with the silent moving picture. No one can calculate the potential effect of the moving picture on our social and intellectual life.

I grant that in the initial stages of this marvelous development it may have been more or less prostituted to unworthy ends, but common sense and inherent decency amongst the people are already having their effect. I listened with an unbiased mind to the testimony of the producers and distributors and the representatives of the public.

Like every wonderful discovery and invention, the moving picture is beginning to get into a stride commensurate with its inherent possibilities. The public has no other source of entertainment comparable to the moving picture. I have heard much said on the floor of the Senate and elsewhere about the cry "Divide the wealth" or "Share the wealth." We think of the untold millions of dollars which are made and expended in certain industries, and we do not stop to think that, though billions of dollars are spent to develop the amazing moving-picture industry, for 15 or 25 cents

we can enjoy the net result. We are "sharing the wealth" of the genius which discovered the process and of the tremendous effort of skill and labor which transmutes the thought into a material thing. Then a meeting place is built, where the pictures may be comfortably and adequately displayed, all so popular in price that the American people can enjoy the very best at a minimum of cost.

Much has been said about the obscenity that has characterized some of the motion-picture shows. That may be true, Mr. President, but I do not see any need to burn down the house to get rid of the rats. The public is rapidly eliminating all the pictures which outrage certain long-haired men, and short-haired women, and other people.

Mr. President, I recall that the great Civil War was largely brought about by a book which exaggerated the truth—a book known as Uncle Tom's Cabin. Here we are, when a modus vivendi is rapidly being reached between producer, distributor, and the public, about to emasculate and render inefficient a tremendous modern industry whose product is patronized by the entire public.

I heard the testimony given before the committee. Some of the testimony to which I listened would lead one to believe that the practice of block booking and blind selling is something more or less ridiculous. But when one has a complete understanding of why the practice is indulged in he must applaud rather than denounce it.

Mr. President, I maintain that the pending bill contains not one provision which looks to purifying the morals of the people. I think I know the young people of my State, although I myself am not young. People speak about corrupting the morals of the boys and girls. God help our country if their morals have fallen so low. You, Mr. President, and I, as practical men, know what is going on.

I wish I had time to go into the question further. However, I am obliged to catch a train at 3 o'clock. I wish I had time to bring to the Senate a realization that we are not drifting into State socialism, but we are in State socialism. I defy anyone to contradict me on that point. Consider the legislation which is passed—social security, farm security, and so forth. What has become of the old American principle of the unit of the family, through thrift and enterprise, endeavoring to save sufficient to take care of the old people when they have passed their earning period? My country is now assuming that burden. "Go ahead and spend; we will take care of the old." That old rugged spirit of Americanism has disappeared through our insensate greed to secure votes. You know it and I know it. The family unit which up until now has caused the members of the family to cling together in love and affection, and, through thrift and enterprise, to try to save enough to take care of the old and the loved ones, is being set aside. In the older days those who wanted work found it. I realize that the mechanical age has in a way modified that situation; but the Government has entered into every department of our life, and is undermining the rugged manhood of America.

Mr. President, I should be the last one to criticize what has occurred if I thought it was born, though mistakenly, of a genuine sympathy for the sufferers. But we all know that that is not so. We do not exemplify such sympathy in our private lives, and why should we attempt to fool people by parading it in public?

We are now asked to stick the nose of the Government into the moving-picture industry. That industry has progressed without setback from the time of the silent, imperfect picture until today, when it challenges the beautiful form and voice of the actual animate speaker.

I shall not go into the details with respect to production and distribution, but I beg of my colleagues to let the producers and the distributors and the public solve this problem, rather than to inject into it our views of what would be best for them to do.

Mr. President, the moving-picture industry is the second greatest industry in America, involving more money, providing more recreation, and giving more delight to millions of people than any other. But because some very moral and super-moral people take exception to some pictures, we, forsooth, must now interfere with the industry. I will bet my right arm that if those who wish to censor the industry had a chance to hide themselves in the theater, they would be the first ones to look at pictures which they condemn. You know it is true and I know it is true.

Mr. ASHURST. Mr. President—

The PRESIDING OFFICER (Mr. Hatch in the Chair). Does the Senator from South Carolina yield to the Senator from Arizona?

Mr. SMITH. I yield.

Mr. ASHURST. The able Senator from South Carolina shook an admonitory finger at me. I am opposed to censorship of press, radio, or moving pictures. I have during my public career opposed—and I hope not without some success—any kind of censorship.

Mr. SMITH. I am delighted to hear the Senator say that.

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

Mr. SMITH. I yield.

Mr. ASHURST. The Senator spoke of the magnitude of the moving-picture industry. It is at least one industry in the United States that has within the past 10 years not asked for any loan, largesse, grant, or bounty from the Treasury of the United States.

Mr. SMITH. And it has paid persons engaged in the industry greater salaries than any other set of persons receive, and as a result the United States has received from them larger income taxes than from any other group.

Mr. ASHURST. I know of one thespian whose Federal income tax is the equivalent of the salary of 21 United States Senators annually.

Mr. SMITH. Mr. President, I am sorry I must leave. I know the Presiding Officer himself regrets to see me go, but I hope that my colleagues will start here today to line up their strength to keep the Government from interfering with private business.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Chaffee, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1796) to amend the Tennessee Valley Authority Act of 1933.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H. R. 5748) to amend the Second Liberty Bond Act, as amended.

Mr. WHITE. Mr. President, because I was a member of the subcommittee charged with taking the testimony in this matter, I feel an obligation to place before the Senate the reasons which led me to join in the minority report, and which have persuaded me that this legislation is unwise and ought not to be passed by the Congress of the United States.

Mr. President, we are dealing in this legislation with one of the great industries of our country, whose growth and whose development is an amazing story, an American business epic. Its estimated capital investment is $2,000,000,000. It gives employment to approximately 285,000 persons. More than 100 companies are engaged in the production of motion pictures. Some 276 trades, arts, and professions are represented in each producing studio. Only the very largest of these companies produce as many as 50 pictures a season. The cost of the pictures varies from a few thousand dollars to almost $3,000,000 per picture. There is no other industry within my knowledge in which the unit output is so limited and in which the unit cost is so great.

The investment of a producing company giving to the American public a limited number of pictures reaches many millions of dollars, and if its output were not sold, the losses to the producing company would be destructive. No company could long continue without the certainty that its product had a market.

Mr. President, pictures produced at such tremendous cost must be leased, and they must be distributed. There are

17,541 exhibitors in the United States who must have each day at the appointed hour the pictures for which they have contracted. These theaters are in 9,187 towns, scattered throughout the length and breadth of the United States. Six thousand theaters change their programs daily. In 1938 the 17,541 theaters had box-office receipts of approximately $1,000,000,000, of which $650,000,000 was retained in the local communities. The distribution of this picture product involves placing more than 25,000 miles of film daily in 17,541 theaters according to schedule. This is accomplished through 431 film exchanges in 31 centers of our country. The distribution requires 15,000,000 separate film shipments a year. Such distribution is possible only through close adherence to a detailed plan of distribution worked out in advance.

Such, briefly, is the magnitude of the industry to which the proposed legislation is directed.

Mr. President, various justifications for the bill are asserted by those sponsoring it. First of all, it is alleged that monopoly exists in the industry, and that such monopoly must be destroyed. It is asserted that unfair trade practices are engaged in, and that they must be corrected. It is asserted that community influence—whatever that may be—in the selection of pictures shown is necessary for the improvement of the motion pictures of our country. The suggestion of the power of community influence is what has enlisted in large measure the interest of the women's organizations and others in behalf of the bill.

Mr. President, I make but brief reference to monopoly. If there be monopoly, in my opinion the remedy exists in our present antitrust statutes. The Department of Justice itself accepts this view, for that Department has filed a suit, based upon the Sherman Act, alleging a monopoly to exist. A complaint is now pending against the eight major companies, constituting those called by the proponents of the bill the Big Eight. The bill of complaint alleges every offense charged in the hearings held upon the bill. There is testimony that some 10 further suits are in contemplation.

Mr. President, so far as I am concerned I am content to await the outcome of litigation by the United States, and I am not disposed to prejudge it. If the defendants are found guilty, then the proposed legislation, so far as it is aimed at monopoly, is unnecessary; and if found not guilty, then, so far as monopoly is concerned, legislation would seem to be uncalled for. In any event, I am opposed to writing an antitrust statute for only a single industry, a statute applicable to the motion-picture industry alone.

The hearings next suggest that the motion-picture industry is guilty of unfair trade practices. The bill before us seemingly, among other things, is an effort to write a fair trade practice act for a single industry. The allegation of unfair trade practices is an old, old story. Almost 12 years ago a proceeding was had before the Federal Trade Commission, and the same charge was then made. In this connection I call the attention of the Senate to the "cease and desist" order of the Federal Trade Commission issued at that time. I especially invite Senators to compare section 3 of the bill, which I assume all Senators have before them, with the "cease and desist" order in this case of Federal Trade Commission against Famous Players Lasky Corporation, which I now read:

> The defendant corporation was ordered to cease and desist—From leasing or offering to lease for exhibition in a theater or theaters motion-picture films in a block or group of two or more films at a designated lump-sum price for the entire block or group only and requiring the exhibitor to lease all such films or be permitted to lease none; and from leasing or offering to lease for exhibition such motion-picture films in a block or group of two or more at a designated lump-sum price for the entire block or group and at separate and several prices for separate and several films, or for a number or numbers thereof less than the total number, which total or lump-sum price and separate and several prices shall bear to each other such relation as to operate as an unreasonable restraint upon the freedom of an exhibitor to select and lease for use and exhibition only such film or films of such block or group as he may desire and prefer to procure for exhibition; or shall bear such relation to each other as to tend to require an exhibitor to lease such entire block or group or forego the lease of any portion or portions thereof; or shall bear such relation to each other that the effect of such proposed contract for the lease of such films may be substantially to lessen competition or tend to create a monopoly in any part of the certain line of commerce among the several States, or with foreign nations, involved in said proposed sale, to wit, the business of the production, distribution and exhibition of motion-picture films to the public, or the business of production and distribution or of production or distribution of moving-picture films for public exhibition.

Senators who have followed the reading, and who have before them the text of the bill, will observe that the langauge of section 3 is almost identical with the cease and desist order of the Federal Trade Commission.

What happened to that order? It came before the court upon an application for the enforcement of the order, and the Circuit Court of Appeals for the Second Circuit voided the Commission's order. I shall read only a few extracts from the unanimous decision of the court in that case, but I believe what I shall read fairly represents the effect and the purport of the court's decision.

Among other things, the court said:

> A distributor of films by lease or sale has the right to select his own customers and to sell such products at given prices or to refuse to sell at all to any particular person for reasons of his own.

I again quote:

> The respondent is not required under the law to so conduct his business that every competitor may conduct his with an equal degree of success according to his size and importance.

Again:

> Nor is the alternative offer permitted to be made for the films—that is, to lease less than a block at higher prices, a coercive or intimidating method.

Mr. President, if the court was correct in its conclusions as to the law, then we have no justification for attempting at this time to write an unfair trade practice section in the very terms of the voided order of the Commission. If the facts in the industry have changed, the industry may again appeal to the Federal Trade Commission. However, speaking for myself, in any event, I am opposed to undertaking to write a Federal Unfair Trade Practice Act for a single industry, as the bill before us seeks to do.

Mr. President, I wish further to call the attention of the Senate to the language of section 3 of the bill, which declares the acts therein set forth to be unlawful. This section seeks to define a crime punishable by a fine—a fine reaching to $5,000, and imprisonment for 1 year, or both, such penalties to be imposed upon the person violating this section of the proposed statute.

No one within the sound of my voice will question that a criminal statute should be so definite in terms that all may know what standard of conduct is required. In a case in 369 United States it is said:

> The terms of a penal statute creating a new offense must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties.

In the same case the court said further:

> And a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law.

I invite Senators listening to me to measure section 3 by those yardsticks of fundamental law.

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

The PRESIDING OFFICER. Does the Senator from Maine yield to the Senator from Washington?

Mr. WHITE. I yield.

Mr. BONE. This is somewhat beside the point, I will admit, but I regret that the Court has not partaken liberally of its own medicine when it suggests that a statute should be construed in the fashion that a man of ordinary intelligence would be compelled to construe it. A number of years ago the people of this country adopted a constitutional amendment which provided that the Congress should have the right to levy taxes on incomes from whatever source derived, but the Court took that language, which a person who was positively inept, almost stupid, would certainly understand, and said that these words of plain meaning meant something else. I mention that because I only regret that the Court itself has not taken its own medicine that it hands out to

you and me and 130,000,000 other Americans. I am sure the Senator will agree with me that the language of the constitutional amendment was sufficiently plain.

Mr. WHITE. I would say that whatever has been done in the past, either by Congress or by the courts, in the way of confusion of language is not a precedent for us to follow, but that we should, to the very limit of our ability, when we are drafting criminal statutes, make them so clear and so precise that no one can misunderstand them, if that be a possible thing.

Mr. BONE. The point I make, if the Senator please, is that it does not altogether come with good grace for the Court, with pontifical solemnity, to criticize the average citizen for doing something which it itself has done.

Mr. WHITE. I am making a recommendation to the Congress as to the care that should be taken in the drafting of statutes.

Mr. President, I will be glad to yield if Senators really desire to ask me about the matter I am discussing, but I appreciate that time is running on, and I do not care to be responsible for delaying the discussion to such a point that a vote will not be reached tonight.

The first prohibition, which is found in section 3, beginning in line 7, and extending to the semicolon in line 12, is clear and one of common understanding and intelligence can understand it. We have, therefore, as to this provision, first, a plain question of policy, and next a legal question of constitutional power to say to a lessor of films, in substance, "You may not require the purchaser to take all or to have none." The language is—

> It shall be unlawful for any distributor of motion-picture films in commerce to lease or offer to lease for public exhibition films in a block or group of two or more films at a designated lump-sum price for the entire block or group, only and to require the exhibitor to lease all such films or permit him to lease none.

I understand that an amendment is to be offered to that provision, but I think in any essential sense it will not change the purpose of any of that language.

Do we want to declare that policy? Do we want to say with respect to any product, not a public necessity, that the producers must deal it out piecemeal and may not insist on selling it by wholesale at wholesale prices?

I believe it to be unwise to enact such a statute, for it will serve as a precedent which will rise to trouble us in the future. I believe also that such a provision flies in the face of the clear recognition of the Clayton Act that wholesale selling is legitimate.

But the remainder of section 3, with a limited exception, seems to me indefensible. It undertakes to make a separate and distinct offense from that defined in lines 7 to 12, inclusive. It declares it to be a criminal offense if the lump-sum price at which the lessor offers the group and the separate prices at which he alternately offers the separate pictures bear such relation to each other as, in the one case, to operate as an unreasonable restraint upon the freedom of an exhibitor to choose the films he may desire or prefer; and, in the second instance, as tends to require an exhibitor to lease the whole block or forego the leasing of any number of the group, or to lease or offer to lease films in any other manner or by any other means, the effect of which would be to defeat the purpose of this proposed act.

I ask any Senator before me how could you, if a motion-picture salesman, know whether the prices at which you offered the films separately bore such relation to the price you asked for the block of films as to make you guilty of a violation of these provisions having relation to price? How could you know that the effect of the price at which you were offering a film would be to defeat the purposes of this act, whatsover those purposes may be? How could you know that the price you were naming would operate as an unreasonable restraint upon the freedom of an exhibitor to select and lease only such films as the exhibitor desired or preferred? How could you, as a salesman, be certain of the price you might lawfully name, and how could you ascertain that price?

Mr. President, section 3 of the bill is to me a monstrous thing, in that it seeks to create a criminal offense of substantial magnitude, punishable by fine and imprisonment, without ascertainable standards, and in terms so vague and indefinite that no man could know his rights and his obligations, but must, in the conduct of his business, guess at the meaning and the application of the statute.

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

Mr. WHITE. I yield.

Mr. BONE. I seek information by the question I am about to ask. I am wondering whether an exhibitor who, under present set-up, takes a large block of films to be used in a chain of theaters pays one lump sum for the entire set of films or whether there is a higher price for some than for other kinds of films? I assume that in the case of large and very ornate and lengthy films, the price for the individual film would be much greater than for some of the smaller ones, perhaps, in the lot.

Mr. WHITE. Films are not sold; they are leased.

Mr. BONE. Whatever may be the arrangement.

Mr. WHITE. That is a technical difference, I agree. The rental charge or cost depends upon many circumstances. It depends upon the cost of producing the film; it depends upon the bargain the salesman can drive; it depends upon whether the film is going to be shown in a large metropolitan center, where thousands upon thousands will see it, and the box-office receipts will be large, or whether it is going to be shown in small rural communities where the only possible chance may be to rent it at a very low price. Often, perhaps usually, the rental price is a percentage of the box-office receipts. It is a case of bargaining between the salesman and the exhibitor, and the figures, which I shall later undertake to give——

Mr. BONE. We might take one large theater in a very large city that has a very large attendance all the time—a typical large city. I take it that a film such as Union Pacific, which was a very beautiful picture, would, of necessity, command a larger rental price than a smaller film even in such a theater, if I may narrow my question to one typical theater.

Mr. WHITE. Take Romeo and Juliet. The testimony is that the production cost of that picture was $2,800,000. Of course, if that film should be sold separately it would demand and would receive a larger rental than some film the production cost of which was merely a few thousand dollars.

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

Mr. WHITE. I yield.

Mr. BARKLEY. The Senator now is talking, I believe, about the effect of section 3 of the bill. That section makes it an offense for anybody to offer to sell more than two pictures. Even though the offer is turned down, if he merely offers to sell three, he is guilty of an offense. Is that the Senator's interpretation?

Mr. WHITE. Yes; the section applies either to the sale or to the offer. There is no distinction between the actual consummation and the offer. The effort to induce the purchase is, under this section, an offense.

Mr. BARKLEY. The language is:

> It shall be unlawful for any distributor of motion-picture films in commerce to lease or offer to lease for public exhibition films in a block or group of two or more—

Two or more pictures.

It has been difficult, I am sure, for all Senators, and it has been difficult for me, to get at the real facts with respect to the production and distribution of motion pictures in the United States. One may read the 560- or 650-odd pages of the hearings, which are interspersed with all sorts of questions about particular movie actors, stars, and everything else, without being able to glean out of all of that substance the real meat in the way of facts concerning the method of distribution and production of pictures. Since the hearings I obtained more information from the operator of a moving-picture theater in my State, who took the trouble to sit down for an hour and tried to explain the method to me, free of any extraneous matter, than I got out of all the hearings.

I wonder whether the Senator has commented or intends to comment on the details of the method by which moving pictures are produced and sold to the exhibitor, and the relationship of that method to the necessity, if there is a necessity, of knowing in advance of production of pictures where the market is to be, in order to go ahead with a picture.

For instance, I recall a very wonderful picture produced by George Arliss—I think it was Disraeli—and he produced another one, Alexander Hamilton. My information is that the producers of those pictures began to try to sell their pictures in January, to be delivered the following August and during the following year; that their production year begins, say, in January, and that their exhibition year begins in August; that between January and August they are producing the pictures which they are to deliver in August. The cost of production runs all the way from $75,000 in some cases to two or three million dollars in others; and if the producers were required, after production of the pictures had been completed, to sell the pictures separately, one at a time, to the individual moving-picture shows throughout the United States, I am wondering if the Senator has any opinion or view as to whether the expensive pictures, especially, would ever have been produced in the first place if the producers had to take that risk.

Mr. WHITE. Mr. President, answering the Senator, I think the testimony in the record is that in the case of a picture costing into the millions of dollars, if the producers had to take their chances on selling the picture separately after completion, pictures of that character would not be produced in America.

Mr. BARKLEY. Take another instance—and I am simply trying to see whether the information I got from an exhibitor, not a producer, not a distributor, but an exhibitor, is correct.

Let us take the picture which is now in production, Gone with the Wind, based upon the wonderful book of the same name, in the case of which I think the producer looked all over the United States and all over the world for a year or two in order to find a particular type of "movie" star who would fit into the picture. Finally, I think, they selected an English girl, whose name I do not now recall, to take the leading feminine part in the picture, and, of course, had to build around her the whole structure of the picture.

I do not know how much the picture will cost; but I imagine all those who have read the book, and even those who have not read it but who have heard about it, will be interested to see the picture when it is produced. If the producers of that picture and other pictures had to depend upon their ability to sell it as a single production to all the moving-picture theaters in the United States, I am wondering whether, in view of the cost of its production, they would incur the risk necessary to produce the kind of picture that everybody expects from Gone With the Wind.

Mr. WHITE. My answer is that, in my opinion—and I base the opinion upon what is in the record—such pictures would not be produced in the United States.

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

Mr. WHITE. I yield to the Senator from West Virginia.

Mr. NEELY. I am certain that the Senator from Maine—who is one of the few, in my opinion, who know something about the evidence in the record in this case—does not mean to assent to the suggestion made by the Senator from Kentucky, if I correctly understood him, to the effect that it would actually be a violation of law under the bill for the distributors of motion pictures to offer to sell two or more pictures at one time.

I ask that in all fairness I be permitted to read what the bill, and the substitute which will be offered, say:

> It shall be unlawful for any distributor of motion-picture films in commerce to lease or offer to lease for public exhibition films in a block or group of two or more films * * * and to require the exhibitor to lease all such films or permit him to lease none.

Of course, one may offer to lease 1; he may offer to lease 55, or whatever number it may be. The inhibition is against saying, "You may not lease 5 or 10 or 20 films unless you lease the whole 55."

Mr. WHITE. I quite agree that the latter language goes with the first.

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

Mr. WHITE. I yield.

Mr. BARKLEY. A moment ago the Senator commented on the relative prices of a picture leased singly and one leased in group. What is the Senator's interpretation of section 3 with respect to the price at which a single picture would have to be leased, as compared to the price of the same picture if included in a group?

Mr. WHITE. I do not know the answer to that question, and I do not see how anybody reading this language could answer it. That is my complaint.

Mr. BARKLEY. If I were a producer, and I had 20 pictures, and offered all of them to an exhibitor at what might be called a wholesale price—and I suppose there is nothing illegitimate or immoral about offering a group of anything at a wholesale price smaller than the price for any single part of the commodity, whether it is moving pictures, or apples, or shoes, or anything else—does the Senator interpret section 3 of the bill to mean that a single picture must be offered at the same price at which it would figure in a group, if offered and sold in a group?

Mr. WHITE. I can only answer the Senator in the language of the section itself.

Mr. BARKLEY. The language is involved.

Mr. WHITE. The language is involved, and the meaning is obscure, and I do not know what the offense is. My hands go up.

Mr. NEELY. Mr. President, will the Senator yield once more?

Mr. WHITE. I yield to the Senator from West Virginia.

Mr. NEELY. I submit that anybody who reads the language for the purpose of trying to understand it, instead of confuse it, will see that the requirement is simply——

Mr. WHITE. I do not like that suggestion, Mr. President.

Mr. NEELY. I withdraw that expression, then. The Senator from Maine is always fair, and I know that he means to be fair about this matter, and I hope to be fair with him; but I submit that the purpose of that section means this, and nothing more:

> That in selling single films, or fewer than a block of films, the price demanded for the single one, or the smaller number than the block, shall not be so unreasonable as to compel the exhibitor to buy the whole block or obtain none; and the formula by which that matter is to be ascertained is less complicated than the formula by which one is required in every other industry which is subject to the Robinson-Patman Act to obey it; and, if I am not mistaken, the Senator from Kentucky favored the Robinson-Patman bill.

Mr. WHITE. Mr. President, if I may go on, with respect to section 4 of the bill a similar doubt assails one who gives it consideration. This section makes it unlawful for a distributor to lease or offer to lease a picture unless at the time of lease or offer he shall furnish the exhibitor a complete and true synopsis of the film. It requires that such synopsis shall include an outline of the story, incidents, and scenes depicted or to be depicted, and a statement describing the manner of treatment of dialogs concerning any scenes depicting vice, crime, or suggestion of sexual passion. This is for the purpose of informing the exhibitor so that he may determine whether he desires to select the film for exhibition.

The question still persists, Mr. President, how may one know whether he has met or offended the statute? How may one know that his statement describing the manner of treatment of dialogs concerning any scenes depicting vice, crime, or suggestion of sexual passion is sufficiently precise and sufficiently realistic to enable the prospective purchaser to determine whether he does or does not want the picture?

Mr. President, so much for legal and technical questions.

Mr. President, I now wish to pass on and discuss the realities of compulsory block booking and blind selling. The complaint is that a combination of picture producers, called for the purpose of creating prejudice, the Big Eight, control the production and distribution of films and compel exhibitors to lease films in blocks or groups, without regard to the desires of the exhibitors.

First of all, do the Big Eight, so-called, control production and distribution? That they are the largest and most powerful among the producers is unquestioned. The charge that they can control production and distribution is not supported by the facts in the record before us.

The Film Daily Yearbook for 1936 lists 148 producers in California and 60 in New York. In the same publication are listed 80 distributors of motion pictures. Of all the pictures released to the American market in 1936 there were 362 produced by the so-called Big Eight, and 134 American pictures were produced by the other companies listed in this yearbook. In addition, 239 feature pictures of foreign origin were released in the United States that year. This shows that the Big Eight produced less than half of the pictures for that year.

Mr. BARKLEY. Mr. President——

The PRESIDING OFFICER (Mr. DOWNEY in the chair). Does the Senator from Maine yield to the Senator from Kentucky?

Mr. WHITE. I yield.

Mr. BARKLEY. Who are the so-called Big Eight? I cannot recall from memory.

Mr. WHITE. They are Paramount, R. K. O., Metro-Goldwyn-Mayer——

Mr. BARKLEY. Warner Brothers?

Mr. WHITE. Warner Brothers.

Mr. BARKLEY. Metro-Goldwyn-Mayer, Columbia Producers, First National—and what others?

Mr. WHITE. There are eight.

Mr. NEELY. Universal and United Artists.

Mr. WHITE. The statistics for 1938 show that the Big Eight produced 346 pictures, the United States independents produced 109, and there were foreign features to the number of 314. Of these foreign films only 16 were released by the Big Eight, while 298 were distributed by independents. Independents produced and distributed 407 pictures, and the Big Eight produced and released 362, substantially less than 50 percent.

Mr. President, of marked significance is the testimony of one of the proponents of the bill.

Mr. NEELY. Mr. President, will the Senator yield for just one moment?

Mr. WHITE. I yield, but I warn the Senator that we will not get through this afternoon if I continue yielding.

Mr. NEELY. I hope we may get through, but this is very important. The Senator has just indicated that the Big Eight does not monopolize or control the distribution of films.

Mr. WHITE. Production and distribution. I coupled the two.

Mr. NEELY. I ask the Senator to turn to page 27 of the printed record, where he will find a colloquy I wish to quote; and I think the Senator was present when it occurred.

Mr. WHITE. I remember it.

Mr. NEELY. I was interrogating Mr. Pettijohn, the spokesman for the Big Eight and the Hays organization:

Senator NEELY. What percentage of last year's output in the United States was controlled by the so-called Big Eight?

Mr. PETTIJOHN. If you mean by "controlled" were sold by the so-called Big Nine or Ten—I want to put Monogram and Columbia in there. They are making pictures——

Senator NEELY. What percentage was marketed by the Big Eight?

Mr. PETTIJOHN. I would say, of the American product, at least 85 percent, Senator.

Mr. WHITE. I read the figures for the RECORD which appear in the proceedings of the committee.

I started to say that of marked significance in the testimony is the evidence given by one of the proponents of the bill that the independents, those not affiliated with producers and not connected with the Big Eight, so-called, avail themselves of the same sales methods, block booking, if you please, which section 3 seeks to prohibit. I shall not bother to read the testimony, but, as a practical matter, distribution by the Big Eight and by the independents also, is, to a substantial degree, by the method here sought to be outlawed. The whole process of distribution in the United States is by the method which the pending bill seeks to outlaw.

Mr. President, why have distributors generally adopted this method, and why do a very large portion of the very nearly 18,000 distributors approve this system of distribution?

There are two certain answers to these questions. First, it affords an opportunity not otherwise available to work out in advance an ordered system of distribution of pictures throughout the country and for an entire season. It would not be possible efficiently and with negligible margin of error to distribute 25,000 miles of film daily to 18,000 picture houses in every part of the United States, a distribution involving 15,000,000 transactions a year, without knowing with a reasonable degree of certainty a reasonable time in advance where a particular picture was wanted and when it was wanted.

The task of supplying pictures involves an original plan of distribution, it involves the collection of pictures when once shown, it involves the inspection of the films, their repair, and their redistribution over and over again.

The record shows beyond question that producers, distributors, and exhibitors recognize these facts, and yield to them, some exhibitors with grumbling, and perhaps with reluctance, but most of them without complaint, for they accept it as the best method of distribution the industry has as yet been able to evolve.

A second reason for the general acceptance of this system is the appreciation by the exhibitors that if they did not buy usually in blocks, or in substantial numbers, but relied wholly or chiefly on separate leases, trading for one picture at a time, the exhibitor would be at the mercy of the distributor. He might well find himself without needed pictures, and he would then have to pay what the distributor exacted or close his house. Expressed another way, the exhibitor would face a seller's market.

Now, to emphasize what I have just said, I wish to read the statement of one of the witnesses coming from the Middle West as bearing on this question, and I will read only a part of his testimony. This man is the owner of a theater in St. Joseph, Mo. He is president of the Kansas-Missouri Theater Owners' Association, comprising approximately 400 theaters in Kansas City and the western half of Missouri. The set-up of that organization is such that its membership consists both of independent and affiliated circuits, as well as the individual exhibitor owning and operating one or two theaters in one community or town. I quote from his testimony as follows:

At the time when the Neely bill was first introduced, and before I was able to secure a copy of it, I felt that something was really happening that would be of great benefit to the independent exhibitor. However, after securing a copy of the bill and analyzing it, I have found that as it is drawn it is neither practical nor workable, but that it will work a great hardship on all exhibitors, especially the independent exhibitors.

In my opinion, the independent exhibitor cannot buy one picture at a time, nor is it possible to comply with section (4), dealing with blind selling, since it necessitates his personally viewing each picture before buying. This creates a situation that would be devastating in its effect in my particular locality.

He said again:

As you have been informed in previous testimony, motion pictures have no staple value and no set value. The distributor attempts to secure the highest rentals he can, and the exhibitor attempts to buy the pictures at prices he can afford to pay. This bill, if enacted, will place the exhibitor in a precarious position, since he will have to make a deal for one picture at a time; and being in constant need of pictures to fill out his programs, the exhibitor will be at the mercy of the various film salesmen who may raise his prices to the point where he can no longer exist.

Senator WHITE. Let me see if I get what you mean there. You mean that the exhibitor will be in a position where he will have to take any pictures that the producer offers him?

Mr. CASSIL. I mean this: In buying en bloc, you buy a year's output. Naturally, the distributor is, for instance, going to call

on me as early as possible to secure a contract for that year's service.

Senator WHITE. When you close your contract, you are taken care of for a year?

Mr. CASSIL. That is right. * * *

The point I am really trying to make clear is that they would do it.

That means that the distributor would exact the price from the exhibitor who was trying to buy a single picture.

The witness further said:

I have no love for the distributors.

In other words, here is the idea. We would be in constant need of pictures. They could wait us out—dealing in one picture at a time—until the time they knew we had to have pictures.

Senator WHITE. That is what I thought your point was.

Mr. CASSIL. Then I would be absolutely at their mercy, because I would either have to deal right along or stay closed for that particular period.

Mr. President, these considerations to which I have alluded make clear that this wholesale method of leasing is founded on reason, and is not arbitrary compulsion of unwilling lessees. Compulsory block booking, Mr. President, is in truth a fiction. Compulsory block booking is nonexistent. Whatever may be the charges and the countercharges, the figures in the record show that a competitive situation exists among producers, and that exhibitors have both a substantial right of selection in making the contracts and a large privilege of cancelation with respect to particular pictures, notwithstanding general acceptance of the wholesale lease and orderly distribution policy.

Mr. President, I have a list to which I shall make hurried reference. Twentieth Century-Fox Films, one of the Big Eight, so-called, for the 1937–38 playing season offered 57 pictures. One picture was the subject of 12,214 contracts. That was the highest number. Those 57 pictures run all down the list until you come to the lowest, with only 3,581 contracts, or a spread between the highest and the lowest of 8,633 contracts.

Mr. President, that demonstrates either a power of selection or a large power of cancelation, and it probably means both.

Paramount Pictures for the season 1937–38 put out 50 pictures. One picture was contracted for 13,200 times. Going down the list we come to the bottom one with 3,947 contracts, a spread of 9,353 contracts. Again a demonstration of power of selection or a large use of the power of cancelation.

R. K. O. Pictures: For the 1937–38 playing season R. K. O. produced 46 feature pictures. They leased or contracted for one picture 9,567 times, and another picture, down at the bottom of the list, only 845 times, a spread by R. K. O. of 8,722 contracts—again a demonstration of the power of selection or the wide use of the power of cancelation.

Universal Pictures produced 34 pictures for the 1936–37 playing season. Ten thousand five hundred and sixty-nine contracts were made for the most popular picture and 2,315 for the least popular, a spread of 8,254 contracts.

Metro-Goldwyn-Mayer produced 45 pictures for the 1937–38 season. There were 10,873 contracts for the most popular picture and 5,455 contracts for the picture at the bottom of the list, a spread in that case of 5,418 contracts.

Columbia Pictures produced 38 feature pictures for the 1936–37 playing season. There were 10,298 contracts for one of them and 2,006 contracts for another, a spread in that instance of 8,292 contracts.

Taken in the aggregate, these figures demonstrate the power of selection by exhibitors throughout the country. Again I say there is the widest possible leniency in the matter of cancelation by exhibitors.

Let me state a few more facts about cancelations. I have here a note as to a picture which I am told is one of the great pictures of the country. I myself do not attend motion pictures. I refer to the picture Music for Madame. I understand it is one of the high-grade pictures. That picture had 5,873 cancelations. In the picture Music for Madame, Nino Martini, one of the greatest singers of our time, was starred.

Quality Street, the Sir James M. Barrie story, had 4,837 cancelations.

Hitting a New High, with Lily Pons, had 4,862 cancelations.

The Great Garrick, based upon the life of that great English actor, had 3,389 cancelations.

April Romance, built around the life of Franz Schubert, had 3,871 cancelations or failures to play the picture.

A Midsummer Night's Dream had 2,971 cancelations.

Great Expectations, the Charles Dickens story, had 2,730 cancelations.

Under Your Spell, starring Lawrence Tibbett, the great American baritone, had 2,135 cancelations.

Another picture, with Lily Pons, had 1,472 cancelations.

As against these high-grade pictures, what do we find?

Mae West's first two pictures, She Done Him Wrong and I'm No Angel, had not a single cancelation.

I have before me a list of other pictures, including Lady Be Careful, The Last Gangster, Big City, Desire, Alcatraz, Her Jungle Lover, Dracula, and Frankenstein, the last two being so-called horror pictures. Those pictures had less than 20 cancelations each. I submit that these latter figures do not argue strongly for the effectiveness of a high standard of local choice.

There is more testimony about cancelations. Take the case of Metro-Goldwyn-Mayer. Last year, that company produced Romeo and Juliet at a cost of $2,800,000; and yet 590 theaters took advantage of the cancelation clause. In the same year that company brought out a story based upon the life of Al Capone, entitled "The Last Gangster." In the case of that picture there were only 13 cancelations, as against 590 cancelations for Romeo and Juliet.

Apple Blossoms, an outstanding picture, starring Richard Tarbell, a fine concert signed, had cancelations from 3,900 theaters, while only 13 theaters canceled Big City, having to do with taxicab racketeers.

The classic called A Christmas Carol was released last December, and at the time of the hearings that picture had already received 1,292 cancelations.

Those are the pictures of Metro-Goldwyn-Mayer.

Let us take the case of R. K. O. What is the record?

For 1936–37 R. K. O. produced 46 pictures. Only 33 percent of the lessees took the entire output of R. K. O., notwithstanding all the talk we hear about compulsory block booking. That year R. K. O. received cancelations in rentals totaling $776,867. Talk about compulsory block booking! In 1937–38 this same concern offered 40 feature pictures, and only 32 percent of the lessees took the entire number. The cancelations that year of pictures put out by R. K. O. amounted, in rentals, to $976,425.

One of the witnesses for the bill, while insisting that he could reject only 10 percent of the pictures included in the blocks of certain producers, admitted that with another company he had bought a selective contract, and he said he picked out perhaps 26 out of 45 or 50 pictures that that particular concern makes.

Mr. President, these facts and figures speak for themselves. I think they should convince any disinterested person that compulsory block booking is not a reality as of the present, but that the power of selection and cancelation is a substantial right widely exercised by exhibitors. That it is not more general is without question due to the advantage to all of the other method, the wholesale leasing method.

What of the future? Already a new motion-picture code has gone into effect. The new motion-picture code by its terms gives an absolute right of cancelation to the extent of 20 percent when the film rental averages $100 or less per picture. This right applies to approximately 10,000 theaters in the United States in towns of less than 10,000 population. This means that in 8,230 of the 9,187 towns in the United States theaters are given a 20-percent right of cancelation.

The code gives a 15 percent right of cancelation when the rentals average between $100 and $150. This would cover 4,000 theaters. It gives a 10-percent right of cancelation when the average rental is more than $250 per picture.

In addition to this absolute right to cancel pictures, a further right is given, subject to arbitration, to cancel any

picture which offends the morals or the racial or religious sensibilities of the community where it is sought to be shown.

Mr. President, pictures have constantly improved in quality. In support of this conclusion I call not the many who oppose this legislation, and who assert this statement to be true, but a principal witness for the bill. I quote a witness in behalf of the bill:

In other words, in justice to the distributors I am willing to say that the moral level of the pictures has been elevated during the past 2 or 3 years due to the influence of the Legion of Decency.

I may say parenthetically that the Legion of Decency, established by the bishops of the Catholic Church of America, is opposed to the bill. The same witness from whom I have just quoted, in answer to my question as to what percentage of pictures produced and sold under the system of which he complained are of a character not to be shown to the public of America, answered:

Answering that literally, I would say that perhaps only 1 or 2 percent to the public of America, if you mean by that the general public.

Mr. President, I pass on to section 4, which undertakes to make unlawful what is called blind selling. The section is uncalled for. To meet its requirements would demand that present methods of selling be abandoned and a new system created. In many, and, indeed, in most instances, pictures are now leased before they are made. They are bought on the reputation of the producing company and of the actors playing in the pictures.

The overwhelming weight of the testimony is that compliance with section 4 is impossible. Bear in mind that the section makes it unlawful to lease or offer to lease any motion picture unless the distributor shall furnish the exhibitor at the time of making such lease or offer to lease a complete and true synopsis of the contents of such film including such details as are set forth in the section.

Let me illustrate by the story of a single picture the impossibility of observance of this requirement. I shall read in this connection from the record in the case. This has reference to one of the most recent pictures, Alexander Graham Bell, and this is the testimony of the representative of the company which produced that picture. It bears directly on the question whether the provisions of section 4 can be complied with under the present methods of picture production in the United States. While the quotation from the testimony is rather long, I think it is interesting and I am going to read it. I quote as follows:

I have selected, not because I wanted to for this purpose but because I happened to be here on another errand when I was asked to stay over and appear before this committee—I happened to be here in connection with our picture called Alexander Graham Bell. At least 2 years ago we commenced the study of the life of Alexander Graham Bell and his invention of the telephone. That study took us personally and physically to England and to Edinburgh, which was where Alexander Graham Bell himself had his beginnings; it brought us to Canada, to Bramford, where his parents lived for a time; to Boston University, where he was a teacher of elocution; to Clark School for the Deaf; and finally into Boston itself as an individual endeavoring to invent the telephone.

We had to contact all of these sources of material. We had to talk with the people most definitely interested, and our trail finally led here in Washington to Mrs. Gilbert Grosvenor, who is the wife of Dr. Gilbert Grosvenor, the editor and publisher of the National Geographic Magazine. Mrs. Grosvenor is the eldest daughter of Alexander Graham Bell and Mabel Hubbard, his wife.

Our contact with them began after we had written our first treatment. If it had been necessary for us to have complied with section 4 of the Neely bill we would have issued as complete and as true a synopsis of our picture, Alexander Graham Bell, as we could as early as the beginning of 1938, in order that the selling of that picture, which probably occurred—I know very little about the selling and distribution end of our business, but probably the selling of it occurred during the summer of 1938, and it would have been necessary for us to have issued a synopsis of a story which confined itself at least half to England and to Scotland, about a quarter to his efforts in connection with the multiple telegraph, and only about the final quarter would have been the story of the invention of the telephone in Boston. Honestly and completely that would have been the story that we would have attempted to have sold our exhibitors. That would have been a direct violation of section 4 of the Neely bill, because by the time the picture came out that would not have been a complete and true synopsis of the life or the story of Alexander Graham Bell, even though it was called American Miracle instead of the story of Alexander Graham Bell, which is the title under which the picture has been sold.

By March of 1938 we had commenced to change the name. At least, we had two names on this treatment, Alexander Graham Bell or American Miracle.

At that time, if we had tried to make a complete and true synopsis of our picture, we would have told the exhibitors that Tyrone Power and Nancy Kelly were to have the leads in the picture. We would have spent at least half of our time with the multiple telegraph, and that would have left out almost entirely that very tender and very fine relationship which existed between Mabel Hubbard, the deaf daughter of Gardiner Hubbard, a great name in business, a great lawyer, international in his scope, and we would have confined ourselves almost entirely and completely to the multiple telegraph and the little variations from that that led him into the telephone.

By May 12, 1938, we had developed a plot. I must explain to you, if I may, sir, and to Senator NEELY, that these early treatments are developed primarily to get a line on the story. As we go on through the treatment we try to develop the plot, the dramatic elements of Alexander Graham Bell's life concerning the invention of the telephone. The dramatic elements were two. One was the invention of the telephone itself, which, when you see it on the screen in this stage of the development, was a relationship of batteries and wires and all the paraphernalia that go with electrical mechanism, which cannot be dramatized; and his struggle for the invention of the telephone which, in real life, took 12 years of litigation—his struggle to make his patents hold up.

I omit a portion because time is running.

In August 1938, about the time, I think, that the story would have been actually sold, we developed what we call a first-draft continuity, which puts this treatment, with some variations, into language and scene directions. This is complete [exhibiting a volume]. It is 166 pages long. It has 276 scenes, and there is dialog in each scene; and even under the provisions of (b) of section 4, covering the treatment of dialog with reference to vice or crime or sexual passion—of which there is none in this picture, of course—we might have been able to say something about the dialog that would appear in this picture.

Between August 8 and October 29 I personally had had the privilege and pleasure of spending weeks of time with the Bell family here and abroad; with the Bell Telephone Co. in their home office in New York, and in their laboratory; and I had discovered that there was more real drama and more real motion-picture entertainment in the real facts that they were able to give me, the little things that they were able to supply for us, than we had conceived of, so that the continuity of August 8 was almost entirely thrown away. The story line was kept, but the continuity, the description of scenes—

Were completely changed.

The changes from October 28, 1938, through November 4, 1938, and finally to December 1, 1938, are refinements. The story line had been changed. The story line in August and the story line in October are as different as two different stories could possibly be.

I skip again some portions of the testimony.

I suspect that the people who are proponents of this bill would have thought that by then at least we would be able to send out a complete and true synopsis of our Alexander Graham Bell picture. I don't know who it is that is going to get caught on this. I would be the one to send the picture out, and I do not know whether I am the one who is going to spend a year in jail or not; but if we had sent this final script out on December 1, 1938, my wife would have had to find $5,000 for me and I would have to spend a year in jail, if the bill means what it says it does, because after the picture went into production, between the time it went into production and the time it was put in the final can and shipped east 123 complete scenes were changed in the entirety and 48 minor changes were made in 36 additional scenes.

Technically we could not have complied with section 4 of the Neely bill until the picture itself was in the can and out of the laboratory and ready for distribution.

Mr. President, the blind sales complained of are not to the American public but to a limited number of exhibitors. Conceivably they, or some of them, might lack the knowledge they would like to have, and possibly ought to have when they lease a film; but if we have an obligation it is not to the two or three thousand exhibitors who favor this bill but to the 85,000,000 of our people who patronize the box offices of our theaters, and section 4 gives them no new assurance whatsoever as to the pictures they are to see. The exhibitor, under the present criticized practice, knows what is in the picture when he shows it, when he advertises it upon the billboard and in the local newspapers, just as he will know the picture should section 4 become a law, but he will face under this section no obligation whatsoever to give to the public any information concerning the picture that he cannot now give.

The exhibitor under the present criticized practice knows what is in a picture when he shows it and advertises it upon billboard and in local paper, just as he will know what is in the picture should section 4 become law; but he will face no obligation under this section to give to the public any information concerning a picture which he cannot now give. He will face no obligation under this section to give any information whatsoever unless he so chooses. The section gives no promise to the theatergoer of America, young or old. The testimony is that it would require a complete abandonment of the present methods of production and of distribution, with no assured good to any one of those in whom we profess an interest.

Mr. President, the consideration which has moved many organizations—especially many organizations of women—throughout the country to support the bill is the belief, expressed in various ways, that it would result in a larger opportunity for them to influence for the better the quality of pictures shown in their several communities. There is nothing in the bill which sets up a means or method for exerting this community influence. There is no determination as to which of the many groups said to be interested in the legislation is to pass judgment in a given community on the quality of a picture. There is no assurance that the group getting the ear of the exhibitor will have a higher standard than some other group, or a more accurate judgment than the exhibitor himself as to community tastes. There is no obligation upon the exhibitor to pay the slighest attention to one group or to withhold the showing of any picture he desires to show. After all is said and done, the rank and file of picturegoers in a community register through the box office their desires as to pictures shown; and we but delude ourselves if we think they will submit to censorship by any self-constituted picture critics in their city or in their town.

I would not argue against the helpfulness of local influence; but such experience as we have teaches that the great improvement of pictures must be at the source. Betterment must come in the subject matter and its treatment when the pictures are made. It will not result in satisfactory degree from efforts to control the local exhibitor, or to conform the cultural standards of people of many races and many creeds and many standards of life and conduct to the ideas of any community group.

The record of local efforts to do this is not sufficiently encouraging. A principal witness for the bill—and the witness was referring to cancelations through local action, said:

> To cancel a picture would immediately give it wonderful advertising value in hundreds of other communities, and would do more general harm than good.

While perhaps not so intended, this is a forceful argument for the proposition that pictures will not be elevated by local attacks upon a particular picture. The effort should be—it must be, if it is to be effective—directed generally to the character of pictures produced. It will not come through sporadic efforts by scattered groups with varying interests and uncertain standards.

Another witness in behalf of the bill says this in referring to the accomplishments of a local film council acting as a review board, previewing pictures:

> But this is rather interesting: A picture turned down by the Worcester Review Board is advertised as such on the billboard in the center of the town, with the additional information that it is being shown in a nearby town and that busses leave there every 15 minutes for that town.
>
> As a matter of fact, pictures have been frequently shown in Boston with an advertisement carrying these words: "Banned by the Worcester Board of Review. Come and see."

Here, again, out of the mouths of those supporting the bill we get the truth as to local influence by any group, however high-minded the members thereof may be. I give it as my opinion that public influence must be exerted chiefly and directly upon the producing company at the source of production, or we must rely upon the taste and judgment of the eighty-five millions of Americans who enter our theaters each week, or—the alternative—we muct accept censorship of pictures by lawful authority; and the latter alternative the American people will not permit. Pictures that once enter the stream of commerce—the stream of exhibition, if I may so express it—will be shown. Our problem, the problem of those desiring clean, wholesome, and educational pictures with entertainment value, is how to get such pictures made. I think our own sense, the judgment of those informed as to the picture industry and the record in this case, all bring conviction that there must be a high sense of public responsibility in the industry, and that the public pressure must be exerted when and where the picture is being made, and not elsewhere and thereafter.

Mr. President, that is the purpose and that is the effort of the best of the producing companies, of the organization known as the Motion Picture Producers and Distributors of America; that is the ambition of the Production Code Administration; it is the hope of the great Catholic League of Decency; it is the means which other organizations and high-minded persons believe should be adopted, rather than the measures proposed in this bill.

This policy, and efforts in its behalf, have already justified themselves. In 1922 only 25 percent of the pictures previewed by the International Federation of Catholic Alumni were approved. In 1927 about 40 percent were passed. In 1930, when the second Motion Picture Code was in existence, 50 percent were approved. Between 1930 and 1934 the percentage went to 77 percent, and as other organizations have exerted their influence, the standards have still further improved.

I again refer to the testimony of a vigorous proponent of the bill, who said, "Perhaps only 1 percent or 2 percent should not be shown to the public of America." That children should not see many more in addition to this 1 or 2 percent is surely true, but the fathers and the mothers of America must assume their part of the responsibility for the training and education of our youth. This obligation cannot be shifted to statutes, community influence, or this or that or the other group.

Mr. President, many persons and groups of persons of the highest purpose earnestly support the proposed legislation, but they have no monopoly in proper motives. Small picture exhibitors, those interested in civic matters, educators, women, mothers, oppose it, because they believe it to be the wrong approach or because they believe its effects will be harmful to the industry, and will retard the progress toward better pictures now definitely going on.

I mention but a few of the persons holding these views, and give but the barest summary of their conclusions.

Mrs. Martha W. S. Addoms is the chairman of the Motion Picture Council for Brooklyn, N. Y., an organization which seeks, through every means in its power, to unite the exhibitors and the public in the common purpose of maintaining a high standard in motion-picture entertainment. Mrs. Addoms is a woman of intelligence, a woman of character, a woman interested in the public weal, and she says:

> It is our belief that the best interests of our large cosmopolitan community will be best met by the defeat of the Neely bill.

I quote her again:

> Our experience does not substantiate the objection that a community is limited in its choice of films. No request for change of film for reasonable and satisfactory reason has ever been refused us by any one of the large circuit managers. Programs can be changed, sophisticated pictures can be grouped in midweek, and family films at week ends, and the number of films to which objection can be brought for racial, religious, or moral grounds will easily fall within the allowed percentage of cancelation.

Again I quote from her testimony:

> We are convinced that the average small exhibitor, if left to himself to select will find his position far worse than at present. The small independent stands somewhat alone. He usually runs a small house, and must compete with the "big fellow" up the street.

I quote further:

> The Motion Picture Council for Brooklyn holds no brief for block booking of itself. To us it represents the best method of wholesale distribution which the producers have as yet been able

to work out. To us it insures a continuous flow of more or less satisfactory films, and many that are exceptional. To us it means the maintenance of the production code, which is an absolutely necessary bulwark if decency is to be maintained.

Another witness was Mr. Frederic M. Thrasher, a professor of education and director, motion-picture study, New York University, and technical director of the Metropolitan Motion Picture Council. He stated:

I have read carefully the Neely bill (S. 280) to prohibit block booking and blind selling, and in my opinion this legislation will serve no useful purpose either in the direction of the improvement of trade practices in the motion-picture industry or in the improvement of the motion-picture product to be exhibited in the theater.

I quote again:

In my opinion the abolition of block booking and blind selling would not improve the product, that is, the quality of motion pictures now being made and exhibited in the theaters. In fact I believe it would have a deleterious effect upon the exhibition of pictures in general.

He was asked to explain, but I shall not undertake to quote that part of the testimony.

I now wish to quote from Mrs. John Franklin Noble, president of the Better Films Council of Greater St. Louis. She stated:

Our whole trouble, 100 percent, has been with the pictures that are sold singly, and right now we are circularizing those sources we think necessary with a warning against some of these pictures.

She stated again:

Single production buying would make it almost impossible for certain types of neighborhood houses to show the better pictures, because the prices for such single productions would be prohibitive. We feel that block booking, within reason, is like quantity buying—you can do better. Therefore, we ask that your committee recommend that the pending legislation be withdrawn.

Mrs. Lawrence S. Ackers, of Memphis, Tenn., for 8 years has been president of the Better Films Council of Memphis, for 3 years has been district chairman of motion pictures for the Tennessee Federation of Women's Clubs, and for 1 year has been State chairman of motion pictures for the Tennessee Federation of Women's Clubs. She stated:

I have been called on to organize numerous better films councils in Tennessee, Mississippi, and Arkansas.

I quote again from her testimony:

The Memphis Better Films Council has a membership of 158 women's groups of all kinds. Included among them are various religious, civic, educational, and patriotic organizations.

I quote further from her testimony:

Never at any time have I found that block-booking and blind buying have interfered with my work. When an exhibitor buys his pictures by this method he is given a cancelation privilege, and for that reason I have never accepted block booking and blind buying as an excuse for showing of any particular picture. The truth is that the only objectionable pictures that I have encountered in recent years have been those which were not approved by the Production Code Administration, nor sold in blocks, but which have been distributed singly. Does this indicate that block booking and blind buying have been responsible for truly objectionable pictures? Certainly not.

* * * * * * *

Let me again emphasize one fact, that through public patronage of the higher type pictures, and through public patronage alone, can the question of proper moral standards in pictures be solved. I urge this committee to report unfavorably on the Neely bill.

Mrs. Edmund M. Barsham, of Wilmington, Del., testified:

I am representing the Wilmington Civic Federation of Women's Clubs and allied organizations, comprising 67 member groups; the Wilmington Better Films Council, comprising 53 groups; both of which have taken action against the Neely bill.

I quote only one part of her testimony:

Did anyone ever hear that the method by which the automobile dealer purchases his cars, the method used in purchasing food by the grocer, or the purchasing methods of the clothier in securing the clothing we wear had a thing in the world to do with quality? I never did, and I don't believe it does. Why, then, is it reasonable to expect that a change in sales methods would have anything to do with the quality of pictures shown? As I see it, the quality of pictures can be regulated and assured only in the studios in which they are made, and not by a change in sales methods.

Then there is testimony by the vice president of the North Carolina and South Carolina Theater Owners' Association against the bill. There is also the testimony of Mr. Ralph Block, representing the Screen Writers' Guild, in which he testified as to the impossibilty—and he speaks with authority—of complying with section 4.

Leo Brecher, of New Rochelle, N. Y., representing the Independent Theater Owners' Association of New York, an organization of some 400 neighborhood theaters, spoke in opposition to the bill, and I shall quote just a line or two from what he testified:

The matter of block booking is one purely of trade practices. It is purely a matter of competitive conditions. There have been made here statements that block booking is something that has been imposed upon independent theaters only and not imposed upon producer-affiliated theaters. That is not the truth. In New York the producer-controlled theaters are obliged to buy their films on a block basis because it is the only way they can secure a supply of films. In other localities they can buy on a selective basis, but the same thing is true of the independent exhibitors.

I quote again:

In my opinion, the enactment of the Neely bill—not the enforcement of the bill, but the mere enactment of it—will cause such dislocation in this business that only a few powerful units will be able to survive it. If I wanted to monopolize this motion-picture business, I could not conceive of a shrewder method of accomplishing that than to have this Neely bill. There are not three producing companies in existence today that are in a position to lay in enough of an investment in films to be able to continue in the business, to be able to show them to the exhibitors in order to avoid the dangerous pitfalls of that provision for a true and complete synopsis to be given in advance, for it has been demonstrated that it is impossible to give a true and complete synopsis in advance.

Frank H. Cassil, of St. Louis, Mo., president of the Kansas-Missouri Theater Owners' Association, comprising approximately 400 theaters in that immediate neighborhood, says—and I have already quoted him in part, in connection with another phase of this problem—

The distributor attempts to secure the highest rentals he can, and the exhibitor attempts to buy the pictures at prices he can afford to pay. This bill, if enacted, will place the exhibitor in a precarious position, since he will have to make a deal for one picture at a time; and being in constant need of pictures to fill out his programs, the exhibitor will be at the mercy of the various film salesmen who may raise his prices to the point where he can no longer exist.

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

Mr. WHITE. I yield.

Mr. BARKLEY. Will the Senator tell us whether this witness or members of his association are exhibitors purely, or are they interested in the production or distribution of pictures?

Mr. WHITE. I can only give the Senator what the witness says himself. He said:

I am owner and manager of the Rialto Theater, St. Joseph, Mo., and I am president of the Kansas-Missouri Theater Owners' Association, comprising approximately 400 theaters in Kansas City and the western half of Missouri.

There is nothing in the testimony, so far as I recall it, which indicates that he is at all interested in production, but he is interested in exhibiting, and he speaks from the standpoint of the exhibitor in those Midwestern States.

Mrs. Piercy Chestney, president of the Macon Little Theater, Macon, Ga., and president of the Better Films Committee, testified. That committee represents more than 75 organizations. Mrs. Chestney is a woman of intelligence and character, who is interested in all that is best in this country of ours. What does she say?

Boiled down, the situation seems to me to be this: The improvement in pictures has been so decided that whether an exhibitor buys in a block or buys separately, the result would be the same; he would practically be compelled to show what we, the public, call a good picture, as that, with few exceptions, is all he can buy.

William F. Crockett, president of the Motion Picture Theater Owners of Virginia, testified. He speaks as a representative of the small exhibitors in the State of Virginia, and I believe, though I am not certain, that his organization reaches over into the northern part of North Carolina. He speaks as a small picture exhibitor in opposition to the bill.

Mrs. Samuel A. Ellsworth, of Worcester, Mass., executive secretary, Worcester Board of Motion Picture and Theater Review, testified. She has also been the motion picture adviser for the girls' reserve group at the Y. W. C. A. I will not quote her, but I simply place her as among those women of high character and high purpose who oppose this legislation.

Then there is Mrs. Mildred B. Flagg, of Newtonville, Mass. She is vice president of the Boston City Federation of Clubs, representing 85,000 men and women. For 15 years she has been a writer and speaker on the subject of motion pictures and their effect on our national life. She is the mother of two daughters, one in Wellesley and one in Smith. She is a public-spirited woman of education, interested in all those things which make for the best in our social and civic life. She voices her opposition to the bill.

Then there is a representative of the Southeastern Theater Owners' Association, composed of theater owners and managers in Georgia, Alabama, Florida, and east Tennessee, representing more than 400 theaters. He was instructed by the directors of the association to protest the passage of the bill.

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

Mr. WHITE. I yield.

Mr. WALSH. I do not know whether the Senator earlier in the proceedings, or in his speech, made a statement as to whether or not he wished to be interrupted. If the Senator has no objection to being interrupted in his speech I should like to ask him to yield at this point.

Mr. WHITE. I yield.

Mr. WALSH. I would say as one Member of the Senate, who has not been a member of the committee, that I should like to know what is behind the measure; what evils existed, and what was the propelling force which led to the introduction of such a bill? In other words, it is either an imaginary set of conditions which do not exist at all, and somebody is trying to regulate this great industry, or there were certain facts, certain circumstances, certain evils, certain conditions which aroused someone and some groups of people to appeal here for legislative action. I should like to know if there was such background as that.

Mr. WHITE. Unquestionably there was. I have no doubt that in the years past there were many pictures of a low order produced and shown. But in later years all over this country there has been an effort, not alone by local groups, but by organizations, such as the great Catholic League of Decency, sponsored by the bishops of the Catholic Church of America, to improve the character of pictures shown.

Mr. WALSH. Then the Senator's contention is that this regulatory measure comes too late; that such action should have been taken 10 years ago before voluntary action was taken by the industry to stop some of the evils which he says exists.

Mr. WHITE. No. The first proposal for legislation of this character was made some 10 or 11 years ago. I think there has been a tremendous change in the character of motion pictures since that time.

Mr. WALSH. There is no doubt about that. Everyone will agree with that. Is it the Senator's position that there is now no need for legislation of this kind, because the industry itself has cleaned house?

Mr. WHITE. I think the industry has cleaned house. I think it has set up the machinery by which improvement will still continue. I think the testimony shows that the proposed legislation will be disruptive of a great industry. There is testimony tending to show that the legislation will result in a lowering of picture standards rather than to raise them.

Mr. WALSH. I thank the Senator. He has enlightened me. But I still have in mind that for several years past, exhibitors have called upon me and have made vigorous protests, and have told me that they were being ruined, that they were being destroyed and driven out of business by some of the practices of the producers. I confess I have not had time to go into all the details and the facts, and that is what prompts my inquiries.

Mr. WHITE. There are 17,541 exhibitors of pictures in the United States today. Of this total number of exhibitors there is a group called Allied States Theatres. I do not know the exact name. Some say there are 4,000 of these 17,000 or 18,000 in that group. Others testify there are only about 2,000 in that group. However, somewhere between 2,000 and 4,000 of the almost 18,000 exhibitors in the United States are in that group who favor this legislation.

Mr. WALSH. Mr. President, there is a very bitter feeling existing undoubtedly on both sides of this issue. Permit me to read a telegram in reference to the very matter the Senator just spoke of. The telegram is from Arthur K. Howard, secretary, Independent Theater Owners of New England:

> We are greatly alarmed because a Paramount representative has misinformed exhibitors here about the Neely bill and has solicited letters and wires expressing their opposition. Urgently request you vote favorably bill S. 280 to abolish compulsory block booking and blind selling in motion-picture industry.

I have several similar telegrams, and I have letters from some of the organizations, groups of whom the Senator has quoted, religious, educational, charitable, and other organizations, that have impressed me with the fact—I do not want to do the industry injustice—that there really was an evil here, that there was a condition that was not approved by the general public, and that was injurious to the exhibitors, and had a tendency to compel the exhibition of pictures that individual exhibitors and the public did not want.

Mr. WHITE. I congratulate the Senator that he did not hear all of my statement, but had the Senator heard me, I think he would have had knowledge of the fact that there is a tremendous body of testimony to the effect that the enactment of this measure will in no respect help the situation, but on the contrary is likely to prejudice it, and I have just been citing the views of many persons, some from the Senator's own State.

I was just about to quote the testimony of another witness, who, I think, is from Massachusetts.

Mr. WALSH. I thank the Senator. I am sorry I interrupted him in the midst of his speech.

Mr. WHITE. I am trying desperately to conclude.

Mr. WALSH. The Senator has been reading letters. I have received a letter from Mr. Claude M. Fuess, headmaster of Phillips Academy, Andover, Mass.——

Mr. WHITE. I have no doubt the Senator has many such letters.

Mr. WALSH. Phillips Academy is one of the finest preparatory schools for young men in the United States. I doubt if Mr. Fuess writes frequently to public men on public questions. He says:

> PHILLIPS ACADEMY,
> *Andover, Mass., January 24, 1939.*
>
> Senator DAVID I. WALSH,
> *Senate Chamber, Washington, D. C.*
>
> MY DEAR SENATOR WALSH: Without wishing in any way to influence your action, I should like to tell you how important from the standpoint of schools like my own it is that the new Neely bill for abolishing compulsory block booking and blind selling of motion pictures should be passed. The measure is, it seems to me, a just one, and will do much to raise the standard of the motion-picture industry. I hope that you will be able consistently with your conscience to give it your support.
>
> Please do not trouble to answer this letter. I should hate to have you feel that I am to be a troublesome constituent, but this measure seems to me to be of great importance.
>
> Cordially yours,
>
> CLAUDE M. FUESS.

I do not know Mr. Fuess. He is not a man who mixes in public affairs. He is the head of a fine institution. His letter deeply impresses me. He has taken the time and the trouble to write to me.

Mr. President, I am not a member of the committee. In conclusion, I should like to know, first, whether or not an evil exists. Everyone knows that it existed at one time. Does it still continue? Has it been remedied? Should we let the industry alone because it has cleaned house? Do evil practices in the industry still continue?

Mr. WHITE. Mr. President, I thought the Senator wished to ask me a question. I have been speaking for more than 2 hours, and I am very anxious to conclude.

Mr. WALSH. I beg the Senator's pardon. The Senator is always very fair, and I deeply and sincerely value his opinions. I have found that it has been helpful to me to ascertain what is behind any proposed legislation, and who is promoting it. Is there an evil? What is the reason for the agitation? Is it merely a bill to embarrass an industry and to promote agitation against a large, high-class industry?

Mr. WHITE. Mr. President, I have been expressing my views about the whole situation for nearly 2 hours. I have no question that the gentleman to whom the Senator refers entertains the views he has expressed. I simply think he is all wrong.

Howard M. LeSourd, dean of the Graduate School of Boston University, says of himself:

> My avocation is the development of programs for the use of motion pictures in religious and character education. I started that work 10 years ago, when a committee—of which I was chairman—surveyed the use of motion pictures for religious education.

The work carried on by the committee of which he was chairman was so impressive that the Rockefeller Foundation appropriated $150,000 to continue and develop the program. His conclusion is hostile to the bill, and he recommends that it be not passed.

Dr. Russell Potter, of Columbia University, representing the National Board of Review of Motion Pictures, a voluntary association founded in 1909, growing out of the People's Institute at Cooper Union in New York City—which organization has a record of more than 25 years of voluntary activity all over the country through its local councils in the interest of better pictures—appeared as a witness. I cannot pick out a short quotation from his statement, but he does not approve the bill.

Mrs. Fred Stephenson, of Springfield, Mass., past chairman of the Springfield Motion Picture Council, and at present a member of the Springfield Board of Education, said:

> You can readily understand why I consider that we do have a choice of selection, and why I am convinced that the method of approach to this problem is not through legislation, but, rather, is through a wholehearted attempt at mutual understanding and common interest between the industry, the public, and those interested in the continued betterment of motion pictures. When the public is better informed and is more thoroughly aware of its responsibility in the support of the truly good pictures, then the future of motion pictures will be assured.

Stanley Sumner, of Cambridge, Mass., is the operator of the University Theater at Cambridge, Mass., located in Harvard Square, directly opposite Harvard College and adjacent to Radcliffe College, Sargeant School, a part of Boston University, and numerous preparatory schools. He has been a manager of theaters since 1911. I quote two brief paragraphs:

> I have never, in 25 years, been forced to show or pay for a picture that I did not personally consider to be fit and proper to show to my audience, although during practically the entire time I have bought under the system referred to as block booking and blind buying; and, gentlemen, I want to emphatically impress upon you that I am an independent exhibitor enjoying no special privileges, and without affiliation with any group of theaters or distributors.

Mrs. Charles W. Swift, of Elmira, N. Y., president of the Elmira Motion Picture Council, which has a membership of 45 organizations from civil, religious, and educational groups, says, among other things:

> In those 10 years I have been working I have seen a steady increase in the quality of pictures that are both entertaining and educational from 30 percent that would be recommended to 95 percent at the present time.

Another witness was Lyle M. Wilson, of Roanoke Rapids, N. C., an exhibitor, and president of the Theater Owners of North and South Carolina. He says:

> I am not familiar with the operation of theaters in large metropolitan centers of the North. My situation is just that of the average small-town operator, but hundreds of exhibitors such as I am make up the exhibitor organization of the Carolinas.
>
> * * * * * * *
>
> The proponents of the bill, I believe, are misinformed as to the actual workings of the bill as it will apply to their individual situations. Educational pictures of the higher type may be bought separately under the new bill, but also pictures unsuitable for any type of audience.

Quoting again:

> It is my opinion that the exhibitors of North and South Carolina are not in favor of the pending measure, and I urge you gentlemen to give this bill an unfavorable report.

Mr. Harry G. Hogan, of Fort Wayne, Ind., is an exhibitor. He gave us a most interesting discussion of the industry and of the bill. I shall quote only two or three paragraphs from what he said:

> The proponents of the Neely bill, unlike some exhibitors, go beyond criticizing block buying, which, it must be admitted, is organized, is workable, and is distributing pictures profitably and cheaply, to the advantage of the producers, exhibitors, employees, and the public. The Neely bill, before making any considered effort to alter the system in a practical way, proposes to wipe it out entirely without offering any practical, organized substitute, but giving instead an undisclosed trade-practice system, wide open at both ends, minus traffic markings or signals from either the industry or Congress—a system that will disrupt the supply of pictures to the exhibitor.

I should like to quote further from his testimony, but I shall pass on.

Mr. President, I should like to read the testimony of some other witnesses, but I must conclude. I have made only casual reference to the opinions expressed by the American producers of films themselves, and of those engaged in the distribution of the largest part of the films shown in the theaters of the United States. Theirs is interested testimony, to be sure; but it is expert testimony, and it is hostile to the bill. It is to the effect that the bill would disrupt and utterly destroy the method of distribution worked out through the slow process of business evolution; that the results would be increased costs to the exhibitors and the theater goers of our country; that it would seriously and adversely affect picture production, and would surely make for the elimination of the small producer, and result in a still greater concentration of production in the hands of a still smaller number of large and amply financed companies; that it would lessen the efforts and the effectiveness of those who have been striving, through pressure and persuasion exerted at the source of production, to elevate picture standards in our country; and that it would in truth lower rather than raise the entertainment, educational, and social value of American pictures. Mr. President, in these conclusions I concur.

I wish that groups throughout our country who seek a betterment in our picture standards would carry on their educational work and their other appeals to this end, but I am convinced, from such study as I have been able to give to this problem, that such of them as urge this legislation are, in this effort, in grave error. I beg them to consecrate their energies and their high purpose to a worthier cause than the enactment of this bill.

Mr. President, a bill in almost the precise terms of the pending measure has been pending in the Congress for some 10 or 12 years. In all this time such a bill has never received the sanction of the other branch of the Congress. Why must we of the Senate continue to give our time and our efforts in its behalf until the other body gives evidence of some degree of approval? Up to this time, notwithstanding hearings and study, the committee of the House having jurisdiction has never, in the span of years, stamped this legislation with its favor. That, I submit, reflects the judgment of the great Interstate Commerce Committee of the other body as to the wisdom and the merits of such legislation as we now consider. Why must we again pass a bill that it may be welcomed elsewhere with bloody hands to a hospitable legislative grave?

Mr. President, over and over again we hear asked the questions, "Why is American business timid? Why does it not invest in plant enlargement? Why does it not increase employment of our idle millions, and make its possible contribution to the wealth of this Nation of ours?" A great

committee of the Senate has been recently urged to study and find the answer to such questions.

Mr. President, I suggest that a part, at least, of the answer is in just such legislation as is now before the Senate—legislation frightening and disorganizing a great industry and disrupting its methods, with no assured betterment to anyone.

Mr. President, I have heard much in these latter days of a policy of appeasement toward our business life. Could America be assured that an era of good feeling between Government and business was at hand, our country would witness an amazing expansion in all fields of industrial development, and we would go forward as a people to better and to happier days. Here and now, Mr. President, is the opportunity for the Senate to make its contribution to this desired end by the defeat of the pending measure.

AMENDMENT OF TENNESSEE VALLEY AUTHORITY ACT—CONFERENCE REPORT

During the delivery of Mr. WHITE's speech,

Mr. NORRIS. Mr. President, will the Senator yield to me to call up a conference report?

Mr. WHITE. I yield.

Mr. NORRIS. Mr. President, I ask the Chair to lay before the Senate the conference report on Senate bill 1796 which recently came from the House.

The PRESIDING OFFICER (Mr. THOMAS of Utah in the chair) laid before the Senate the report, which is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1796) to amend the Tennessee Valley Authority Act of 1933, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

"That the Tennessee Valley Authority Act of 1933, as amended, is amended by adding after section 15a the following new sections:

"'SEC. 15b. No bonds shall be issued by the Corporation after the date of enactment of this section under section 15 or section 15a.

"'SEC. 15c. With the approval of the Secretary of the Treasury the Corporation is authorized, after the date of enactment of this section, to issue bonds not to exceed in the aggregate $61,500,000. Such bonds may be sold by the Corporation to obtain funds which may be used for the following purposes only:

"'(1) Not to exceed $46,000,000 may be used for the purchase of electric utility properties of the Tennessee Electric Power Company and Southern Tennessee Power Company, as contemplated in the contract between the Corporation and the Commonwealth and Southern Corporation and others, dated as of May 12, 1939.

"'(2) Not to exceed $6,500,000 may be used for the purchase and rehabilitation of electric utility properties of the Alabama Power Company and Mississippi Power Company in the following named counties in northern Alabama and northern Mississippi: The counties of Jackson, Madison, Limestone, Lauderdale, Colbert, Lawrence, Morgan, Marshall, De Kalb, Cherokee, Cullman, Winston, Franklin, Marion, and Lamar in northern Alabama, and the counties of Calhoun, Chickasaw, Monroe, Clay, Lowndes, Oktibbeha, Choctaw, Webster, Noxubee, Winston, Neshoba, and Kemper in northern Mississippi.

"'(3) Not to exceed $3,500,000 may be used for rebuilding, replacing, and repairing electric utility properties purchased by the Corporation in accordance with the foregoing provisions of this section.

"'(4) Not to exceed $3,500,000 may be used for constructing electric transmission lines, substations, and other electrical facilities necessary to connect the electric utility properties purchased by the Corporation in accordance with the foregoing provisions of this section with the electric power system of the Corporation.

"'(5) Not to exceed $2,000,000 may be used for making loans under section 12a to States, counties, municipalities, and nonprofit organizations to enable them to purchase any electric utility properties referred to in the contract between the Corporation and the Commonwealth and Southern Corporation and others, dated as of May 12, 1939, or any electric utility properties of the Alabama Power Company or Mississippi Power Company in any of the counties in northern Alabama or northern Mississippi named in paragraph (2).'

"The Corporation shall file with the President and with the Congress in December of each year a financial statement and complete report as to the expenditure of funds derived from the sale of bonds under this section covering the period not covered by any such previous statement or report. Such bonds shall be in such forms and denominations, shall mature within such periods not more than fifty years from the date of their issue, may be redeemable at the option of the Corporation before maturity in such manner as may be stipulated therein, shall bear such rates of interest not exceeding 3½ per centum per annum, shall be subject to such terms and conditions, shall be issued in such manner and amount, and sold at such prices, as may be prescribed by the Corporation with the approval of the Secretary of the Treasury: *Provided*, That such bonds shall not be sold at such prices or on such terms as to afford an investment yield to the holders in excess of 3½ per centum per annum. Such bonds shall be fully and unconditionally guaranteed both as to interest and principal by the United States, and such guaranty shall be expressed on the face thereof, and such bonds shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. In the event that the Corporation should not pay upon demand when due, the principal of, or interest on, such bonds, the Secretary of the Treasury shall pay to the holder the amount thereof, which is hereby authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such bonds. The Secretary of the Treasury, in his discretion, is authorized to purchase any bonds issued hereunder, and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of the Corporation's bonds hereunder. The Secretary of the Treasury may, at any time, sell any of the bonds of the Corporation acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of the bonds of the Corporation shall be treated as public-debt transactions of the United States. With the approval of the Secretary of the Treasury, the Corporation shall have power to purchase such bonds in the open market at any time and at any price. None of the proceeds of the bonds shall be used for the performance of any proposed contract negotiated by the Corporation under the authority of section 12a of this Act until the proposed contract shall have been submitted to and approved by the Federal Power Commission. When any such proposed contract shall have been submitted to the said Commission, the matter shall be given precedence and shall be in every way expedited and the Commission's determination of the matter shall be final. The authority of the Corporation to issue bonds under this section shall expire January 1, 1941, except that if at the time such authority expires the amount of bonds issued by the Corporation under this section is less than $61,500,000, the Corporation may, subject to the foregoing provisions of this section, issue, after the expiration of such period, bonds in an amount not in excess of the amount by which the bonds so issued prior to the expiration of such period is less than $61,500,000, for refunding purposes, or, subject to the provisions of paragraph (5) of this section (limiting the purposes for which loans under section 12a of funds derived from bond proceeds may be made) to provide funds found necessary in the performance of any contract entered into by the Corporation prior to the expiration of such period, under the authority of section 12a."

And the House agree to the same.

E. D. SMITH,
ELMER THOMAS,
G. W. NORRIS,
CHAS. L. MCNARY,
B. K. WHEELER,
Managers on the part of the Senate.

A. J. MAY,
EWING THOMASON,
DOW W. HARTER,
Managers on the part of the House.

Mr. GEORGE. Mr. President, will not the Senator from Nebraska advise the Senate of the material points involved in the conference report?

Mr. NORRIS. I shall be glad to do so. The Senate bill authorized the Tennessee Valley Authority to issue bonds in the sum of $100,000,000 for certain purposes. Authority to carry out those purposes had, with very slight exception, previously existed. The House bill reduced the amount of bonds which could be issued to $61,500,000. The conference report agrees to the figures of the House bill providing for the issuance of bonds in the amount of $61,500,000, and earmarks the $61,500,000, with respect to the particular properties which may be purchased from the proceeds of the bonds. The remainder of the report follows the bill as it passed the Senate.

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

Mr. NORRIS. I yield.

Mr. McKELLAR. The $61,500,000 will be sufficient to buy the properties that are now contracted for, will it not?

Mr. NORRIS. Yes.

Mr. McKELLAR. And that will mean that the agreement will be consummated?

Mr. NORRIS. That is my understanding. Of course, technically speaking, the period has expired within which the contract could be ratified by which the sale of the Tennessee Electric Power Co. property was made to the T. V. A.

Mr. McKELLAR. I understand that.

Mr. NORRIS. So they will have to make a new contract. But both sides are anxious to make it.

Mr. McKELLAR. That is my understanding.

Mr. NORRIS. I presume it will be a matter of form of going through and changing the date of the contract.

Mr. McKELLAR. May I express to the Senator, the chairman of the Senate conferees, my very great thanks.

Mr. NORRIS. Mr. President, I am not the chairman.

Mr. McKELLAR. The Senator is a member of the Senate conferees. The Senator has done a great deal of fine work in this matter, and I appreciate it.

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

Mr. NORRIS. I yield.

Mr. BARKLEY. I wish to ask the Senator a question. He may have explained the matter already. I was called out of the Chamber temporarily and did not hear all of his explanation. What happened to the provision put in the bill in the House restricting very drastically the territory?

Mr. NORRIS. That provision of the House bill was not agreed to and is not in the conference report.

Mr. BARKLEY. I thank the Senator.

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

Mr. NORRIS. I yield.

Mr. RUSSELL. What are the provisions now in the bill as to the taxation of the property?

Mr. NORRIS. There is no reference whatever to taxation in the bill.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

AMENDMENT OF SOCIAL SECURITY ACT—ADDITIONAL CONFEREES

During the delivery of Mr. WHITE's address:

Mr. HARRISON. Mr. President, will the Senator yield for an interruption?

Mr. WHITE. I yield, if it will not take much time.

Mr. HARRISON. It will take but 2 minutes.

Mr. WHITE. Very well, I yield.

Mr. HARRISON. Mr. President, in view of the fact that the House today appointed seven conferees on the part of the House on House bill 6635, it is felt that two additional Members of the Senate should be added to the list of the Senate conferees. I request that two additional conferees be named on the part of the Senate.

Mr. LODGE. Mr. President, may I inquire what the motion is?

Mr. HARRISON. The House has appointed seven conferees on the social-security measure. The Senate appointed five conferees last night after the bill was passed. I merely ask that two additional members of the Committee on Finance be named as conferees on the part of the Senate on the social-security measure, as their names appear in order on the list of members of the committee.

Mr. LODGE. Mr. President, may I ask the Senator whether the ranking minority member of the committee has been consulted in respect to this matter?

Mr. HARRISON. I may say that the suggestion came to me from the House. The conferees were appointed according to the quota of membership on the committee as between the Republicans and the Democrats. With the two additional Members to be appointed there will be five Democrats and two Republicans.

Mr. BARKLEY. Mr. President, I understood that my name was one of the two added.

The PRESIDING OFFICER. That is correct.

Mr. BARKLEY. I appreciate that action, and in order of rank I suppose I would be eligible for appointment; but in view of the numerous duties I have to perform, which make it difficult for me to attend all the conference meetings, I ask to be excused from appointment as one of the Senate conferees, and suggest that the next ranking Member be appointed in my place.

The PRESIDING OFFICER. Without objection, the Chair will name as conferee the Senator from Texas [Mr. CONNALLY] in place of the Senator from Kentucky [Mr. BARKLEY].

Mr. McNARY. Mr. President, may we have the names of the conferees read?

The PRESIDING OFFICER. The clerk will read the names of the two additional conferees on the part of the Senate.

The Chief Clerk read the names of Mr. WALSH and Mr. CONNALLY.

Mr. McNARY. Five conferees were appointed last evening. Who are they?

Mr. HARRISON. Senators were appointed conferees in order of seniority on the committee. The Senator from Utah [Mr. KING], myself, the Senator from Georgia [Mr. GEORGE], the Senator from Wisconsin [Mr. LA FOLLETTE], and the Senator from Kansas [Mr. CAPPER]. We have learned since that action was taken—that the House has named seven conferees—and it was suggested at the other end of the Capitol that two more Senators should be added as members of the conference committee on the part of the Senate. They have been named as their names appear in order on the list of members of the committee.

The PRESIDING OFFICER. The Chair appoints the Senator from Massachusetts [Mr. WALSH] and the Senator from Texas [Mr. CONNALLY] as additional conferees on the part of the Senate.

AMENDMENT OF SECOND LIBERTY BOND ACT

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H. R. 5748) to amend the Second Liberty Bond Act, as amended.

Mr. HARRISON. Mr. President, I move that the Senate recede from the so-called Norris amendment. The conference report on the T. V. A. measure has been adopted this afternoon and that eliminates the question covered by the amendment. I should like to have the Senate recede, therefore, so that the bill may go to the President.

Mr. KING. Mr. President, will the Senator indicate just what the bill is and what the amendment is?

Mr. HARRISON. This is a bill which was considered and passed by the House, I think unanimously, and passed by the Senate without any opposition. It deals with amendment of the Second Liberty Bond Act. When it was considered the senior Senator from Nebraska [Mr. NORRIS] offered the T. V. A. agreement plan as an amendment, which was adopted, but there is no need for that now, as an agreement has been arrived at, and the Senate this afternoon has adopted the conference report on the T. V. A. measure.

Mr. NORRIS. Mr. President, I join with the Senator from Mississippi in his request. It will be remembered that during the discussion which took place on the amendment I stated in effect that when the House voted on the T. V. A. measure, as they have done, no matter how the vote went, I would be willing to recede on this particular amendment. I think the Senator from Mississippi is justified in making his motion. It carries out what I believe was the understanding of the Senate when the amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Mississippi that the Senate recede from its amendment to House bill 5748.

The motion was agreed to.

FRANKLIN D. ROOSEVELT LIBRARY

The Presiding Officer laid before the Senate the amendments of the House of Representatives to the joint resolution (S. J. Res. 118) to provide for the establishment and maintenance of the Franklin D. Roosevelt Library, and for other purposes, which were on page 2, lines 20 and 21, to strike out "Secretary of the Treasury" and insert "Federal Works Administration"; on page 2, lines 22 and 23, to strike out "Procurement Division of the Treasury Department" and insert "Public Building Administration"; on

page 3, line 3, to strike out "Procurement Division" and insert "Public Building Administration"; on page 3, line 5, to strike out "Secretary of the Treasury" and insert "Federal Works Administration"; on page 6, line 7, after "Library." to strike out all down to and including "prescribe." in lines 10 and 11; on page 7, line 5, to strike out "Director of the National Park Service" and insert "Commissioner of Public Buildings"; and on page 10, to strike out lines 3 to 13, inclusive.

Mr. BARKLEY. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Calloway, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5610) making appropriations for the Government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1940, and for other purposes.

APPROPRIATIONS FOR THE DISTRICT OF COLUMBIA—CONFERENCE REPORT

Mr. OVERTON. Mr. President——

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

Mr. WHITE. I do.

Mr. OVERTON. I wish to have the Senate take action on the conference report on the District of Columbia appropriation bill.

Mr. WHITE. Mr. President, I feel very guilty about taking so much time. I have given assurance to the Senator from West Virginia that I shall make every effort to conclude in a short time.

Mr. OVERTON. It will take only 2 or 3 minutes, if that long.

I submit the conference report on House bill 5610, the District of Columbia supply bill, and ask to have it read.

The PRESIDING OFFICER. The report will be read.

The Chief Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on certain amendments of the Senate to the bill (H. R. 5610) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1940, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 61, 62, 63, 64, 65, 67, 68, 69, 70, and 71.

That the House recede from its disagreement to the amendment of the Senate numbered 59; and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$6,000,000", and on page 2, line 8 of the bill after the word "Columbia," insert the following: "and this Act shall be effective as of July 1, 1939, and any appropriations and authority contained herein shall have the same force and effect between June 30, 1939, and the date of the enactment of this Act as though the same had become law on July 1, 1939; and the acts of any officer or employee performed during such period in anticipation of the appropriations or authority contained herein shall not be invalidated, declared ineffective, or questioned solely because of the lack of such appropriations or authority during such period,"; and the Senate agree to the same.

Amendment numbered 60: That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows: Omit the matter stricken out and inserted by said amendment; and the Senate agree to the same.

Amendment numbered 66: That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$1,623,000"; and the Senate agree to the same.

Amendment numbered 101: That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: "$900,000, and not to exceed 10 per centum of this appropriation and of Federal grants reimbursed under this appropriation shall be expended for personal services, including the employment of one general superintendent of public assistance services at $5,600 per annum, one assistant superintendent of such services at $4,600 per annum, and one stenographer-typist (secretary) at $2,000 per annum, to be appointed without reference to civil-service requirements,"; and the Senate agree to the same.

JOHN H. OVERTON,
CARTER GLASS,
ELMER THOMAS,
WILLIAM H. KING,
GERALD P. NYE,
Managers on the part of the Senate.

ROSS A. COLLINS,
GEORGE H. MAHON,
KARL STEFAN,
FRANCIS H. CASE,
Managers on the part of the House.

Mr. OVERTON. I ask unanimous consent for the immediate consideration of the report.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the conference report? The Chair hears none. The question is on agreeing to the report.

Mr. OVERTON. Mr. President, I send to the desk a letter from the President of the United States addressed to me, and a letter from the President of the Board of Commissioners of the District of Columbia to me, both of them bearing upon the matter contained in the conference report, and ask unanimous consent that both of the letters be included at this point in the RECORD.

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

The letters are as follows:

THE WHITE HOUSE,
Washington, July 14, 1939.

MY DEAR SENATOR OVERTON: I am deeply concerned by the situation which currently affects the government of the District of Columbia. More than 10,000 employees will be payless on Saturday.

There is even a question as to the right of the Commissioners to continue the employment of the firemen, policemen, street cleaners, school janitors, court attendants, etc., etc., where no appropriation to pay them exists.

As you know, I have directed the District Commissioners to continue the necessary functions of the District of Columbia government for the very obvious reason that if these functions are not continued the safety of life and property and the normal occupations of the more than half million people of the District would become impossible. There has to be a continuing government.

For this reason I think it is of the utmost importance that in order to maintain local government, a joint resolution be passed authorizing the District government to continue for a week or 2 weeks or a month, and appropriating enough money to carry this out.

I hope that this can be done before Saturday because very many of the employees are greatly dependent on their pay checks.

Very sincerely yours,

FRANKLIN D. ROOSEVELT.

Hon. JOHN H. OVERTON,
United States Senate, Washington, D. C.

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
EXECUTIVE OFFICE,
Washington, June 28, 1939.

Hon. JOHN H. OVERTON,
Chairman, Subcommittee on District of Columbia Appropriations, Committee on Appropriations, United States Senate, Washington, D. C.

DEAR SENATOR OVERTON: Pursuant to your request during the conference between yourself and the Commissioners yesterday afternoon, they wish to advise you as follows concerning their attitude respecting the appropriation for emergency relief of residents of the District for the fiscal year 1940:

The Commissioners submitted an estimate of $900,000 for this purpose to the Budget Bureau and that Bureau approved that amount. This also was the amount approved by the House. The Senate has increased the amount to $1,500,000, of which not to exceed $300,000 is made available for relief to unemployed employables. This matter, it is understood, is one of the major amendments in disagreement between the House and the Senate.

The Commissioners have given careful consideration to this matter, and in view of the present status of the District appropriation bill for next year it is their opinion that the $900,000 should be approved at this time, subject to the condition that the Commissioners may, if such action be deemed advisable, recommend a supplemental appropriation for inclusion in an early deficiency bill in the next session of Congress.

This conclusion has been reached by the Commissioners primarily for the reason that beginning with July 1, Mr. Otto J. Cass, now deputy administrator of the local Works Progress Administration, will be appointed Superintendent of Public Assistance Services, and in that capacity will have charge of the administration of relief appropriations. The Commissioners have discussed

the matter in question with Mr. Cass, and he has advised them that it is his intention to cause an immediate investigation of the relief case load in the District, as the result of which he will report to the Commissioners before January 1, 1940, whether an appropriation in excess of the $900,000 will be required. If he finds such to be the fact, he will recommend to the Commissioners that they request of Congress, through the Budget Bureau, the granting of a supplemental appropriation for such amount as may be found to be necessary.

In view of the foregoing the Commissioners feel that at this time, and subject to the condition herein stated, the Senate would be justified in receding from its amendment to increase the relief appropriation to $1,500,000.

Very truly yours,

M. C. HAZEN,
President, Board of Commissioners of the District of Columbia.

Mr. AUSTIN. Mr. President, will the Senator yield for one question? It will take no time.

Mr. OVERTON. I shall be glad to yield.

Mr. AUSTIN. Will the Senator please tell us what the conference report shows with respect to the amount of money carried by it?

Mr. OVERTON. The bill provides $6,000,000 as a Federal payment by the National Government for the upkeep of the National Capital.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

Mr. OVERTON. Mr. President, I ask unanimous consent that the Vice President be authorized to sign the bill during the recess of the Senate.

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

DISTRICT OF COLUMBIA TAXATION

The PRESIDING OFFICER laid before the Senate the action of the House of Representatives further insisting upon its disagreement to the amendment of the Senate to the bill (H. R. 6577) to provide revenue for the District of Columbia, and for other purposes, and requesting a still further conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. OVERTON. I move that the Senate further insist upon its amendment, agree to the still further conference asked by the House, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. OVERTON, Mr. KING, Mr. GLASS, Mr. TYDINGS, and Mr. CAPPER conferees on the part of the Senate.

PROHIBITION OF BLOCK BOOKING AND BLIND SELLING OF MOTION-PICTURE FILMS

The Senate resumed the consideration of the bill (S. 280) to prohibit and to prevent the trade practices known as compulsory block booking and blind selling in the leasing of motion-picture films in interstate and foreign commerce.

Mr. NEELY. Mr. President, I offer and move the adoption of three amendments, which have been printed. I ask that the clerk read the first one of them.

Let me state, before the amendment is read, that all these amendments have been designed for the purpose of meeting objections made by those opposed to the bill. So far as I know, there is no objection on the part of anyone to the adoption of the amendments.

The PRESIDING OFFICER (Mr. THOMAS of Oklahoma in the chair). The first amendment offered by the Senator from West Virginia will be stated.

The LEGISLATIVE CLERK. On page 4, after line 6, it is proposed to insert the following new paragraph:

(7) The terms "aggregate price" and "price" as used in section 3 (1) shall mean the aggregate of all flat rentals, and of all rentals based upon a percentage of prospective receipts together with any other consideration named in the lease or offer to lease.

Mr. NEELY. I move the adoption of the amendment.

Mr. KING. Mr. President, I do not wish the adoption of these amendments to foreclose a discussion of their provisions and their relation to the bill. I say frankly that I have been in committee meetings all day and I desire to speak at considerable length upon the bill. I have no objection to the adoption of the amendments with the understanding that if, in my discussion and after reading them, it becomes necessary to reconsider the action upon them, that may be done.

The PRESIDING OFFICER. The question is on agreeing to the first amendment offered by the Senator from West Virginia.

The amendment was agreed to.

Mr. NEELY. I ask that the next amendment be read.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On pages 4 and 5, it is proposed to strike out all of section 3 (1) and to insert in lieu thereof the following:

SEC. 3. (1) It shall be unlawful for any distributor of motion-picture films in commerce to lease or offer to lease for public exhibition films in a block or group of two or more films and to require the exhibitor to lease all such films or permit him to lease none; or to lease or offer to lease for public exhibition films in a block or group of two or more at an aggregate price for the entire block or group and at separate and several prices for separate and several films, or for a number or numbers thereof less than the total number, which aggregate price and separate and several prices shall bear to each other such relation (a) as to operate as an unreasonable restraint upon the freedom of an exhibitor to select and lease for use and exhibition only such film or films of such block or group as he may desire and prefer to procure for exhibition, or (b) as tends to require an exhibitor to lease such entire block or group or forego the lease of any number or numbers thereof, or (c) that the effect of the lease or offer to lease of such films may be substantially to lessen competition or tend to create a monopoly in the production, distribution, and exhibition of films; or to lease or offer to lease for public exhibition films in any other manner or by any other means the effect of which would be to defeat the purpose of this act.

Mr. BARKLEY. Mr. President, I do not know how that amendment relates to section 3. I desire to say frankly that I hoped we could obtain a vote on the bill this afternoon. The Senator from Utah [Mr. KING] has advised me that he desires to speak on the bill, and I understand that the Senator from Kansas [Mr. CAPPER] desires to speak on it. I do not wish to shut off any Senator on either side from speaking on the bill; but I doubt very much whether Senators are willing to stay here very late tonight in order to get a vote on the bill. I will say further that I had hoped and still hope we may avoid a session tomorrow. There is not much legislation of great importance on the calendar for consideration next week and I should be perfectly willing to enter into an agreement to vote not later than, say, 3 o'clock on Monday if we could have an agreement of that kind. I think the Senate would be glad if we could avoid a session tomorrow. I do not think it would take long on Monday, anyway, even without an agreement; but I realize the desire to dispose of the bill. I doubt very much whether the Senate is in a mood to remain here late tonight in order to vote.

Earlier in the day, thinking we would finish the consideration of the bill, I advised a number of Senators that in all probability we would not have a session tomorrow, and based upon that, some Senators have left the city.

It is immaterial to me when the vote comes; I am willing to remain here today, or to be here tomorrow, and will, of course, be here on Monday, but, as I see it, there is nothing pressing about voting at any particular time. Of course, in order to get an agreement to vote at a certain hour on Monday or on any other day it would be necessary, under the rules, to call a quorum, unless we could waive that. I propose this unanimous-consent request, that the requirement of the rule for calling a quorum be waived, and that at not later than 3 o'clock on Monday the Senate proceed to vote on the bill and on all amendments thereto without further debate.

Mr. KING. Mr. President, I have no objection to that, with the understanding that I may claim the floor at 12 o'clock when the Senate meets on Monday.

Mr. NEELY. Mr. President, I had very sincerely hoped that there could be a vote on the bill tonight, and I think there still could be a vote without the Senate remaining in

session longer than 6 or 6:30 o'clock, p. m. A Senator has told me within the last 2 hours that he has been told by a representative of the opposition that if this bill should be enacted no producer of films could offer to sell more than one film at a time without the executive incurring the risk of being sent to jail and made to pay a heavy fine. I know that the city is full of that kind of propaganda. I wish we could avoid having it continue over the week end. Of course, if the Senate wants to adjourn, and is not willing to come back tomorrow and address itself to the pending legislation, to obtain a vote on which I have done all in my power for more than 6 months, of course I am helpless in the situation.

The PRESIDING OFFICER. Is there objection to the request submitted by the Senator from Kentucky? The Chair hears none, and it is so ordered.

Mr. NEELY. Is not the Senator from Kentucky willing that we may dispose of the three amendments I have offered? They have been thoroughly discussed, they have been on the desk for weeks, and every one of them is offered for the purpose of appeasing the opposition.

Mr. BARKLEY. I have no objection to disposing of the amendments. The only thought I had in mind was that the amendment now offered is a complete substitute. I should like to have the attention of the Senator from Maine. I do not know how the amendment now offered affects section 3 as it is in the bill. Has the Senator from Maine familiarized himself with it? My thought was that if we did not vote on the bill today, the amendment might be printed and voted on Monday, although I have no interest in the amendment one way or the other.

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

Mr. BARKLEY. I yield.

Mr. WHITE. One of the amendments—and I do not have clearly in mind at the moment which one it is—I think is harmful rather than helpful; but there is only one of them to which that statement applies. Taken as a whole, I do not think they make any change at all in the meaning and the effect of the proposed legislation. I think they are merely a substitution of words, with no change in the meaning or the effect of the language, save in one case. In one case I think the noose is drawn a little tighter.

Mr. BARKLEY. I see no harm in the amendment going over until Monday; but if the Senators desire to have a vote on it, I do not object.

Mr. NEELY. I do not insist, and I do not insist on the adoption of the amendment. Frankly, I would rather have all the amendments defeated. They were offered in an effort to avoid unnecessary controversy on the floor of the Senate, merely as an appeasement of the opposition, because it was thought they met objections made by the spokesmen for the Moving Picture Trust. So far as I am concerned, I should be very glad to have all three amendments rejected, but I promised in the hearings that I would offer the amendments, and I am now offering them in order to keep the promise I made.

Mr. WHITE. I have spoken so much on the bill that I shall not say a word about the amendments. I do not care much whether they are adopted or not.

The PRESIDING OFFICER. The question is on agreeing to the second amendment offered by the Senator from West Virginia.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment offered by the Senator from West Virginia.

The LEGISLATIVE CLERK. On pages 5 and 6, it is proposed to strike out section 4 and insert in lieu thereof the following:

SEC. 4. It shall be unlawful for any distributor of motion-picture films in commerce to lease or offer to lease for public exhibition any motion-picture film or films over 2,000 feet in length unless such distributor shall furnish the exhibitor at or before the time of making such lease or offer to lease an accurate synopsis of the contents of such film. Such synopsis shall be made a part of the lease and shall include (a) a general outline of the story and descriptions of the principal characters, and (b) a statement describing the manner of treatment of dialogs concerning and scenes depicting vice, crime, or suggestive of sexual passion. It is the purpose of this section to make available to the exhibitor sufficient information concerning the type and contents of the film and the manner of treatment of questionable subject matter to enable him to determine whether he wishes to select the film for exhibition and later to determine whether the film is fairly described by the synopsis.

The amendment was agreed to.

Mr. BARKLEY. Mr. President, this morning I received a letter—I do not know whether other Senators received a similar letter—from the president of the American Federation of Labor with respect to the pending bill, which I ask to have read and inserted in the RECORD for the information of Senators.

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

The legislative clerk read as follows:

WASHINGTON, D. C., *July 13, 1939.*

Hon. ALBEN W. BARKLEY,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR: I am writing to advise you that the American Federation of Labor is firmly opposed to Senate bill, S. 280, commonly termed the "Neely block booking and blind selling bill."

This opposition is based upon a conviction which prevails among working people employed in motion-picture theaters throughout the land that it will create uncertainty regarding employment. They are firmly of the opinion that it will tend to promote unemployment among those employed in the motion-picture industry. It is charged by these workers that if this bill is enacted into law, it would serve to reduce the amount of work which is being performed in the motion-picture industry at this time.

I hope and trust the bill herein referred to will fail to pass.

Very sincerely yours,

WM. GREEN,
President, American Federation of Labor.

Mr. NEELY subsequently said: Mr. President, I wish to read into the RECORD a letter I have received and have it appear immediately following the letter from Mr. Green, president of the American Federation of Labor, which the Senator from Kentucky has had inserted in the RECORD. The letter I desire to appear in the RECORD is dated July 10, 1939, and reads as follows:

CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D. C., July 10, 1939.

Hon. MATTHEW M. NEELY,
United States Senate, Washington, D. C.

DEAR SENATOR NEELY: The bill, S. 280, reported by the Committee on Interstate Commerce to the Senate has been the subject of investigation and study by our committee on legislation.

We understand that the double purpose of this bill is (a) to establish community freedom in the selection of motion-picture films, and (b) to relieve independent interests in the motion-picture industry of monopolistic and burdensome trade practices.

Organized labor is interested in both of these matters. Your efforts to eliminate the abuses arising out of the monopolistic control in the motion-picture industry through this legislation are, therefore, deeply appreciated.

On behalf of the Congress of Industrial Organizations I beg to express to you our complete and wholehearted support of your measure, S. 280.

Sincerely yours,

LEE PRESSMAN, *General Counsel.*

NOMINATION OF ELMER D. DAVIES

Mr. MEAD. Mr. President, as one of the Senators who joined with the junior Senator from New Jersey [Mr. BARBOUR] in his motion to reconsider the confirmation of Mr. Elmer D. Davies, I wish to ask the privilege of the Senate to have inserted in the RECORD a letter of protest which I received from the National Association for the Advancement of Colored People. I also wish to say, Mr. President, that I intended discussing the subject at the time the nomination in regular order would have been considered, but, unfortunately, and as has already been explained, the nomination was considered by unanimous consent out of order, and confirmed.

I also realize, as has been expressed by the junior Senator from New Jersey, that the circumstances under which the nomination was considered were such that we could not find fault with or accuse any Senator or Senators of unduly expediting this particular nomination. We realize the circumstances fully. However, what happened indicates how necessary it is for the Senate to follow the usual procedure with respect to the Executive Calendar, and how helpful it is to Senators to have the ordinary procedure with respect to the calendar followed, especially with regard to nominations.

Mr. President, I have been told that the candidate has been endorsed by a number of representative people and a number of representative organizations. Information has come to me today that religious leaders, labor leaders, and representatives of the colored people and of the Jewish people have recommended and endorsed the candidate. But it is unfortunate that time and opportunity were not given to the Senate to bring out the attributes of the candidate. It is regrettable that opportunity was not given to us to present the opposition—to present matters that have come to us by way of telegrams and letters and word of mouth.

However, under the circumstances I think it is due the Senate from those who are supporting and have supported the candidacy of Mr. Davies, to take time and opportunity in the future to give to the Senate the information and the details which were available to the subcommittee when his nomination was considered.

I, therefore, ask, Mr. President, that the letter to which I have referred voicing the protest of this representative organization be inserted in the RECORD as a part of my remarks.

Mr. McKELLAR. Mr. President, where is that organization located? Is the letter from an organization in Tennessee?

Mr. MEAD. No. It is from the National Association for the Advancement of Colored People. Its headquarters is in New York City, and it includes in its membership Representatives of the House and of the Senate and other outstanding citizens of the United States.

Mr. McKELLAR. Mr. President, I have no objection at all to the insertion of the letter in the RECORD, but if the Senator will yield to me, I wish to say that earlier in the day there was placed in the RECORD all the testimony on both sides which came before the committee, both in protest against the candidate and in his favor. The Senator can find it tomorrow published in the CONGRESSIONAL RECORD, and when he reads it, if he will read it, as I hope he will, I am sure he will be perfectly satisfied with the confirmation of the nomination of Mr. Davies.

I wish to say to the Senator also that he will find other statements from practically all the colored organizations of the State of Tennessee, as I recall—I think all of them, and I know from the most important ones—supporting Mr. Davies.

Mr. Davies is a man of the highest character. A number of Jewish citizens came forward and endorsed him. Quite a number of Catholic citizens came forward and endorsed him. I do not believe there were colored witnesses before the committee; but a number of telegrams and letters were received from prominent colored educators, notably one, Dr. W. J. Hale, one of the leading colored men of the South, living at Nashville, who has known Mr. Davies for many years. He supported Mr. Davies.

Mr. President, the nomination has been before the Senate for some time. A hearing was held at which everyone who wanted to be present could have been heard. Any Senator who wished to have been present could have attended the hearing. A number of Senators were present at the hearings. Witnesses on both sides appeared and were heard. They were examined with care, as the Senator will see in reading the RECORD tomorrow. Knowing the Senator from New York as I do, knowing his fairness and his sense of justice, I am quite sure that the Senator will come to the same conclusion to which the subcommittee and the full committee came, namely, that Mr. Davies was entirely the proper person for the position and that his nomination should have been confirmed, as it was confirmed 2 days ago.

Mr. MEAD. Mr. President, I realize that the senior Senator from Tennessee exercises meticulous care generally in all his selections. That his selections have been wise and prudent is readily realized when we look at the record of the senior Senator from Tennessee and his long service in the Senate of the United States. But I wish to say to him that I was not alone in my anxiety to register the attitude of some of my people in connection with the confirmation of this nomination. The Senator from New Jersey [Mr. BARBOUR] was not alone in his desire to register his opinion. If I read the record aright, even the chairman of the Committee on the Judiciary [Mr. ASHURST] was rather anxious to discuss the nomination and was rather exercised about the manner in which its confirmation was had.

However, I make no objection, and I join with the Senator from New Jersey in expressing my opinion that there was no desire on the part of the sponsors to hurry the matter along. It was necessary for them to attend a very sad mission in their State. I merely express the thought that it will be better for the candidate, it will be better for the Senator from Tennessee, and it will be better for the Senate if this matter and other matters of serious import are widely discussed, not only in this instance but in the future, before final action is taken.

Mr. McKELLAR. Mr. President will the Senator yield?

Mr. MEAD. I yield.

Mr. McKELLAR. Mr. President, the junior Senator from New York [Mr. MEAD] asked to be heard about this matter. The Senator from New Jersey [Mr. BARBOUR] did not ask to be heard about the matter. I do not recall with respect to the Senator from Arizona [Mr. ASHURST]. I think he was absent on account of illness in his family.

However, there was no opposition after the hearing was had. There was no opposition on the part of anyone in the committee on either side of the aisle; and it was the most natural thing in the world to suppose that no one objected to the nomination. The nomination had been before us for a long time, and there was ample opportunity for anyone who wished to be heard. There was a public hearing, and it seems to me anyone who was interested could have been heard in the matter.

That being the case, there having been a vacancy for several months, and there being a very great necessity for the confirmation of this candidate for judge, on Thurdsay, after talking with the Senator from Vermont [Mr. AUSTIN], and after his very courteous agreement, he being a member of the committee, in the usual and ordinary way I asked unanimous consent for the consideration of the nomination. I did not know of any objection, and I do not think my good friend the Senator from Vermont knew of any objection. The nomination was confirmed; and in the natural order of things it was desirable that he should enter upon his duties as soon as possible, so I asked unanimous consent that the President be notified, which request was granted.

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

Mr. MEAD. I shall be glad to yield.

Mr. AUSTIN. I cannot let the statement of the Senator from Tennessee [Mr. McKELLAR] pass just as it is, because I think it might be misleading.

Since the occurrences to which the distinguished Sentor from Tennessee has referred, I have found that I had in my office a telegram calling attention to objections to the nominee. The fact is that I did not identify the telegram as applying to this particular nomination. It is true, as stated by the Senator from Tennessee, that I thought no objection whatever had been interposed.

Mr. McKELLAR. I had not received such a telegram, and no such telegram had been called to my attention. I did not know of any objection of any kind upon the part of any Senator; and I thought the matter had been disposed of in the committee.

Mr. MEAD. Mr. President, I have no desire longer to delay the proceedings. I merely mention my interest in this matter in order that it may be made a part of the RECORD, and in order to register the position of the organization whose name I have already mentioned.

I wish to say to the Senator from Tennessee that just a few moments ago I said that I had heard some very complimentary things said about the nominee. I understand he has been endorsed by labor, religious, and racial groups. I said it was unfortunate that opportunity was not given at the proper time for us to bring out the facts and ascertain both sides of the case, so as to permit the

Members on each side of the aisle to have opportunity to voice their sentiments with regard to the nominee, his fitness, and his affiliations. So, Mr. President, I ask permission to have inserted in the RECORD as a part of my remarks the letter to which I have referred.

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

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,
New York, July 7, 1939.

Hon. JAMES M. MEAD,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR MEAD: We have sent the following telegram to Senator HENRY F. ASHURST, protesting favorable report on the nomination to the Federal bench of Elmer D. Davies of the middle Tennessee district because of his admitted membership in the Ku Klux Klan:

"The National Association for Advancement of Colored People takes this means for formally protesting approval by Senate Judiciary Committee on nomination for Federal judgeship of Elmer D. Davies, of Nashville, Tenn. This association on April 11, 1939, telegraphed protest to President Roosevelt and Attorney General Frank Murphy against sending of Mr. Davies' name to the Senate because of irrefutable evidence that Mr. Davies had been an active member of the Ku Klux Klan in Nashville and, so far as could be ascertained, has not resigned from that infamous organization. On April 13 this association submitted to the President and the Attorney General photostatic copy of affidavit from N. S. Noble, of Nashville, in which Mr. Noble under oath asserted Mr. Davies had been a fellow member of the Klan. In view of admission yesterday to your committee by Mr. Davies himself of his membership, and because we believe that membership in an organization as notorious as the Klan, whose purpose is to negate Federal Constitution, demonstrates that Mr. Davies is not man of judicial temperament who belongs on Federal bench, we urge the Judiciary Committee refuse to report his nomination favorably to the Senate."

We strongly urge you to oppose and vote against confirmation, should the nomination be reported favorably to the Senate. In times like these, when racial hatred and bigotry are threatening the entire world, this is no time to put a man on the Federal bench of the United States who joined an organization like the Ku Klux Klan, whose sole purpose is that of fostering racial hatreds and bigotry.

Ever sincerely,

WALTER WHITE, *Secretary.*

CRITICISM OF WAR-TAX BILL PROVISIONS WITHOUT BASIS

Mr. BONE. Mr. President, some time ago a large group of Senators—in fact, 50 Senators—joined in introducing a bill which has been commonly designated as the war-profits bill, and which bears the number S. 1885. The bill has been before both Houses of Congress since 1935, and its provisions are well known to all interested parties.

Upon its introduction this year it was rather bitterly assailed by at least two columnists whose syndicated articles appear in a great many newspapers. It very clearly appeared from their criticism that neither of them had read the bill before assailing it because they overlooked one of the most important provisions of the bill—a provision which had to do with the credit for payment of State taxes. Upon several occasions attention has been drawn to this distortion of fact, but, so far as I have been able to determine, no correction has been made by either of the columnists.

Certainly no one will deny, Mr. President, the right of any human being freely to criticize any sort of legislative proposal. However, it seems to me that that very freedom carries with it some rather definite obligations—one of which is to correct an obvious misrepresentation. Certainly a bill which bears the sponsorship of 50 Senators ought to be treated with some consideration by those who would sit in judgment on its clear provisions. That is particularly true in a case in which newspapers which receive observations from columnists are compelled to rely upon the accuracy of the material, because the editor probably has very little opportunity to check up on it.

I am glad to note that one prominent publication in this country, the United States News, the columns of which contain so much information of importance to Members of Congress, on becoming aware of the fact that it, in common with other newspapers, had been rather misled into putting the stamp of accuracy on the statements of these columnists—who apparently do not relish the idea of taxing profits during wartime—has seen fit to publish a statement setting forth the real facts as to the particular aspect of the bill which the columnists so severely criticized.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point, as a part of my remarks, a formal statement which I have prepared, which sets forth the editorial from the United States News, and also an editorial in the column of Mr. John T. Flynn, a prominent writer of the News, whose articles adorn the editorial pages of many prominent newspapers.

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

CRITICISM OF WAR-TAX BILL'S PROVISIONS WITHOUT BASIS

The comments of certain publicists on the war-tax bill (S. 1885) have been rather widely quoted. These comments reveal an utter absence of knowledge concerning the provisions of the bill. This measure was drawn for the specific purpose of taxing the profits out of wartime operations in order to raise funds to pay for a war as it is being fought, thus avoiding wartime inflation, post-war deflation, and a frightful burden of debt on future generations.

The particular criticism which has been quoted as indicated and which is wholly without basis, purports to describe the effect of the tax set up in the bill on net incomes of more than $75,000 a year. This criticism was summed up in an editorial in the United States News, of Washington, D. C., in its issue of May 15, 1939, on page 3, which said:

"These figures, of course, account only for Federal taxes. To these Mr. Blank would have to add State income taxes. In fact, a millionaire neighbor of Mr. Blank with an annual income of more than $75,000 might theoretically owe Federal and State Governments more than his income."

Subsequently the United States News reexamined the bill and found that it was in error in making the statement I have just quoted, and in its issue of May 29, 1939, on page 7, published the following editorial statement, which I quote in full:

"THE MAXIMUM WAR TAX UNDER SENATOR BONE'S BILL

"In the May 15 issue of the United States News, in an article on page 3 analyzing three plans prepared in Congress to prevent war, it was stated that under a bill (S. 1885), introduced by Senator BONE, a person earning more than $75,000 a year might have to pay more in State and Federal taxes than the amount of his income.

"The United States News was in error in making this statement. Section 23 (c) of the Bone bill makes it impossible for a person to be required to pay more in taxes than he earns in income. The clause does this by permitting the taxpayer to deduct taxes paid, other than Federal, from his taxable income, so that the Federal tax proposed by Senator BONE would be levied only on that portion of income that remains after other taxes are paid."

Commenting on the last editorial statement from the United States News, Mr. John T. Flynn, well-known publicist of New York and frequent contributor to prominent publications, had the following to say in his column which appears in many newspapers.

"Some time ago Senator HOMER T. BONE and 49 other Members of the Senate introduced a bill known as the war-profits bill. Its objective is always stated to be to take the profits out of war. Actually its general aim is to protect the economic system against the terrible effects of war inflation.

"When the bill was introduced, various newspapers made a tremendous pother against the bill on two points. One was that the tax rate in the bill was such that on incomes over $75,000 the taxpayer would actually have to pay more in taxes than he received in income. One leading New York newspaper was so stimulated by this discovery that it featured the subject for 2 days in an effort to destroy the bill by ridicule. The other point was that the Senators who sponsored the bill had not read it.

"At the time sponsors of the bill pointed out that the criticism was a manifestly unjust one. They offered explanations of the error into which newspaper critics had fallen. But unfortunately this got no space in the critical journals.

"But now, one newspaper has had the sense of justice to point out in very generous terms the fact that in printing these criticisms of the bill it was in error.

"The original criticism was that after a taxpayer had paid the high rates fixed for the war period in the Senate bill and had then paid his State income taxes he would have paid out more than his total income. Now, the United States News has printed the following statement about this:

" 'In the May 15 issue of the United States News, in an article on page 3 analyzing three plans prepared in Congress to prevent war, it was stated that under a bill (S. 1885), introduced by Senator BONE, a person earning more than $75,000 a year might have to pay more in State and Federal taxes than the amount of his income. The United States News was in error in making this statement. Section 23 (c) of the Bone bill makes it impossible for a person to be required to pay more in taxes than he earns in income. The clause does this by permitting the taxpayer to deduct taxes paid, other than Federal, from his taxable income, so that the Federal tax proposed by Senator BONE would be levied only on that portion of income that remains after other taxes are paid.'

"Now as to the second criticism—that the Senators who sponsored the bill did not read it. The interesting feature about this is that the charge was made by newspapers which clearly had not read the bill themselves or they could never have made the blunder they did in their first ridiculous error.

"The publication of an ill-digested, unconsidered criticism like this, particularly when offered with all the pretense of careful analysis, necessarily does the cause of truth in a measure so important no end of harm. The United States News alone has had the grace to acknowledge the error." (Washington News, June 5, 1939.)

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 MESSAGES REFERRED

The Presiding Officer (Mr. THOMAS of Oklahoma in the Chair) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF COMMITTEES

Mr. SHEPPARD, from the Committee on Military Affairs, reported favorably the nomination of several second lieutenants of the Officers' Reserve Corps to be second lieutenants in the Regular Army.

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters.

The PRESIDING OFFICER. The reports will be placed on the Executive Calendar.

If there be no further reports of committees, the clerk will state the nominations on the calendar.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. McKELLAR. I ask that the nominations of postmasters be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations of postmasters are confirmed en bloc.

That concludes the calendar.

RECESS TO MONDAY

Mr. BARKLEY. As in legislative session, I move that the Senate take a recess until 12 o'clock noon on Monday next.

The motion was agreed to; and (at 5 o'clock and 35 minutes p. m.) the Senate took a recess until Monday, July 17, 1939, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate July 14 (legislative day of July 10), 1939

UNITED STATES CIRCUIT JUDGE

Charles Alvin Jones, of Pennsylvania, to be judge of the United States Circuit Court of Appeals for the Third Circuit, vice J. Warren Davis, retired.

FEDERAL TRADE COMMISSIONER

Ewin Lamar Davis, of Tennessee, to be a Federal Trade Commissioner for a term of 7 years from September 26, 1939. (Reappointment.)

NATIONAL RESOURCES PLANNING BOARD

Charles W. Eliot, of Massachusetts, to be Director of the National Resources Planning Board.

The following-named persons to be members of the National Resources Planning Board:

Frederic A. Delano, of New York.

Charles E. Merriam, of Illinois.

APPOINTMENTS AND PROMOTIONS IN THE NAVY

MARINE CORPS

The following-named captains to be majors in the Marine Corps from the 1st day of July 1939:

Ralph E. Forsyth
William J. Scheyer
Lawrence T. Burke
Thomas J. Walker, Jr.
Charles W. Kail

The following-named first lieutenants to be captains in the Marine Corps from the 1st day of July 1939:

William K. Pottinger
George N. Carroll
Paul E. Wallace
Marshall A. Tyler
Wilbur J. McNenny
Joslyn R. Bailey
Donald W. Fuller

Second Lt. David W. Stonecliffe to be a first lieutenant in the Marine Corps from the 1st day of July 1939.

The following-named citizens to be second lieutenants in the Marine Corps from the 1st day of July 1939:

Fred T. Bishopp, a citizen of Maryland.
Robert F. Jenkins, Jr., a citizen of Pennsylvania.
Benjamin B. Manchester, III, a citizen of Rhode Island.
Albert W. Moffett, a citizen of Kentucky.
Thomas V. Murto, Jr., a citizen of Pennsylvania.
Robert Philip, a citizen of South Dakota.
John W. Stevens, II, a citizen of Maryland.
Edwin J. St. Peter, a citizen of Pennsylvania.
James Taul, a citizen of Kentucky.
Waite W. Worden, a citizen of New Jersey.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 14 (legislative day of July 10), 1939

POSTMASTERS

ARIZONA

Caleb O. Rice, Douglas.

MISSOURI

Mary T. Barnes, Pilot Grove.
Walter T. May, Smithton.
Edward J. Fry, Stover.

NEBRASKA

John F. Lewis, Arnold.
Albert J. Nacke, Hebron.
Fred L. Orr, Lyons.
Louis R. Vejraska, Odell.
Irene E. Hines, St. Columbans.
Hulda M. Hallock, Springview.
Frederika W. Weber, Wahoo.

NEW YORK

Paul J. Grueninger, Valhalla.

NORTH CAROLINA

William Bryan Booe, Winston-Salem.

OKLAHOMA

Bradford M. Risinger, Sand Springs.

WASHINGTON

Wilbur B. Stonex, Onalaska.

WYOMING

George J. Snyder, Glendo.

HOUSE OF REPRESENTATIVES

FRIDAY, JULY 14, 1939

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Our Lord and our God, who art the Spirit Infinite and Eternal, we bless Thee for the preservation of our lives, for the sanctity of our homes, and for the stability of our Republic. With a conscious realization of our dependence on Thee, we pray for wisdom and understanding to guide us in the way of truth and for strength to resist that which is wrong. It is written:

Not every one that saith unto Me Lord, Lord, shall enter into the kingdom of heaven, but he that doeth the will of My Father which is in heaven.

May our labors be wise and leave us sweet. Make our hearts temples of virtue with thrones of whiteness. In the name of our Saviour. 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 had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1878. An act to provide for the distribution of the judgment fund of the Shoshone Tribe of the Wind River Reservation in Wyoming, and for other purposes; and

S. 2662. An act authorizing the Secretary of the Treasury to convey an easement in certain lands to the city of New York, and for other purposes.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H. R. 6635. An act to amend the Social Security Act, and for other purposes.

The message also announced that the Senate insists upon its amendments to the foregoing bill, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HARRISON, Mr. KING, Mr. GEORGE, Mr. LA FOLLETTE, and Mr. CAPPER to be the conferees on the part of the Senate.

EXTENSION OF REMARKS

Mr. COLE of Maryland. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD on the subject of "hot oil" and interstate oil-compact legislation, and to include therein a letter addressed to me by Secretary of the Interior Ickes.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. SHANLEY. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein an editorial from the Commonweal.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. ANDERSON of Missouri. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein a statement of August A. Busch, Jr., before the Labor Committee this morning.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. BOEHNE. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein a statement from the International Chamber of Commerce, a copy of a letter from the Secretary of State to the International Chamber of Commerce, and a short statement by Frederick W. Nichol, published in the New York Times.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. ANDERSON of Missouri. Mr. Speaker, I ask unanimous consent that at the conclusion of the legislative program today and following the special orders heretofore entered I may be permitted to address the House for 15 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AMENDMENT OF THE WAGE-HOUR ACT

Mr. DIRKSEN. 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 Illinois?

There was no objection.

Mr. DIRKSEN. Mr. Speaker, insofar as I have been able to learn, not a single Member of this House nor a single member of the Committee on Labor has voiced objection to the provision which was carried in the proposed amendments to the Wage-Hour Act which would afford relief to the small telephone exchanges throughout the country. The report filed by the Committee on Labor expressly states that—

> Small telephone companies on the whole are unable financially to comply with the wage provisions of the act.

The committee further states in its report that—

> The exemption for the operators of some small telephone exchanges is necessary to insure uninterrupted telephone communication service for the farmer and for the small rural community.

Despite this general sentiment in the Labor Committee and among members of the House, relief for small telephone exchanges is permitted to languish only because the item which would provide such relief is associated in the same bill with other items which are controversial. We are on the threshhold of adjournment. It is a sad commentary upon legislative procedure that such a situation should exist. I cannot escape the conviction that the Labor Committee will be regarded as derelict in its duty if it fails to report a measure which will afford relief for such small telephone exchanges, quite aside from whatever action it may deem necessary, wise, or expedient with respect to other provisions in the bill which it sought to bring before the House through a suspension of the rules.

EXTENSION OF REMARKS

Mr. HARNESS. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein a speech made by Hon. Richard T. James, deputy secretary of state, at the sixteenth annual pilgrimage of the Boonville Press Club to the grave of Nancy Hanks.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

FREE HARLAN COUNTY

Mr. HOFFMAN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HOFFMAN. Mr. Speaker, the morning papers carry the information that John L. Lewis requested that Attorney General Murphy send, and Murphy has sent, into Harlan County agents of the Federal Government to ascertain whether citizens of Harlan were deprived of their civil liberties.

None in this House may greatly admire me, but none can truthfully charge that I ever intentionally deceived you. Monday and Tuesday of this week I spent in Harlan County, Ky., and on my responsibility as a Member of the House, I state that, if appearances and statements made to me by miners as well as by operators and owners are any criterion of the feeling in Harlan County, the workers of that county want none of John L. Lewis' United Mine Workers. It is their overwhelming desire that they be left alone to solve their industrial problems.

No one can successfully contradict the statement that, for months, Lewis and his United Mine Workers by force and by violence, and the National Labor Relations Board by intimidation, have attempted unsuccessfully to force the miners of Harlan County into Lewis' organization.

There are hundreds of instances where Lewis' agents, his "flying squadrons," spurred on by William Turnblazer of Tennessee, and George Titler, have deprived citizens of Harlan of their civil liberties, of their right to work.

Lewis and Murphy, when Governor, dovetailing their activities, the National Labor Relations Board sitting idly by, deprived thousands of Michigan citizens of their civil liberties. Is Murphy again going to the rescue of Lewis in Harlan County? Does he intend now to use the power of the Federal Government, as before he used the power of the State of Michigan, to deprive citizens of their constitutional rights? Is he now sending agents of the Department of Justice down

into Harlan County to aid Lewis in his campaign of intimidation?

The record showing that Lewis has deprived citizens of Harlan of their civil liberties is uncontradictable. Let Murphy exert the power of the Federal Government to protect law-abiding citizens whose only desire is to support themselves by honest toil, rather than lend a show of that power at Lewis' suggestion to force free-born Americans into Lewis' organization.

Let Murphy and the National Labor Relations Board act to preserve constitutional rights, rather than as the puppets of John L. Lewis.

PERMISSION TO ADDRESS THE HOUSE

Mr. THORKELSON. 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 Montana?

There was no objection.

[Mr. THORKELSON addressed the House. His remarks appear in the Appendix.]

EXTENSION OF REMARKS

Mr. THORKELSON. Mr. Speaker, I ask unanimous consent to revise and extend my remarks in the RECORD and include therein excerpts from two letters which substantiate statements I have made here in the past.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. CASE of South Dakota. Mr. Speaker, I ask unanimous consent to extend my own remarks in the Appendix of the RECORD and include therein two brief tributes to the Mount Rushmore Memorial.

The SPEAKER. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

Mr. SPRINGER asked and was given permission to extend his own remarks in the RECORD.

THE PERIL OF MONOPOLY—BY THEODORE ROOSEVELT

Mr. RANKIN. 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 Mississippi?

There was no objection.

Mr. RANKIN. Mr. Speaker, we will soon vote on the conference report on the Tennessee Valley Authority bill. I wish to call to the attention of the House, and especially to the Republican Members, a statement made by Theodore Roosevelt in a message to Congress a generation ago, warning the American people that one of the greatest questions now before them or that would be before them for the next generation was the power monopoly, and also warning them not to let the hydroelectric power of this country get away from them. In that message he said:

> The people of the country are threatened by a monopoly far more powerful, because in far closer touch with our domestic and industrial life, than anything known to our experience.
>
> A single generation will see the exhaustion of our natural resources of oil and gas, and such a rise in the price of coal as will make the price of electrically transmitted waterpower a controlling factor in transportation, in manufacturing, and in household lighting and heating. Our waterpower alone, if fully developed and wisely used, is probably sufficient for our present transportation, industrial, municipal, and domestic needs. Most of it is undeveloped and is still in National or State control.
>
> To give this away—one of the greatest of our resources—without recompense, would be an act of folly. If we are guilty of this, our children will be forced to pay an annual return upon a capitalization based upon the highest prices which "the traffic will bear." They will find themselves face to face with powerful interests entrenched behind the doctrine of vested rights, and strengthened by every defense which money can buy and the ingenuity of capable corporation lawyers can devise.
>
> Long before that time they may, and very probably will, have become a consolidated interest controlled from the great financial centers, dictating the terms upon which the citizen can conduct his business or earn his livelihood, and not be amenable to the wholesome check of local opinion.

That prophecy has been fulfilled. We are now engaged in the battle of the century to wrest the American people from the clutches of this vast monopoly known as the Power Trust and to save the waterpower of this Nation for the American people through the T. V. A. and other similar developments.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks in the RECORD and include the short extract from the statement by Theodore Roosevelt, a former Republican President of the United States, to which I have referred.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

AMENDMENTS TO TENNESSEE VALLEY AUTHORITY ACT OF 1933—CONFERENCE REPORT

Mr. MAY. Mr. Speaker, I call up the conference report on the bill (S. 1796) to amend the Tennessee Valley Authority Act of 1933.

The SPEAKER. The Clerk will report the title of the bill.

Mr. RANKIN. Mr. Speaker, I make the point of order there is no quorum present.

The SPEAKER. Will the gentleman withhold that a moment until the report is read?

Mr. RANKIN. Yes; I withhold it, Mr. Speaker.

Mr. MAY. Mr. Speaker, I ask unanimous consent that the statement may be read in lieu of the report.

The SPEAKER. Is the gentleman from Mississippi [Mr. RANKIN] willing to withhold his point of order until the statement is read?

Mr. RANKIN. Yes; I withhold the point of order until the statement is read.

Mr. Speaker, on reflection I think the membership ought to be here to hear this statement, and I insist on the point of order that there is no quorum present.

The SPEAKER. The Chair will count. [After counting.] One hundred and twelve Members are present, not a quorum.

Mr. RAYBURN. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, when the following Members failed to answer to their names:

[Roll No. 128]

Andrews	Dies	Johnson, Lyndon	Rockefeller
Ball	Dingell	Kee	Sandager
Bolton	Douglas	Keefe	Schwert
Bradley, Mich.	Eaton, Calif.	Kelly	Shafer, Mich.
Brewster	Eaton, N. J.	Kirwan	Shannon
Buckley, N. Y.	Edmiston	Larrabee	Smith, Ill.
Byrne, N. Y.	Evans	Leavy	Smith, Maine
Byron	Fay	McLean	Smith, Ohio
Cartwright	Ferguson	McMillan, Thos. S	Somers, N. Y.
Casey, Mass.	Fernandez	Maas	Starnes, Ala.
Chandler	Fish	Maciejewski	Sumners, Tex.
Claypool	Fitzpatrick	Magnuson	Thomas, N. J.
Cluett	Flannery	Merritt	Vincent, Ky.
Coffee, Wash.	Grant, Ala.	Mitchell	Voorhis, Calif.
Connery	Grant, Ind.	Norton	West
Crowe	Hancock	O'Toole	White, Idaho
Crowther	Hare	Pierce, N. Y.	Williams, Del.
Cummings	Harrington	Ramspeck	Wood
Curley	Hartley	Richards	
Delaney	Jeffries	Risk	

The SPEAKER. On this roll call 350 Members have answered to their names, a quorum.

Further proceedings under the call were dispensed with.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. LEA. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have permission to sit during sessions of the House today and tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. VINSON of Georgia rose.

The SPEAKER. The order of business is the reading of the statement.

Does the gentleman from Kentucky yield to the gentleman from Georgia?

Mr. MAY. Yes, Mr. Speaker.

THE LATE ENSIGN JOSEPH HESTER PATTERSON, UNITED STATES NAVY

Mr. VINSON of Georgia. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H. R.

7C52) to provide a posthumous advancement in grade for the late Ensign Joseph Hester Patterson, United States Navy, which I send to the Clerk's desk.

The Clerk read the title of the bill.

The Clerk read the bill, as follows:

Be it enacted, etc., That the President is hereby authorized to issue posthumously to the late Ensign Joseph Hester Patterson, United States Navy, a commission as a lieutenant (junior grade) of the Navy with the date of rank as of June 4, 1939.

Mr. VINSON of Georgia. Mr. Speaker, this ensign went down when the submarine *Squalus* was sunk. He had made his grade and had he lived to June 4 he would have received a promotion to lieutenant. The purpose of this bill is to permit the Secretary of the Navy to issue a posthumous promotion, so that he may be buried, when the *Squalus* is raised, in the uniform of that rank.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

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

AMENDMENTS TO TENNESSEE VALLEY AUTHORITY ACT OF 1933—CONFERENCE REPORT

The SPEAKER. The Clerk will read the statement.

The conference report and statement are as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1796) to amend the Tennessee Valley Authority Act of 1933, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

"That the Tennessee Valley Authority Act of 1933, as amended, is amended by adding after section 15a the following new sections:

"'Sec. 15b. No bonds shall be issued by the Corporation after the date of enactment of this section under section 15 or section 15a.

"'Sec. 15c. With the approval of the Secretary of the Treasury the Corporation is authorized, after the date of enactment of this section, to issue bonds not to exceed in the aggregate $61,500,000. Such bonds may be sold by the Corporation to obtain funds which may be used for the following purposes only:

"'(1) Not to exceed $46,000,000 may be used for the purchase of electric utility properties of the Tennessee Electric Power Company and Southern Tennessee Power Company, as contemplated in the contract between the Corporation and the Commonwealth and Southern Corporation and others, dated as of May 12, 1939.

"'(2) Not to exceed $6,500,000 may be used for the purchase and rehabilitation of electric utility properties of the Alabama Power Company and Mississippi Power Company in the following named counties in northern Alabama and northern Mississippi: The counties of Jackson, Madison, Limestone, Lauderdale, Colbert, Lawrence, Morgan, Marshall, De Kalb, Cherokee, Cullman, Winston, Franklin, Marion, and Lamar in northern Alabama, and the counties of Calhoun, Chickasaw, Monroe, Clay, Lowndes, Oktibbeha, Choctaw, Webster, Noxubee, Winston, Neshoba, and Kemper in northern Mississippi.

"'(3) Not to exceed $3,500,000 may be used for rebuilding, replacing, and repairing electric utility properties purchased by the Corporation in accordance with the foregoing provisions of this section.

"'(4) Not to exceed $3,500,000 may be used for constructing electric transmission lines, substations, and other electrical facilities necessary to connect the electric utility properties purchased by the Corporation in accordance with the foregoing provisions of this section with the electric power system of the Corporation.

"'(5) Not to exceed $2,000,000 may be used for making loans under section 12a to States, counties, municipalities, and nonprofit organizations to enable them to purchase any electric utility properties referred to in the contract between the Corporation and the Commonwealth and Southern Corporation and others, dated as of May 12, 1939, or any electric utility properties of the Alabama Power Company or Mississippi Power Company in any of the counties in northern Alabama or northern Mississippi named in paragraph (2).

"The Corporation shall file with the President and with the Congress in December of each year a financial statement and complete report as to the expenditure of funds derived from the sale of bonds under this section covering the period not covered by any such previous statement or report. Such bonds shall be in such forms and denominations, shall mature within such periods not more than 50 years from the date of their issue, may be redeemable at the option of the Corporation before maturity in such manner as may be stipulated therein, shall bear such rates of interest not exceeding 3½ per centum per annum, shall be subject to such terms and conditions, shall be issued in such manner and amount, and sold at such prices, as may be prescribed by the Corporation with the approval of the Secretary of the Treasury: *Provided*, That such bonds shall not be sold at such prices or on such terms as to afford an investment yield to the holders in excess of 3½ per centum per annum. Such bonds shall be fully and unconditionally guaranteed both as to interest and principal by the United States, and such guaranty shall be expressed on the face thereof, and such bonds shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. In the event that the Corporation should not pay upon demand when due, the principal of, or interest on, such bonds, the Secretary of the Treasury shall pay to the holder the amount thereof, which is hereby authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such bonds. The Secretary of the Treasury, in his discretion, is authorized to purchase any bonds issued hereunder, and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such act, as amended, are extended to include any purchases of the Corporation's bonds hereunder. The Secretary of the Treasury may, at any time, sell any of the bonds of the Corporation acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of the bonds of the Corporation shall be treated as public-debt transactions of the United States. With the approval of the Secretary of the Treasury, the Corporation shall have power to purchase such bonds in the open market at any time and at any price. None of the proceeds of the bonds shall be used for the performance of any proposed contract negotiated by the Corporation under the authority of section 12a of this Act until the proposed contract shall have been submitted to and approved by the Federal Power Commission. When any such proposed contract shall have been submitted to the said Commission, the matter shall be given precedence and shall be in every way expedited and the Commission's determination of the matter shall be final. The authority of the Corporation to issue bonds under this section shall expire January 1, 1941, except that if at the time such authority expires the amount of bonds issued by the Corporation under this section is less than $61,500,000, the Corporation may, subject to the foregoing provisions of this section, issue, after the expiration of such period, bonds in an amount not in excess of the amount by which the bonds so issued prior to the expiration of such period is less than $61,500,000, for refunding purposes, or, subject to the provisions of paragraph (5) of this section (limiting the purposes for which loans under section 12a of funds derived from bond proceeds may be made) to provide funds found necessary in the performance of any contract entered into by the Corporation prior to the expiration of such period, under the authority of section 12a."

And the House agree to the same.

A. J. MAY,
EWING THOMASON,
DOW W. HARTER,
Managers on the part of the House.

E. D. SMITH,
ELMER THOMAS,
G. W. NORRIS,
CHAS. L. MCNARY,
BURT WHEELER,
Managers on the part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1796) to amend the Tennessee Valley Authority Act of 1933, submit the following statement in explanation of the effect of the action agreed upon and recommended in the accompanying conference report:

Amount of bonds

The Senate bill authorized the Authority to issue bonds in an aggregate amount not exceeding $100,000,000, which amount was to include the $3,500,000 of bonds already issued and outstanding.

The House amendment authorized the Authority to issue new bonds, in an aggregate amount not exceeding $61,500,000, which, together with the bonds now outstanding and the bonds for whose issue the Authority has made commitments to the city of Memphis, made a total amount of approximately $67,300,000.

The conference report prohibits the Authority from issuing any additional bonds under the existing sections 15 and 15a of the act, but authorizes the Authority in a proposed new section 15c to issue new bonds in an aggregate amount not exceeding $61,500,000. The Memphis commitment provided for in the House amendment has already been fulfilled by the Authority, and hence this provision has been omitted from the conference report as no longer necessary.

Use to which proceeds from bonds may be put

The Senate bill provided that the bonds might be sold by the corporation to obtain funds for the construction or acquisition of dams with appurtenant facilities, generating plants, transmission lines, rural distribution lines, and other electric-utility properties as authorized by the act including the purchase of the

Tennessee Electric Power Co. properties, and for the purpose of carrying out the provisions of section 12a of the act.

Under the House amendment $7,000,000 of the funds obtained from the sale of bonds were to be used solely for the purchase, integration, and rehabilitation of electric-utility properties of the Mississippi Power Co. and the Alabama Power Co. in certain named counties in northern Mississippi and northern Alabama and for the purpose of carrying out the provisions of section 12a of the act in such States in connection therewih. The remainder of the funds obtained from the sale of bonds was to be used solely for the purchase, integration, and rehabilitation of the electric-utility properties of the Tennessee Electric Power Co. and the Southern Tennessee Power Co. as contemplated in the contract between the Authority and the Commonwealth & Southern Corporation and others, and to carry out the provisions of section 12a in Tennessee in connection therewith.

The conference report specifically details the purposes to which the proceeds from the sale of the $61,500,000 of bonds authorized may be put. Not in excess of $46,000,000 is to be used for the purchase by the Authority of electric-utility properties of the Tennessee Electric Power Co. and Southern Tennessee Power Co., as contemplated in the contract of May 12, 1939, between the Authority and the Commonwealth & Southern Corporation and others. Not in excess of $6,500,000 is to be used for the purchase and rehabilitation of electric-utility properties of the Alabama Power Co. and Mississippi Power Co. in 27 specified counties in northern Alabama and northern Mississippi. Not to exceed $3,500,000 is to be used for rebuilding, replacing, and repairing electric-utility properties purchased by the Authority in accordance with the provisions of this section, and not to exceed $3,500,000 is to be used for constructing electric transmission lines, substations, and other electrical facilities necessary to connect the electric-utility properties purchased by the Authority in accordance with the provisions of this section with the electric power system of the Corporation. Not to exceed $2,000,000 is to be used for making loans under section 12a of the act to States, counties, municipalities, and nonprofit organizations to enable them to purchase any electric-utility properties referred to in the contract between the Authority and the Commonwealth & Southern Corporation, already mentioned, or any elecric-utility properties of the Alabama Power Co. or Mississippi Power Co. in any of the specified counties in northern Alabama or northern Mississippi. The Authority is to file with the President and with the Congress in December of each year a financial statement and complete report as to the expenditure of funds derived from the sale of bonds under section 15c covering the period not covered by any such previous statement or report.

General provisions applicable to bonds

The Senate bill provided that the bonds be in such forms and denominations, mature in such periods not more than 50 years from the date of their issue, be redeemable at the option of the Authority before maturity in such manner as might be stipulated therein, bear interest at such rates not exceeding 3½ percent per annum, be subject to such terms and conditions, be issued in such manner and amount, and sold at such prices, as might be prescribed by the Authority with the approval of the Secretary of the Treasury. The bonds were not to be sold, however, at prices or on terms to afford an investment yield to the holders in excess of 3½ percent per annum.

The House amendment contained identical provisions.

The conference report also contains identical provisions.

Guarantee of principal and interest by the United States

The Senate bill provided that the bonds should be fully and unconditionally guaranteed both as to interest and principal by the United States.

The House amendment provided that such bonds should be fully and unconditionally guaranteed both as to interest and principal by the Authority, but not by the United States.

The conference report adopts the provisions of the Senate bill in this respect.

Power of Secretary of Treasury to purchase bonds

The Senate bill authorized the Secretary of the Treasury in his discretion to purchase any of the bonds issued under the act, and for such purpose to use as a public-debt transaction proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, as amended, and to sell at any time any of the bonds so acquired. All redemptions, purchases, and sales by the Secretary of such bonds were to be treated as public-debt transactions of the United States.

The House amendment contained no similar provision.

The conference report adopts the provisions of the Senate bill in this respect.

Power of authority to buy its bonds

The Senate bill authorized the Authority with the approval of the Secretary of the Treasury to purchase its bonds in the open market at any time and at any price.

The House amendment contained an identical provision.

The conference report also contains an identical provision.

Limitation on use of bond proceeds to carry out section 12a

The Senate bill provided that no bonds should be issued to provide funds or bonds necessary for the performance of any proposed contract negotiated by the Authority under section 12a until the proposed contract had been submitted to and approved by the Federal Power Commission. Upon submission of any such contract to the Commission, the matter was to be given precedence and in every way expedited. The Commission's determination of the matter was to be final.

The House amendment contained similar provisions, but perfected such provisions so as to provide that none of the proceeds of any bonds should be used in the performance of any such proposed contract until it had been submitted to and been approved by the Federal Power Commission.

The conference report contains provisions identical in this respect with those in the House amendment.

Expiration of authority to issue bonds

The Senate bill provided that the authority to issue bonds should expire January 1, 1941, except that such bonds might be issued at any time after the expiration of such period for refunding purposes or to provide bonds or funds found necessary for the performance of any contract entered into by the Authority prior to the expiration of such period under the authority of section 12a of the act.

The House amendment contained similar provisions.

The conference report contains similar provisions, except that the language has been clarified to obviate any contention that more than $61,500,000 worth of bonds are authorized to be issued and also to obviate any contention that the Authority may, after January 1, 1941, expend bond proceeds to carry out section 12a of the act without regard to the limited purposes for which loans under section 12a of funds derived from bond proceeds may be made, or without regard to the $2,000,000 limitation on the aggregate amount of such loans.

Limitations on future activities of Authority

The House amendment (sec. 1) provided that after the date of its enactment no dams, appurtenant facilities, generating plants, transmission lines, rural-distribution lines, or other electric-utility properties, except properties of the Tennessee Electric Power Co. and Southern Tennessee Power Co., and except properties of the Mississippi Power Co. and Alabama Power Co. in certain named counties in northern Mississippi and northern Alabama, should be constructed or acquired unless approved by Congress. This provision of the House amendment also prohibited the Authority from constructing or acquiring or extending credit for the construction or acquisition of any transmission lines or other facilities outside the territory drained by the Tennessee River and a specified portion of the drainage area of the Cumberland River; and also prohibited the Authority from selling or delivering power for use outside (1) the territory drained by the Tennessee River, (2) the portion of the drainage area of the Cumberland River already referred to, (3) those portions of counties on the date of enactment being supplied with power or under contract to be supplied with power by the Authority, and (4) certain named counties in northern Alabama and northern Mississippi.

The Senate amendment contained no similar provisions.

The conference report does not contain any provision placing geographical limitations as such on the future activities of the Authority. The provisions of the conference report, already discussed, limiting the amount of bonds which may be issued, and specifying in great detail the uses to which the bond proceeds may be put, will, however, operate as an extremely effective geographical limitation. The funds of the Authority are derived from three sources: (1) The sale of its bonds, (2) revenues from the sale of power, and (3) appropriations. As stated, the conference report requires that the bond proceeds be used only to carry out stated purposes within a stated and well-defined area. Pursuant to a request from the chairman of the House Committee on Military Affairs, the Tennessee Valley Authority, through its responsible fiscal officer, submitted for the files of the conference committee the following statement as to the uses to which the appropriations available to the Authority and the revenues from the sale of the Authority's power are to be put in the fiscal year ending June 30, 1940:

TENNESSEE VALLEY AUTHORITY,
Washington, July 11, 1939.

The Honorable ANDREW JACKSON MAY,
Chairman, House Military Affairs Committee,
Washington, D. C.

DEAR CHAIRMAN MAY: In compliance with your request, I am enclosing for the files of the House conference committee on the T. V. A. bond legislation the Authority's present view as to the allocation of available funds for the fiscal year 1940 by principal projects. I am also enclosing our present allocation of the Authority's transmission-line budget for the fiscal year 1940.

The budget for transmission-line construction is classified to show separately work now under construction or officially authorized, work requested but not yet authorized, work definitely contemplated, additions required because of load or contract changes, construction required to support Memphis service, Mississippi additions, substations at water-control projects, and miscellaneous.

The total transmission-line budget for the fiscal year 1940 is $6,781,000, exclusive of overheads, which are included in the Authority's over-all budget as part of "General and administrative expenses," which are estimated to total $4,675,000 during the fiscal year 1940, for the Authority's entire program. The figure of $6,781,000 for transmission-line construction in the Authority's allotment of funds for 1940 compares with $7,136,460 shown in the Authority's appropriation request to Congress, with the exception that the latter figure includes overheads.

You will note that none of the items included have any relation to the proposed Tennessee Electric Power Co. acquisition, as this acquisition was not under consideration at the time the Authority's 1940 appropriation was requested. As you know, the Authority had

contracts prior to the consummation of the Tennessee Electric Power negotiations with only five cities served by this company. Of these five, Chattanooga was planning to construct its own transmission facilities to Chickamauga Dam, and the Authority had already constructed facilities for service to Columbia, Fayetteville, Lewisburg, and Lenoir City. Accordingly no transmission-line estimates were included in the 1940 budget for extending service to other communities served by the Tennessee Electric Power Co.

I should make clear that the general allotment of available funds for the fiscal year 1940, as well as the allotment of funds available for transmission-line construction, represent our best present view. It is impossible to predict accurately the actual requirements for each purpose for an entire year in advance. Accordingly, the allotments are subject to change to reflect the actual circumstances developing during the year. Some of the items of transmission-line construction might have to be deferred and other items not mentioned might become necessary. The original request of the Authority's department of power operations for funds to be used for transmission-line construction during the fiscal year 1940 exceeded the final allotment by several million dollars. To reach the figure of $6,781,000 it was necessary to defer a number of projects which we think are urgently needed to the fiscal year 1941.

I trust that this is the information you are seeking, but if we can add any further explanation of any of the items I should be pleased to discuss them with you.

Very truly yours,

J. A. KRUG, *Chief Power Engineer.*

Tennessee Valley Authority—approved budget, fiscal year 1940

	Estimated total cost	Fiscal year 1940
Work under construction or authorized (carry-over only):		
Columbia-Victor second line and terminals	$253,000	$153,000
Modernize breakers at Washington Ave. substation	46,000	16,000
Jackson primary substation, 12-kilovolt changes	13,000	3,000
Install 60,000-kilovolt-amperes bank at Columbia	420,000	10,000
Install 2 breakers and 1 transformer at Wilson Dam	198,000	40,000
Retire 3 breakers at Wilson Dam	−75,000	−75,000
Install radiators and sump pump at Tupelo	6,000	3,000
Retire 30,000-kilovolt-amperes bank at Norris	−200,000	−200,000
Service to Columbus, Miss	159,000	129,000
Service to Fort Payne and Scottsboro	236,000	100,000
Clarksville and Dickson regulators	39,000	24,000
Wilson-Wheeler line and terminals	385,000	335,000
Wheeler-Columbia line and terminals	909,000	739,000
Subtotal	2,389,000	1,277,000
Work requested but not yet authorized:		
Martin substations, 12-kilovolt additions	21,000	11,000
Norris-Arlington carrier current relay	21,000	21,000
Service to Macon, Miss	14,000	14,000
Additions in the west Tennessee area	470,000	470,000
Columbia condenser	345,000	245,000
Washington Ave. substation rehabilitation	133,000	133,000
Subtotal	1,004,000	894,000
Additional work definitely contemplated:		
Pickwick auto transfer (gross, $310,000)	[1] 110,000	110,000
Columbia-Nonsanto third circuit	105,000	105,000
Wilson Dam, additional 44-kilovolt capacity	135,000	135,000
Sardis line and substation acquisition	525,000	525,000
Connections to Hiwassee line	750,000	500,000
Milan substation and line changes	60,000	60,000
Lonsdale substation	354,000	354,000
Lonsdale tap, 110-kilovolt circuit	30,000	30,000
Subtotal	2,069,000	1,819,000
Additions required because of load or contract changes:		
Arlington-Coal Creek-K. U. connection	310,000	310,000
Nashville-Clarksville (using Gilbertsville line)	750,000	500,000
Service to area north and east of Nashville	500,000	500,000
Subtotal	1,560,000	1,310,000
Additions required because of Memphis acquisition: Sardis-Como line and terminals	150,000	150,000
Additions required in Mississippi:		
Service to Aberdeen (44 kilovolts)	72,000	49,000
West Point 110-kilovolt substation and Tupelo changes	245,000	245,000
Subtotal	317,000	294,000
Unreleased balance for future construction	4,086,000	124,000
Dam substations:		
Guntersville		226,000
Chickamauga		111,000
Hiwassee		613,000
Subtotal		950,000
Miscellaneous:		
Rural lines		150,000
Inventories		−300,000
General equipment		95,000
Miscellaneous		18,000
Subtotal		−37,000
Total transmission construction		6,781,000

[1] Net.

Tennessee Valley Authority, Budget Estimates—Fiscal Year 1940

(Before proration of general and administrative expense)

Total available funds:	
Appropriation [1]	$35,003,000
Net revenue from power operations	5,933,000
Total	40,936,000
Proposed allotments:	
Gilbertsville Dam and reservoir	10,220,000
Pickwick Dam and reservoir	640,000
Wilson Dam and reservoir	280,000
Wheeler Dam and reservoir	32,000
Guntersville Dam and reservoir	1,225,000
Hales Bar Dam channel improvements	39,000
Chickamauga Dam and reservoir	3,840,000
Watts Bar Dam and reservoir	4,530,000
Coulter Shoals Dam preliminary investigations	111,000
Hiwassee Dam and reservoir	3,960,000
Norris Dam and reservoir	76,000
Other tributary project investigations	----------
Transmission, other electric plant, and power inventories	6,781,000
Obligations of municipalities and associations	200,000
Navigation operations	82,000
Flood-control operations	1,000
Common operations	611,000
Fertilizer plant and inventories	824,000
Fertilizer operations	1,725,000
Related property plant and equipment	52,000
Related property operations	605,000
Related development activities	1,075,000
General plant, equipment, and inventories	207,000
Depreciation on minor plant and equipment	−855,000
General and administrative expense	4,675,000
Total	40,936,000

[1] Total 1940 appropriation $39,003,000, of which $4,000,000 is set aside for payment of 1939 contract obligations, leaving a balance of $35,003,000 available for 1940 obligations.

Requirements for T. V. A.-C. & S. deal

Purchase, Tennessee Electric Power Co.:	
Contract amount	$44,578,300
Prorated share taxes, estimated	521,700
Estimated amount, taxes since July 1, 1939	200,000
Materials, supplies	400,000
Miscellaneous capital additions since Apr. 30, 1939	300,000
Total	46,000,000
Loans, $2,000,000:	
Blue Ridge, E. M. C	275,000
Lincoln, E. M. C	170,000
Plateau, E. M. C	100,000
Lawrenceburg, E. M. C	40,000
Tennessee, Alabama, Mississippi	1,415,000
Total	2,000,000
Repairs, $3,500,000:	
Hydro and steam-plant repairs	1,000,000
Transmission-line and substation repairs	1,600,000
Alabama, Mississippi	900,000
	3,500,000
Interconnection, $3,500,000:	
Transmission line to Nashville from Columbia	1,300,000
Transmission lines around Chattanooga	1,300,000
Transmission line, subsidiary, West Point, Miss	300,000
Miscellaneous, Alabama, Tennessee lines	600,000
Total	3,500,000
Purchase, Alabama and Mississippi: Estimated contract amount	6,500,000
Total	61,500,000

The Authority's self-imposed limitations on its activities during the fiscal year ending June 30, 1940, taken in conjunction with the limitations on the use of bond proceeds contained in the conference report will constitute an effective geographical limitation on the Authority's activities, at least until Congress is called upon to make appropriations to carry out its activities during the fiscal year ending June 30, 1941.

Provisions relating to Comptroller General

The House amendment (sec. 2) provided that all money made available for expenditure in carrying out the purposes of the act should be withdrawn from the Treasury only pursuant to accountable warrants for advances to the credit of an adequately bonded disbursing officer, as determined by the Comptroller General, or certificates of settlement issued by the General Accounting Office. The Comptroller General, however, was authorized in his discretion to allow credit for payments from moneys under the control of the Authority, not otherwise allowable, when shown to be reasonably necessary to the accomplishment of the work authorized by law to be done by the Authority.

The Senate bill contained no similar provisions.

The conference report contains no similar provision.

Provisions relating to local taxation

The House amendment (sec. 3) provided that the percentage of the Authority's gross receipts which the present law requires be paid to the States of Alabama and Tennessee should not be changed to reflect any loss in tax revenue to any State or political subdivision by reason of the ownership or use by the Authority of, or income derived by the Authority from, any property for or connected with the generation or transmission of electric power. This provision prohibited payments, except as otherwise authorized in the section of the act which is amended, to be made by the Authority or by the United States for, or on account of, or in lieu of, any such loss in tax revenue, and it was declared to be the intention of Congress that any such loss in revenue be recovered by the several States involved in such manner as each might see fit from the persons benefited by the use of electric power generated by the Authority.

The Senate bill contained no similar provisions.

The conference report contains no similar provision.

Sinking-fund provisions

The House amendment (sec. 4) required the Authority to provide from the earnings of electric properties under its control interest on its bonds, and to deposit prior to each interest date such interest in such agencies as might be designated from time to time by the Secretary of the Treasury. The Authority was also required to provide from such earnings an annual sinking fund in an amount sufficient to pay at maturity the entire principal of the bonds issued under the act, the sinking fund to be deposited in an agency to be designated by the Secretary of the Treasury and to be used to retire the bonds as they mature. The payments to the sinking fund were to be in a uniform amount and to be so distributed so that each year would bear its proportionate share of the total. It was declared to be the purpose and intent of this provision that the principal and interest of all such bonds be paid in full at or before maturity by the Authority on the earnings of its electric properties.

The Senate bill contained no similar provisions.

Although the conference report does not contain any provisions requiring the maintenance of a sinking fund for the retirement of bonds, the limitation on the amount of bonds which may be issued and the consequent limitation on the power of the Authority to refund its bonds have the effect of requiring the Authority to maintain a sinking fund to retire these bonds as they mature.

Reimbursement of the United States for cost of Tennessee Valley Authority properties allocated to generation and transmission of electricity

The House amendment (section 4) required the Authority to issue to the Secretary of the Treasury one or more bonds, in such denominations and with such maturities not exceeding 50 years as the Secretary of the Treasury might designate, in an amount equal to the total cost allocated to the development of power and the total cost of the other properties of the Authority devoted to the transmission or distribution of electric power for sale. The Authority was required to provide from the earnings of such electric properties interest on such bond or bonds and deposit such interest when due in the Treasury of the United States. These bonds were to bear interest at a rate equal to the average rate of interest payable by the United States on its obligations having maturity of 10 or more years after the dates thereof, issued during the last preceding fiscal year in which such obligations were issued.

The Senate bill contained no similar provision.

The conference report contains no similar provision.

A. J. MAY,
EWING THOMASON,
DOW W. HARTER,
Managers on the part of the House.

Mr. MAY (interrupting the reading of the statement). Mr. Speaker, I ask unanimous consent that the further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. DOUGHTON. Mr. Speaker, will the gentleman yield?

Mr. MAY. Yes; I yield.

AMENDMENTS TO SOCIAL SECURITY ACT

Mr. DOUGHTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 6635) to amend the Social Security Act and for other purposes, with Senate amendments, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina? [After a pause.] The Chair hears none and appoints the following conferees: Mr. DOUGHTON, Mr. CULLEN, Mr. MCCORMACK, Mr. COOPER, Mr. TREADWAY, Mr. CROWTHER, and Mr. KNUTSON.

AMENDMENTS TO TENNESSEE VALLEY AUTHORITY ACT—CONFERENCE REPORT

Mr. SHORT. Mr. Speaker, will the gentleman yield?

Mr. MAY. Yes.

Mr. SHORT. Under the rules of the House we have 1 hour to consider the conference report. That hour is under the control of the chairman of the Committee on Military Affairs, the gentleman from Kentucky [Mr. MAY] who has been very considerate in yielding half the time to the minority. I have no personal desire to prolong the debate in consideration of the report, but I have several requests from gentlemen on this side who have urged me to try to get an additional hour.

Mr. MAY. Mr. Speaker, I have no requests for time on my side, and I expect to use only about 15 minutes' time in making an explanation of the conference report. I should be very glad to yield the remainder of my time to the gentleman from Missouri, if he desires it.

Mr. SHORT. Then I understand that we will get an additional half hour?

Mr. MAY. Oh, no. Just let the matter run along for an hour and I shall yield to the gentleman a part of my time, at least 10 minutes.

Mr. Speaker, in bringing to the House the conference report on Senate 1796 relating to the Tennessee Valley Authority, I shall take just a very brief time to make a rather hurried explanation of the conference report. Before entering into the provisions of the report, and the changes that have been made I feel that in justice to the membership of the House, I should make a preliminary statement.

I believe General Washington is credited with having quoted the verse—

He that fights and runs away
May turn and fight another day;
But he that is in battle slain
Will never rise to fight again.

That is not exactly what I have done in this instance, but I have given and I have taken. When the House of Representatives very appropriately sustained your House Military Affairs Committee in the passage of the House amendment to what was known as the Norris bill, conferees were appointed by the Speaker and I was chairman of that conference report. We had a great deal of difficulty and, as a matter of fact, we were at once confronted with the problem of whether or not the House of Representatives should completely, unconditionally surrender to another body. Perhaps I should not say surrender to another body but surrender to one Member of another body. We did not surrender. [Applause.] We will not on any other occasion surrender if I have anything to do with it, but, as I have said, I thought it better that I yield on some material things in order that I might be able to fight another day; and I serve notice now that I have not changed a single view, have not surrendered a single conviction that I have had on this subject of the operations and activities of the Tennessee Valley Authority from the day it started.

At this point I pay tribute, if I am capable of doing it properly, to the minority membership of my committee for the patient manner in which they have gone along with me on this legislation in an effort to bring to the House something constructive. I acknowledge my debt of gratitude to the Republican minority in the House of Representatives for their fine attitude in the matter. I do not mean by that, however, to admit that they put the bill over by their own votes, but they were fine in their attitude about it. They were loyal, and if anybody on that side of the House feels that I have not done exactly what I should have done, I am sorry. If any of my colleagues on the Democratic side of the House are not satisfied with this report, they are in no worse fix than I am, because I am not satisfied with it, but I bring it here to the House of Representatives as chairman of the conference committee that dealt with it in an effort to get the best possible out of a bad situation.

Mr. RANKIN. Mr. Speaker, will the gentleman yield?

Mr. MAY. I cannot yield just now. I am sure that I will be asked something about the Tennessee Valley Authority if I had—I yield to the gentleman.

Mr. RANKIN. I just wanted to say to the gentleman from Kentucky that this conference report is such a great improvement over the House bill that we are willing to accept it.

Mr. MAY. I am sure the gentleman is willing to accept this because we have reached the point where he has to accept it.

Mr. RANKIN. We have reached the point where the gentleman had to offer it to us.

Mr. MAY. Let me make this statement in reference to what the gentleman from Mississippi has said: This bill is going to mark quite a bit of improvement in the Tennessee Valley Authority when it is put into effect. We started out with a proposal, naked and unvarnished, for an issue of $100,000,000 of bonds, chargeable to the Federal Treasury, for the purpose of concluding a contract between Tennessee Valley Authority and the Commonwealth and Southern Corporation and its subsidiary, the Tennessee Electric Power Co. You all remember just how eager it was that a certain group desired to have the matter disposed of without hearings of any kind whatsoever.

Let me say that, as chairman of the Military Affairs Committee of the House, as long as I am chairman of that committee and my committee stays with me, every bill of vital importance—particularly of the importance of this measure—will have an adequate and complete hearing. Any man who has a bill before that committee can get a hearing. We did have hearings in this instance for about 4 weeks, interspersed on various occasions with numerous hearings on War Department legislation that was pending before the committee. In the course of those hearings we found that as an actual matter of fact less than one-half of the $100,000,000 was all that was essential to the completion of that contract. We have worked out in this conference report terms by which we have actually yielded money in addition to that absolutely necessary to consummate the deal, in order to allow for rehabilitation and proper integration of the system which is being acquired under this contract with the system now owned by the Tennessee Valley Authority.

Let me make it clear now that I am not here as chairman of the Military Affairs Committee of this House, nor is my committee here making any admission that we recognize the policy of public ownership of utilities. I do not believe in that doctrine. I do not subscribe to it; but we were confronted with the situation where the Tennessee Valley Authority directors, unusually liberal in their disposition toward those who want money, was furnished with $100,000,000 of bond authority which they could issue and which they had begun to issue during the hearings—and, by the way, let me remark that they had issued $9,000,000 of these bonds and sold them while the conferees of the Congress of the United States were conferring upon the matter. I cite that as showing the absolute desire and disposition of the Tennessee Valley Authority Board of Directors to ignore the wishes of the Congress of the United States and have their own way about every matter with which they deal.

Under the bill we have saved $38,500,000 to the taxpayers. Under the bill which we finally agreed upon we earmarked every dollar of the money that will be realized from the sale of these bonds and have provided just exactly how it shall be spent and for what it shall be spent, in a number of items. We did that for the purpose of preventing the Congress of the United States again being placed in the bad predicament of having to approve a transaction by which the Tennessee Valley Authority directors had gone out and, by competition, by proselyting and by agitating, driven down the stock and bond values of the securities of the Tennessee Electric Power Co. to an average of 40 cents on the dollar, and then come back to the Congress and say to the Government, "Give us 100 cents on the dollar to buy them out." We have hoped that that thing will not occur again, and it is the purpose and intent of your committee in bringing this legislation here to say to the world and to the Tennessee Valley Authority and to the courts of this country, if you please, that it is not the policy of the American Congress that any corporation organized under the Federal Government shall go out and compete with and destroy private industry anywhere in America, even though it be in the Tennessee Valley. [Applause.]

Mr. WHELCHEL. Mr. Speaker, will the gentleman yield for a question?

Mr. MAY. Yes; I yield to the gentleman.

Mr. WHELCHEL. Not having had an opportunity to study this conference report, I want to ask the gentleman if any provision has been made to take care of those small counties whose taxable revenue is being taken away by the Tennessee Valley Authority?

Mr. MAY. I appreciate the gentleman's courtesy in asking me that question, and I shall be delighted to answer him.

We found in the course of the hearings in connection with this matter that there are 20 or 25 counties in the Tennessee River area in the States of Tennessee, Alabama, and Georgia that are literally being exterminated as far as taxable values are concerned. In other words, the first thing that happened under the program of the Tennessee Valley Authority was that they built these high dams. They submerged hundreds of thousands of acres of the best and the most valuable taxable land in a number of counties, and there is a list of 10 counties here which the proof showed they would be unable to meet their bonded indebtedness and interest charges, including one of the counties in the district represented by the gentleman from Georgia [Mr. WHELCHEL] and those counties, after the real estate was taken out by the flooding of the area by these high dams, have left the major portion of their taxable values bound up in the Tennessee Electric Power Co. properties, over dry land out in the areas in the rural districts, and in the cities and towns. In one instance, as an illustration, Fannin County, Ga., I will be glad to yield if the gentleman from Georgia [Mr. WHELCHEL] will give us a direct and succinct statement as to what that county is up against right now.

Mr. WHELCHEL. I thank the gentleman. I want to express my appreciation for the hearings the gentleman gave me and my people from Fannin County. In that connection, the taxable property that is being taken over by this Authority represents two-thirds of such property in that county. In other words, 60,000 acres of that small county is being taken by this purchase. I have no desire to show any disposition not to cooperate and go along with anything that is progressive, but I do feel that they should at least be cared for in some way. Your committee and you as chairman have been very gracious to me and my people who came here to be heard.

The question is: Does the gentleman know of any way that my people can be cared for?

Mr. MAY. I may say to the gentleman from Georgia that the Tennessee Valley Authority has issued a press release in which they state the policy they expect to pursue in the future with respect to taxes; but the conference report we present today makes no provision for taxes whatsoever. As Mr. Willkie stated when he reluctantly expressed his regret in having to leave the State of Tennessee as a businessman: "People down there will have to boil in their own juice," unless they can deal with the Tennessee Valley Authority.

What the T. V. A. wants to do and what they intend to do is to say to the people of Tennessee and to these submerged and wrecked counties, "We come here with Federal money. We have given you flood control, we have given you cheap electricity, we have given you soil-erosion prevention, we have given you reforestation, we have given you all these benefits; now your taxable values must be offset by these advantages that you are to obtain by cheap electric rates and other things." I take the position myself, however, I may say to my friend from Georgia, that that will not satisfy the sheriff when he comes around with the tax bill.

Mr. WHELCHEL. I appreciate the gentleman's statement and realize it is quite true. There certainly is great feeling in that section. I do not know what to expect, but as far as I am concerned I cannot sit by idly and let this go by with a vote in favor of it, much as I dislike to vote against it.

I express my appreciation to the chairman for the work he has done and for his statement.

Mr. MAY. I will tell the gentleman from Georgia what I meant a while ago when I recited Washington's little saying:

He who fights and is in battle slain
Will never live to fight again,
But he who fights and runs away
May live to fight another day.

What I meant by that was that if I stay here long enough something will be done about taxes in Tennessee, Alabama, and Georgia with respect to the Tennessee Valley Authority, if the Congress will go along with me.

Mr. WHELCHEL. I appreciate that; and let me say to the gentleman that there is a feeling in my district that we have been imposed upon, even though we are good Democrats; and I cannot go along with this proposition. I will go along on any question insofar as I think it is right, but this certainly is not right, and it is done under my protest that we feel we are being mistreated.

Mr. MAY. I may say to the gentleman from Georgia that the public would never have known anything about what was happening down there if it had not been for the chairman of the Committee on Military Affairs insisting on open hearings.

Mr. WHELCHEL. The gentleman is entirely correct.

Mr. CULKIN. Mr. Speaker, will the gentleman yield?

Mr. MAY. I yield.

Mr. CULKIN. Am I correct in my recollection that in some of the acts amendatory of the T. V. A. 5 percent of the gross receipts were to be set aside for tax purposes?

Mr. MAY. There was some such provision in the original act.

Mr. CULKIN. Was it not afterward increased to 7½ percent on the completion of the Norris Dam for the benefit of the States of Tennessee and Alabama?

Mr. MAY. That is right.

Mr. CULKIN. What has happened to that money?

Mr. MAY. That money is supposed to be paid over to those two States, and I think it has been; but it amounts to a very small sum. The loss in taxable revenues to the State of Tennessee alone is $3,500,000, to the State and all the municipalities in that taxing district of the State.

Mr. CULKIN. What are the receipts from this source?

Mr. MAY. The receipts from this source amount to less than $250,000 in both States.

Mr. RANKIN. Mr. Speaker, will the gentleman yield?

Mr. MAY. I yield.

Mr. RANKIN. As I understand it, the situation is this: If this conference report is agreed to, it limits the expenditure of T. V. A. to $61,500,000. If this conference report is voted down, it will leave them with the right to issue $100,000,000 worth of bonds; and instead of buying out these properties that the power company is so anxious to sell, they can take that $100,000,000 and buy up the transmission lines and distribution systems and fight it out on the basis of competition. I want the House to understand just what they are voting on. A vote against this conference report is a vote to give them $100,000,000 instead of $61,500,000.

Mr. MAY. I think the House understands that. What we want the Members to understand is what has been going on down there since your committee has been considering this legislation; and a part of it is this: That since the conference has been under way, and since a single Senator tied up the thing here for 4 weeks, they have duplicated the transmission lines in five counties of northern Mississippi, and have actually constructed the lines in northeastern Mississippi.

Mr. RANKIN. Mr. Speaker, will the gentleman yield? I am sure the gentleman does not want to mislead the House on that.

Mr. MAY. And at the very time when the conference was agreed upon they came here to Washington and admitted that they had been doing that. In addition to that, they are now starting construction, running double shifts, night and day, on a transmission line from Bessemer, Ala., a suburb of Birmingham, to Muscle Shoals Wilson Dam.

Mr. RANKIN. Mr. Speaker, will the gentleman yield?

Mr. MAY. I yield.

Mr. RANKIN. The gentleman is entirely mistaken about the expenditure for the municipal plants in northern Mississippi being made by T. V. A. only while this conference was in session.

Mr. MAY. I did not say that.

Mr. RANKIN. Those people have floated bonds and are building their own systems.

Mr. MAY. I said building transmission lines.

Mr. RANKIN. But the lines are already built.

Mr. MAY. They are not built in the five counties where they have been building them since then.

Now, as a further precaution for the Congress of the United States, and speaking for myself as a Member of Congress under the obligations of a constitutional oath, and not believing under any circumstances in the destruction of a citizen's private property by Government-subsidized activities [applause], I demanded from Mr. Blee, the Tennessee Valley engineer, a statement with reference to what they expected to do, not only with this money but with the $40,000,000 appropriated by the Congress during the last session for the year 1940. I have set forth in the conference report an itemized statement of what they propose to do. I am going to keep tab on them and when the next session of the Congress meets I expect to have a complete report of their activities. If they deviate, I propose to let them hear from me again.

Mr. KELLER. Will the gentleman yield?

Mr. MAY. I yield to the gentleman from Illinois.

Mr. KELLER. I would like to know if the gentleman from Mississippi is correct in his statement that if we vote down the conference report the Tennessee Valley Authority will have $100,000,000 instead of $6,500,000?

Mr. MAY. That is correct. They will have a bond authority of $100,000,000 if this report is not adopted, which they can use to pay for transmission lines wherever they want to construct them. They can buy them or lend the money to pay for them, which is the equivalent of buying them.

Mr. JENKINS of Ohio. Will the gentleman yield?

Mr. MAY. I yield to the gentleman from Ohio.

Mr. JENKINS of Ohio. I am afraid the gentleman did not catch the question. If we vote down this conference report, it will go back to the conference committee for further consideration.

Mr. MAY. I was dealing with the question of the bond authority. I want the House to know the reason why I surrendered on some of these things. It was to remove this Damocles sword of $100,000,000 from over the head of industry down in Tennessee.

Mr. DIRKSEN. Will the gentleman yield?

Mr. MAY. I yield to the gentleman from Illinois.

Mr. DIRKSEN. We recur to the provisions of the original act relative to the bond issue of $100,000,000, but there is not a dime's worth of authority there to purchase the Willkie properties or anything else. They can build.

Mr. RANKIN. Oh, yes.

Mr. DIRKSEN. They can build duplicating lines.

Mr. RANKIN. They can finance the purchase of the property.

Mr. MAY. I am yielding to the gentleman from Illinois. There was no power under section 12 (a) of the act to use that $100,000,000 for the purpose of purchasing the generating and transmission facilities of the Tennessee Electric Power Co. They could not do that, but they could go out and use it for the purpose of constructing duplicate transmission lines. Knowing their disposition, knowing their desire, their intent, and their purpose as I do know it, I knew what they would do with that $100,000,000; therefore I yielded on some of the things involved here.

Mr. RANKIN. Will the gentleman yield?

Mr. MAY. I do not yield further.

Mr. RANKIN. The gentleman is wrong.

Mr. MAY. I am not yielding. I want to call attention to the fact that in the provision relating to the use of these

bonds we have prohibited their being refunded, which is the equivalent of a requirement for a sinking fund for the retirement of these bonds at maturity. That is one thing we obtained in conference, in addition to reducing the amount and earmarking the money.

Mr. Speaker, I think I have made about all of the statement I desire to make with reference to this matter, except I do want to say that I have steadfastly taken this position; and when I change it, it will be after I have gone out of Congress. I do not know how long that will be. So long as I stay here I am going to stand pat on the position I have taken in reference to this matter in opposition to the destruction of private property with public funds.

May I say to the people of Tennessee, Alabama, and Georgia, if there is anything I can do to pull some of my colleagues out of the hole by adjusting the tax question I will be glad to do it. I do not want them to simmer in their own juice, as has been stated by an executive of the power company. However, I do want to see the time come when those who get cheap electricity that we have heard so much about shall bear the tax burden when they can buy electricity at 2 mills per kilowatt, whereas others have to pay 5 mills, 1 cent, and higher even than that, because they are the beneficiaries of the low rates that they have, although they are not low when you consider all the items of expense.

Mr. TAYLOR of Tennessee. Will the gentleman yield?

Mr. MAY. I yield to the gentleman from Tennessee.

Mr. TAYLOR of Tennessee. I am in accord with the gentleman on the proposition of taxation, because any activity that is used commercially ought to bear its fair share of taxation. The thing that I rose to suggest to the gentleman is this: There are some 12,500 preferred-stock holders of the Tennessee Electric Power Co. If this report is approved and this transaction is consummated, they will get 100 cents on the dollar.

Mr. MAY. They get their money. That is another thing that induced your chairman to yield on this report, and I may say it was one of the principal things. May I say to the gentleman that he has interjected a word into this debate that is significant. When any governmental agency goes out into a "commercial" enterprise it is a commercial enterprise, and the T. V. A. is nothing short of a commercial enterprise. That is all it is.

Mr. KELLER. Will the gentleman yield?

Mr. MAY. I yield to the gentleman from Illinois.

Mr. KELLER. How cheap are they getting power down there from the T. V. A.—and I refer to the people?

Mr. MAY. I do not know how cheap they are getting it. I know the American Aluminum Co. and two or three other large corporations are getting it for about 300 percent less under 20-year contracts than they could get it in other sections of the country.

Mr. KELLER. How much?

Mr. MAY. For about 2 mills per kilowatt or 3 mills on large consumption.

Mr. KELLER. What do the people pay outside?

Mr. MAY. I do not know what the people in the rural areas pay. I do not know that rate, and they have not been able to tell us.

The SPEAKER. The gentleman has consumed 28 minutes.

Mr. MAY. Mr. Speaker, I am sorry I did not ask to be notified earlier, because I wanted to yield part of this time to others.

Mr. PEARSON. Mr. Speaker, will the gentleman yield for a question?

Mr. MAY. For a question, yes.

Mr. PEARSON. I have listened to the gentleman's explanation of the conference report but I still am in doubt and would like to ask the gentleman whether he is recommending to the House that we adopt this conference report or defeat it.

Mr. MAY. I am going to vote for the conference report myself and I recommend its adoption for the reason I stated, that it is the best way out of a bad mess. [Applause.]

Mr. Speaker, under leave to extend my remarks, I include the following statement:

WASHINGTON, July 12.—Commenting upon the compromise reached by the Senate and House conferees on the T. V. A. bond authorization bill, John D. Battle, executive secretary of the National Coal Association, today made the following statement:

"The principal vices of the Norris T. V. A. bond issue bill from the standpoint of the bituminous-coal industry, and which led our industry to oppose it to the utmost at every step, have been rectified in the compromise bill now agreed to by the House and Senate conferees. The outcome is a real victory for the coal industry in particular and the country and the taxpayers in general. We believe it marks a decisive turning point in the reckless, ruthless, and unfettered course which T. V. A. has heretofore pursued in promoting its hydroelectric power program regardless of cost or consequences. The concern of the coal industry with the T. V. A. is wholly due to the losses, present and prospective, of coal tonnage through T. V. A.'s hydro-power program which destroys present and preempts future markets for coal in the Tennessee Valley and thereby contributes to permanent unemployment of mine and railroad labor. This is transpiring in face of the fact that under present-day conditions coal offers a more economical medium for the generating of electric power in the Tennessee Valley, than T. V. A.'s hydro-power dams.

"Acquisition by the T. V. A. of privately owned utilities within its immediate territory, in preference to their annihilation by T. V. A. and P. W. A. municipal duplication, has not been opposed by the bituminous coal industry. The opposition of our industry to the Norris bill rested upon the fact that by its terms it opened wide the door to T. V. A.'s further expansion without check or hindrance through the medium of purchase of existing electric generating plants wherever it liked.

"This door has been shut. The bill which it now appears that Congress will enact notably cuts the authorized bond issue from $100,000,000 to $61,500,000, but more than that restricts its use to the consummation of the purchase agreements between T. V. A. and the Tennessee Electric Power Co. and to incidental and closely related and specifically enumerated purposes.

"An issue of immense importance to the coal industry facing loss of their coal markets, as well as to private utilities and likewise to the taxpayers generally, who in the long run foot the bill, was the question of defining and limiting T. V. A.'s area of operations. This has been achieved in considerable degree and as a practical proposition and in the face of stubborn objection by T. V. A. and its congressional mentor, Senator NORRIS.

"The express geographical limitations contained in the bill as passed by the House have not been retained in the compromise agreement, but T. V. A. obtains no new free funds and is reported to have stipulated that it will not employ any of its general funds (1940 appropriation) for development work into territory beyond its present area of operations. This means that T. V. A.'s further expansion is made to depend on future action of Congress, and we are hopeful that Congress in the years ahead will apply its checkrein. The coal industry will certainly continue its efforts to bring that to pass."

[From the Wall Street Journal]

A HALTER IS PUT ON T. V. A.

The agreement reached by the House and Senate conferees on the bill authorizing issue by T. V. A. of $61,000,000 bonds for purchase of the Tennessee Electric Power Co. properties, marks an important change in the status of the national war on the private utilities in one important sector. The bill, as approved by the conferees, does not accomplish a complete bitting and bridling by Congress of the T. V. A. mustang, but it does go some distance toward the establishment of partial control of that vivacious animal, in that by control of its funds it can in a measure retain authority over its future operations in extending its transmission lines into competitive territory.

All parties concerned might appropriately be congratulated on the result, for their victory for common sense and fair dealing—this measure, which has not until now figured very prominently in the relation of the T. V. A. and its private competitors. It would doubtless be premature to conclude that it means the end of the war as a whole, but the T. V. A. sector as the primary end has at all times been a most important salient in that war, and in the wiping out of that salient a very definite gain has been made by the utility companies. The gain is the more impressive in that it has been achieved exclusively by arguments offered in the open, which have convinced the public opinion of its soundness.

As this newspaper has again and again pointed out, the utilities have for years been one of the most powerful forces prohibiting natural recovery, and anything that seems to promise an end, or even a relaxation of the hostility, must be regarded as an omen of better things. In these days we can afford to welcome any good omen anywhere at any time.

Mr. SHORT. Mr. Speaker, if I understood rightly, the chairman of the committee promised the minority 10 additional minutes, but if I am not mistaken he has used most of his time himself. I wonder if we might not get unanimous consent to proceed for an additional time?

Mr. MAY. I certainly regret that I forgot that. I did not think I was going to use that amount of time.

Mr. Speaker, I ask unanimous consent that the time for the other side be extended 10 minutes.

Mr. RANKIN. Reserving the right to object, Mr. Speaker, I believe the minority has been well taken care of in the gentleman's speech, because most of his speech was against the Tennessee Valley Authority, and I object.

Mr. SHORT. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, 1 month ago yesterday, on June 13, in this Chamber, I believe a great victory was won not only for the House of Representatives but also for the American people, when without any partisan vote at all we passed the House T. V. A. bill by a margin of 25 votes—192 to 167—in lieu of the Senate amendment that was tacked on to the Ways and Means Committee bill which lifted the ceiling on the amount of long-term bonds that could be issued by the Secretary of the Treasury of the United States.

Following the passage of the House bill the newspapers over this country, Republican and Democratic alike, congratulated the House of Representatives on two things: First, that we rose up in our might and asserted our independence, showing our freedom from Executive intimidation or domination; and, second, because we gave some assurance to private business in this country that the Government would cease its competition with private industry, or certainly would not extend its area of activity.

The House bill contained certain definite, specific provisions which I want to recall to your mind. First, it limited the bond authorization to $61,500,000, and that is about the only provision of the House bill left intact in this conference report. So far so good, and I want to be perfectly fair and say that these bonds are earmarked, and in this indirect way certain limitations are placed upon the activity of the T. V. A. The House bill, of course, made these bonds guaranteed by the T. V. A., but in the measure before us the bonds are guaranteed by the United States Government, so we yielded on that point. The bond proceeds could not be used in any contract until approved by the Federal Treasury under the House bill, but under the bill as it now stands the Congress itself earmarks these funds, and in that respect I believe the conference report is perhaps even better than the House bill itself.

Expenditures under the House bill were to be accounted for through the Comptroller General just as expenditures of other Government agencies are required to be accounted for. The House conferees succumbed or surrendered on that point due to the insistence of one lone member of the Senate conferees, who objected to having the T. V. A. placed under an audit by the Comptroller General simply because the former Comptroller General, who was his secretary for many years, entertained a private prejudice against the Tennessee Valley Authority. I argued in conference that the Senator certainly should not continue to object on that ground since a New Deal Senator, and a lame duck one at that, who was appointed by this administration as Comptroller General for the next 15 years, is now in that office. I cannot see any reason under high heaven why the Tennessee Valley Authority should not be subject to audit by the Comptroller General just the same as any other Government agency. I do not know of any oracular wisdom or sublime virtue that the T. V. A. possesses which other agencies do not possess. But the House gave that up and the T. V. A. remains above the law or is a law unto itself.

A sinking fund was provided for bonds in the House bill, but that is cut out. The tax feature in the House bill was likewise eliminated.

The area of operations of the activity of the T. V. A., which was the heart of the House bill, has been obliterated.

Finally, the House bill contained a provision stating that it was the intent of Congress that the recipients of the benefits of this cheap power should be the ones to foot the bill, and not the taxpayers in everybody's district outside the Tennessee Valley area. This also was discarded.

Of course, we are all practical men and we know that you have to give and take in conference. In this particular conference the House did the giving and the Senate did the taking. I have high admiration for the chairman of my committee; in fact, I have such a warm personal regard for him that I imagine I would call it good even if he did anything that was bad. I wish to say, however, that it seems to me we have disemboweled the House bill, we have absolutely cut the heart out of it, because we have given up the Comptroller General, we have given up the tax provision, we have given up the restriction of area, and we have given up the sinking fund. The only thing that is left is the $61,500,000 item. If that is not almost a complete capitulation, then I do not know what surrender means. For these reasons your minority conferees, the gentleman from New York [Mr. ANDREWS] and myself, could not in clear conscience sign this report. Although I love my chairman—I love my wife, too, but I do not always agree with her—I do regret that he surrendered and capitulated in this report, and I trust that the Members of the House will insist on the provisions as originally voted in the House bill. [Applause.]

Mr. Speaker, I yield 5 minutes to the gentleman from Indiana [Mr. HARNESS].

Mr. HARNESS. Mr. Speaker, if the question before the House were merely a matter of purchasing the properties of utility companies in Tennessee which are already marked for destruction and confiscation by the T. V. A., we would not hesitate to render owners the bare justice of compensating them for the properties which are to be wiped out.

But there is much more to this question than the mere purchase of specific properties already marked for destruction by the T. V. A. Here and now we are deciding whether T. V. A. shall be what it originally professed to be—an honest attempt to establish a true yardstick by which we could determine the reasonable costs of producing and distributing electric energy—or whether it shall be a weapon by which we will destroy all private utilities and establish socialized power on a Nation-wide scale. We are literally determining whether the $12,000,000,000 electric-utilities industry shall continue in private enterprise or whether all power production shall become a proper function of a social government.

We are literally deciding whether T. V. A. and the whole program of socialized power shall be predicated upon an honest, sound, businesslike basis of rates which will amortize capital investments, or whether the laboring men, the farmers, and the business interests in my district and every other district outside of the favored areas are to continue paying more than half the freight for T. V. A. activities, merely in order that the favored power users in the Tennessee Valley may continue to enjoy special rates which are below the cost of production. We are called upon to determine whether we shall support these House amendments and give a definite sign of encouragement to all private enterprise, or whether we shall endorse another step toward sovietizing the entire American economy, which will be as definitely destructive to business confidence as anything that has been done in this session of Congress.

Finally, we are deciding whether a creature of this Congress is bigger than its creator. We are called upon to admit that this program of socialized power, as typified in T. V. A., is a Frankenstein, or to prove that this Congress is the master of its own creation.

I deplore the concessions the House conferees have made on this measure, for I believe that every one of the amendments this body made to the original Norris bill as it passed the Senate are imperative. I believe the House acted wisely, and none too soon, in attempting to restrict and limit the scope of T. V. A. I think these amendments are foresighted in that they attempt to clarify and bring into the open the fundamental issue of whether or not we are going to socialize our utilities industry.

If we want to confiscate and socialize our utilities nationally, well and good. But let us do it with our eyes open. Let us avoid the deceptions, subterfuges, and downright dishonesties under which the New Deal and its power pets are now operating. Keep these House amendments to this bill and make T. V. A. stand on its own feet and pay its own way, like

any other private utility company; do not ask the Federal Treasury to foot the bill and pass the costs on to my friends and neighbors in Indiana in the guise of hidden Federal taxes. Make this experiment an honest yardstick, subject to all the reasonable costs of normal power production. Above all, make it responsible to this Congress and its duly constituted agencies. Make T. V. A. conform strictly to the same accounting principles which we apply to every other creature we establish. Force it to conform to the requirements of the Comptroller General and the General Accounting Office. Satisfy the necessities of justice in the case of the Tennessee companies, whose business is being inevitably destroyed by our power Frankenstein. But insist that there must be a limit placed upon this sort of thing here and now. Let us bridle this Frankenstein of the Tennessee Valley before it strides the Nation and passes entirely beyond our ability to control it.

Under present circumstances a T. V. A. rate for electric energy means exactly nothing as an example of the actual cost of power production. T. V. A. as a yardstick is a rank fraud and a delusion. The ardent advocates of this giant of sovietized power are guilty of half truths and deceptions every time they lay this rubber yardstick against the going rates for power in areas served by private utility companies in their efforts to lure the people of these areas into the T. V. A. pattern.

T. V. A. power rates are a fearful and wonderful rule unto themselves, because T. V. A. has so completely arrogated authority that it has become literally a law unto itself. Any schoolboy can see the utter absurdities in T. V. A. accounting methods. The dishonest, haphazard system of accounting upon which T. V. A. rates are predicated have been denounced by the Authority's one qualified director, Dr. Arthur Morgan, by the General Accounting Office, by the Federal Power Commission, and by every competent engineer and accountant who has ever examined it.

The first error lies in the fact that the Authority, plainly and solely to evade constitutional limitations, maintains the very thin fiction that flood control and navigation are its principal functions. Hence, quite conveniently, less than half of the tremendous capital outlay is charged to power production. If this is a navigation system, the New Dealers should tell the country how pitifully small the potential freight tonnage is which will ever move on the Tennessee River system. They should also acknowledge that every ton of freight which moves by water in that area represents revenues lost to the railways, certainly an already sick industry.

If this is a system of flood control, they should frankly admit what has been so frequently pointed out, namely, that a dam cannot efficiently serve the dual functions of flood control and power production at the same time. To be efficient for flood control T. V. A.'s dams must have a system of empty, or nearly empty, reservoirs behind them. To be efficient power producers they must have full reservoirs which can supply a steady flow the year around at the generators. The only valuable, readily salable energy in any utility is that dependable minimum of electricity which it can deliver every hour of the day, every day of the year. This is the primary or firm power that meets contracted daily requirements. The highly variable character of water power production is one of the weak spots in the T. V. A. system. Why do not the system's advocates honestly admit that one of the main interests in absorbing the private utilities is to acquire the steam generating plants which will give a better semblance of balanced production to the year-around power output?

The first dishonesty of accounting which allocates such a ridiculously large proportion of the tremendous capital outlay to navigation and flood control is alone sufficient to discredit the "yardstick" theory. But there is an even more grievous error in T. V. A. power rates in that they utterly disregard the vitally important item of tax revenues. T. V. A. rates are an almost irresistable lure, but there is a cruelly barbed hook behind them—as the State of Tennessee and its political subdivisions are beginning to learn to their everlasting sorrow.

Part of the argument for this measure is that the power users affected will save $4,000,000 annually through lower rates. But these private utility properties have been paying an annual tax bill of three and one-half million to the State, counties, and cities of Tennessee. Furthermore, they have been steady contributors to the Federal Treasury, 1937 returns showing payments of $1,200,000. There are revenue losses, then, of $4,700,000 to save the people of Tennessee $4,000,000 on their light bills. The presumption is, of course, that the taxpayers in other parts of the country will go right along contributing the $4,700,000, so that the people of Tennessee can save the $4,000,000.

But even that is not all the sorry tax picture. T. V. A. actually destroys valuable, taxpaying property in its series of reservoirs. Accurate estimates of these losses are not available, but the destruction runs as high as 40 percent of the entire assessed valuation in some instances. With the series of 10 dams by no means complete, 10 counties in Tennessee are already affected. The situation is so serious that some of these counties are on the verge of bankruptcy, with default of their bonds and other obligations inevitable. Officials representing these affected areas appeared before our committee when this measure was being considered, begging this Congress to compensate these losses. There is real justice in their claims—but here again is the presumption that the taxpayers in Indiana and other parts of the country will be called upon to pay T. V. A.'s freight.

When this measure was first before the House my esteemed colleague the gentleman from Mississippi [Mr. RANKIN] wept touchingly for the power users of my State, who, according to his figures, are being mulcted by the Power Trust of $21,000,000 annually. I deeply appreciate his interest in and sympathy for my fellow Indianans. I do not mind his deceiving himself, but I must object to his deceiving the people of Indiana. Mr. RANKIN himself admits that he and his district are in the fortunate position of already having all the benefits of this power development. T. V. A. does not seriously injure any important interests in his district. It supplies his people power below cost, and my constituents are taxed to make up the difference. That, I think, is damage enough to Indiana. I wish he would drop the specious arguments, the wishful thinking, and the hopeless arithmetic by which he tries to lure other areas into sovietized power.

I refuse to accept his statement that the people of my State are losing $21,000,000 annually on their light bills and defy him to prove it by accounting principles that will satisfy a certified public accountant or an engineer. But assume for the moment that he is correct and that socialized power in Indiana would work out exactly as it works out in Tennessee. If Tennessee and the taxpayers of the Nation must spend or lose $4,700,000 to save $4,000,000 in that State, then I suppose that Indiana and the taxpayers would have to spend $24,675,000 to save the $21,000,000 on our light bills in Indiana. Furthermore, for the gentleman's information, we have roughly $475,000,000 invested in our utilities in Indiana. If we were to follow the T. V. A. formula in socializing our utilities in Indiana, I suppose it follows that the Treasury would eventually be expected to underwrite the purchase of these Indiana properties and pass that load on to the taxpayers.

With equally fine disregard for the other factors involved in a program to socialize our utilities, the gentleman apparently gives no thought to the heavy damages T. V. A. has already inflicted upon two sick industries—coal and the railways. But we in Indiana must be a little more practical and foresighted about these matters. Not only will we give some thought to the large investments in our utilities which would be destroyed, but we will be duly concerned about the other serious wreckage T. V. A. would leave in its wake. We produce a lot of coal in Indiana. Thousands of miners depend upon it for their livelihood. Coal is an important source of revenue for our railroads.

T. V. A. plans ultimately to produce more than 8,000,000,000 kilowatts of electrical energy annually. Almost every kilowatt of this water-generated power replaces elec-

tricity now produced by coal. The tremendous damage to the coal industry is at once apparent. Competent authorities say that 1.52 pounds of coal are required at present to produce a kilowatt of power. By simple arithmetic, then, we arrive at the fact that T. V. A. output will eventually displace more than five and three-fourths million tons of coal. Authorities again tell us that one ton of coal at its destination represents a day's work and wages for one man. Obviously, then, T. V. A. will destroy more than five and three-fourths million man-days of work annually.

Follow that a step further. More than one-third of all railroad revenue comes from the transportation of coal. When T. V. A. destroys the markets for five and three-fourths million tons of coal, it also cuts a tremendous slice out of rail revenues and railway employment.

When our committee was considering this proposal, conscientious, well-qualified men from miners' unions, from the coal operators, and from the railroads appeared daily to submit incontrovertible evidence that T. V. A. is hamstringing and destroying their vital interests. What utter irony. The New Deal professes the deepest concern for coal and the railroads and for the millions of men who depend upon these two industries for their bread and butter. But here is T. V. A., white knight of the New Dealers, ostensibly riding down the power-trust dragon, but actually grinding two of the Nation's sickest industries into the dust.

To complete this picture of irony, I want to remind the gentleman from Mississippi, who is so fond of T. V. A. statistics, where the power so far produced by T. V. A. is going. He would sell this Frankenstein to us in Indiana as saviour of the small power user. But while he is rendering lip service to the common man, his T. V. A. is selling only one-sixth of its total output directly to the private users, through municipalities and power cooperatives. It is charging those private users up to three times the rates which it collects from such large corporations as the Aluminum Corporation, the Victor Chemical Company, and the Monsanto Chemical Corporation.

I repeat that the people of Indiana and the Nation may have socialized power if they want it. Before they order it, however, I earnestly hope that the "yardstick" myth will be exploded. I hope it will be revealed for exactly what it is—simply another New Deal hoax. I hope they will recognize the ardent gentleman from Mississippi as one of the most sincere, but most completely self-deluded goldbrick salesmen who ever tried to capitalize the people's gullibility.

The T. V. A. is purely a creature of this Congress. But already it defies this body. It orders its own destiny. With the aid of a social-minded President, it fires a director who cries for intelligent administration and honesty of purpose. With complete immunity it defies the General Accounting Office and ignores the Federal Power Commission. This thing is literally a Frankenstein, and the House wisely recognized that fact in its amendments to the Norris bill. We cannot destroy T. V. A., except at unthinkable expense. But we can confine it. We can also define and clarify the issues of power socialization here and now, clearly. In fact, we can reasonably do nothing less. I do not want this monster T. V. A. to enter the fair State of Indiana and wreak the havoc that has followed in its wake in the South.

I hope that the House will reject any concessions from the policy this body has already outlined in its amendments. I urge that we reject the report of the conferees and insist upon the amendments previously approved.

[Here the gavel fell.]

Mr. SHORT. Mr. Speaker, I yield the gentleman 1 additional minute and, if he will permit, I would like to ask the gentleman a question.

Is not the House put in a rather ludicrous position because our conferees refused to accept the Senate amendments, the Senate conferees refused to accept the House amendments, and so Mr. Wilhoit, Mr. Willkie, and Mr. Krug got together and wrote a new bill and handed it to us, and that is the measure before us today?

Mr. HARNESS. That is precisely what we are considering today.

Mr. MAY. Mr. Speaker, if the gentleman will permit, I do not think that is a fair statement. They made a suggestion of what they would like to have done, but it was not done exactly as they said, and I wrote the bill that was finally agreed upon, along with the legislative counsel of the House of Representatives.

Mr. HARNESS. I have the highest regard and the utmost confidence in the chairman of my committee, but I cannot agree with him on this capitulation to the conferees of the Senate.

Mr. SHORT. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. ELSTON].

Mr. ELSTON. Mr. Speaker, when the House recently had under consideration Senate bill 1796 it added seven important and far-reaching provisions. The reaction of the press and the public to the action of the House was exceedingly favorable. Some considered the House amendments to be the most constructive legislation passed at this session of Congress, and the prediction was made that if they became law they would go a long way toward a revival of confidence in private industry.

An examination of the House conference report indicates that a majority of the conferees recommend that virtually all of these amendments be now discarded. It is agreed that the bond limitation be fixed at $61,500,000 instead of $100,000,000, and that the funds be definitely earmarked. This was a necessary change as there was no evidence offered that the entire $100,000,000 was needed. This was an accomplishment, of course, but it was by no means the most important amendment suggested by the House. We find that the conferees recommend that we cast aside the following vital amendments: First, that the bonds be guaranteed by T. V. A. and not by the Federal Government; second, that all expenditures of T. V. A. be accounted for through the Comptroller General; third, that the area of operation be limited to the Tennessee watershed and some adjacent territory; and, fourth, that a sinking fund be set up sufficient to pay off these bonds as well as the cost of improvements heretofore allocated exclusively for electric-power purposes.

In the limited time I have I shall address my remarks only to the latter amendment. The House will recall that this amendment required two things: First, it required T. V. A. to maintain a sinking fund into which should be paid each year, out of earnings, an amount sufficient to pay off both principal and interest on the bonds issued under this act as the same become due; second, it required T. V. A. to issue a bond or bonds to the Secretary of the Treasury in an amount equal to the total cost of that part of the T. V. A. investment allocated for the development of electric power, and it required that T. V. A. pay out of its earnings an amount sufficient to pay the interest but not the principal of such bonds.

The purpose of this provision was obvious. All of the money derived from the sale of bonds authorized by this act can be used for the acquisition of electric-power property, and will, of course, inure to the benefit of electric-power consumers. Of the amounts heretofore appropriated for T. V. A. 38.1 percent has been allocated by the Authority itself for power purposes, and the remainder for flood defense and navigation. As it is estimated that approximately $505,000,000, exclusive of the bonds included in this bill, will be spent for T. V. A. by the time it is completed, it follows, under this allocation, that about $192,000,000 will have been allocated for power purposes alone. Adding the bonds authorized by this act we have a total of approximately $254,000,000 for power purposes.

At only 2 percent the interest charges alone will amount to slightly more than $5,000,000 a year. If the $61,500,000 in bonds authorized by this act should be paid off in 50 years, more than a million dollars a year additional would be added to the sinking fund. In other words, if the amendment adopted by this House should become law, slightly more than $6,000,000 per year must be placed in a sinking fund out of the earnings of T. V. A. If this amendment, which has been

rejected by the conferees, does not become law, taxpayers and States which cannot possibly receive any benefits through the use of T. V. A. power must pay the greater part of the bill. There is nothing in the present law which will compel the paying of a single dollar of any of these amounts out of earnings. There is likewise nothing in the present law which prevents T. V. A. from using its earnings for the building of additional transmission lines and continuing the same kind of destructive competition which forced the Tennessee Electric Power Co. to sell out to T. V. A. The unwillingness of T. V. A. proponents to agree to the amendment adopted by this House requiring the bonds authorized by this act to be guaranteed by T. V. A. instead of being unconditionally guaranteed by the Government itself is compelling evidence that T. V. A. does not want to assume this responsibility. If the conference report is adopted we will place the responsibility upon the taxpayers, most of whom can never be benefited by T. V. A., and many of whom are yet unborn.

According to testimony presented to the T. V. A. subcommittee, the earnings of T. V. A. through the sale of electric power should be in the neighborhood of $4,000,000 per year, and may be as high as $7,000,000 a year after the acquisition of the properties of the Tennessee Electric Power Co. No sound reason can be advanced why these earnings should not be used to pay off the principal and interest on the bonds T. V. A. is now requesting. Nor can any reason be given consistent with good business practices why T. V. A.'s earnings should not be used to pay interest upon the huge amount which has already been appropriated and spent solely for electric-power facilities. If the earnings are insufficient for these purposes, the electric-power rates should be increased. Nothing could be more manifestly unfair than to expect that those who receive no benefits should pay the bill or any part of it. I cannot believe that those who receive the benefits expect this. In fact, they have indicated that they do not want the remainder of the country to pay for benefits which belong exclusively to them.

There is another reason why T. V. A. does not want this amendment. If the earnings of T. V. A. do not have to be used for any of these purposes, and if Congress will continue to appropriate and the credit of the Federal Government will continue to be extended, T. V. A. can obtain the kind of yardstick it desires for electric-power rates so that it may contrast its low electric-power rates with those fixed by private utilities throughout the country. What T. V. A. fails to disclose on such occasions is that all of the taxpayers, whether they receive any benefits or not, are making these low rates possible through their own contributions. Under the present law this fictitious yardstick may continue its existence. Under the amendment to which I have been referring it would not be possible. The amendment requiring a sinking fund would apply a yardstick, but it would be a yardstick applied by Congress to T. V. A. and not by T. V. A.—it would be a yardstick of sound business principles and not one of fiction and deception. [Applause.]

Mr. THOMASON. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. THOMASON. Mr. Speaker, the gentleman from Ohio [Mr. HARTER] and I, as two of the conferees on this bill, would like to know if all the time has been consumed on our side.

The SPEAKER. The gentleman from Kentucky used 20 minutes and, as the Chair understood, yielded the remainder of the time to the gentleman from Missouri. Is this a correct statement of the attitude of the chairman of the committee?

Mr. MAY. Mr. Speaker, will the gentleman yield?

Mr. THOMASON. I yield.

Mr. MAY. I intended, when I started out to explain the report, to ask the Speaker to remind me when I had used 15 minutes, but I forgot it. I used the time inadvertently, but the gentleman from Texas came to me on the floor of the House before I started to speak and said if there was not any fight or any opposition particularly to the report he did not want to speak on it.

Mr. THOMASON. That is exactly right; but when I find that not one friend of T. V. A. has had 1 minute of time, and all has been criticism and apology, it seems to me high time that two conferees on this conference committee, that has had many long sessions during the last month, should be entitled to a few minutes of time and at least say a few kind words in favor of the report. There has not been one friend of T. V. A. who has had 1 minute of time. What is the use of being conferees on a committee, if that is the treatment we are to receive? I am not criticizing; I am only asking for fair treatment.

Mr. MAY. Mr. Speaker, if the gentleman insists on it, I will retain the 2 minutes to tell all that was said about it—if we have to have a scrap here.

Mr. THOMASON. I am not looking for a scrap. I am asking only for fair treatment for two conferees who were promised time in the event there was a contest on the report, and that is all we have heard—criticism or apology for the entire report. My friendship, however, for the chairman causes me to accept his explanation. I am only asking for my rights.

The SPEAKER. The matter is not within the control of the Chair.

COMMITTEE ON BANKING AND CURRENCY

Mr. SACKS. Mr. Speaker, on behalf of the chairman and ranking minority member of the Committee on Banking and Currency, I ask unanimous consent that the Committee on Banking and Currency be allowed to sit during sessions of the House this afternoon.

There was no objection.

AMENDMENTS TO TENNESSEE VALLEY AUTHORITY ACT—CONFERENCE REPORT

Mr. SHORT. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. CLASON].

Mr. CLASON. Mr. Speaker, this bill concerning the Tennessee Valley Authority came before the House for action on June 13, 1939, after hearings extending over several weeks. Under the present law the T. V. A. has the right to issue $50,000,000 in bonds for the construction of dams, steam plants, or other facilities for the generation or transmission of electric power, but it does not have the right to acquire by purchase existing dams and steam plants now in private ownership. If this report is accepted, we will give that right to a Government agency for the first time, establishing a most dangerous precedent. The T. V. A. also has the power to issue another $50,000,000 in bonds for loans to municipalities on a repayment-in-full basis. This provision, now to be eliminated, is of little value, inasmuch as P. W. A. and other Government agencies offer better terms for such loans. The T. V. A. would not be here if they were not gaining $11,500,000 for their use. They lose exactly that amount if the present law continues.

In lengthy hearings it was brought out that the T. V. A. would not submit to any limitation of the area in which it should operate; that it would not establish a sinking fund for its $230,000,000 capital expenditures; that it refused to allow the Congress, at the same time that a contract involving more than $78,000,000 was being entered into, to determine in what manner local taxes, lost to municipalities through the acquisition of private properties by the Federal Government, would be taken care of. Many leading citizens of the area affected appeared as witnesses and beseeched us to settle this issue at the only proper time for its consideration, namely, at the time the contract was to be signed—right now. One of the leading witnesses who strongly urged this action was our colleague, Mr. WHELCHEL, of Georgia.

Let us consider the tax situation. The hearings disclosed that the T. V. A. now has contracted to sell on a 20-year basis to some of the largest corporations in the United States enormous quantities of power annually at the price of waste power. It has contracted to sell a very large amount of power to various municipalities on other 20-year contracts at such low prices that for the amount of electricity for which the private utilities now receive $16,000,000 the ultimate consumers will pay less than $12,000,000 under this new deal,

representing a saving to them of $4,000,000. This is practically offset by a loss of $3,512,000 in taxes, due to Federal rather than private ownership. If this loss has to be made up locally, the consumers will have done little more than change the name of its power supplier. The hearings disclose, and it was admitted in debate on this floor, that if the T. V. A. makes good this loss in taxes to communities, to counties, and to States involved, the money must come from general funds in the United States Treasury. That means that all persons in every community outside the area in which the T. V. A. operates will contribute to the cheap power enjoyed by the people and great corporations served by the T. V. A. Are they going to be called upon to pay somebody else's electricity bill? On page 85 of the hearings, Gov. Prentice Cooper, of Tennessee, stated, and I quote:

> We understood only that the Tennessee Valley Authority was willing to cooperate in an equitable adjustment of the tax situation. We did not fear that agency, because we relied on their sincerity and good faith in their presentations which they have given us in writing, that they will replace the lost taxes. We favor it and believe it will comply with their statement.

The House on June 13 said, 192 to 167, that the consumers must pay these lost taxes. This conference agreement permits the T. V. A. to add these taxes to the burdens of your people and mine. It provides unfair competition for every manufacturer outside that area.

Chairman MAY was absolutely correct when he said in his speech on this bill at that time that, "Men on the floor of this House cry out for cheap electricity and a yardstick that is a liar at one end, a thief at the other, and rubber in the middle. I will tell you why it is a liar. It goes out and represents to the public that they are producing electricity and giving it to the people at a profit and that it is not being sold below cost." Yet, the sale price of electricity by the T. V. A. does not include provision for taxes to be paid to local communities by the T. V. A., though Governor Cooper, of Tennessee, has their promise in writing to pay such taxes.

In my considered opinion the T. V. A. has come before this House making this request in a spirit of deception. Its officers have told our committee that they will destroy the Tennessee Electric Power Co. through unfair competition if this bill is not passed in exactly the form that they want it. We are told that that would result in untold suffering to the widows and orphans who own the bonds of these private utility companies. To save these widows, we must wrong the widows who own the bonds of the counties and school districts which are about to lose the private companies' taxes. To save the latter widows the T. V. A. will ask that the United States Treasury pay these lost taxes. I believe that this is the time when the House should assert its control over the operations of the T. V. A., and particularly over the tax question.

Every newspaper in the United States spoke in glowing terms of the action of the House when it passed this bill with its limitations upon the area of operations of the T. V. A. It is sufficient to call attention to the words of the great democratic New York Times. I quote:

> Nothing that the House has done so far this session ought to bring more reassurance to business than the bill it has passed to control the Tennessee Valley Authority. These changes, if the Senate can be got to agree to them, will go far toward restoring public confidence in the future of the electric utility industry. They will do much to make certain that T. V. A. charges rates sufficient to pay for its investment.

I hope that every Congressman living outside of this area will have in mind the unbearable burden of taxes already placed upon his constituents, and by his vote today will prevent the saddling of additional taxes upon their shoulders for the sole purpose of providing the customers of T. V. A. with electricity below cost. The House should not adopt this report. [Applause.]

Mr. SHORT. Mr Speaker, if I have control of the 2 minutes of time yielded to me by the gentleman from Kentucky, I should be very glad to yield them to the gentleman from Texas [Mr. THOMASON].

Mr. THOMASON. That is very good of the gentleman but I do not want to take time that perhaps he has agreed to give someone else.

Mr. SHORT. No. I yield 2 minutes to the gentleman from Texas [Mr. THOMASON].

Mr. THOMASON. Mr. Speaker, anything I have to say will be said in all kindness and deference and without criticism of the chairman of my committee. All I am interested in is the question of fair play and fair consideration of this conference report, because as one of the conferees I sat for a good many hours on a good many days in an effort to work out a solution of this very complicated question, as likewise did the gentleman from Ohio [Mr. HARTER]. So I say without any word of criticism of anybody, because as others have said, I entertain the highest feeling of personal friendship and respect for my chairman; but the thing that impressed itself on me was the fact that our chairman, who is always frank, evidenced his bitter animosity to everything connected with the T. V. A., and speaks for the report with apologies, and then every other speaker has come from the Republican side and, of course, they are bitter in their denunciation of everything affecting the T. V. A. I happen to be a friend of the T. V. A., because I regard it, although some mistakes have been made, as one of the most constructive things ever undertaken by any government; and I saw some evidence of that yesterday, when we were down at Chattanooga attending the funeral of our devoted friend Judge McReynolds, at which time we had opportunity to see what T. V. A. has done in the way of bringing happiness and prosperity to the people of the Tennessee Valley. It is rebuilding a small empire and restoring hope to many discouraged people. It has been a great experiment in government, and I say that it is worth all that it has cost. There is but one question involved in this report, and that is, Do you want to see this trade go through?—which will do the very thing that my good friends, Mr. JENKINS of Ohio and Mr. WOLVERTON of New Jersey, recommended in their report of the investigation last fall, and that is to cut out ruthless competition. I do not claim any special credit for it myself; but it can be truly said, if the House adopts this conference report, that it has marched up the hill and marched down again, because the only thing of a material nature in this report that differs from the Senate bill is a reduction in the amount from one hundred million to sixty-one and a half million. Let there be no misunderstanding. The House is receding on everything of any importance except the amount. I feel sure a large majority of the membership will realize the mistake made in voting for many of the provisions of the House bill and now vote for the adoption of the conference report.

Mr. SHORT. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. HARTER].

Mr. HARTER of Ohio. Mr. Speaker, the conference report that has been brought in here is the result of many hours of hard work on the part of those who are managers on the part of the House. While we were not able to retain in the bill all of the provisions of the House measure, I believe that the bill on the whole is one which should be adopted; that it limits, as some of us desire, the spreading of the Tennessee Valley Authority all over the eastern section of the country, and at the same time it disposes of the ruthless competition which has been going on in that area, and implements the sale and does the very thing which the opponents of the T. V. A. have advocated for some time, namely, permits the purchase of the facilities of the private power company. I believe it is a measure which can be conscientiously supported by the membership of this House.

Mr. SHORT. Mr. Speaker, I yield the remaining 6 minutes of time to the gentleman from Ohio [Mr. JENKINS].

Mr. JENKINS of Ohio. Mr. Speaker, we are now approaching the conclusion of a very important piece of legislation. If this conference report is adopted, the legislation is practically finished. If it is not adopted, we have yet a chance to do what should be done. About a week or 10 days ago this House was engaged in a strenuous contest over this very important measure. The Senate had passed a bill known as the Norris

T. V. A. bill, providing for an appropriation of an additional hundred million dollars to the T. V. A. to be used to purchase certain competing electric lines in the T. V. A. territory.

The Military Affairs Committee of the House, after long and careful consideration, rejected the Senate's entire proposition and substituted in lieu thereof a measure which passed the House by a very substantial majority. The newspapers of the country were strong in their praise of the action of the House at that time. Many of them went so far as to say that that legislation marked the high tide of statesmanship and independent thinking that had been demonstrated up to that time in this session of Congress. When the smoke of battle had cleared away in the consideration of that case the action of the Military Affairs Committee was ratified by an overwhelming vote.

The bill offered by the Military Affairs Committee and passed by the House contained several very strong and statesmanlike provisions.

In the first place, it provided that the T. V. A. activities should be limited within certain geographical boundaries. The original T. V. A. Act indicates that that agency is to carry on its activities only within the Tennessee Valley. It has long since ignored this legal restriction as provided in the law and has extended its tentacles out far beyond the Tennessee Valley in many places. This gigantic octopus stretches across half a dozen States of the Southland, brooks no opposition, caring nothing for State lines or State jurisdictions. It seeks to dominate politically and socially and to crush all opposition and to ride ruthlessly across the land. It is time that its activities should be curbed. [Applause.]

Another provision in this bill as passed by the House is the one that would require the bonds issued under this bill to be repaid by the T. V. A. This was a very proper provision. T. V. A. boasts and brags about its low rates, which are largely a fake. If they are genuine, let the people who receive the benefit of them pay these bonds that we are about to issue under the provisions of the bill.

The bill passed by the House carried another very important provision, which was that this agency should submit its accounts to the scrutiny and examination of the General Accounting Office of the Government. This agency ought not to be treated any different than any other agency of the Government. It has defied the General Accounting Office and defied the Government itself. It should be restricted.

In spite of the fact that these three important provisions were embodied and carried in the bill which the House passed overwhelmingly a few days ago, the conferees have omitted all these provisions from the bill that is now before you. In other words, they have surrendered and their surrender has been and will always be a matter for which they cannot claim much credit and be especially proud. It is a sad fact that on so many occasions the House speaks by an overwhelming voice and vote only to have our conferees quail before the Senate and come back to us with an empty husk. This is a very unwise and unfair provision of our legislative procedure. When the House has rejected a Senate measure, why, then, should the House conferees knuckle to the Senate conferees and bring back to us for consideration something that we overwhelmingly defeated a few days previously?

This bill before us today is neither the work of the Senate nor the House. The House struck out the Senate provisions and the conferees have stricken out the House provisions and substituted their own provisions. In effect, a small group of five or six have taken the place of the Senate and the House, and we must now accept their judgment instead of our own. I for one shall refuse to do so.

Let us now consider just what the situation is that confronts us. We are called upon to vote for or against this conference report. Since it is almost completely opposite to what the House has heretofore done, it would seem that we should make short shrift of it and vote against it. If we do, what will happen? Let not your heart be troubled. A vote against this conference report will not be an unusual procedure. It has been done many times. If we do it today we will show the other body that we stand today as we did a few days ago. It will show them that our bill was right and that we still maintain that we were right. A vote for this bill will not in any way cast any reflection upon my distinguished friend the gentleman from Kentucky [Mr. MAY]. It will not in any way reflect upon the standing of my colleague the gentleman from Ohio [Mr. HARTER], or upon my good friend the gentleman from Texas [Mr. THOMASON].

I would have you understand, however, that if any of us do change front from the position you took a few days ago on these propositions, you can find no comfort in this conference report. Let no man be misled as to this proposition. Any man who voted for the May amendment a few days ago cannot logically justify his position if he votes for this conference report. It will be little consolation to you who come from coal-mining sections to go back and say to the miners who are much interested in this proposition that you voted for their best interests, after the gentleman from Kentucky [Mr. MAY] himself has said many times on this floor that the activities of the T. V. A. are not for the benefit of the coal industry of the land. This $61,000,000 that is provided in this bill will not benefit the coal miners of his section.

The territorial restriction on the activities of the T. V. A. should have been retained in this bill. This agency should be kept in its own field. The bill we passed a few days ago would have kept it in its own field. This bill we are considering now puts down the bars and allows it to run wild without any territorial restriction of any kind. Do not be mistaken in this respect.

As I have already stated the bill we passed a few days ago provided in effect that all the bonds issued under the terms of this bill should be repaid by the T. V. A. from its profits. None of it should be paid by the Government. That was a very proper provision because it is not right that the people of Ohio and New York and Michigan and Montana should be compelled to pay for the electricity consumed by the people in this territory when they claim that they have such cheap rates. If they want the T. V. A. now that they have gotten it they ought to make it pay for itself. If the Government donates six or seven hundred million dollars to build the projects for them they surely ought to be able to run it. It is a sorry pass that the Government must build the projects for them, and then must put the electricity in their houses and pay for a portion of that.

Already the people in the Tennessee Valley have begun to realize that the honeymoon of the T. V. A. is about over. They are staggering under the burden of additional taxation that has resulted by reason of the failure of the T. V. A. to pay taxes on the million acres of the finest land in that section that they have taken and flooded with water. When the T. V. A. buys the properties of the Tennessee Power Co. and the other associated properties and takes them off the tax duplicates these States will lose another substantial tax contribution which the people will have to make up in some other way. They will be clamoring for the Federal Government to pay the taxes which they have lost by reason of this gigantic, unwieldy, unconstitutional, and unnecessary New Deal experiment.

I repeat that the T. V. A. should be restricted in its territorial activities; that it should pay for these bonds that are going to be issued under this bond issue because these bonds will be used to purchase these competing properties which will be turned over to the T. V. A. The T. V. A. gets the properties; let the T. V. A. pay for them. I repeat that the T. V. A. should be subjected to rigid accounting the same as any other Governmental activity.

There is another proposition, however, that I wish to discuss with you. It is this: If you vote today to purchase these properties for $61,500,000 and turn the same over to the T. V. A., why should you not be ready to vote to purchase the properties of other power companies operating in the Southland and in the T. V. A. section? You will most surely be expected to do that next year or the year following. They will come back here and clamor for recognition, and you will in good conscience be compelled to give it to them. If you buy this property today, you will go that much further in rendering the properties of other power companies in the Southland less valuable. When you start

on this program today, you cannot in good conscience stop until you have purchased every power company in the Southland east of the Mississippi River and south of the Ohio River. Already the T. V. A. is knocking at the doors of Birmingham and Atlanta. It is already well down in Mississippi and will soon reach over into Louisiana. From Birmingham and Georgia it is only a short distance into Florida. But why follow the power company too far into the deep South? Let us come back up into the territory of the gentleman from Kentucky [Mr. MAY]. When the Gilbertsville Dam is finished it will be more expensive by far than any of the T. V. A. dams. It will represent an outlay of approximately 150 millions of dollars. It will cost more than three times as much as the great Norris Dam or the Hiwasse or the other large and beautiful dams already partially constructed. These other dams will furnish enough power to meet the demands in their sections, and that will leave Gilbertsville located within a few miles of the Ohio River, free access to carry its current into St. Louis, Mo., and Springfield, Ill., and Indianapolis, Ind., and Cincinnati, Ohio.

It is to this proposition that I wish to direct your special attention. The minority report of the committee that was appointed by this Congress to investigate the T. V. A. activities makes recommendations that naturally I think are sound and reasonable since I had some small part in drafting them. I agree with this minority report, which states in effect, that the best way to dispose of the Tennessee Valley Authority and its numerous activities is not to do anything that would tend to destroy these beautiful and terrifically expensive dams and lakes and other numerous improvements of various kinds, but on the contrary to take those that have been finished, and finish those upon which any substantial amount of work has been done, but to discontinue work on the other projects at this time. This report further recommends that the Government refrain from going further into the power business in competition with private power companies who maintain a fair, adequate, and reasonable service. We recommend that when these dams are completed that they be used for the manufacture of power and that this power be sold at wholesale at the dam to whomsoever might want it; sold at a reasonable price so that it might be delivered to the people of the Southland at a reasonable price by the power companies regardless of whether it is the same price that may obtain in some other sections of the country. If those sections would, when proper consideration is given to all necessary costs of production, be entitled to cheaper rates than some other section they should have them. The Government should not put itself in the power business in competition with other producing companies and thereby destroy the investment of the competing companies. Instead of voting this sixty-one million five hundred thousand to purchase these existing companies we should be taking steps to withdraw from competition so that these companies could continue to operate and thereby employ their own people and pay their investors whatever sum they could legitimately earn in fair competition with other power companies.

I am afraid that many of our Members today will vote directly opposite to their own philosophy. Their philosophy is to keep the Government out of the power business, but when they vote today they are putting the Government much further into the power business. They are not only putting the Government into the T. V. A. business, but they are putting the Government into the power business now operated by these competing companies. To me this is the most important phase of what we are doing here today. I am afraid that some of you who have opposed the extension of the T. V. A. will find out to your sorrow that you have placed yourself in a very inconsistent position. You cannot be consistent in your claim that you want to keep the Government out of business and at the same time vote $61,500,000 with which the Government is to buy several large producing power companies.

Mr. Speaker, I hope that we will all appreciate what we are about to do. I hope that you will stand as you stood last week and vote down this conference report and send these various splendid conferees back for further conference with the Senate and I further hope that they will bring back to us a bill that correctly represents the philosophy of a strong majority of this House as it was reflected last week when we had ample opportunity to consider this most important proposition. [Applause.]

The SPEAKER. The question is on agreeing to the conference report.

Mr. SHORT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 208, nays 145, answered "present" 1, not voting 74, as follows:

[Roll No. 129]

YEAS—208

Allen, La.	Doughton	Kerr	Rankin
Allen, Pa.	Doxey	Kilday	Rayburn
Angell	Drewry	Kitchens	Reece, Tenn.
Arnold	Duncan	Kleberg	Robinson, Utah
Barden	Dunn	Kocialkowski	Rogers, Okla.
Barry	Durham	Lanham	Romjue
Bates, Ky.	Eberharter	Larrabee	Ryan
Beckworth	Elliott	Lea	Sabath
Bland	Ellis	Leavy	Sacks
Bloom	Evans	Lemke	Sasscer
Boehne	Flaherty	Lesinski	Satterfield
Boland	Flannagan	Lewis, Colo.	Schulte
Boykin	Folger	Ludlow	Scrugham
Bradley, Pa.	Ford, Miss.	McAndrews	Secrest
Brooks	Ford, Thomas F.	McArdle	Shanley
Brown, Ga.	Fulmer	McCormack	Sheppard
Bryson	Garrett	McGehee	Sirovich
Buck	Gathings	McKeough	Smith, Conn.
Buckler, Minn.	Gavagan	McLaughlin	Smith, Ill.
Bulwinkle	Gearhart	McMillan, John L.	Smith, Va.
Burch	Gehrmann	Mahon	Smith, Wash.
Burdick	Geyer, Calif.	Maloney	Snyder
Burgin	Gibbs	Mansfield	South
Byrns, Tenn.	Gore	Marcantonio	Sparkman
Byron	Gossett	Martin, Colo.	Spence
Caldwell	Green	Massingale	Starnes, Ala.
Cannon, Fla.	Gregory	May	Steagall
Cannon, Mo.	Griffith	Mills, Ark.	Stefan
Cartwright	Harrington	Mills, La.	Sumner, Ill.
Celler	Hart	Monroney	Tarver
Chapman	Harter, Ohio	Murdock, Utah	Taylor, Colo.
Clark	Havenner	Myers	Taylor, Tenn.
Cochran	Healey	Nelson	Tenerowicz
Coffee, Nebr.	Hendricks	Nichols	Terry
Cole, Md.	Hill	Norrell	Thomas, Tex.
Colmer	Hobbs	O'Connor	Thomason
Cooley	Hook	O'Day	Tolan
Cooper	Houston	O'Leary	Vinson, Ga.
Costello	Hull	Oliver	Voorhis, Calif.
Courtney	Hunter	O'Neal	Wallgren
Cox	Izac	Pace	Walter
Creal	Jacobsen	Patman	Ward
Crosser	Jarman	Patrick	Warren
Cullen	Johnson, Luther A.	Patton	Weaver
Cummings	Johnson, Lyndon	Pearson	Welch
D'Alesandro	Johnson, Okla.	Peterson, Fla.	West
Darden	Johnson, W. Va.	Peterson, Ga.	White, Idaho
Delaney	Jones, Tex.	Pierce, Oreg.	Whittington
Dempsey	Keller	Poage	Williams, Mo.
DeRouen	Kennedy, Martin	Polk	Wolverton, N. J.
Dingell	Kennedy, Michael	Rabaut	Wood
Disney	Keogh	Ramspeck	Zimmerman

NAYS—145

Alexander	Darrow	Hope	Mott
Allen, Ill.	Dirksen	Horton	Mundt
Andersen, H. Carl	Ditter	Jarrett	Murray
Anderson, Calif.	Dondero	Jenks, N. H.	O'Brien
Andresen, A. H.	Dowell	Jenkins, Ohio	Parsons
Arends	Dworshak	Jensen	Pierce, N. Y.
Austin	Elston	Johnson, Ill.	Pittenger
Barnes	Engel	Johnson, Ind.	Plumley
Barton	Englebright	Jones, Ohio	Powers
Bates, Mass.	Fenton	Kean	Randolph
Beam	Ford, Leland M.	Keefe	Reed, Ill.
Bell	Gamble	Kinzer	Reed, N. Y.
Bender	Gartner	Knutson	Rees, Kans.
Blackney	Gifford	Kunkel	Rich
Bolles	Gilchrist	Lambertson	Risk
Boren	Gillie	Landis	Robertson
Brown, Ohio	Graham	LeCompte	Robsion, Ky.
Carlson	Gross	Lewis, Ohio	Rodgers, Pa.
Carter	Guyer, Kans.	Luce	Rogers, Mass.
Case, S. Dak.	Gwynne	McDowell	Routzohn
Chiperfield	Hall	McLeod	Rutherford
Church	Halleck	Mapes	Sandager
Clason	Harness	Marshall	Schaefer, Ill.
Clevenger	Harter, N. Y.	Martin, Ill.	Schafer, Wis.
Cole, N. Y.	Hawks	Martin, Iowa	Schiffler
Corbett	Heinke	Martin, Mass.	Schuetz
Crawford	Hess	Mason	Seccombe
Crowther	Hinshaw	Michener	Seger
Culkin	Hoffman	Monkiewicz	Short
Curtis	Holmes	Moser	Simpson

Smith, Maine	Thill	Vreeland	Wolcott
Smith, W. Va.	Thorkelson	Wadsworth	Wolfenden, Pa.
Springer	Tibbott	Wheat	Woodruff, Mich.
Stearns, N. H.	Tinkham	Whelchel	Youngdahl
Sutphin	Treadway	Wigglesworth	
Taber	Van Zandt	Williams, Del.	
Talle	Vorys, Ohio	Winter	

ANSWERED "PRESENT"—1

Faddis

NOT VOTING—74

Anderson, Mo.	Dies	Jeffries	Osmers
Andrews	Douglas	Johns	O'Toole
Ashbrook	Eaton, Calif.	Kee	Pfeifer
Ball	Eaton, N. J.	Kelly	Richards
Bolton	Edmiston	Kennedy, Md.	Rockefeller
Bradley, Mich.	Fay	Kirwan	Schwert
Brewster	Ferguson	Kramer	Shafer, Mich.
Buckley, N. Y.	Fernandez	McGranery	Shannon
Byrne, N. Y.	Fish	McLean	Smith, Ohio
Casey, Mass.	Fitzpatrick	McMillan, Thos. S.	Somers, N. Y.
Chandler	Flannery	Maas	Sullivan
Claypool	Fries	Maciejewski	Sumners, Tex.
Cluett	Gerlach	Magnuson	Sweeney
Coffee, Wash.	Grant, Ala.	Merritt	Thomas, N. J.
Collins	Grant, Ind.	Miller	Vincent, Ky.
Connery	Hancock	Mitchell	White, Ohio
Crowe	Hare	Mouton	Woodrum, Va.
Curley	Hartley	Murdock, Ariz.	
Dickstein	Hennings	Norton	

So the conference report was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Faddis (for) with Mr. Andrews (against).
Mr. Chandler (for) with Mr. Shafer of Michigan (against).
Mr. Fay (for) with Mr. Miller (against).
Mr. Vincent of Kentucky (for) with Mr. Hancock (against).
Mr. Sullivan (for) with Mr. Ball (against).
Mr. Coffee of Washington (for) with Mr. Douglas (against).
Mr. Ferguson (for) with Mr. Bolton (against).
Mr. Merritt (for) with Mr. Hartley (against).
Mr. Schwert (for) with Mr. Smith of Ohio (against).
Mr. Fernandez (for) with Mr. Cluett (against).
Mr. Pfeifer (for) with Mr. Eaton of New Jersey (against).
Mr. Byrne of New York (for) with Mr. White of Ohio (against).
Mr. Mouton (for) with Mr. Thomas of New Jersey (against).
Mr. Buckley of New York (for) with Mr. Osmers (against).
Mr. Somers of New York (for) with Mr. McLean (against).
Mr. O'Toole (for) with Mr. Jeffries (against).
Mr. Fitzpatrick (for) with Mr. Bradley of Michigan (against).
Mr. Curley (for) with Mr. Grant of Indiana (against).

General pairs:

Mr. Woodrum of Virginia with Mr. Brewster.
Mr. Thomas S. McMillan with Mr. Fish.
Mr. Collins with Mr. Eaton of California.
Mr. Hare with Mr. Gerlach.
Mr. Richards with Mr. Johns.
Mr. Dies with Mr. Maas.
Mr. Grant of Alabama with Mr. Rockefeller.
Mr. Sumners of Texas with Mr. Crowe.
Mr. Murdock of Arizona with Mr. Casey of Massachusetts.
Mr. Kelly with Mr. Magnuson.
Mrs. Norton with Mr. Kirwan.
Mr. Kramer with Mr. Flannery.
Mr. Hennings with Mr. Sweeney.
Mr. Kennedy of Maryland with Mr. Anderson of Missouri.
Mr. Claypool with Mr. McGranery.
Mr. Edmiston with Mr. Connery.
Mr. Fries with Mr. Kee.

Mr. FADDIS. Mr. Speaker, I have an active pair with the gentleman from New York, Mr. ANDREWS, one of the conferees. I desire to withdraw my vote and vote "present."

The result of the vote was announced as above recorded.

EXTENSION OF REMARKS

Mr. MAY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by including a short press release of the National Coal Association and a short editorial, to be printed in the RECORD in connection with my remarks made today.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

AMENDMENTS OF SECOND LIBERTY BOND ACT

Mr. DOUGHTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 5748) entitled "An act to amend the Second Liberty Bond Act as amended," with Senate amendments and disagree to the Senate amendments.

Mr. MARTIN of Massachusetts. Mr. Speaker, reserving the right to object, that eliminates the T. V. A. proposal?

Mr. DOUGHTON. Since the T. V. A. conference report has been agreed to, it makes this provision in this bill unnecessary.

Mr. RICH. Mr. Speaker, reserving the right to object, can the gentleman from North Carolina tell us when we may expect the majority side to propose an amendment eliminating the tax-free covenant from Government bonds?

Mr. DOUGHTON. Just as soon as we reasonably and conscientiously can.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina? [After a pause.] The Chair hears none.

The Clerk will notify the Senate of the disagreement of the House to the Senate amendments.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES—PEACE AND NEUTRALITY LEGISLATION (S. DOC. NO. 94)

The SPEAKER laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered printed:

To the Congress of the United States:

I am advised that by a vote of 12 to 11 the Senate Committee on Foreign Relations has deferred action on peace and neutrality legislation until the next session of the Congress.

I am appending hereto a statement from the Secretary of State which has my full approval, and which I trust will receive your earnest attention.

It has been abundantly clear to me for some time that for the cause of peace and in the interest of American neutrality and security, it is highly advisable that the Congress at this session should take certain much-needed action. In the light of present world conditions, I see no reason to change that opinion.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *July 14, 1939.*

STATEMENT ON PEACE AND NEUTRALITY BY THE SECRETARY OF STATE

The cornerstone of the foreign policy of the United States is the preservation of the peace and security of our Nation, the strengthening of international law, and the revitalization of international good faith. The foreign policy of this Government may be misinterpreted or it may be misunderstood, but it cannot be destroyed. Peace is so precious and war so devastating that the people of the United States and their Government must not fail to make their just and legitimate contribution to the preservation of peace.

The Congress has pending before it at the present time certain proposals providing for the amendment of the existing so-called neutrality legislation. Some of these proposed changes I regard as necessary to promote the peace and security of the United States.

There is an astonishing amount of confusion and misunderstanding as regards the legislation under consideration, and particularly with regard to the operation of the existing arms embargo.

I shall try to bring out as clearly as I can the important points of agreement and disagreement between those who support the principles contained in the six-point peace and neutrality program recommended by the executive branch of the Government and those who oppose these recommendations.

In substance and in principle both sides of the discussion agree on the following points:

1. Both sides agree that the first concern of the United States must be its own peace and security.

2. Both sides agree that it should be the policy of this Government to avoid being drawn into wars between other nations.

3. Both sides agree that this Nation should at all times avoid entangling alliances or involvements with other nations.

4. Both sides agree that in the event of foreign wars this Nation should maintain a status of strict neutrality, and that around the structure of neutrality we should so shape our policies as to keep this country from being drawn into war.

On the other hand, the following is the chief essential point of disagreement between those who favor the adoption of the recommendations formulated by the executive branch of the Government and those who are opposing these recommendations:

The proponents, including the executive branch of the Government, at the time when the arms embargo was originally adopted called attention to the fact that its enactment constituted a hazardous departure from the principle of international law which recognizes the right of neutrals to trade with belligerents and of belligerents to trade with neutrals. They believe that neutrality means impartiality, and in their view an arms embargo is directly opposed to the idea of neutrality. It is not humanly possible, by enacting an arms embargo, or by refraining from such enactment,

to hold the scales exactly even between two belligerents. In either case and due to shifting circumstances one belligerent may find itself in a position of relative advantage or disadvantage. The important difference between the two cases is that when such a condition arises in the absence of an arms embargo on our part, no responsibility attaches to this country, whereas in the presence of an embargo, the responsibility of this country for the creation of the condition is inevitably direct and clear.

There is no theory or practice to be found in international law pertaining to neutrality to the effect that the advantages that any particular belligerent might procure through its geographic location, its superiority on land or at sea, or through other circumstances, should be offset by the establishment by neutral nations of embargoes.

The opposition to the present substitute proposal joins issue on this point, and stands for existing rigid embargo as a permanent part of our neutrality policy. And yet by insisting on an arms embargo in time of war they are, to that extent, for the reasons I have stated, urging not neutrality, but what might well result in actual unneutrality, the serious consequences of which no one can predict.

Those who urge the retention of the present embargo continue to advance the view that it will keep this country out of war—thereby misleading the American people to rely upon a false and illogical delusion as a means of keeping out of war.

I say it is illogical, because while the trade in "arms, ammunition, and implements of war" is at present banned, the trade in equally essential war materials, as well as all the essential materials out of which the finished articles are made can continue. For example, in time of war, we can sell cotton for the manufacture of explosives, but not the explosives; we can sell the steel and copper for cannon and for shells but not the cannon nor the shells; we can continue to sell to belligerants the high-powered fuel necessary for the operation of airplanes, but we are not able to sell the airplanes.

I say it is a false delusion because a continuation of the trade in arms is a clearly recognized and traditional right of the nationals of a neutral country in time of war, subject only to effective blockade and to the right of belligerents to treat any such commodities as contraband. The assertion frequently made that this country has ever engaged or may become engaged in serious controversy solely over the fact that its nationals have sold arms to belligerents is misleading and unsupportable. All available evidence is directly to the contrary. Every informed person knows that arms, as absolute contraband, are subject to seizure by a belligerent and that neither the neutral shipper nor his government has the slightest ground for complaint. There is, therefore, no reason to suppose that the sale of arms may lead to serious controversy between a neutral and a belligerent. Furthermore, under the proposals that have been made American nationals would be divested of all right, title, and interest in these and other commodities before they leave our shores and American citizens and ships would be kept out of danger zones. As regards possible complications which might arise as a result of the extension of credits to belligerents or of extraordinary profits accruing to any group of producers in this country, it is wholly within the power of Congress at all times to safeguard the national interest in this respect.

Controversies which would involve the United States are far more likely to arise from the entrance of American ships or American cititzens in the danger zones or through the sinking on the high seas of American vessels carrying commodities other than those covered by the arms embargo. In the recommendations formulated by the Executive as a substitute for the present legislation it was especially urged that provisions be adopted which would exclude American nationals and American ships from zones where real danger to their safety might exist and which would divest goods of American ownership, thereby minimizing to the fullest extent the danger of American involvement.

Those of us who support the recommendations formulated for the elimination of the embargo are convinced that the arms embargo plays into the hands of those nations which have taken the lead in building up their fighting power. It works directly against the interests of the peace-loving nations, especially those which do not possess their own munitions plants. It means that if any country is disposed toward conquest, and devotes its energy and resources to establish itself as a superior fighting power, that country may be more tempted to try the fortunes of war if it knows that its less well prepared opponents would be shut off from those supplies which, under every rule of international law, they should be able to buy in all neutral countries, including the United States. It means also that some of those countries which have only limited facilities for the production of arms, ammunition, and implements of war are put in a position of increased dependence. During peacetime they would feel the compulsion of shaping their political as well as their economic policy to suit the military strength of others; and during wartime their powers of defense would be limited.

For these reasons those who are supporting the recommendations for the amendment of existing legislation recognize definitely that the present embargo encourages a general state of war, both in Europe and Asia. Since the present embargo has this effect its results are directly prejudicial to the highest interests and to the peace and to the security of the United States.

In the present grave conditions of international anarchy and of danger to peace, in more than one part of the world, I profoundly believe that the first great step toward safeguarding this Nation from being drawn into war is to use whatever influence it can, compatible with the traditional policy of our country of noninvolvement, so as to make less likely the outbreak of a major war. This is a duty placed upon our Government which some may fail to perceive or choose to reject. But it must be clear to every one of us that the outbreak of a general war increases the dangers confronting the United States. This fact cannot be ignored.

I would emphasize that the course proposed through the substitute legislation recommended by the Executive is consistent with the rules of international law and with the policy of our own country over a period of 150 years. The basis for the recommendations made is the firm intention of keeping this country from being drawn into war. If there existed any desire to assist or to injure particular foreign countries this Government would not have been endeavoring persistently, within the limitations of our traditional policy, over a period of many years to do its utmost to avoid the outbreak of a general war. I earnestly hope that the Congress will lend the fullest measure of its cooperation in the endeavor to avoid war in the first place and to place this country in a position of the greatest security possible, should war break out. In the tragic event that peace efforts fail and that a major war occurs, there will be general agreement within the United States that every effort must be exerted to keep this country from being drawn therein.

I must also refer to the impression sedulously created to the effect that the sale of arms, munitions, and implements of war by this country is immoral and that on this ground it should be suppressed in time of war.

As a matter of fact almost all sales of arms and ammunition made in recent years by our nationals have been made to governments whose policies have been dedicated to the maintenance of peace, but who have felt the necessity of creating or of augmenting their means of national self-defense, thereby protecting otherwise helpless men, women, and children in the event that other powers resort to war. In the face of the present universal danger all countries, including our own, feel the necessity of increasing armament, and small countries in particular are dependent upon countries like the United States which have the capacity to produce armaments. Our refusal to make it possible for them to obtain such means of necessary self-defense in a time of grave emergency, would contribute solely toward making more helpless the law-abiding and peace-devoted peoples of the world. If such action is moral, and if, on the contrary, sales of the means of self-defense for the protection of peaceful and law-abiding peoples are immoral, then a new definition of morality and immorality must be written. This task might be left to the proponents of the arms embargo.

I must also refer to another impression created by propaganda to the effect that the abandonment of the arms embargo would increase power of action on the part of the executive branch of the Government and conversely that the maintenance of the embargo would serve as an additional check on the powers of the Executive. It is difficult to see how either of these propositions could possibly hold true. An impartial granting of access to American markets to all countries without distinction gives the Executive no additional power to choose among them and to commit this country to any line of policy or action which may lead it either into a dangerous controversy or into war with any foreign power.

The legislative proposals which were recommended to the Congress through the communications which I transmitted to Senator PITTMAN and to Congressman BLOOM on May 27, providing for the safeguarding of our Nation to the fullest possible extent from incurring the risks of involvement in war, contemplate the elimination of the existing arms embargo and are as follows:

(1) To prohibit American ships from entering combat areas;

(2) To restrict travel by American citizens in combat areas;

(3) To require that goods exported from the United States to belligerent countries shall be preceded by the transfer of title to the foreign purchasers;

(4) To continue the existing legislation respecting loans and credits to belligerent nations;

(5) To regulate the solicitation and collection in this country of funds for belligerents; and

(6) To continue the National Munitions Control Board and the licensing system with respect to the importation and exportation of arms, ammunition, and implements of war.

This six-point program was the best that could be devised after much painstaking thought and study, and after many conferences with Members of the Congress of how best to keep this country out of a conflict should it arise. It rests primarily on the established rules of international law, plus the curtailment of certain rights of our nationals, the exercise of which is permitted under international law, but which might lead to controversies with belligerents and eventual involvement in foreign wars.

There has thus been offered as a substitute for the present act a far broader and more effective set of provisions, which in no conceivable sense could breed trouble, but which to a far greater extent than the present act would both aid in making less likely a general war, and, while keeping strictly within the limits of neutrality, would reduce as far as possible the risk of this Nation of being drawn into war if war comes.

In connection with our foreign affairs, I think all must agree that, unless a spirit of collaboration and cooperation characterizes the relations between the executive and legislative departments of the

Government, the peace and other vital interests of this country will inevitably be jeopardized.

Having spent the best years of my life as a Member of the two Houses of Congress, I have the warmest feeling of friendliness toward the membership of, and the greatest respect for, the legislative department, and in that spirit I earnestly hope for the closest possible cooperation in matters affecting our country's best interests and its security in the present grave international situation.

At this time when critical conditions obtain throughout the greater part of the world I am sure that we are all equally persuaded that while the fullest measure of constructive criticism is helpful and desirable, and is of course most welcome, partisanship should play no part in the determination of the foreign policy of this country.

In the present situation of danger a peaceful nation like ours cannot complacently close its eyes and ears in formulating a peace and neutrality policy, as though abnormal and critical conditions did not exist. The entire question of peace and neutrality at this serious juncture in its possible effects upon the safety and the interest of the United States during coming months is of the utmost importance. This question should, in my judgment, receive full and careful consideration and be acted upon by this Government without unnecessary or undue delay.

CORDELL HULL.

AMENDING MERCHANT MARINE AND SHIPPING ACTS

Mr. SMITH of Virginia. Mr. Speaker, I call up House Resolution 224.

The Clerk read as follows:

House Resolution 224

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 6746, a bill to amend certain provisions of the Merchant Marine and Shipping Acts, to further the development of the American merchant marine, and for other purposes. That after general debate, which shall be confined to the bill and continue not to exceed 2 hours, to be equally divided and controlled between the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. SMITH of Virginia. Mr. Speaker, I yield 30 minutes to the gentleman from Michigan [Mr. MAPES].

Mr. Speaker, this is a rule providing for the consideration of the bill (H. R. 6746) to amend certain provisions of the Merchant Marine and Shipping Acts. It is an open rule with 2 hours of general debate provided. So far as I know, and I have been so informed, there is no opposition to the passage of the bill itself. I think all parties have agreed upon that. The Committee on Merchant Marine and Fisheries reported the bill unanimously for consideration.

Mr. Speaker, I yield such time as he may desire to the gentleman from Virginia [Mr. BLAND] to explain the provisions of the bill.

Mr. BLAND. Mr. Speaker, I shall attempt in the time at my disposal to review generally the bill as briefly as possible with a view of eliminating as much time as we can on general discussion.

The bill embraces 14 sections. The first section simply removes the present 2-year limitation on orders, as now prescribed in the acts, and brings the Merchant Marine Act in accord with similar legislation pertaining to the Interstate Commerce Commission.

The second section makes it clear that the burden of proof is on the carrier in cases involving the suspension of rates. The bulk of the evidence is, or should be, in its possession; and, therefore, this rule is reasonable and fair; and this, too, is brought into accord with similar legislation applicable to the Interstate Commerce Commission.

Section 3 permits employment without regard to civil service of 8 additional naval architects or marine engineers, 8 additional special experts, 10 additional examiners, and 2 inspectors for each vessel at the yards. This is deemed necessary because of the difficulty of getting this particular type of employee.

Mr. BATES of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. BLAND. I yield.

Mr. BATES of Massachusetts. Will the gentleman point out in his discussion of this bill whether or not any additional expenses will be shoved onto the fishing industry as a result of this legislation? Is there anything in the bill that places the restrictions on or adds to the expense of the fishing industry?

Mr. BLAND. This bill does not impose additional burdens or restrictions on the fishing industry. The only relation to the fishing industry, and I will cover that now, is in the last section of the bill. There appeared to be some doubt as to certain legislation that had already been enacted providing for credit under title XI of the Merchant Marine Act, 1936, regarding ship-mortgage insurance and how far it would extend to fishing vessels. While the general counsel was of opinion that the law would extend to fishing vessels, yet in order to remove an apparent conflict between two sections, fishing vessels are expressly named as beneficiaries, so that so far as fishing vessels are concerned, this bill is rather a benefit and clarification.

Mr. BATES of Massachusetts. I know how interested the gentleman has always been in the fishing industry and I wanted to have that cleared up.

Mr. BLAND. This committee will seek never to impose a burden on the fishing industry. When any question comes up which would impose burdens on the fishing industry, the gentleman may be assured that the proposition will receive the most minute and meticulous consideration.

Section 4 allows an increased pay to men drawn from other services sufficient to bring up that pay to what they would be performing in comparable service. In other words, if a man is detailed from the Navy to serve with the Maritime Commisison in a particular class of its work, and if occupying that same status with the Navy he would draw an increased pay, this section is designed to prevent the injustice of giving him a reduced pay while serving with the Commission. It is simply a matter of justice.

Section 6 provides the standards by which construction differential subsidies shall be determined and provides for measuring the differential between domestic yards and foreign yards. The differential shall be that determined by the Commission by comparing the cost in a domestic yard with the foreign yard, which will furnish a fair and representative example for the determination of estimated foreign cost of construction. The words "which may be reasonably availed of" are eliminated, because it may be that the basis of comparison with a yard "which may be reasonably availed of" is too speculative in order to determine a fair basis. So the Commission is given the authority to determine what would be a fair and representative example for the determination of the estimated cost.

The next section—section 7—is probably one of the most important in the bill. It has to do with the "turn in and build" program of the Commission, and pertains to domestic as well as foreign vessels engaged in domestic commerce as well as foreign commerce.

There are only 153 vessels in the subsidized fleet, and about 90 percent of the vessels in the domestic trade are not eligible for subsidy. They are well over 15 years old and 70 percent are 20 years old or more. There are obsolete vessels that are now owned by these persons who are engaged in this industry. Without the restriction now existing in law, some of those vessels could be sold to foreign countries at a rather considerable price for scrap value. Manifestly that is not desirable. Also they could be sold and put into competition with our own merchant marine, which is not desirable.

In our Shipping Act we have provided that these vessels cannot be sold without the consent of the Maritime Commission; so that on the one hand we are denying the present owner the right to sell the old obsolete vessel and on the other hand we are calling for reconstruction.

All maritime nations of the world are doing just exactly what we contemplate doing here. We provide as to vessels over 17 years of age that the Maritime Commission may agree with the owners, if they can agree, upon a fair and reasonable price at which those vessels may be taken over

by the Maritime Commission, and whatever amount shall be allowed on those old vessels shall be credited as payment on the new vessels to be constructed; the old vessels will be then in the possession of the Maritime Commission, either to be converted into scrap or, if it is desired or thought reasonably proper, those vessels may be put in the laid-up fleet in order to be retained there for use in the event of emergency. This change will remove a great injustice that rests upon the owners of ships and which exists by reason of existing legislation. It will enable the Maritime Commission to carry out its policies. The agreement must be reached with the owner and there is nothing compulsory about it. It is entirely voluntary.

Mr. REED of New York. Will the gentleman yield?

Mr. BLAND. I yield to the gentleman from New York.

Mr. REED of New York. Can the owner of these private ships negotiate with foreign interests?

Mr. BLAND. Not under the law. If he negotiates, he must get the consent of the Maritime Commission. It is the existing law today. He must get the consent of the Maritime Commission before sale can be made.

Section 8 permits payment of an additional 15 percent over the 75 percent as now permitted. It was not designed or intended when the legislation was framed that as to the ship subsidies that were due, they should be held up in some cases for nearly 9 months. We have provided for a 75-percent payment. This permits an additional payment of 15 percent, but with securities and guaranties that if there should be any error the excess must be paid back. The payments can be made only after there is a very careful audit.

Section 9 is an amendment which we have offered previously, and deals with the problem of countervailing subsidies. It adds nothing to the existing law. The only thing it does is it eliminates the requirement in the existing law that there shall be a unanimous vote of the Commission and provides that if four members so vote it may be paid.

May I say that that provision is identical with the provision that was in the bill that was last considered by the House, supported by the House, sent to the Senate, and reported favorably by the Senate, but it was stricken out on consideration of the bill in the Senate.

Section 11 provides a statutory floor by which persons purchasing ships can be assured that ships built by the Maritime Commission will not be put upon the market at a lower rate than is provided in the act, because of which they would possibly be done an injustice by reason of some subsequent effort to get rid of the ships.

Section 12 is a clarifying amendment to bring section 714 in line with other provisions of the bill. Section 714 of the bill brings the bill with reference to the charter of vessels in accord with title V of the Merchant Marine Act, which deals with the sale of vessels. It will be readily seen that it is necessary to harmonize those sections, because if the section dealing with the sale of vessels offers sale on more burdensome terms than the charter of vessels, then there would be difficulty in selling any vessels and getting the merchant marine in private hands as we desire; whereas section 714 provides that where that cannot be accomplished the vessels may be chartered. Unless section 714 is brought into accord with title V, there would be possibly no inducement to charter, and the operators who cannot at this time effect the purchase of vessels would go on with their old, dilapidated, and obsolete vessels rather than bring themselves into accord with the new policy.

Section 13 provides penalties where none exist. The act of 1936 assumed that certain penalties existed, but it was found that they did not, except for violations of the Shipping Act. Section 13 simply carries out the intent that existed in the original law.

Section 14 is a clarifying amendment as to fishing boats.

Mr. SIROVICH. Mr. Speaker, will the gentleman yield?

Mr. BLAND. I yield to the gentleman from New York.

Mr. SIROVICH. The purpose of the entire bill is to improve the merchant marine of our country and to help develop the merchant marine.

Mr. BLAND. Yes.

I may say there is one other section dealing with cadets on shipboard. The only objection that was interposed with respect to this provision was that they might be used as strikebreakers. That is impossible, because the men who are used must conform with the regulations imposed by the Maritime Commission as to subsidized ships and by the Bureau of Marine Inspection as to all classes, and these men do not fall within the term "seamen or licensed officers," as was provided in the act.

Mr. SHEPPARD. Mr. Speaker, will the gentleman yield?

Mr. BLAND. I yield to the gentleman from California.

Mr. SHEPPARD. Is there anything in this bill to give control over the Japanese fishing vessels on the Pacific coast?

Mr. BLAND. No; that is not in this bill.

Mr. SHEPPARD. Is the gentleman's committee considering a bill of that character?

Mr. BLAND. Not at this time. There is some such legislation pending before the committee, introduced by the gentleman from California [Mr. KRAMER] on which we have heard evidence. I hope that something may be worked out on that matter, but just at this time it would not be wise to bring in legislation of that type. I do hope that the bill we have provided for the establishment of a Coast Guard base in Alaska, and also giving wider powers of supervision to the Coast Guard, will more effectually control that situation.

Mr. VAN ZANDT. Mr. Speaker, will the gentleman yield?

Mr. BLAND. I yield to the gentleman from Pennsylvania.

Mr. VAN ZANDT. There is nothing in this bill that will interfere with rail rates?

Mr. BLAND. Not a thing in the world, unless running ships interferes with railroads, and I do not see how it possibly could. As a matter of fact, I believe that the development of what we have asked for here in an effort to build up our country and establish and restore its commerce would be the finest contribution that could be made to the restoration of the railroads, because I am firmly convinced that what the railroads need today more than anything else is a restoration of business in the country, stability, and the assurance of continued business. However, nothing in this bill affects the situation to which the gentleman has referred. [Applause.]

Mr. MAPES. Mr. Speaker, I yield such time as he may desire to the gentleman from California [Mr. WELCH].

Mr. WELCH. Mr. Speaker, the bill H. R. 6746 was carefully considered by the Committee on Merchant Marine and Fisheries and approved by the committee without opposition. The bill provides for a number of constructive amendments to the Merchant Marine and Shipping Acts to meet present emergencies with reference to the rehabilitation of our merchant marine. I sincerely hope the rule will be adopted and the bill passed. [Applause.]

Mr. MAPES. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. CULKIN].

Mr. CULKIN. Mr. Speaker, I desire to concur fully in the explanation of our distinguished chairman and to say that this measure has the full concurrence of the committee on both sides of the aisle.

In addition, I desire briefly to commend the present Maritime Commission for the excellent work it has done. In writing this legislation during the past 3 years the committee has endeavored to steer clear of the terrible waste and mistakes of the past. The Maritime Commission in its present personnel has ably and conscientiously carried out the will of the committee in the construction and placing of ships on the seas. Most Americans feel that a merchant marine is essential. Three years ago, except for the intervention of this law, the merchant marine bade fair to fade away completely. Under this act the merchant marine is being restored and will serve a high purpose for America both in times of peace and in times of war. [Applause.]

To that end and serving that purpose, as a member of this committee more or less diligent in service at the meetings of the committee, I desire to extend my hearty commendation to the Maritime Commission for the able, patriotic, and impartial manner in which they have performed this high

service. No board or commission in the history of the Congress and the country has ever rendered more patriotic or honest service. Under the auspices of the Maritime Commission the American flag is coming back on the seas. They are handling the offshore labor question with sympathy and needed firmness. The shipbuilders for the first time in our maritime history are functioning adequately. The operators no longer write their own ticket. I wish to say again, and in conclusion, that the country and Congress are to be congratulated on the magnificent job being done by the Maritime Commission and its staff. [Applause.]

Mr. SMITH of Virginia. Mr. Speaker, I yield such time as he may desire to the gentleman from New York [Mr. KEOGH].

Mr. KEOGH. Mr. Speaker, I ask unanimous consent to extend my remarks by including a short article which appeared in today's Washington Post.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MAPES. Mr. Speaker, I have no further requests for time. Perhaps I should call the attention of the distinguished gentleman from Georgia [Mr. RAMSPECK], the chairman of the Committee on Civil Service, to the provision in the bill, which provides that certain employees of the Commission shall be appointed without reference to civil-service laws.

The gentleman from Georgia has reported a bill from his committee extending the classified civil service. That bill is now on the House Calendar. I understand it is the intention to bring it up at almost any time. I assume that the gentleman will be interested in this particular section, and that he will move to strike it out during the consideration of the bill under the 5-minute rule.

Mr. BLAND. Mr. Speaker, will the gentleman yield to me?

Mr. MAPES. I yield.

Mr. BLAND. I do not know whether the gentleman from Georgia was present at the time or not, but that matter was very fully gone into by the committee, and it was very clearly demonstrated that this is a peculiar type of official, and that you cannot secure such officials through the medium of the Civil Service Commission, certainly not in time for the construction work that is being carried on. There is building being done on battleships, and, really, the yards themselves are having some trouble in supplying the necessary people, so that careful diligence is required on the part of the Commission in getting these men, and the purpose could be better worked out without the intervention of the Civil Service Commission. The law already contains this provision, and this is merely an additional number.

The acting chairman of the Civil Service Commission is present, and both of the gentlemen are members of my committee, and I have heard no objection to this.

Mr. CULKIN. That is what I wanted to call to the attention of the gentleman from Georgia.

Mr. MAPES. Mr. Speaker, who is the acting chairman of the committee?

Mr. BLAND. I should have said the ranking member of the committee. There is no acting chairman because the chairman of the committee is present on the floor, the gentleman from Georgia [Mr. RAMSPECK].

Mr. MAPES. Mr. Speaker, I notice that the provision includes, however, classes that it is intended to put under civil service by the bill which is on the calendar reported from the Committee on the Civil Service, such as 12 attorneys, for example, 22 examiners and inspectors for these vessels, as well as some of the experts to whom the gentleman from Virginia has referred.

Mr. BLAND. If the gentleman will permit, I have not read that particular bill, but I do say this is in strict accord with existing law, only increasing the number, and this is very essential now. At one time the number of inspectors in the yards was one in each yard, but it is manifest that with three of our ships being built in a yard, however honest the yard may be, the Government should have its own inspectors checking on the work and they ought not to wait the time necessary to procure the additions needed through the civil service. If that question arises later, it can be covered at that time.

Mr. MAPES. I have not, I will say to the gentleman from Virginia, compared the two provisions, but my thought is that the bill which is on the calendar now, reported from the Civil Service Committee, will put these men, once they are appointed, under the classified civil service. In other words, they will be appointed without reference to the classified civil service, but after they have received their appointment and served for a certain length of time they will be brought into the classified service by this bill which is on the calendar.

Mr. BLAND. May I say that what the bill does is to repeat the provisions of the present law. It asks 8 additional naval architects or marine engineers and already the existing law provides for 12 naval architects. In this it simply extends the classification for naval architects specifically to marine engineers. They have 20 special experts instead of 12. It does not increase the number of attorneys. There are 22 examiners instead of 12, and 2 inspectors for each vessel. It is simply an increase in the number.

Mr. MAPES. This increases the number of attorneys?

Mr. BLAND. Not attorneys. It does not increase the number of attorneys.

Mr. MAPES. It names 12 in the bill.

Mr. BLAND. The legislation already on the statute books provides for 12 attorneys. The 12 attorneys are merely repeated in the amendment, so that it does not increase the number of attorneys at all.

Mr. MAPES. This is simply a repetition of the present law?

Mr. BLAND. Yes; it strikes out this language from existing law:

> Twelve each of naval architects, special experts, attorneys, and examiners and not more than two inspectors;

And inserts in lieu thereof—

> Twenty naval architects or marine engineers, 20 special architects, 22 examiners, 12 attorneys, and 2 inspectors for each vessel.

That will be two inspectors for each vessel at each shipyard rather than as in the old law two inspectors at each shipyard.

Mr. MAPES. Are these positions already filled?

Mr. BLAND. Those positions under the old law are already filled.

Mr. MAPES. So that there will be no additional attorneys?

Mr. BLAND. No. None additional to those authorized in existing law.

Mr. WELCH. Mr. Speaker, I desire to compliment the gentleman from Michigan [Mr. MAPES] in protecting the civil service. I am a firm believer in civil service, and have so demonstrated on every occasion since I have been a Member of this House by voting for civil-service legislation. I do not think the selection of these additional highly skilled men should be restricted by civil service. This requires men of the very finest skill, men trained in this particular work. That is the motive for exempting them in the bill under consideration.

Mr. SEGER. And in addition to that, if the Civil Service were called on to provide these technicians, it would take 7 or 8 months to find them.

Mr. WELCH. Unless the Maritime Commission was successful in borrowing them from another department, as provided in the bill, it would take longer than 7 or 8 months. It requires years of training to bring naval architects, marine engineers, and inspectors to a point of efficiency where they are qualified for this particular service.

Mr. SMITH of Virginia. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the adoption of the resolution.

The resolution was agreed to.

Mr. BLAND. Mr. Speaker, there has been very generous debate upon the bill in the debate on the rule, and I ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the second paragraph of section 23 of the Shipping Act, 1916, as amended, is amended to read as follows:

"All orders of the United States Maritime Commission, other than for the payment of money, made under this act, as amended or supplemented, shall continue in force until its further order, or for a specified period of time, as shall be prescribed in the order, unless the same shall be suspended, or modified, or set aside by the Commission, or be suspended or set aside by a court of competent jurisdiction."

SEC. 2. The second paragraph of section 3 of the Intercoastal Shipping Act, 1933, as amended, is amended by inserting before the last sentence of such paragraph a new sentence to read as follows: "At any hearing under this paragraph the burden of proof to show that the rate, fare, charge, classification, regulation, or practice is just and reasonable shall be upon the carrier or carriers."

SEC. 3. The first sentence of section 201 (e) of the Merchant Marine Act, 1936, as amended, is amended to read as follows: "Without regard to the civil-service laws or the Classification Act of 1923, as amended, the Commission may appoint and prescribe the duties and fix the salaries of a secretary, a director for each of not to exceed five divisions, a general counsel, a clerk to each member of the Commission, and not more than 3 assistants, not more than a total of 20 naval architects or marine engineers, 20 special experts, 22 examiners, 12 attorneys, and 2 inspectors for each vessel at each shipyard at which vessels are being constructed by it or under its supervision."

SEC. 4. Section 201 (f) of such act, as amended, is amended by inserting after the first sentence thereof a new sentence to read as follows: "Whenever any officer (not exceeding five in number at any time) of the Army, Navy, Marine Corps, or Coast Guard is detailed to the Commission, he shall receive from the Commission, for the period during which he is so detailed, such compensation as added to his pay and allowances as an officer in such service will make his aggregate compensation equal to the pay and allowances he would receive if he were the incumbent of an office or position in such service (or in the corresponding executive department), which, in the opinion of the Commission, involves the performance of work similar in importance, difficulty, and responsibility to that performed by him while detailed to the Commission."

SEC. 5. Subsection (c) of section 216 of such act, as amended, is amended to read as follows:

"(c) The Commission is hereby authorized to train American citizens to become licensed officers of the merchant marine of the United States in a status of cadets and cadet officers on Government-owned and subsidized vessels and, in cooperation with other governmental and private agencies, on other vessels and in shipyards, plants, and industrial and educational organizations, under rules and regulations prescribed by the Commission and upon such terms as the Commission may arrange, and expenditures incident to such training are hereby authorized.

"(d) The Commission is hereby authorized to prescribe, conduct, and supervise such extension and correspondence courses as it may deem necessary to supplement other training facilities, and to make such courses available, under such rules and regulations and upon such terms as it may prescribe, to the licensed and unlicensed personnel of the merchant marine, and to cadets and cadet officers who shall make application therefor. The Commission is further authorized to print, publish, and purchase suitable textbooks, equipment, and supplies required for such courses, and to employ persons, firms, and corporations on a contract or fee basis (without regard to the provisions of sec. 3709 of the Revised Statutes), for the performance of special services deemed necessary by the Commission in the preparation and editing of such textbooks and other aids to instruction, and in the supervision and administration of such courses.

"(e) The Commission, with the consent of any executive department, independent establishment, or other agency of the Government, including any field service thereof, may avail itself of the use of information, services, facilities, officers, and employees thereof in carrying out the provisions of this section, as amended."

SEC. 6. The first sentence of section 502 (b) of such act, as amended, is amended to read as follows: "The amount of the reduction in selling price which is herein termed 'construction differential subsidy' may equal, but not exceed, the excess of the bid of the shipbuilder constructing the proposed vessel (excluding the cost of any features incorporated in the vessel for national-defense uses, which shall be paid by the Commission in addition to the subsidy), over the fair and reasonable estimate of cost, as determined by the Commission, of the construction of the proposed vessel if it were constructed under similar plans and specifications (excluding national-defense features as above provided) in a foreign shipbuilding center which is deemed by the Commission to furnish a fair and representative example for the determination of the estimated foreign cost of construction of vessels of the type proposed to be constructed."

SEC. 7. Title V of such act, as amended, is amended by adding at the end thereof a new section to read as follows:

"SEC. 510. (a) When used in this section—

"(1) The term 'obsolete vessel' means a vessel or vessels, each of which (A) is of not less than 1,350 gross tons, (B) is not less than 17 years old and, in the judgment of the Commission, is obsolete or inadequate for successful operation in the domestic or foreign trade of the United States, and (C) is owned by a citizen or citizens of the United States and has been owned by such citizen or citizens for at least 3 years immediately prior to the date of acquisition hereunder.

"(2) The term 'new vessel' means a vessel or vessels, each of which (A) is constructed under the provisions of this act, and is acquired within 2 years from the date of completion of such vessel, or is purchased under section 714, as amended, by the person turning in an obsolete vessel under this section, or (B) is hereafter constructed in a domestic shipyard on private account and not under the provisions of this act, and documented under the laws of the United States.

"(b) In order to promote the construction of new, safe, and efficient vessels to carry the domestic and foreign water-borne commerce of the United States, the Commission is authorized, subject to the provisions of this section, to acquire any obsolete vessel in exchange for an allowance of credit. The amount of such allowance shall be determined at the time the owner contracts for the construction or purchase of a new vessel. The allowance shall not be paid to the owner of the obsolete vessel but shall be applied upon the purchase price of a new vessel. In the case of a new vessel constructed under the provisions of this act, such allowance may, under such terms and conditions as the Commission may prescribe, be applied upon the cash payments required under this act. In case the new vessel is not constructed under the provisions of this act, the allowance shall, upon transfer of the obsolete vessel to the Commission, be paid, for the account of the owner, to the shipbuilder constructing such new vessel.

"(c) The utility value of the new vessel for operation in the domestic or foreign commerce of the United States shall not be substantially less than that of the obsolete vessel. The gross tonnage of the obsolete vessel may exceed the gross tonnage of the new vessel in a ratio not in excess of three to one, if the Commission finds that the new vessel, although of lesser tonnage, will provide utility value equivalent to or greater than that of the obsolete vessel.

"(d) The allowance for an obsolete vessel shall be the fair and reasonable value of such vessel as determined by the Commission. In making such determination the Commission shall consider: (1) The scrap value of the obsolete vessel both in American and in foreign markets, (2) the depreciated value based on a 20-year life, and (3) the market value thereof for operation in the world trade or in the foreign or domestic trade of the United States. If the owner of the obsolete vessel uses such vessel during the period of construction of the new vessel, the allowance shall be reduced by an amount representing the fair value of such use.

"(e) No gain shall be recognized to the owner for the purpose of Federal income taxes in the case of a transfer of an obsolete vessel to the Commission under the provisions of this section. The basis for gain or loss upon a sale or exchange and for depreciation under the applicable Federal income-tax laws of a new vessel acquired as contemplated in this section shall be the same as the basis of the obsolete vessel or vessels exchanged for credit upon the acquisition of such new vessel, increased in the amount of the cost of such vessel (other than the cost represented by such obsolete vessel or vessels) and decreased in the amount of loss recognized upon such transfer.

"(f) The Commission shall include in its annual report to Congress a detailed statement of all transactions consummated under the provisions of the preceding subsections during the period covered by such report.

"(g) An obsolete vessel acquired by the Commission under this section which is or becomes 20 years old or more, and vessels presently in the Commission's laid-up fleet which are or become 20 years old or more, shall in no case be used for commercial operation, except that any such obsolete vessel, or any such vessel in the laid-up fleet may be used during any period in which vessels may be requisitioned under section 902 of this act, as amended, and except as otherwise provided in this act for the employment of the Commission's vessels in steamship lines on trade routes exclusively serving the foreign trade of the United States."

SEC. 8. The last sentence in the first paragraph of section 603 (c) of such act, as amended, is amended to read as follows: "Such payments on account shall in no case exceed 75 percent of the amount estimated to have accrued on account of such subsidy, except that, with respect to that part of the subsidy relating to any particular voyage, an additional 15 percent may be paid to the contractor after such contractor's audit of the voyage account for such voyage has been completed and the Commission's auditors have verified the correctness of the same. Any such payments shall be made only after there has been furnished to the Commission such security as it deems to be reasonable and necessary to insure refund of any overpayment."

SEC. 9. The proviso at the end of section 604 of such act, as amended, is amended to read as follows: *"Provided,* That no such

additional subsidy shall be granted except upon an affirmative vote of four of the members of the Commission."

SEC. 10. The proviso at the end of section 607 (c) (3) of such act, as amended, is amended to read as follows: "*Provided*, That such reimbursement to the Commission, if so deferred, shall be payable upon termination of the contract from any amounts then in the special reserve fund and the capital reserve fund: *Provided further*, That if any amounts shall have been transferred to the general funds of the contractor from either of such reserve funds and not repaid thereto, or if prepayments of amounts not due before one year after the date of termination of the contract have been made from the capital reserve fund pursuant to subsection (b) of this section, then the balance of such reimbursement not paid out of said reserve funds shall be payable out of any other assets of the contractor, but the amounts so payable from such assets shall not exceed in the aggregate the sum of the amounts so transferred and not repaid, and the amounts of such prepayments;".

SEC. 11. (a) Section 705 of such act, as amended, is amended by adding at the end thereof a new sentence to read as follows: "No vessel constructed under the provisions of this act, as amended, shall be sold by the Commission for operation in the foreign trade for a sum less than the estimated foreign construction cost exclusive of national-defense features (determined as of the date the construction contract therefor is executed) less depreciation based on a 20-year life, nor shall any such vessel be sold by the Commission for operation in the domestic trade for a sum less than the cost of construction in the United States exclusive of national-defense features less depreciation based on a 20-year life."

(b) Section 706 (b) of such act, as amended, is amended by adding at the end thereof a new sentence to read as follows: "The Commission shall reject any bid for the charter (under sections 701 to 713, both inclusive, of this title, as amended) of any vessel constructed under the provisions of this act, as amended, if the charter hire offered by the bidder is lower than the minimum charter hire for such vessel would be if chartered under the provisions of section 714, as amended, of this title."

SEC. 12. Section 714 of such act, as amended, is hereby amended to read as follows:

"SEC. 714. If the Commission shall find that any trade route (determined by the Commission to be an essential trade route as provided in sec. 211 of this act) cannot be successfully developed and maintained and the Commission's replacement program cannot be achieved under private operation of such trade route by a citizen of the United States with vessels registered under the laws thereof, without further Government aid in addition to the financial aids authorized under titles V and VI of this act, the Commission is authorized to have constructed, in private shipyards or in navy yards, the vessel or vessels of the types deemed necessary for such trade route, and to demise such new vessel or vessels on bare-boat charter to the American-flag operator established on such trade route, without advertisement or competition, upon an annual charter hire of not less than 5 percent of the price (herein referred to as the 'foreign cost') at which such vessel or vessels would be sold if constructed under title V plus 3½ percent of the depreciated foreign cost computed annually upon the basis of a 20-year life of the vessel. Such charter may contain an option to the charterer to purchase such vessel or vessels from the Commission within 5 years after delivery thereof under the charter, upon the same terms and conditions as are provided in title V for the purchase of new vessels from the Commission, except that (a) the purchase price shall be the foreign cost less depreciation to the date of purchase based upon a 20-year life; (b) the required cash payment payable at the time of such purchase shall be 25 percent of the purchase price as so determined; (c) the charter may provide that all or any part of the charter hire paid in excess of the minimum charter hire provided for in this section may be credited against the cash payment payable at the time of such purchase; (d) the balance of the purchase price shall be paid within the years remaining of the 20 years after the date of delivery of the vessel under the charter and in approximately equal annual installments, except that the first of said installments, which shall be payable upon the next ensuing anniversary date of such delivery under the charter, shall be a proportionate part of the annual installment, interest to be payable upon the unpaid balances of 3½ percent per annum from the date of purchase.

"Such charter shall provide for operation of the vessel exclusively in foreign trade, or on a round-the-world voyage, or on a round voyage from the west coast of the United States to a European port or ports which includes intercoastal ports of the United States, or a round voyage from the Atlantic coast of the United States to the Orient which includes intercoastal ports of the United States, or on a voyage in foreign trade on which the vessel may stop at an island possession or island Territory of the United States, and if the vessel is operated in the domestic trade on any of the above-enumerated services, the charterer will pay annually to the Commission that proportion of one-twentieth of the difference between the domestic and foreign cost of such vessel as the gross revenue derived from the domestic trade bears to the gross revenue derived from the entire voyages completed during the preceding year."

SEC. 13. Section 806 of such act, as amended, is amended by adding at the end thereof a new subsection to read as follows:

"(d) Whoever knowingly and willfully violates any order, rule, or regulation of the United States Maritime Commission made or issued in the exercise of the powers, duties, or functions transferred to it or vested in it by this act, as amended, for which no penalty is otherwise expressly provided, shall upon conviction thereof be subject to a fine of not more than $500. If such violation is a continuing one, each day of such violation shall constitute a separate offense."

SEC. 14. Paragraph (8) of section 1104 (a) of such act, as amended, is amended by striking out the word "or" before the designation "(c)", and by inserting before the period at the end of the paragraph a semicolon and the following: "or (d) in the fishing trade or industry."

With the following committee amendments:

Page 3, lines 18 and 19, strike out "and in shipyards, plants, and industrial and educational organizations."

Page 9, strike out all of section 9 and insert in lieu thereof the following:

"SEC. 9. Section 604 of such act, as amended, is amended to read as follows:

" 'SEC. 604. If in the case of any particular foreign-trade route the Commission shall find after consultation with the Secretary of State that the subsidy provided for in this title is in any respect inadequate to offset the effect of governmental aid paid to foreign competitors, it may grant such additional subsidy as it determines to be necessary for that purpose: *Provided*, That no such additional subsidy shall be granted except upon an affirmative vote of four of the members of the Commission.' "

The committee amendments were agreed to, and the bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.

EXTENSION OF REMARKS

Mr. HARRINGTON. Mr. Speaker, I ask unanimous consent to revise and extend my remarks on two different subjects and include therein a letter from a farmer in the State of Iowa and another from a merchant in the State of Iowa.

The SPEAKER. Is there objection?

There was no objection.

Mr. BENDER. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD.

The SPEAKER. Without objection it is so ordered.

There was no objection.

TO CREATE NEW NATIONAL FOREST UNITS IN MONTANA

Mr. O'CONNOR. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 26) to empower the President of the United States to create new national forest units and make additions to existing national forests in the State of Montana.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

Mr. MARTIN of Massachusetts. Reserving the right to object, Mr. Speaker, will the gentleman explain just what this bill provides?

Mr. O'CONNOR. Yes; I will be very happy to explain briefly the bill. There are large acreages of public lands in Montana. The reason why it is imperative that this bill be passed now is to give the President the authority to transfer supervision of this land to the Forest Department so that we will have adequate fire protection. The fire protection afforded by the Forest Service is very effective. C. C. C. camps are used and these young men do heroic work along that line. In Montana it is now getting dry and hot and the fire season is on. That is one reason why I am asking for immediate consideration of this measure. As I said the main purpose of the bill is to provide fire protection to unprotected public lands from forest fires. The Department of Agriculture has stated the necessity for this bill better than I can state it:

MARCH 31, 1939.

Hon. RENÉ L. DEROUEN,
Chairman, Committee on the Public Lands,
House of Representatives.

DEAR MR. DEROUEN: Reference is made to your request of February 22 for a report on S. 26, an act to empower the President of the United States to create new national-forest units and make additions to existing national forests in the State of Montana.

From the passage of the act of March 3, 1891 (36 Stat. 1103), to that of the act of March 4, 1907 (34 Stat. 1271), a period of 16 years, the President of the United States had full power to create or enlarge national forests by proclamation or Executive order. By the act of March 4, 1907, that power was rescinded in relation to six of the Western States, including Montana. The bill E. 26 would restore that power in relation to the State of Montana.

At the time the restriction was placed upon the President's power to create or enlarge national forests in Montana, the whole national policy of conservation was in an acutely controversial stage. There also was widely prevalent a belief that the remaining unreserved and unappropriated lands of the United States had infinite and permanent potentialities for constructive and profitable private ownership and management. The ensuing 30-year process of trial and error has provided new and more dependable bases for consideration and decision. The soundness and necessity of a comprehensive national program of forest management and watershed protection is now generally recognized; as is also the indubitable fact that much of the wild land of the West does not produce enough to pay the costs of constructive and permanent private management and hence has little appeal to private interest for other than a quick exploitation of long-accruing resources, to be followed usually by tax deliquency and abandonment.

The entire situation has now so changed as to make unnecessary the checks and safeguards that might have been justified at the time the Presidential authority was withdrawn. The principles governing enlargement of the national forests have been well defined by precedent, practice, and procedure over a further period of 30 years. Before national-forest units or additions are recommended, they are thoroughly analyzed by the Land Use Coordinating Committee of the Department, with particular attention to their relationship to, or effect upon, the plans of other bureaus or departments. The proclamations or Executive orders placing public-domain lands in a national-forest status are drafted by the Department of the Interior and submitted to the President through the Bureau of the Budget, the Attorney General, and the Department of State. Such a procedure would seem to obviate any possibility that final action would be taken without full information or complete consideration of all aspects of the proposal and full opportunity for the several executive departments directly concerned to record their views and recommendations.

The degree to which the proposed legislation would increase the costs of administering the national forests cannot be foretold with any accuracy, since it will depend upon the number, size, and situation of the projects which might be approved by the President. In all probability most of the additions which might be made would be of areas marginal to the present boundaries of national forests and susceptible to effective management without appreciable increase in present personnel or expenditures. No really material increase in costs of administration as a result of the proposed act can now be foreseen.

In the opinion of this Department, enactment of the bill, S. 26, would be in the public interest and, therefore, is recommended.

Upon reference of this matter to the Bureau of the Budget, as required by Budget Circular 344, the Acting Director thereof advised the Department of Agriculture under date of February 18, 1939, that there would be no objection on the part of that office to the submission to Congress of this proposed report.

Sincerely,

HARRY L. BROWN,
Acting Secretary.

Mr. MARTIN of Massachusetts. How much acreage is involved?

Mr. O'CONNOR. There are hundreds of thousands of acres, but it is all public land at the present time. This bill has already passed the Senate.

Mr. MARTIN of Massachusetts. As I understand it, it is a unanimous report from the Committee on Public Lands?

Mr. O'CONNOR. The Committee on Public Lands considered the bill and reported it out unanimously with an amendment, which I proposed myself, limiting the area, and I am going to ask the House to vote down the committee amendment which, as I said, I proposed. I limited the area to three counties, and I find demand for the bill from all over the State.

Mr. DIRKSEN. Mr. Speaker, will the gentleman yield?

Mr. O'CONNOR. I yield.

Mr. DIRKSEN. Has this been administered by the Interior Department heretofore?

Mr. O'CONNOR. It has been administered by both the Interior and Agricultural Departments heretofore.

Mr. DIRKSEN. So only jurisdiction control is being vested in the Forest Service?

Mr. O'CONNOR. Yes; the gentleman is correct.

Mr. MARTIN of Massachusetts. The gentleman has discussed the question of bringing this bill up with the gentleman from California [Mr. ENGLEBRIGHT]?

Mr. O'CONNOR. I have discussed it with the gentleman from California, the ranking minority member, and I have his O. K. I likewise discussed it with the chairman of the Committee on Public Lands, the majority leader, and the minority leader of the House, and have their approval of consideration.

Mr. CHURCH. What is the number of the House bill?

Mr. O'CONNOR. I introduced a companion House bill, but I asked the Public Lands Committee to report Senator WHEELER's bill instead of mine, as his bill has already passed the Senate.

Mr. CHURCH. What is the number of that bill?

Mr. O'CONNOR. I do not now recall the number of my bill.

Mr. CHURCH. Was it on the Consent Calendar?

Mr. O'CONNOR. No; it is on the Union Calendar.

Mr. CHURCH. This bill is on the Consent Calendar for next Monday.

Mr. O'CONNOR. Yes. I requested that that be done yesterday to insure passage at this session.

Mr. CHURCH. What is the number of the House bill?

Mr. O'CONNOR. As I said, I cannot give that to the gentleman now. I will have it Monday when the bill is reached.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the President of the United States is authorized, in his discretion, to add to existing national forests, or to include within new national forests, by proclamation or Executive order, any unappropriated public lands in the United States situated in the State of Montana, which, in his opinion, are chiefly valuable for the production of timber or the protection of watersheds: *Provided*, That the inclusion of such lands within a national forest shall be subject to any claim, entry, or appropriation under the public land laws then valid and subsisting and thereafter legally maintained.

SEC. 2. All previous acts and parts of acts in conflict herewith are hereby repealed insofar as they apply to the State of Montana.

With the following committee amendment:

Page 1, line 7, after the word "Montana", insert "in the counties of Fergus, Lincoln, and Missoula."

The SPEAKER. Without objection, the committee amendment is rejected.

There was no objection, and the committee amendment was rejected.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDMENT OF CIVIL SERVICE RETIREMENT ACT

Mr. LEWIS of Colorado. Mr. Speaker, I call up House Resolution 250.

The Clerk read as follows:

House Resolution 250

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for consideration of S. 281, an act to amend further the Civil Service Retirement Act, approved May 29, 1930. That after general debate, which shall be confined to the bill and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Civil Service, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment the committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

Mr. LEWIS of Colorado. Mr. Speaker, I yield 30 minutes to the gentleman from Michigan [Mr. MAPES].

I yield myself 5 minutes, Mr. Speaker.

This is an open rule providing for 1 hour of general debate on the bill S. 281. The matter comes from the Civil Service Committee.

I yield at this time 10 minutes to the author of the bill, the gentleman from Georgia [Mr. RAMSPECK].

Mr. RAMSPECK. Mr. Speaker, this bill passed the Senate sometime back. The House Committee on the Civil Service has stricken out the Senate language and inserted new language amending the civil service retirement law in certain particulars which I will discuss briefly.

Under existing law there are three mandatory retirement ages for different groups of employees who have different occupations. One group retires at the age of 62, another at the age of 65, and another at 70. Under this proposal we eliminate the 62-year group and move them up to the age of 65, leaving only two mandatory retirements, at the ages of 65 and 70.

Under the present law these three groups have the option of retiring at the age of 60, 63, and 68. Under the committee proposal all three groups, or the two that are left after our amendment is adopted, if it is adopted, would have the right of retirement at the age of 60, after 30 years' service.

The present law provides that a person who is retired for disability and thereafter recovers, remains on the retirement rolls only 90 days. We are extending that time to 1 year in order to give the employee who recovers a further opportunity to find reinstatement in the Government service.

Under the present law all claims for disability annuity must be executed prior to the employee's separation from the service, or within 6 months thereafter. We are waiving this 6 months' limitation in the present proposal in the case of employees who at the date of separation or within 6 months thereafter have been adjudged mentally incompetent. We found a few cases where we thought hardship had been worked, and we are attempting to relieve that.

Under the existing law after 45 years of age with 15 years' service an employee may elect to receive an annuity at age 55 of the value that he would receive at age 62. Under the committee proposal we are changing the required service to 5 years and provide that any person may receive an annuity at age 55, if involuntarily separated from the service, which shall be the equivalent of an annuity which he otherwise would receive at age 62.

In addition, we are including in this bill postmasters. They were not included in the original act. In this bill also we are giving the option to Members of Congress and United States Senators to participate in the act if they so desire.

We are raising the contribution required from 3½ to 5 percent of the basic salary. We are also providing that the Government's part of the annuity shall be no less than that purchased by the money contributed to the fund by those who come under the law.

Another change we are making in the act is to provide that any person affected by the act may at the time of retirement elect to receive a lesser annuity and leave the remainder of his annuity to a named beneficiary. No doubt most of you have received letters from people in the Government service advocating the so-called widow's annuity. This bill makes provision by which employees may take care of their widows or other named beneficiaries, but it does not increase the total annuity; it simply means a division of the annuity at the time of retirement.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. RAMSPECK. I yield.

Mr. DINGELL. I am, of course, mindful of the gentleman's interest in and his very fine service to the Federal workers generally. It has been my policy as a rule to follow the gentleman in matters of legislation almost entirely on faith. I am not familiar with the provisions of the bill as amended by the Senate, but my understanding is that the bill has the almost universal approval of the Federal employees generally. Is that right?

Mr. RAMSPECK. The gentleman is correct. While there may be some details in it that they would prefer to have changed, in the main they approve it. There are three groups of employees who come under this act who are organized. One group is composed of several organizations affiliated with the American Federation of Labor and belong to what is known as the Joint Conference on Retirement. Mr. Robert H. Alcorn is chairman of that group, and he has issued a letter to the Members of Congress endorsing this bill and asking for its passage. Another group, generally speaking, is affiliated with what is known as the National Legislative Council, headed by Mr. Luther Steward. They have likewise asked for the passage of the bill. There is a third group, headed by Mr. Jacob Baker, which has also endorsed the bill. So I can say that so far as I know every group of organized employees in the Government service favor the passage of the bill.

Mr. MURDOCK of Arizona. Mr. Speaker, will the gentleman yield?

Mr. RAMSPECK. I yield.

Mr. MURDOCK of Arizona. I wish to second heartily the remarks of my colleague from Michigan to the effect that we recognize the gentleman's [Mr. RAMSPECK's] leadership in work affecting the welfare of the Federal employees. As I understand it, the pending bill includes postmasters.

Mr. RAMSPECK. Yes.

Mr. MURDOCK of Arizona. I am not quite clear about the provision under which Members of Congress and United States Senators may participate in the retirement plan. Will the gentleman elaborate on that?

Mr. RAMSPECK. Some 2 or 3 years ago we amended the Civil Service Retirement Act to permit our secretaries, clerks of committees, and legislative employees generally, at their option, to participate in this law. We are now presenting the same right to Members of Congress and Senators, giving them 6 months after the effective date of the act to notfiy either the Clerk of the House or the Secretary of the Senate. If they desire to participate in it, they must do so upon the same terms and with benefits limited to the same amount which the 540,000 people who now come under this act receive. They would pay in after January 1 of next year 5 percent of their salaries. If they wish to get credit for their back service, their prior service, they would pay for it at the rate applicable at the time of the service: At the present time 3½ percent, and from 1920 to 1926, 2½ percent.

This will not furnish any large annuity to anybody. It is a contributary plan based upon the same principle which has been successfully applied to the Federal employees since 1920, and it embodies the same principle that we find in title II of the Social Security Act where the employee, or the beneficiary, must contribute half of the cost. It will not furnish any great annuity, but it would furnish to a man who served here for 30 years a very nice annuity in the future. For the back service it will not be quite as large, because the deductions required to be paid for back service are less, and that reduces the amount to the person who receives it.

The annuity received is based on an actuarial computation made at the time he retires based on the life expectancy of the man. It is not, therefore, possible for me to tell exactly what amount any particular individual would receive, but I can assure you that it is slightly more beneficial than one would get from a private insurance company, and still it is fair to the taxpayer.

Mr. RANDOLPH rose.

Mr. RAMSPECK. Mr. Speaker, I yield to the gentleman from West Virginia.

Mr. RANDOLPH. Will the gentleman yield?

Mr. RAMSPECK. I yield to the gentleman from West Virginia.

Mr. RANDOLPH. I want to add my word of congratulation to the gentleman who is the distinguished chairman of the House Civil Service Committee. It has been my pleasure to serve under and with him for 7 years on what I consider to be one of the important committees of this House. I am sure the gentleman will agree with me that the civil-service retirement program is designed primarily to effectuate a proper and humane method of retiring those individuals from employment in the Federal Government when they become disabled or who through advanced age are not able to properly perform their duties in the Government. The gentleman, I am sure, feels as I do that this legislation improves the civil service retirement system.

Mr. RAMSPECK. I agree with the gentleman. I think these amendments will be beneficial both to the Government and to the employees.

Mr. WHITTINGTON. Will the gentleman yield?

Mr. RAMSPECK. I yield to the gentleman from Mississippi.

Mr. WHITTINGTON. Is retirement at the ages mentioned for the different employees compulsory?

Mr. RAMSPECK. The compulsory age, if this amendment is adopted, will be 65 for the postal groups and those engaged in what might be called hazardous occupations, like the navy-yard workers. It is 70 for all other groups.

Mr. WHITTINGTON. And the age of 70 would apply to postmasters?

Mr. RAMSPECK. Yes; the age of 70 would apply to postmasters.

Mr. WHITTINGTON. Will that age apply to Senators and Members of Congress?

Mr. RAMSPECK. No. There is no mandatory age applied to legislative employees, nor will there be to Members of Congress or Senators. They can serve until they are 100 years of age if they could be reelected for that long.

Mr. PACE. Will the gentleman yield?

Mr. RAMSPECK. I yield to the gentleman from Georgia.

Mr. PACE. I have two questions to ask. First, what is the reason for and the result of the increase in the contribution from 3½ to 5 percent? Secondly, how will the postmaster retirement feature operate with reference to back years served by a postmaster?

Mr. RAMSPECK. The back years served by a postmaster can be counted for the purpose of receiving an annuity provided he pays up for the back time, just like we will have to do if we come under it.

The reason for the increase is twofold. In the first place, it will produce a larger annuity and a great many of the employees want that because they want to build up a larger annuity so that they can provide for their widows or some named beneficiary. In the second place, it will reduce the Government part of the cost. When this law was drafted in 1930 it was designed largely for the benefit of the lower pay groups and it is quite generous insofar as they are concerned. Because of a minimum annuity provision in the law, the Government must pay and does pay a deficiency cost as to that group of employees.

[Here the gavel fell.]

Mr. LEWIS of Colorado. Mr. Speaker, I yield the gentleman 3 additional minutes.

Mr. DINGELL. Will the gentleman yield?

Mr. RAMSPECK. I yield to the gentleman from Michigan.

Mr. DINGELL. I would like to ask the gentleman from Georgia a question with regard to permanent and total disability. Is there any provision in this retirement act which grants benefits at an earlier date in case of total or permanent disability?

Mr. RAMSPECK. Yes. Any employee or any person who comes under the act and is totally disabled at any time after 5 years of service can get an annuity. The amount of it, of course, will be based upon length of service and the age of the employee at the time the disability occurs.

Mr. DINGELL. The principle of permanent and total disability is included in the bill?

Mr. RAMSPECK. Yes. There have been a number of employees retired for total disability.

Mr. WHITTINGTON. Mr. Speaker, will the gentleman yield?

Mr. RAMSPECK. I yield to the gentleman from Mississippi.

Mr. WHITTINGTON. What is the percentage of increase in the Federal contribution toward the retirement and annuity payments under the provisions of this bill, if there be an increase? Is there an increase in the Federal contribution and if so, how much?

Mr. RAMSPECK. We are providing that the Government's part of the annuity shall not be less than that purchased by the savings of beneficiaries under the act.

Mr. WHITTINGTON. I recall that statement, but is that an increase over the present contribution?

Mr. RAMSPECK. It is an increase in a small percentage of cases. It will affect only those employees who are getting larger salaries. Under the present law they are discriminated against in favor of those who earn $2,000 a year and less.

Mr. WHITTINGTON. What is the percentage of increase for the lower salaries?

Mr. RAMSPECK. It cannot be named in percentages because it varies with different salaries; but in no event will the Government pay to those benefited by that provision more than 50 percent of the cost of the annuity.

Mr. WHITTINGTON. The gentleman cannot give us an estimate of the increased Federal cost?

Mr. RAMSPECK. Does the gentleman mean the amount in dollars?

Mr. WHITTINGTON. Yes.

Mr. RAMSPECK. It would be very little. I have not the exact figures, but it would be a small amount.

Mr. DONDERO. Will the gentleman yield?

Mr. RAMSPECK. I yield to the gentleman from Michigan.

Mr. DONDERO. Will the gentleman explain to the House what the amount of the annuity would be to a person who became permanently disabled, or would that be determined upon the amount that he had contributed to the fund?

Mr. RAMSPECK. It would be governed by the amount he had contributed to the fund, and his age would be taken into consideration also. Of course, I cannot figure that out unless I have a specific case, and even then I could not do it instantaneously. It is an actuarial computation.

Mr. DONDERO. His contribution to the fund would be one of the determining factors?

Mr. RAMSPECK. Yes.

Mr. SNYDER. And the years of service enter into that also?

Mr. RAMSPECK. Yes; years of service would determine the amount he paid in.

[Here the gavel fell.]

DISTRICT OF COLUMBIA APPROPRIATION BILL—CONFERENCE REPORT

Mr. COLLINS submitted the following conference report and statement on the bill (H. R. 5610) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1940, and for other purposes:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on certain amendments of the Senate to the bill (H. R. 5610) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1940, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 61, 62, 63, 64, 65, 67, 68, 69, 70, and 71.

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$6,000,000"; and on page 2, line 8 of the bill after the word "Columbia," insert the following: "and this Act shall be effective as of July 1, 1939, and any appropriations and authority contained herein shall have the same force and effect between June 30, 1939, and the date of the enactment of this Act as though the same had become law on July 1, 1939; and the acts of any officer or employee performed during such period in anticipation of the appropriations or authority contained herein shall not be invalidated, declared ineffective, or questioned solely because of the lack of such appropriations or authority during such period,"; and the Senate agree to the same.

Amendment numbered 60: That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows: Omit the matter stricken out and inserted by said amendment; and the Senate agree to the same.

Amendment numbered 66: That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$1,623,000"; and the Senate agree to the same.

Amendment numbered 101: That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: "$900,000, and not to exceed 10 per centum of this appropriation and of Federal grants reimbursed under this appropriation shall be expended for personal services, including the employment of one general superintendent of public assistance services at $5,600 per annum, one assistant superintendent of such services at $4,600 per annum, and one stenographer-typist (secretary) at $2,000 per annum, to be appointed without reference to civil-service requirements,"; and the Senate agree to the same.

ROSS A. COLLINS,
GEORGE MAHON,
KARL STEFAN,
FRANCIS CASE,
Managers on the part of the House.

JOHN H. OVERTON,
CARTER GLASS,
ELMER THOMAS,
WILLIAM H. KING,
GERALD P. NYE,
Managers on the part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5610) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1940, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon and recommended in the accompanying conference report as to each of such amendments, namely:

On amendment No. 1: Appropriates $6,000,000 as a Federal contribution to the operation of the government of the District of Columbia, instead of $5,000,000, as proposed by the House, and $7,750,000, as proposed by the Senate, and provides that the provisions of the act and the action of administrative officers in anticipation of enactment shall be effective as if such act had been approved on July 1, 1939.

On amendment No. 59: Provides $229,000 for the construction of an eight-room addition to the Ketcham School, as proposed by the Senate.

On amendment No. 60: Strikes out the provision of the House appropriating $20,000 for plans and specifications for a new building to house the Abbott Vocational School, and eliminates the provision of the Senate with reference to this school.

On amendments Nos. 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, and 71, relating to school buildings and grounds: Strikes out the Senate amendments providing for plans and specifications for new buildings to replace old elementary schools and for the purchase of land for such new school buildings, and corrects the totals for such items.

On amendment No. 101: Appropriates $900,000 for relief in the District of Columbia, as proposed by the House instead of $1,500,000, as proposed by the Senate, and provides that 10 percent of such sum shall be available for personal services, instead of 8½ percent, as proposed by the House, and the elimination of any limitation on personal services, as proposed by the Senate.

ROSS A. COLLINS,
GEORGE MAHON,
KARL STEFAN,
FRANCIS CASE,
Managers on the part of the House.

Mr. COLLINS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill H. R. 5610.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. COLLINS. Mr. Speaker, I ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the statement.

Mr. MARTIN of Massachusetts. Mr. Speaker, will the gentleman from Mississippi explain what has happened in connection with this conference report?

Mr. COLLINS. The conferees have agreed on a lump-sum contribution by the Federal Government toward the operation of the government of the District of Columbia of $6,000,000 applicable only to the next fiscal year. No agreement with reference to any future years has been reached, because this bill deals entirely with the fiscal year 1940.

Mr. DINGELL. No commitments of any kind have been made?

Mr. COLLINS. No commitments whatever.

As to the appropriation for relief, the House figure of $900,000 is retained. That is the same amount provided for the last fiscal year with regard to the consolidation of elementary schools, the Senate has yielded on all amendments relating to this proposal.

These three subjects constitute practically all the matters which remain in disagreement between the two Houses.

Mr. RANDOLPH. Mr. Speaker, will the gentleman yield?

Mr. COLLINS. I yield to the gentleman from West Virginia.

Mr. RANDOLPH. Is my understanding correct that all the House conferees are in agreement on this matter that the chairman presents to us from the appropriations subcommittee?

Mr. COLLINS. I am certain they are all in agreement. All the Members have signed except the gentleman from Massachusetts [Mr. CASEY], who, I understand, is out of the city.

Mr. RANDOLPH. The gentleman has every reason to believe, then, that this is a unanimous report?

Mr. COLLINS. I would say it was unanimous, although I would say that the consent to the $6,000,000 contribution is begrudgingly given.

Mr. RANDOLPH. May I say, because of the gentleman's statement in connection with the lump-sum contribution of $6,000,000, that I imagine this action is predicated on the feeling on the part of the House conferees on the District appropriation bill that there is a critical condition connected with the financial status of the District of Columbia?

Mr. COLLINS. The agreement was reached purely and simply because a critical condition exists in the District of Columbia and the committee felt the necessity of passing an appropriation bill.

Mr. RANDOLPH. I wish to personally congratulate the gentleman because I do feel that this is a critical time, and I am very certain the action of the committee comes at a most opportune time.

Mr. COLLINS. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. STEFAN].

Mr. STEFAN. Mr. Speaker, as the chairman of the District of Columbia Subcommittee of the Appropriations Committee has explained, this agreement was reached between your committee and the Senate committee just a little while ago because a critical condition does exist in the District of Columbia. It is so critical that newspaper headlines scream that money must be borrowed from local banks to pay the District bills.

With regard to our yielding on the $6,000,000 figure as compared with the House figure of $5,000,000, I should like to state that we found ourselves in an impasse and yielded begrudgingly to the Senate. I wish to call the attention of the Members of the House to the fact that your committee started out facing a figure of something like $8,000,000 or more as the lump-sum contribution of the Federal Government to the District. We have been opposed to that amount. Had this critical situation not arisen, I am sure we would not have yielded on the $6,000,000 figure. But it is merely your committee's report and it is now up to you—every one of you to vote on this report. You can vote against the report and we will go back and fight some more with the Senate. For one, I am willing to do that, as I feel the House figure is sufficient.

I believe your committee should be credited with a considerable amount of saving. I believe the saving will run over $3,000,000 or $4,000,000, as you will discover if you give some of your valuable time to a reading of the bill as it comes before you today on the conference report.

Mr. CASE of South Dakota. Mr. Speaker, will the gentleman from Mississippi yield?

Mr. COLLINS. I yield to the gentleman from South Dakota.

Mr. CASE of South Dakota. I should like to call the attention of the House to the fact that this is merely a report on the District appropriation bill; that in this bill there is absolutely no attempt to direct a mandate to the legislative committee with regard to taxation. There is nothing in this report that tells the District legislative committee what kind of a tax bill they should write. I sincerely hope the District legislative committee will take that example to heart and not in a tax bill attempt to dictate to the Appropriations Committee what it shall appropriate.

The objection that was raised to the report of the conferees on the District tax bill the other day, from the standpoint of some of us, was based on the fact that the report directly and specifically directed an appropriation for the next fiscal year and for each year thereafter a certain amount. I submit to the Members that the appropriation should be based upon the showing of the need for appropriations as this showing is made before the Appropriations Committee.

As has been stated, the conference report comes in here as a unanimous report from the conferees because of the condition existing. We have passed the opening of

the new fiscal year and the semimonthly pay day comes tomorrow. The other body originally asked for $7,750,000; the House had appropriated $5,000,000. The other body then asked for $6,500,000. So we feel that in finally setting the figure at $6,000,000 we had come more nearly to the House figure, which was based on what, in the evidence before the Appropriations Committee, seemed to be what was needed.

Mr. COLLINS. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. DIRKSEN].

Mr. DIRKSEN. Mr. Speaker, I merely wish to emphasize the fact that when we brought in a conference report on the District revenue bill we did seek to emphasize the emergent and critical condition that faced the District of Columbia. It is rather interesting, of course, to hear the members of the Appropriations Committee indicate now that this increase to $6,000,000 was begrudgingly done. There rings in my mind a little couplet from the Vision of Sir Launfal—

> Not what we give, but what we share,
> For the gift without the giver is bare.

I think the givers might have gone along with the gift, since they gave the $6,000,000.

Mr. WHITTINGTON. Mr. Speaker, will the gentleman yield?

Mr. DIRKSEN. I yield to the gentleman from Mississippi.

Mr. WHITTINGTON. Is there any provision in this conference report on the appropriations bill for the collection of taxes for the support of the revenues of the District for the next fiscal year, 1940?

Mr. COLLINS. No; this bill will enable the District Commissioners to levy taxes.

Mr. WHITTINGTON. Just as they have done during the year 1939, even if we do not pass the tax bill.

Mr. COLLINS. That is right.

Mr. Speaker, I yield to the gentleman from Nebraska [Mr. STEFAN].

Mr. STEFAN. Mr. Speaker, in reply to what the gentleman from Illinois has said in reference to the words "begrudgingly given," I would like to call the attention of the membership of the House to the fact that your committee has been working many weeks on this appropriation bill, and, so far as I am concerned, I do not believe anybody in Washington or anyone in this House really knows right now whether $2,500,000 or $5,000,000 or $8,000,000 is the correct lump sum which should be given to the District of Columbia by the Federal Treasury. Who really knows what we should give, if anything? We believed after the justifications given to us that $5,000,000 was enough. So far as I am concerned, I believe, from the evidence presented to our committee, that $5,000,000 is more than enough. My chairman believes that. Practically every member of our committee believes that, and yet we are confronted with a critical and a serious condition which the Commissioners of the District of Columbia have to face. We find the Senate, which demands $8,000,000, will not yield further. We were faced with 135 or more amendments by the body at the other end of the Capitol, most of them making increases, most of which we succeeded in eliminating.

Mr. REES of Kansas. Mr. Speaker, will the gentleman yield for a question?

Mr. COLLINS. I yield to the gentleman from Kansas.

Mr. REES of Kansas. And yet the fact remains you spent or appropriated $1,000,000 more of the taxpayers' money than the House intended to spend.

Mr. STEFAN. There is no question about that. The gentleman from Kansas knows of my attitude against this spending. I tell him now that every penny of this $6,000,000 represents taxpayers' money from the States of Nebraska, Kansas, Mississippi, and all the other States of the Union. Something should be done in the District of Columbia to give correct information to this body or the members of the Appropriations Committee so that we may be fair to the people of the District of Columbia and yet be fair to the taxpayers of the various States which we represent. Once the lump sum given was far in excess of the amount here. Once it was far less. All of the compromises have been through guesswork. The people of the District believe because we have Government property here and the city renders much service for the Federal Government the lump sum should be equal to the service rendered. Congress wants to be fair. Because no one really knows how much the total should be, there is criticism for both sides. So here is a compromise by Members from both House and Senate. There are only three of us. There are 435 Members of this House. Everyone of you is a member of the council for this town. If you think this amount is too much, all you have to do is vote against this report and cut the amount down. I will go along with you. But in the future let us be furnished with the fair amount to which this city is entitled. I know the people in my State want me to be square with the people of Washington and also protect our Treasury.

Mr. BOREN. Mr. Speaker, will the gentleman yield?

Mr. COLLINS. I yield to the gentleman from Oklahoma.

Mr. BOREN. Is it not true that the amount provided in the bill was raised by the Senate to more than $7,000,000?

Mr. COLLINS. It was raised $7,750,000 by the Senate, and this conference agreement fixes the amount to be contributed by the Federal Government at $6,000,000.

Mr. BOREN. Mr. Speaker, I would like to make the observation that I am not going to object to this bill today, but I am serving notice now that any time the Senate raises the District of Columbia appropriation bill from what the House provides from now on, I shall object if the matter is brought up under a similar situation.

Mr. Speaker, inquiries from my colleagues concerning the enormous salaries paid in the motion-picture industry leads me to place in the RECORD this article from the New York Sun. There is still a worse side of the picture, and that is the thousands of legitimate workers in the film industry who are maltreated and paid starvation wages. The situation would more easily be recognized to have opposite each name of these high-paid executives, the list and annual income of those thousands of extras, stand-ins, property men, and so forth.

Mr. Speaker, one phase of the comprehensive program which is being developed for consideration of the Congress is the divorcement of production from exhibition in the motion-picture industry. Some of my colleagues have made particular inquiry as to the constitutionality of such a proposal. I submit a brief memorandum with reference to that question:

[From the New York Sun of April 7, 1939]

LIST OF HIGH-PAID FILM FOLK

WASHINGTON, April 7.—Motion-picture players, directors, and executives who receive $50,000 or more in salary or other compensation, as listed by the Treasury for the House Ways and Means Committee, which made the information public today, included these:

Loew's, Inc.: N. M. Schenck, president, $260,785 in 1936 and $489,602 in 1937; David Bernstein, vice president and treasurer, $151,457 in 1936 and $320,416 in 1937; A. L. Lichtman, vice president, $129,000 in 1936 and $147,000 in 1937; L. Friedman, secretary and general counsel, $57,577 in 1936; C. C. Moskowitz, general manager of theaters, $71,944 in 1936; Louis K. Sidney, talent executive, $71,625 in 1936; A. M. Loew, first vice president, $356,074 in 1937; J. Robert Rubin, vice president, $641,123 in 1937; Louis B. Mayer, Culver City, Calif., production executive, $1,161,753 in 1937; Robert Lynch, district sales manager, $51,450 in 1937; William Rogers, sales manager, $50,900 in 1937; Ludwig Lawrence, Paris office supervisor, $57,000 in 1937; S. Eckman, Jr., London office supervisor, $154,302 in 1937; Howard Dietz, New York, publicity, $52,500.

Metro-Goldwyn-Mayer Corporation: 1936, Louis B. Mayer, vice-president, $168,625; Irving Thalberg, vice president, $167,875; Harry Rapf, vice president, $104,000; Edward J. Mannix, vice president, $130,000; Lionel Barrymore, actor, $129,174; John Barrymore, actor, $33,333; Freddy Bartholomew, actor, $39,833; Wallace Beery, actor, $203,750; Sam Behrman, writer, $57,000; Constance Bennett, actress, $38,125; Richard Boleslawski, director, $78,050; Clarence Brown, director, $156,000; Charles Butterworth, actor, $57,749; Lenore Coffee, writer, $52,616; J. J. John, $55,500; J. W. Considine, Jr., director, $77,875; Jack Conway, director, $147,083; Jacky Cooper, actor, $43,225; Joan Crawford, actress, $302,307; George Cukor, director, $194,166; Nelson Eddy, actor, $47,541; Stuart Erwin, actor, $49,791; Madge Evans, actress, $48,386; Seymour Felix, dance director, $54,291; Victor Fleming, director, $85,500; Sidney Franklin, director, $118,750; Jules Furthman, $81,791; Clark Gable, actor, $235,333; Greta Garbo, actress, $190,000; Cedric Gibbons, art director, $55,750; Edmund Goulding, director, $169,500; Albert Hackett,

writer, $66,791; Jean Harlow, actress, deceased, $146,130; Ted Healy, actor, $57,901; Lucien Hubbard, supervisor, $131,250; Benita Hume, actress, $65,833; B. H. Hyman, supervisor, $129,000; Horace Jackson, writer, $65,500; Talbot Jennings, $51,850; Allan Jones, actor, $63,333; Sam Katz, executive, $119,583; Fritz Lang, director, $59,333.

Vincent Lawrence, $73,666; Robert Z. Leonard, director, $156,000; Albert Lewis, supervisor, $63,375; Louis A. Lighton, producer, $127,083; Myrna Loy, actress, $123,916; Jeannette MacDonald, actress, $219,400; John Lee Mahin, writer, $56,499; Herman Mankiewicz, writer, $51,875; Joseph Mankiewicz, director, $79,066; John Meehan, writer, $59,583; Frances Marion, writer, $79,166; James McGuinness, writer, $51,875; William A. McGuire, writer, $97,000; Robert Montgomery, actor, $142,000; Frank Morgan, actor, $74,367; Paul Muni, actor, $218,750; Edna May Oliver, actress, $71,791; Reginald Owen, actor, $57,391; Cole Porter, writer, $75,000; William Powell, actor, $164,533; Louise Rainer, actress, $54,124; Basil Rathbone, actor, $56,500; Walter J. Rubin, director, $55,541; George Seitz, director, $57,016; Edgar Selwyn, director, $113,208; Norma Shearer, actress, $150,000; Sid Silvers, writer, $51,083; John M. Stahl, producer, $96,250; Barbara Stanwyck, actress, $45,000; Lewis Stone, actor, $51,914; Hunt Stromberg, supervisor, $197,583; Benjamin Thau, executive, $60,283; Franchot Tone, actor, $76,250; Spencer Tracy, actor, $115,000; W. S. Van Dyke, director, $164,500; Hugh Walpole, writer, $50,416; Clifton Webb, actor, $63,000; Lawrence Weingarten, supervisor, $84,125; William Wellman, director, $128,625; Cary Wilson, writer, $52,000; Sam Wood, director, $114,433; Maurice Chevalier, actor, $74,186.

MAYER GOT $134,750

Metro-Goldwyn-Mayer Corporation, New York: 1937, Louis B. Mayer, vice president, $134,750; J. Robert Rubin, vice president and secretary, $53,000; E. J. Mannix, vice president, $157,500; Sam Katz, supervisor, $156,000; Harry Rapf, producer, $110,166; Zoe Akins, writer, $76,500; Dorothy Arzner, director, $50,250; Lionel Barrymore, actor, $132,739; John Barrymore, actor, $34,500; Freddy Bartholomew, actor, $36,899; Wallace Beery, actor, $190,000; Frank Borzage, producer, $87,000; Clarence Brown, producer, $159,000; Nacio Herb Brown, song writer, $53,166; Arlington Brugh (Robert Taylor), actor, $173,352; Joseph Calleia, actor, $55,800; J. J. Cohn, production manager, $63,600; John W. Considine, Jr., producer, $92,750; Jack Conway, director, $168,621; Joan Crawford, actress, $351,538; George Cukor, director, $72,083; Roy del Ruth, director, $148,375; Melvin Douglas, actor, $59,416; Nelson Eddy, actor, $103,166; Madge Evans, actress, $48,196; Seymour Felix, dance director, $51,041; Nat Finston, music department manager, $56,516; Victor Fleming, director, $160,000; Sidney Franklin, director, $128,583; Arthur Freed, song writer, $52,970; Jules Furtham, writer, $84,975; Clark Gable, actor, $289,000; Greta Garbo, actress, $472,499; Cedric Gibbons, art director, $68,250; Ben Goetz, supervisor of foreign productions, $56,500; Leon Gordon, writer, $51,166; Jean Harlow, actress, deceased, $104,967; Ted Healy, actor, $69,998; Samuel Hoffenstein, writer, $64,625; Robert Hopkins, writer, $50,350; Lucien Hubbard, supervisor, $66,250; B. H. Hyman, producer, $165,458; Allan Jones, actor, $83,338; Gus Kahn, song writer, $53,000; Guy Kibbee, actor, $50,333; William Koenig, executive, $81,125; Norman Krasna, producer, $83,000; Robert Z. Leonard, producer, $160,000; Louis Lighton, writer and producer, $158,250; Edmund Lowe, actor, $105,416; Jeannette MacDonald, actress, $238,299; Herman Mankiewicz, writer, $61,250; Joseph Mankiewicz, producer, $36,774; Jack McGowan, writer, $78,350; James K. McGuinness, writer, $66,650; Una Merkel, actress, $50,224; William Anthony McGuire, writer and producer, $102,583; Robert Montgomery, actor, $243,250; Frank Morgan, actor, $84,983; John Lee Mahin, writer, $72,791; Edna May Oliver, actress, $94,458; Cole Porter, song writer, $76,500; Eleanor Powell, actress, $79,125; William Powell, actor, $246,110; Luise Rainer, actress, $61,499; Howard E. Rogers, writer, $60,950; Sigmund Romberg, song writer, $79,000; J. Walter Ruben, director, $70,000; Peter Schmid, producer, $53,000; George Seitz, director, $77,533; Edgar Selwyn, motion picture director, $119,245; John Stahl, director $107,250; Ben Thau, executive, $81,750; Franchot Tone, actor, $107,291; Spencer Tracy, actor, $91,750; Sophie Tucker, actress, $48,888; W. S. Van Dyke, director, $178,916; Ernest Vajda, writer, $76,500; Larry Weingarten, producer, $119,000; Myrna Loy, actress, $152,583; Reginald Owen, actor, $71,525; Jo Swerling, writer, $50,853; Lewis Stone, actor, $48,500; Hunt Stromberg, producer, $265,500; Herbert Stothard, music composer, $59,175; Carey Wilson, writer, $55,350; Sam Wood, director, $134,304; Robert Young, actor, $58,625.

J. Robert Rubin, New York, vice president and secretary, Metro-Goldwyn-Mayer Distributing Corporation, $60,131; Felix Feist, vice president, $57,600; N. M. Schenck, president, Metro-Goldwyn Pictures Corporation, $52,000; David Bernstein, vice president and treasurer, $62,400.

WARNERS GOT $86,666 EACH

Warner Brothers Pictures, Inc.: 1936—H. M. Warner, Albert Warner, and L. L. Warner, $86,666 each; A. C. Thomas, secretary, $77,900; S. P. Friedman, vice president, $52,000; Sam E. Morris, vice president, $78,000; Herman Starr, vice president, $52,000; Jacob Wilk, scenario department manager, $52,000; Robert W. Schless, European sales manager, $51,534; Harold Arlen, song writer, $58,541; Lloyd Bason, director, $113,375; Busby Berkeley, director, $73,750; Sam Bischoff, supervisor, $78,208; Joan Blondell, actress, $84,799; Frank Borzage, director, $109,000; Joe Brown, actor, $201,562; Harry J. Brown, supervisor, $87,875; James Cagney, actor, $49,833; Marc Connelly, writer, $66,500; Michael Curtiz, director, $107,200; Delmar Daves, writer, $60,900; Bette Davis, actress, $43,133; William Dieterle, director, $90,833; Al Dubin, song man $51,016; Ray Enright, director, $53,750; Kay Francis, actress, $227,500; Al Green, director, $95,000; E. Harburg, musician, $58,541; Howard Hawks, director $63,000; Edward E. Horton, actor, $35,208; Leslie Howard, actor, $185,000; Al Jolson, actor, $85,424; Guy Kibbee, actor, $68,500; William Koenig, executive, $52,208; Warren William Kreck, actor, $85,249; Mervyn Leroy, director, $146,000; Robert Lord, executive, $101,466; Archie Mayo, director, $116,708; Victor Moore, actor, $23,333; Paul Muni, actor, $27,777; Pat O'Brien, actor, $108,750; Dick Powell, actor, $96,000; Claude Rains, actor, $60,250; Max Reinhardt, director, $78,000; Edward G. Robinson, actor, $80,000; H. B. Wallis, executive, $184,833; Harry Warren, song writer, $59,666.

Warner Brothers Pictures Inc.: 1937—H. M. Warner, president, $115,833; Albert Warner, vice president, $98,333; J. L. Warner, vice president, $137,333; S. P. Friedman, vice president, $52,000; Sam E. Morris, vice president, $78,000; Herman Starr, vice president, $52,000; Robert W. Perkins, secretary, $52,000; Jacob Wilk, scenario department manager, $52,000; Robert Schless, European sales manager, $51,983; Busby Berkeley, director, $83,416; Sam Bischoff, supervisor, $89,958; Joan Blondell, actress, $74,833; Frank Borzage, director, $66,666; George Brent, actor, $72,374; H. J. Brown, producer, $81,999; Claudette Colbert, actress, $117,500; Ricardo Cortez, actor, $38,208; Michael Curtiz, director, $123,400; Bette Davis, actress, $55,199; William Dieterle, director, $88,667; Al Dubin, song writer, $54,908; R. Enright, director, $51,000; Glenda Farrell, actress, $50,526; Errol Flynn, actor, $94,761; Bryan Foy, producer, $55,583; Kay Francis, actress, $209,100; Hugh Herbert, actor, $57,792; Edward E. Horton, actor, $54,166; Leslie Howard, actor, $140,000; Al Jolson, actor, $109,000; Boris Karloff, actor, $40,000; Ruby Keeler, actress, $60,277; William Keighley, director, $83,000; Mervyn Leroy, producer, $153,517; Anatole Litvak, supervisor, $66,666; Robert Lord, producer, $120,333; Archie Mayo, director, $100,750; S. J. Miller, writer, $53,542; Paul Muni, actor, $50,000; Frank McHugh, actor, $59,800; Pat O'Brien, actor, $119,500; Richard E. (Dick) Powell, actor, $176,249; Claude Rains, actor, $46,083; Max Reinhardt, director, $99,000; Casey Robinson, writer, $52,650; Edward G. Robinson, actor, $50,000; Hal Wallis, production head, $208,083; Harry Warren, song writer, $64,399.

Warner Bros., Circuit Management Corporation: H. Kalmine, zone manager, $55,303; J. E. Coston, zone manager, $56,500; I. J. Hoffman, zone manager, $58,960; Joseph Bernhard, vice president, $97,500.

KENT RECEIVES $179,220

Twentieth Century-Fox Film Corporation: Joseph M. Schenck, chairman, $118,000; S. R. Kent, president, $179,220; W. C. Mitchell, vice president, $52,000; Darryl Zanuck, vice president, $260,000; William Goetz, vice president, $104,000; Robert Kane, producer, $52,000; John D. Clark, $74,800; Fred Allen, actor, $60,000; Don Ameche, actor, $51,833; Warner Baxter, actor, $225,961; Wallace Berry, actor, $68,750; Ben Bernie, actor, $100,000; David W. Butler, director, $134,333; Eddie Cantor, actor, $150,000; Earl Carroll, producer, $17,503; Roy Del Ruth, director, $162,144; Allen Dwan, director, $69,666; Stuart Erwin, actor, $30,000; Alice Faye, actress, $145,499; John Ford, director, $57,708; Gene Fowler, writer, $55,855; Sheridan Gibney, writer, $55,250; Mack Gordon, composer, $114,241; Edwin H. Griffith, director, $64,216; Raymond Griffith, producer, $107,654; Jack Haley, actor, $89,541; Sam Hellman, writer, $67,991; Sonja Henie, actress, $210,729; Rose Louise Hovick (Gypsy Rose Lee), actress, $34,166; Julian Johnson, $65,208; Nunnally Johnson, producer, $106,250; Henry King, director, $157,444; Sidney Lanfield, director, $98,583; Sonya Levien, writer, $73,333; Kenneth MacGowan, producer, $86,833; Gene Markey, producer, $74,125; George Marshall, director, $62,875; Victor McLaglen, actor, $164,325; Annabella Murat, actress, $62,500; Warner Oland, deceased, actor, $89,999; Ernest Pascal, writer, $75,050; William Powell, actor, $43,333; Tyrone Power, actor, $68,691; Gregory Ratoff, actor and producer, $97,308; Al Ritz, actor, $63,923; Harry Ritz, actor, $63,923; James Ritz, actor, $63,923; William Robinson, actor, $53,400; William A. Seiter, director, $132,458; Simone Simon, actress, $110,916; John Stone, producer, $64,161; George A. Somerville, actor, $90,284; Norman Taurog, director, $122,000; Gertrude Temple, guardian, $52,166; Shirley Temple, actress, $110,256; Harry Tugend, writer, $55,083; Walter Winchell, actor, $150,000; Sol M. Wurtzel, producer, $182,583; Jack Yellen, writer, $70,100; Loretta Young, actress, $150,019; Osa Johnson, director, $57,000.

R. K. O. Radio Pictures, Inc.: Ned E. De Pinet, vice president, $94,761; Jules Levy, general sales manager, $51,400; Fred Astaire, actor, $271,711; Milton Berle, actor, $50,500; Pandro S. Berman, producer, $251,347; John Boles, actor, $35,000; Samuel J. Briskin, producer, $197,333; Irene Dunne, actress, $144,888; Douglas Fairbanks, Jr., actor, $81,312; Preston Foster, actor, $51,280; Tay Garnett, director, $105,000; Cary Grant, actor, $115,625; Howard Hawks, director, $130,416; Katharine Hepburn, actress, $203,751; Edward Everett Horton, actor, $55,333; Edward Kaufman, producer, $65,041; Jerome Kern, composer, $72,500; Gregory La Cava, director, $145,916; Jesse L. Lasky, producer, $109,166; S. K. Lauren, writer, $52,500; Rowland Lee, director, $127,533; Albert Lewis, $55,416; Herbert Marshall, actor, $198,166; Nino Martini, actor, $56,000; Victor Moore, actor, $82,785; Paul Muni, actor, $59,285; Dudley Nichols, writer, $54,875; Jack Oakie, actor, $164,416; Joe Penner, actor, $105,333; Lily Pons, actress, $106,023; Gene Raymond, actor, $72,083; Ginger Rogers, actress, $184,583; Mark Sandrich, director, $108,583; Alfred Santell, director, $101,000; Nathaniel Schilkret, music director, $50,416; Edward Small, producer, $62,648; Barbara Stanwyck, actress, $142,499; George Stevens, director, $124,625; Anthony Veiler, writer, $53,562; Frank Wead, writer, $53,566; Bert Wheeler, actor, $89,094; T. J. Wolfson, producer, $51,241; Robert Woolsey, actor, $89,094.

THREE HUNDRED AND SEVENTY THOUSAND DOLLARS FOR MISS DIETRICH

Paramount Pictures, Inc.: N. P. Agnew, vice president, $52,000; Y. F. Freeman, vice president, $59,800; Kirstin Flagstad, singer, $20,000; Jean Arthur, actress, $79,999; Lew Ayres, actor, $52,500; John Barrymore, actor, $113,833; Jack Benny, actor, $60,000; Charles Bickford, actor, $54,500; Claude Binyon, writer, $87,500; John Boles, actor, $50,000; Beulah Bondi, actress, $53,958; A. M. Botsford, producer, $62,191; Charles Brackett, writer, $57,499; Bob Burns, actor, $242,856; Frank Russell Butler, writer, $73,875; Claudette Colbert, actress, $248,055; Gary Cooper, actor, $238,416; Harry L. (Bing) Crosby, actor, $190,000; Walter De Leon, writer, $82,700; Marlene Dietrich, actress, $370,000; Irene Dunne, actress, $114,705; W. C. Fields, actor, $121,333; Howard Estabrook, producer, $125,458; Franciska Gaal, actress, $82,958; Lewis Gensler, producer, $74,958; Benjamin Glazer, producer, $95,370; Samuel Don Hartman, writer, $56,766; Henry Hathaway, director, $101,666; Arthur Hornblow, Jr., producer, $130,833; Edward Everett Horton, actor, $70,000; Lucien Hubbard, Beverly Hills, producer, $134,750; Harold Hurley, producer, $93,494; Fritz Lang, director, $67,763; Jeffrey Lazarus, $51,241; William Le Baron, production executive, $183,929; James Leisen, director, $100,593; Albert Lewin, producer, $88,000; Frank Lloyd, producer, $166,208; Carole Lombard, actress, $164,000; Ernst Lubitsch, producer, $260,833; Ida Lupino, actress, $77,666; Fred MacMurray, actor, $92,000; Thomas Leo McCarey, director, $77,000; Rouben Mamoulian, director, $118,750; Fredric March, actor, $150,000; Edwin Justus Mayer, writer, $68,500; Vincente Minnelli, producer, $64,735; Boris Morros, musical executive, $52,333; Margaret Lavelle (Gail Patrick) Fitzpatrick, actress, $58,333; George Raft, actor, $219,399; Ralph Rainger, composer, $65,416; Leo Robin, lyricist, $65,416; Bogard Rogers, producer, $55,249; Charles Ruggles, actor, $133,236; Wesley Ruggles, producer, $203,051; Alfred Santell, director, $61,583; Randolph Scott, actor, $60,333; Fanchon Simon, producer, $58,742; Preston Sturges, writer, $134,250; Albert Sutherland, director, $88,500; Gladys Swarthout, actress, $61,333; Harlan Thompson, producer, $85,383; Frank Tuttle, director, $143,916; Raoul Walsh, director, $145,000; William A. Wellman, director, $64,840; Adolph Zukor, chairman, $210,479; Dale Van Every, writer, $52,075; King Vidor, director, $21,428.

Columbia Pictures Corporation: Jack Cohn, vice president, $104,240; A. Schneider, treasurer, $84,801; Abraham Montague, general sales manager, $58,000.

Vitagraph, Inc.: S. C. Einfeld, vice president, $71,500; Oradwell L. Sears, vice president, $71,500; Sam Sax, production manager, Vitaphone Corporation, $51,750.

United Artists Corporation: A. H. Giannini, president, $78,000; George J. Schaefer, Jr., vice president, $78,000; Arthur W. Kelly, vice president, $65,000; A. W. Smith, Jr., sales manager, $52,000.

R. H. Cochrane, president, Universal Pictures, $91,825.

Natalie M. Kalmus, Technicolor, Inc., $56,775.

H. J. Yates, president, Consolidated Film Industries, Inc., $75,180.

Marion Douras (Davies), Santa Monica, Calif., president, the Cosmopolitan Corporation, New York, $106,000.

Emanuel Cohen, president, Major Pictures, $104,000 in 1938.

J. E. Brulatour, president, J. E. Brulatour, Inc., of New York, $75,000.

J. E. Brulatour, New York, president, J. E. Brulatour, Inc., Hollywood, $65,000.

Charles Chaplin, Charles Chaplin Film Corporation, $106,000.

Jack Holt, Darmour, Inc., $103,654.

Cecil B. DeMille, president, Cecil B. DeMille Productions, Inc., $51,500.

Walter E. Disney, vice president, Walt Disney Enterprises, $39,750.

Samuel Goldwyn, Inc., Ltd.: Joel McCrea, $106,500; Miriam Hopkins, $130,000; Gary Cooper, $17,647; Samuel Goldwyn, president, $163,000; Merritt Hulburd, production executive, $61,708; George Haight, production executive, $64,716; Mary Astor, $22,791; John Boles, $48,246; Lillian Hellman, writer, $50,000; Raymond Massey, $16,000; Barbara Stanwyck, $56,250; King Vidor, director, $70,000; Brian Aherne, $38,000; Ruth Chatterton, $44,000; Walter Huston, $25,333; Merle Oberon, $20,500.

Edward L. Alperson, president, Grand National Films, Inc., $85,995.

Harold C. Lloyd, president, Harold Lloyd Corporation, $52,166.

Joe E. Brown, David L. Loew Productions, Inc., $267,500.

Zeppo Marx, president, Zeppo Marx, Inc., $78,383; Bobby Breen, Principal Productions, Inc., $18,024; Basil Rathbone, $17,708.

Republic Productions, Inc.: Gene Autry, $29,590; James Gleason, actor and producer, $22,500.

Hal Roach Studios, Culver City: Constance Bennett, $40,000; Cary Grant, $60,000; Oliver Hardy, $101,200; Patsy Kelly, $43,199; Stan Laurel, $75,000; Norman Z. McLeod, director, $70,000; Hal E. Roach, president, $104,000; Lydia Roberti, deceased, $22,350; Roland Young, $26,666.

B. P. Schulberg, president, B. P. Schulberg Pictures, Inc., $50,493.

B. P. Schulberg, president, B. P. Schulberg Productions, Ltd., $102,000.

Selznick International Pictures, Inc.: David O. Selznik, president and executive producer, $203,500; Mary Astor, $17,750; Ronald Colman, $150,000; John Cromwell, director, $110,500; George Cukor, director, $80,000; Douglas Fairbanks, Jr., $32,500; Janet Gaynor, $100,000; Ben Hecht, writer, $51,666; Sidney Howard, writer, $53,500; Carole Lombard, $150,000; Fredric March, $334,687; Adolph Menjou, $27,083; C. Aubrey Smith, $66,458; William Wellman, director, $138,500.

Myron Selznik & Co., Inc.: Myron Selznik, president, $110,825; Albert A. Kaufman, vice president, $65,000.

H. T. Kalmus, Centerville, Mass., president, Technicolor Motion Picture Corporation of Hollywood, $60,000.

Samuel Goldwyn, president, United Artists Studio Corporation, $26,000.

Alfred Newman, musical director, $65,375.

Walter Wanger Pictures, Inc.: Charles Boyer, $265,191; Madeleine Carroll, $114,795; Henry Fonda, $47,583; Joan Bennett, $72,000; Sylvia Sydney, $114,100.

Walter Wanger Productions, Inc.: Walter F. Wanger, president, $130,000; Irving Cummings, Los Angeles, picture director, $50,000.

MEMORANDUM ON THE CONSTITUTIONAL BASIS OF THE BILL TO PROHIBIT THE OPERATION OF MOTION-PICTURE THEATERS WHICH ARE OWNED OR CONTROLLED BY PRODUCERS OR DISTRIBUTORS OR IN WHICH PRODUCERS OR DISTRIBUTORS OF MOTION PICTURES HAVE AN INTEREST

The bill is designed to bring about the separation of the business of producing and distributing motion pictures from the business of exhibiting them in theaters. Its principal substantive provision prohibits the operation of motion-picture theaters which are owned or controlled by producers or distributors or in which producers or distributors have an interest. In aid of enforcement it is required that every exhibitor, as a condition of lawful operation, shall file annually with a designated State officer an affidavit to the effect that the requirements of the law are being complied with. Criminal penalties are imposed for violations, and provision is made for civil proceedings, after the manner of antitrust actions, to prevent and restrain violations. The effective date is deferred until 1 year after enactment.

The aim of the bill is to give each community a better opportunity to have the kind of pictures it wishes to see. This end is to be accomplished in part by freeing the local exhibitor from the compulsion to buy whatever the producers offer, exerted through the existence or threat of producer-owned theaters. The bill is intended by this means to give the local exhibitor freedom to respond to the pressure of community standards of taste in his choice of pictures. There is now pending before Congress a bill designed to contribute to the accomplishment of the same end by forbidding the motion-picture trade practices known as compulsory block booking and blind selling. These two bills complement each other, and have in common the goal of a positive effect, to stimulate the production of better pictures, which goes beyond, and may render less necessary the negative effects of censorship laws.

The important constitutional question involved is whether the bill, if enacted into law, would violate the due-process clause of the fourteenth amendment, and this question in turn depends largely upon the facts, for "underlying questions of fact may condition the constitutionality of legislation of this character." (Brandeis, J., in *O'Gorman & Young* v. *Hartford Fire Ins., Co.*, 282 U. S. 251, 257 (1931).) If the legislature finds from the testimony at the legislative hearings or otherwise that by means of producer-distributor owned or controlled theaters practices are being engaged in contrary to the local public interest and concludes that the breaking up of those practices would give further protection to the morals and welfare of the people, especially of children, then the main foundation will have been laid for the exertion of the legislatures' power. Upon enactment of the bill a presumption of validity will come into play which "must prevail in the absence of some fact foundation of record for overthrowing the statute." (O'Gorman case, supra.)

1. There is nothing novel about the power exerted in the bill, but on the contrary it is merely the application of a long-known and well-recognized power to new conditions.

The bill comes within what is commonly known as the police power of the State. "That power extends to all the great public needs. It may be put forth in aid of what is sanctioned by usage, or held by the prevailing morality or strong and preponderant opinion to be greatly and immediately necessary to the public welfare" (Holmes, J., in *Nobla State Bank* v. *Haskell*, 219 U. S. 104 (1911)). In one respect the bill is an antitrust law to break the power of the producers not over pocketbooks but over public morals. Antitrust laws are too well known to need further comment; all but seven States have them.[1]

In another respect the bill is an equally well known form of regulation, the enforced separation of two kinds of business when in the combination the public interest is jeopardized by conflicting interests. When it appeared[2] a few years ago that many bankers had engaged in the investment business and in stock trading and that as a result banks had acquired interests in particular securities opposed to the interest of the depositors in having the bank's funds invested in securities of general safety, Congress[3] and at least two States[4] passed statutes requiring separation of the businesses of banking and investment. Conditions in the liquor business have prompted many States to forbid manufacturers and wholesalers of liquor to have any interest in

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[1] For a discussion of these laws and the limitations upon them, see note 32, Colum. Law Rev. 347 (1932).

[2] See note, The Banking Act of 1933, 47 Harv. Law Rev. 325 (1933).

[3] 48 Stat. 188, 12 U. S. C. A. 377 (1933), amended, 49 Stat. 714, 721.

[4] N. C. Laws 1933, ch. 303 (422); N. Y. Laws 1935, ch. 302 (1).

a retail liquor establishment or its fixtures.[5] A widespread investigation in 1930–31 by public-service commissions and legislative committees revealed that gas and electric companies were using their advantageous position in the communities to engage in unfair competitive practices in the retail merchandising of appliances,[6] and resulted in the enactment by Kansas[7] and Oklahoma[8] of statutes forbidding such companies to engage in merchandising. The Supreme Court of Illinois, has held[9] that grain warehousemen are forbidden by the public nature of their calling to engage in grain trading. And when Congress found that the public was being inconvenienced by discriminatory practices of railroads, which favored with special rates goods from mines or factories in which they were interested, it enacted the "commodities clause"[10] of the Hepburn Act, which forced separation of manufacture and mining from transportation of goods.[11]

The police power certainly includes regulations of the kind here proposed, though the validity of its exercise may depend at any given times upon the conditions prevailing in the industry and the public interest manifested in respect of those conditions. In the exercise of that power the States have a wide discretion.

It is primarily, but not solely, a matter of legislative judgment whether such evils exist as should be corrected and whether the means selected for their correction have a real and substantial relation to the ends sought to be attained.[12]

The validity of the bill is not imperiled by any doctrine concerning business "affected with a public interest."

The doctrine of "affectation with a public interest" as laid down in the early United States Supreme Court cases involves two elements: (1) The division of all enterprises into two classes, those strictly private in character and those "affected with a public interest"; and (2) the principle that certain kinds or regulations could constitutionally be applied only to the matter. But the doctrine has seldom been discussed by the Court except in cases involving price fixing,[13] so that it is uncertain what kinds of regulations are limited to the second class of enterprises. This bill does not, of course, involve price fixing. Moreover, the Supreme Court has in recent cases minimized the significance of the doctrine, if not repudiated it altogether. In *Nebbis* v. *New York*,[14] in which, by the way, a price-fixing statute was sustained, the Court said:

"It is clear that there is no closed class or category of business affected with a public interest, and the function of the courts in the application of the fifth and fourteenth amendments is to determine in each case whether circumstances vindicate the challenged regulation as a reasonable exertion of governmental authority or condemn it as arbitrary or discriminatory (citation omitted). The phrase 'affected with a public interest' can, in the nature of things, mean no more than that an industry, for adequate reason, is subject to control for the public good. * * * There can be no doubt that upon proper occasion and by appropriate measures the State may regulate a business in any of its aspects * * *.

"So far as requirements of due process is concerned * * * a State is free to adopt whatever economic policy may reasonably be deemed to promote public welfare and to enforce that policy by legislation adapted to its purpose."

If a State may adopt any economic policy tending to promote the "public welfare," it may certainly adopt an economic policy designed specifically to promote public morals, especially where the morals of children are involved.

3. The motion-picture industry, particularly the operation of motion-picture theaters, is affected with a public interest.

In one of the early Supreme Court cases[15] discussing the doctrine the Court defined businesses "affected with a public interest" as consisting in part of "businesses which, though not public at their inception, may be fairly said to have risen to be such and have become subject in consequence to some Government regulation. They have come to hold such a peculiar relation to the public that this is superimposed upon them. In the language of the cases, the owner by devoting his business to the public use, in effect, grants the public an interest in that use and subjects himself to public regulation to the extent of that interest, although the property continues to belong to its private owner and to be entitled to protection accordingly."

That the motion-picture industry has risen to become the subject of a vast public interest is beyond dispute. Equally certain is it that there is widespread concern about the industry and its influence upon the public. This concern has been manifested in many ways. It is shown by the fact that a group of sociologists, psychologists, and educators recently made a study[16] of the industry in which they found, first, that 77,000,000 persons attended the movies every week in the United States, of whom one-third are minors and 11,000,000 are under 14 years of age; and, second, that the movies constitute for children a separate powerful system of education, affecting their health, attitudes, emotions, conduct, and social philosophy. The Honorable Samuel B. Pettengill, who introduced the block-booking and blind-selling bill in the House of Representatives, listed 25 organizations, including parent-teachers and church organizations, and individuals who are supporting that bill.[17] Writers in newspapers[18] have urged regulation of the movie industry. In 1930–31 the Federal Council of the Churches of Christ in America conducted an investigation and published its findings under the title "The Public Relations of the Motion Picture Industry," in which the investigators say (p. 50): "Theater operation affects the public's interest from several angles. Theater patrons, and also those in the community who do not attend the theater, are interested in the selection of pictures, the make-up of programs. * * * And again (p. 149): "The opinion is widespread that the motion-picture industry should be regulated in the public interest."

The United States Senate Committee on Interstate Commerce reported favorably[19] the Senate block-booking and blind-selling bill. The courts have also recognized the public interest involved; the United States Supreme Court, in a case[20] sustaining an Ohio movie censorship law said: "* * * and not only the State of Ohio, but other States, have considered it to be in the interest of public morals and welfare to supervise moving-picture exhibitions. We would have to shut our eyes to the facts of the world to regard the precaution unreasonable or the legislation to effect it a mere wanton interference with personal liberty."

In view of the many quarters in which concern about motion pictures, particularly the exhibition end of the industry, has been manifested, and in view of the proven influence of pictures upon the manners, dress, and morals of the people,[21] it would be difficult to discover an enterprise more aptly fitted to the category described by the Court in *Wolff Packing Co.* v. *Industrial Court, supra* (footnote 12).

4. Without regard to legal labels, the States have ample power to control the business of the public exhibition of motion pictures to the extent necessary to protect the general welfare.

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[5] See, for example, Ark. Acts 1935 (3d extraordinary sess. 1934); No. 108 (18); Calif. Deering's Codes and Laws, 1933 Supp. Act 3774 (26); Colo. 1935 Stat. Ann., ch. 89 (7); Fla. Comp. Laws 1927, 1934 Cum. Supp. 7648 (15); 12 Jones Ill. Stat. Ann. 68029, 68030; Ind. 1935 Acts 1092, 1096; Carroll's Ky. Stat., Baldwin's 1936 Rev. (25546–25553).

[6] See note, 80 U. of Pa. Law Rev. 900 (1932).

[7] Kansas Laws, 1931, ch. 238 (1–3) held unconstitutional in 137 Kans. 718, 22 p 2d 958 (1933) on ground that it was class legislation designed to benefit the independent retailer at the expense of the gas and electric companies, that it had no relation to the public welfare, and that it was, therefore, a violation of equal protection and due process. This decision carries no weight in regard to the present bill, since the court's findings of fact concerning the purpose of the Kansas statute and its relation to the public welfare required it to reach the result it arrived at.

[8] Okla. Laws, 1931, ch. 46 (2).

[9] *Central Elevator Co.* v. *Peoples*, 174 Ill. 203, 51 N. E. 254 (1898).

[10] 49 U. S. C. A. 1 (8).

[11] The commodities clause was interpreted to forbid control of a coal-mining company by a railroad, exercised through stock ownership (*United States* v. *Lehigh Valley R. R. Co.*, 220 U. S. 257 (1911)).

[12] The substance of the due-process requirement is "that the law shall not be unreasonable, arbitrary, or capricious, and that the means selected shall have a real and substantial relation to the object sought to be attained," *Nebbia* v. *New York*, 291 U. S. 502 (1934); *Railroad Retirement Board* v. *Alton R. R. Co.*, 295 U. S. 330 (1935).

[13] *Munn* v. *Illinois*, 94 U. S. 113 (1877) (statute fixing prices for grain warehouse facilities sustained); *German Alliance Ins. Co.* v. *Lewis*, 233 U. S. 389 (1914) (statute fixing rates for fire insurance sustained); *Wolff Packing Co.* v. *Court of Industrial Relations*, 262 U. S. 522 (1923) (statute empowering Board to fix wages in meat-packing plant held invalid); *Ribnick* v. *McBride*, 277 U. S. 350 (1928) (statute fixing fees to be charged by employment agencies held invalid); *Williams* v. *Standard Oil Co.*, 278 U. S. 235 (1929) (statute fixing price of gasoline held invalid).

In *Tyson* v. *Manton*, 273 U. S. 418 (1927), a statute of New York fixing fees to be charged by theater-ticket brokers was held invalid. That statute was directed at the practice of ticket "scalping" in connection with legitimate stage productions in New York City, and has no factual and therefore no legal (in the due-process connection) relevance to the motion-picture problem.

In *New State Ice Co.* v. *Liebmann*, 285 U. S. 262 (1932), the doctrine was sued to invalidate a statute requiring a certificate of convenience and necessity from a State officer as a condition precedent to engaging in the manufacture or distribution of ice. This case has likewise no relevance here, since the statute there held invalid would have restricted competition and erected a monopoly whereas one effect of the bill will be to free motion-picture exhibition from certain monopolistic restrictions now burdening it.

[14] 291 U. S. 502 (1934).

[15] *Wolff Packing Co.* v. *Industrial Court*, 262 U. S. 522 (1923), supra, footnote 13.

[16] The "Payne fund studies." See remarks of Hon. Samuel D. Pettengill, in the House of Representatives, CONGRESSIONAL RECORD, August 20, 1935. See also report of the Senate Interstate Commerce Committee on the block-booking and blind-selling bill, Senate Report No. 2378, Calendar No. 2506.

[17] CONGRESSIONAL RECORD, August 20, 1935.

[18] See, for example, Walter Lippmann's column in the New York Herald Tribune of January 12, 1935.

[19] Senate Report No. 2378, Calendar No. 2506.

[20] *Mutual Film Corp.* v. *Ohio Industrial Commission*, 236 U. S. 230 (1915).

[21] See Recent Social Trend (1935), a study conducted by the Motion Picture Research Council. See also testimony of Mr. Stephen P. Cabot, honorary vice president, Motion Picture Research Council, at the hearings before the House subcommittee in charge of the block-booking and blind-selling bill, March 9, 1936.

The power of the States is abundantly illustrated by statutes already on the books. There are laws forbidding certain kinds of pictures,[22] laws setting up licensing or censorship systems,[23] laws regulating the admission of children to theaters. Wisconsin and Ohio [24] forbid the lessor or vendor of a film to dictate the days of the week on which the film shall be shown, and New Mexico,[25] regulates drastically the contracts for and process of distribution of films among exhibitors.

Little, if any, apprehension need be felt in regard to other constitutional objections which may be urged against the bill. Thus it raises no question under the commerce clause, since, designed only to regulate exhibitions within the State, its effect upon interstate commerce will be only indirect (*Mutual Film Corp.* v. *Industrial Commission, supra* (footnote 19)). The contracts clause presents no problem, because, first, to the extent that the distributor-exhibition contracts in the motion-picture business are for terms of 1 year or less, the delay of 1 year in effective date provided in the bill would prevent it affecting those contracts; and, second, all private contracts are subject to the exercise of the State's police power (*Home Building and Loan Assn.* v. *Blaisdell,* 290 U. S. 398 (1933)). Nor is the bill objectionable under the equal-protection clause. "The equal protection of the laws does not mean that all occupations that are called by the same name must be treated in the same way. The power of the State 'may be determined by degrees of evil or exercised in cases where detriment is specially experienced' (citation omitted)." (Holmes, J., in *Dominion Hotel* v. *Arizona,* 249 U. S. 265 (1919).)

Mr. RICH. Mr. Speaker, will the gentleman yield?

Mr. COLLINS. I yield to the gentleman from Pennsylvania.

Mr. RICH. Mr. Speaker, it seems to have been the belief of the members of the House committee that $5,000,000 was enough, but you are going to surrender to the Senate just because the Senate is willing to stand pat. Who is going to be responsible to the taxpayers for this—the House of Representatives or the Senate?

Mr. COLLINS. I am willing for it to rest on both of them.

Mr. RICH. The gentleman from Mississippi has just made the statement that he is not going to permit the Senate in the future to raise this bill. I want to say to the gentleman that the Senate has raised every appropriation bill that the House has sent over there. The Senate is responsible for increasing the amount of these bills more than the House of Representatives. While the House of Representatives has tried to cut down the amount of these bills, they are still way above what they should be, and the Senate is more responsible for this than anybody else, because every appropriation we have sent over there the Senate has been responsible for increasing it.

Mr. DINGELL. And where are you going to get the money?

Mr. RICH. Yes; where are you going to get the money?

Mr. BATES of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. COLLINS. I yield to the gentleman from Massachusetts.

Mr. BATES of Massachusetts. Mr. Speaker, in view of the interest that is manifested in regard to this very serious situation by the chairman of the subcommittee of the Appropriations Committee and members of the District Committee, which have been trying to settle this question, it is very interesting to me to observe that the opposition to this bill, particularly, is coming from several States represented on the floor of the House by certain Members because they feel that their States are going to contribute such a tremendous sum to the cost of the administration of the District government.

Let me just insert these facts in the RECORD.

The figures represent the revenues collected in each State by the Federal Government and also the direct grants—not loans—by the Federal Government to the various States mentioned.

In the State of Colorado the Federal Government collects $29,000,000, and the Federal Government gives them back $46,000,000.

In the State of Mississippi the Federal Government collects $5,100,000 and returns $41,000,000.

In the State of Nebraska the Federal Government collects $13,000,000 and gives back $44,000,000.

As for Oklahoma, the Federal Government collects $56,000,000 and gives back $60,000,000.

For South Dakota the Government collects $1,400,000 and returns $43,000,000.

In the District of Columbia the Federal Government collects $29,000,000 and returns $21,000,000.

Mr. Speaker, I am wondering what is the basis for this opposition to the people of the Capital City of the Nation, which city is rendering such signal service to the Federal Government.

The SPEAKER. The time of the gentleman from Massachusetts has expired.

Mr. COLLINS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken; and on a division (demanded by Mr. MOSER) there were—ayes 135, noes 13.

Mr. MOSER. Mr. Speaker, I challenge the vote on the grounds that there is no quorum present, and make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Pennsylvania objects to the vote upon the ground that there is no quorum present. The Chair will count.

Mr. MOSER (interrupting the count). Mr. Speaker, I withdraw the point of order.

The SPEAKER. The gentleman from Pennsylvania withdraws the point of order.

So the conference report was agreed to.

A motion to reconsider the vote by which the conference report was agreed to was laid on the table.

Mr. COLLINS. Mr. Speaker, notwithstanding the adjournment of the House, I ask unanimous consent that the Clerk of the House be authorized to receive a message from the Senate on H. R. 5610, and that the Speaker be authorized to sign the enrolled bill.

The SPEAKER. Is there objection?

There was no objection.

ADDITIONAL CLERK HIRE—CONFERENCE REPORT

Mr. WARREN. Mr. Speaker, I present a conference report and statement upon the bill (H. R. 6205) to provide for additional clerk hire in the House of Representatives, and for other purposes, for printing under the rule.

AMENDMENT OF CIVIL SERVICE RETIREMENT ACT

Mr. LEWIS of Colorado. Mr. Speaker, I ask the gentleman from Michigan to use some time now.

Mr. MAPES. Mr. Speaker, I yield myself 4 minutes.

As the gentleman from Colorado [Mr. LEWIS] has said, this is an open rule. There is no particular reason why it should not be adopted so that the retirement bill reported by the Committee on the Civil Service may be considered by the House.

As to the bill itself, the chairman of the Committee on the Civil Service, the gentleman from Georgia [Mr. RAMSPECK], has very clearly and fairly explained the provisions of it. There are many provisions in the bill which I would like to support. I am in favor of the provisions that improve and perfect the present Retirement Act. It is difficult for one to think straight when his own personal interests are concerned, and the House is confronted with that situation this

[22] Illinois Revised Statute (Cahill, 1929), c. 38, 457–59; Iowa Code (1927), 13186; Montana Revised Code (Choate, 1921), 11567; North Carolina Code Annotated (Michie, 1927), 4349 (a); Vermont General Laws (1917), 7023; Texas Revised Penal Code (Vernon, 1928), art. 612.

[23] New York Laws (1933), c. 334; Kansas Revised Statute Annotated (1923), c. 51, 101–12, c. 74, 2201–09 (sustained in *Mutual Film Corp.* v. *Hodges,* 239 U. S. 248 (1915)); Kansas Laws (1925), c. 196; Ohio Code Annotated (Throckmorton, 1930), 871 (46–53), 154 (46–57) (sustained in *Mutual Film Corp.* v. *Industrial Commission,* 236 U. S. 230 (1915); Pennsylvania Statutes Annotated (Purdon, 1930), title 4, 41–58, title 71, 12, 62, 119, 356 (first act sustained in *Buffalo Branch Mutual Film Corp.* v. *Breitinger,* 250 Pa. 225, 95 Atl. 433 (1915); Virginia Code Annotated (Michie, 192^), 585 (15–33); Maryland Annotated Code (Bagby, 1924), art. 66A.

[24] Wisconsin Laws (1935), c. 307; Page's Ohio Code Service, No. 18 (1936). 1339, 4–1.

[25] New Mexico Laws (1933), c. 177.

afternoon. My understanding is that the gentleman from Kansas [Mr. REES], a member of the committee, intends to move to strike out the provision in the bill which provides for retirement pay for Members of Congress. Personally I shall support that motion to strike that provision from the bill. If that motion prevails I shall vote for the remainder of the legislation. It seems to me a poor time for Congress to provide retirement pay for its own Members. I am inclined to agree with the statement I heard one Member make, that if Members of Congress cannot take care of themselves, who can? In any event, it seems to me a poor time to be providing for that kind of legislation, and for myself I expect to vote to strike that provision out of the bill. If that motion prevails I shall vote for the rest of the bill. If it does not I shall vote against it.

Mr. MICHENER. Mr. Speaker, will the gentleman yield?

Mr. MAPES. Yes.

Mr. MICHENER. Merely to say that I endorse the statement of the gentleman and shall follow his example.

Mr. MAPES. I thank the gentleman. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. TREADWAY].

Mr. TREADWAY. Mr. Speaker, I doubt if I would have asked time had I known what the gentleman from Michigan was going to say because his views are identical with mine. I have the very highest regard for the chairman of the Committee on the Civil Service. He has brought some excellent legislation to this House. He is most sincere in his belief in the merits of the civil-service system. I have watched the civil-service system for a long time, and the more we see of it in action the more convinced are we that it is good for governmental purposes. We have had too many new establishments set up here wherein the civil-service provisions were omitted from the law. There is no need of touching on that matter today, but I am in hearty accord with the provisions of this bill that offers retirement opportunities to people who regard their occupation under the Government as their life's work.

For instance, letter carriers and all the different persons designated under the employment provisions on page 7, the first section—postal clerks, city, rural, and village letter carriers, post-office clerks, railway postal clerks, sea-post clerks, and all that list—those are men who are definitely engaged in a life work. Civil-service retirement is their protection. We are for it and strongly in favor of it. I think that we, as Members of Congress, are in a very different situation. There is not a man or woman within the sound of my voice now who regards his membership in the House of Representatives as a life occupation. It cannot be so regarded. It is incidental. Political contingencies that arise in our States are variable from time to time. Our stay here is naturally temporary, depending on local conditions. Therefore, there are other provisions for our personal care, both of our own affairs and that of our families.

Mr. DINGELL. Will the gentleman yield?

Mr. TREADWAY. I prefer not to. My time is quite limited.

Further than that, I consider that we are thoroughly recompensed for the service that we render. Take, for instance, the situation as we face it today, here now we are hurrying, and the country wanting Congress to adjourn just as soon as possible. Nevertheless, if we should leave here next week or within a brief period of time, our salaries continue just the same, whether we are in session or not. It is a very different type of employment. In addition, there is the honor that every Member of this House feels in his membership in this body.

It is not in the classified service but we hold our positions by election of the people. Therefore it seems to me that the attitude of the gentleman from Michigan [Mr. MAPES] to favor this measure provided the opportunity of pension status being granted to Members of Congress is stricken out, is the proper attitude, and I shall heartily support the bill if that amendment is carried. The amendment which I understand the gentleman from Kansas [Mr. REES] expects to offer to strike this provision allowing pensions to Members, I shall be glad to vote for.

Mr. COX. Will the gentleman yield?

Mr. TREADWAY. I yield.

Mr. COX. Does the gentleman know of any Member of this body who seriously contends for the adoption of that provision, making provision for Members of Congress? Does he know anybody here who wants the bill with that provision in it?

Mr. TREADWAY. I have not found anyone, but nevertheless it is in the bill and it is here under consideration. It is so reported by the Civil Service Committee.

Mr. COX. Was the measure put in there as a bait for Congress in order to get them to support the bill as drafted?

Mr. TREADWAY. Well, I do not know anything about the conditions under which the bill was drawn. I know it is in the bill and we want to vote it out.

[Here the gavel fell.]

Mr. MAPES. Mr. Speaker, I yield 2 minutes to the gentlewoman from Massachusetts [Mrs. ROGERS].

Mrs. ROGERS of Massachusetts. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and to have inserted in the RECORD a comparison of the present retirement bill and the bill that is under consideration at the present time, and certain charts and tables.

The SPEAKER. Is there objection to the request of the gentlewoman from Massachusetts?

There was no objection.

Mrs. ROGERS of Massachusetts. Mr. Speaker, I earnestly hope this bill will be passed, or certain provisions of it. I believe it will be somewhat of a help to a great many civil-service employees. It has the endorsement of many civil-service groups. I am sorry the provision is in it which provides a pension for the Members of Congress, because I feel that that should be in a separate measure and voted up or down on its merits. I am not going to suggest to the Members of Congress how they shall vote upon that, because that lies within the wishes of each individual Member. I am not going to attempt to dictate to them what they shall do. I personally feel strongly against that provision, and I am very sorry it is in the bill and I shall vote to remove it; but I earnestly hope the other provisions in the bill will be passed. If the bill contains the annuities for Members of Congress, I shall be obliged to vote against the bill. We have a great responsibility to the taxpayers of the country; and I mean by that everyone in the United States, as everyone in the United States pays taxes either directly or indirectly. We have a very serious economic condition in the country today. Our responsibility is greater than ever before in all our history.

RETIREMENT AGE GROUP

Existing law	*Proposed changes in S. 281*
Three age groups—62, 65, and 70. Retirement compulsory upon attaining age prescribed for group in which employed after completing 15 years of service.	Two age groups—65 and 70, eliminating 62-year group, the employees of which will hereafter be assigned to the 65-year group. Service requirement for compulsory retirement continued at 15 years.

RETIREMENT OPTIONS

Employees who have served at least 30 years may retire at own option 2 years earlier than normal retirement age—that is, at age 60, 63, and 68.	(a) Uniform optional retirement age for all employees regardless of compulsory retirement age groups in which employed. Option to be exercised either by the Government or employee. Employee must have reached age of 60 years and rendered 30 years' service or attained age of 62 years and rendered at least 15 years of service. Government's option limited to those cases in which employee is disqualified for efficient service. Employing office must give notice to employee before requesting his retirement by the Civil Service Commission, which Commission will conduct necessary examination to determine whether request is justified.

Existing law	*Proposed changes in S. 281*
	Employee granted right of appeal from original decision and may appear or be represented by person of his choice in any hearing on his case.
	(b) Voluntary retirement on part of employee after reaching age 55 and serving 30 years or more on a reduced annuity having a value equal to present worth of annuity at 60 years of age.
DISABILITY RETIREMENT	
In case of recovery from disability, annuitant carried on rolls for 90 days from date of examination showing recovery unless reemployed prior to expiration of such period.	Ninety-day period extended to 1 year.
All claims for disability annuity must be executed prior to employee's separation from service or within 6 months thereafter.	Permits waiver of 6 months' limitation in cases of employees who at date of separation or within 6 months thereafter are adjudged mentally incompetent, the claim in such cases to be executed within 1 year from restoration to competency or appointment of fiduciary, whichever is earlier.
INVOLUNTARY SEPARATION, NOT BY REMOVAL FOR CAUSE ON CHARGES OF MISCONDUCT OR DELINQUENCY	
After 45 years of age with 15 years of service, employee may elect annuity upon attaining retirement age or decreased annuity of equivalent value beginning at 55 years of age. If 55 when separated, deferred annuity at retirement age or immediate decreased annuity. Or employee may elect refund of retirement deductions with interest at 4 percent to date of separation.	At any age with aggregate of 5 years of service, employee may elect annuity at 62 or decreased annuity of equivalent value at 55. Interest at 3 percent allowed on individual account from date of separation to date annuity begins.
VOLUNTARY SEPARATION OR DISCHARGE FOR CAUSE	
Refund of sum to credit of employee's individual account with interest at 4 percent to date of separation.	With aggregate of 5 years of service, annuity allowable at age 62, interest being allowed at 3 percent from date of separation to date annuity begins. (This protects the employee and makes unnecessary any merging of civil service retirement and social-security benefits to insure against want in old age.) If less than 5 years of service, refund of individual account with 4 percent interest to date of separation.
COVERAGE	
Excludes postmasters except those of the first, second, and third classes who have been promoted, appointed, or transferred from the classified civil service.	Includes all classified postmasters, including those of the fourth class.
	Includes Congressmen, Senators, Delegates, and Resident Commissioners at their option, no requirement for automatic retirement at any age applying to legislative officers.
COMPUTATION OF ANNUITY	
Government's portion of annuity limited to $30 for each year of service, not exceeding 30 years, such amount not to exceed three-fourths of average salary for 5 highest years.	Continues existing Government annuity with the added provision that this portion of the annuity shall not be less than the annuity purchased by the amount credited to employee's individual account with interest.
TYPES OF ANNUITY	
Life annuity, or increased life annuity, with forfeiture of individual account.	Same as existing law, with added option on part of employee retiring on account of age and service to receive a reduced annuity with provision that upon his death payments will continue to a duly designated beneficiary during life of such beneficiary in an amount equal to or one-half the annuity received by the employee. This option not effective if employee dies within 30 days after effective date of retirement.
DEDUCTIONS FOR RETIREMENT FUND	
Three and one-half percent of basic salary.	Five percent of basic salary. Employee accorded privilege of depositing additional sum up to 10 percent of salary in multiples of $25 to purchase additional annuity, 3-percent interest allowable on such additional deposits. Refund of such additional deposits with interest may be made upon death or separation from service before retirement.

Showing on basis of fixed annual salary of $10,000 the approximate accumulations of salary deductions (with interest) and the annuities payable to Members retiring in 1940, 1945, 1950, and 1960 under S. 281, as amended June 14, 1939, at attained ages 62, 65, and 70 after service of 15, 20, 25, and 30 years (male, nonforfeiture plan)

	Service, 15 years, attained ages—			Service, 20 years, attained ages—			Service, 25 years, attained ages—			Service, 30 years, attained ages—			Fixed salary
	62	65	70	62	65	70	62	65	70	62	65	70	
RETIREMENT IN 1940													
Accumulations	$6,824.88	$6,824.88	$6,824.88	$9,266.08	$9,266.08	$9,266.08	$9,266.08	$9,266.08	$9,266.08	$9,266.08	$9,266.08	$9,266.08	$10,000
Annuity:													
Member	572.85	616.02	705.92	777.75	836.36	958.43	777.75	836.36	958.43	777.75	836.36	958.43	
Government	572.85	616.02	705.92	777.75	836.36	958.43	777.75	836.36	958.43	900.00	900.00	958.43	
Total	1,145.70	1,232.04	1,411.84	1,555.50	1,672.72	1,916.86	1,555.50	1,672.72	1,916.86	1,677.75	1,736.36	1,916.86	
Salary-deduction period	1925–40			1920–40			1920–40			1920–40			
RETIREMENT IN 1945													
Accumulations	$7,732.08	$7,732.08	$7,732.08	$10,999.53	$10,999.53	$10,999.53	$13,969.62	$13,969.62	$13,969.62	$13,969.62	$13,969.62	$13,969.62	$10,000
Annuity:													
Member	648.99	697.90	799.76	923.24	992.83	1,137.73	1,172.54	1,260.91	1,444.93	1,172.54	1,260.91	1,444.93	
Government	648.99	697.90	799.76	923.24	992.83	1,137.73	1,172.54	1,260.91	1,444.93	1,172.54	1,260.91	1,444.93	
Total	1,297.98	1,395.80	1,599.52	1,846.48	1,985.66	2,275.46	2,345.08	2,521.82	2,889.86	2,345.08	2,521.82	2,889.86	
Salary-deduction period	1930–45			1925–45			1920–45			1920–45			
RETIREMENT IN 1950													
Accumulations	$8,740.32	$8,740.32	$8,740.32	$12,103.30	$12,103.30	$12,103.30	$16,078.66	$16,078.66	$16,078.66	$19,692.22	$19,692.22	$19,692.22	$10,000
Annuity:													
Member	733.62	788.91	904.05	1,015.89	1,092.45	1,251.89	1,349.56	1,451.27	1,663.08	1,652.86	1,777.44	2,036.85	
Government	733.62	788.91	904.05	1,015.89	1,092.45	1,251.89	1,349.56	1,451.27	1,663.08	1,652.86	1,777.44	2,036.85	
Total	1,467.24	1,577.82	1,808.10	2,031.78	2,184.90	2,503.78	2,699.12	2,902.54	3,326.16	3,305.72	3,554.88	4,073.70	
Salary-deduction period	1935–50			1930–50			1925–50			1920–50			

Showing on basis of fixed annual salary of $10,000 the approximate accumulation of salary deductions (with interest) and the annuities payable to Members retiring in 1940, 1945, 1950, and 1960 under S. 281, as amended June 14, 1939, at attained ages 62, 65, and 70 after service of 15, 20, 25, and 30 years (male, nonforfeiture plan)

RETIREMENT IN 1960

Accumulations	$9,967.01	$9,967.01	$9,967.01	$14,822.45	$14,822.45	$14,822.45	$18,914.02	$18,914.02	$18,914.02	$23,892.06	$23,892.06	$23,892.06	$10,000
Annuity:													
Member	836.58	899.63	1,030.93	1,244.12	1,337.89	1,533.15	1,587.55	1,707.20	1,956.35	2,005.38	2,156.52	2,471.25	
Government	836.58	899.63	1,030.93	1,244.12	1,337.89	1,533.15	1,587.55	1,707.20	1,956.35	2,005.38	2,156.52	2,471.25	
Total	1,673.16	1,799.26	2,061.86	2,488.24	2,625.78	3,066.30	3,175.10	3,414.40	3,912.70	4,010.76	4,313.04	4,942.50	
Salary-deduction period		1945–60			1940–60			1935–60			1930–60		

Examples of superanuation benefits payable under tentative retirement outline for legislation officers

[Illustrations are hypothetical and approximate. Benefits are prospective and are based on a fixed salary of $10,000 per annum, contributions at 5 percent of salary during all service credited, and interest allowed on contributions computed at 4 percent during service and at 3 percent after separation to beginning date of annuity]

	Hypothe.ical examples														
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Age at separation	40	38	44	60	51	70	58	77	68	72	66	82	74	50	58
Period of service in years	6	8	10	14	16	18	20	30	17	38	24	32	34	11	28
Officer's 5 percent contributions	$3,000.00	$4,000.00	$5,000.00	$7,000.00	$8,000.00	$9,000.00	$10,000.00	$15,000.00	$8,500.00	$19,000.00	$12,000.00	$16,000.00	$17,000.00	$5,000.00	$14,000.00
Interest allowed during service, minus tontine	302.20	587.32	977.30	2,106.41	2,824.61	3,767.25	4,824.60	12,921.33	3,446.83	23,799.53	7,197.93	14,909.13	17,446.93	1,405.32	10,620.02
Total account at separation	3,302.20	4,587.32	5,977.30	9,106.41	10,824.61	12,767.25	14,824.60	27,921.33	11,946.83	42,799.53	19,197.93	30,909.13	34,446.93	6,905.32	24,620.02
Interest accretions after separation	2,963.70	4,534.58	4,150.27	556.68	4,162.21	----------	1,497.84	----------	----------	----------	----------	----------	----------	2,941.91	2,355.05
Total individual account at date annuity begins	6,265.90	9,121.90	10,127.57	9,663.09	14,986.82	12,767.25	16,322.44	27,921.33	11,946.83	42,799.53	19,197.93	30,909.13	34,446.93	9,847.23	26,975.07
Benefits:															
Age, when annuity begins	62	62	62	62	62	70	62	77	68	72	66	82	74	62	62
Amount of benefit:															
Officer's purchasable annuity	$525.93	$765.64	$850.06	$811.07	$1,257.92	$1,320.57	$1,370.02	$3,613.47	$1,167.37	$4,698.08	$1,778.08	$4,458.90	$4,032.18	$826.53	$2,264.15
Government annuity	525.93	765.64	850.06	811.07	1,257.92	1,320.57	1,370.02	3,613.47	1,167.37	4,698.08	1,778.08	4,458.90	4,032.18	826.53	2,264.15
Total annuity	1,051.86	1,531.28	1,700.12	1,622.14	2,515.84	2,641.14	2,740.04	7,226.94	2,334.74	9,396.16	3,556.16	8,917.80	8,064.36	1,653.06	4,528.30

Mr. MAPES. Mr. Speaker, I yield 5 minutes to the gentleman from Kansas [Mr. REES].

Mr. REES of Kansas. Mr. Speaker, during the 5 minutes that have been allotted to me I want to direct attention to the particular portion of the bill, being a part of section 3, which provides that Members of the House and Members of the Senate may take advantage of retirement service if they desire to do so. I take the floor at this time to tell you that I shall expect at the proper time to offer an amendment to strike that particular paragraph from this bill. In the first place, Members of Congress are not under civil service. They are elective officers. It seems to me that we are taking advantage of a situation by adding a clause and trying to get this kind of legislation passed when we seem to fear to bring such legislation in under a separate bill. In other words, this particular piece of legislation should stand or fall on its own merits. If there is demand for it from the Members of Congress or from the people of the country, and I feel sure the people are not asking for it, then let us consider it under a separate bill, but let us not put it in a bill that is simply to modify or amend or change our present retirement system.

A great deal of effort and time has been spent to provide fairer legislation for those in civil service. Then we put in a section which puts in postmasters, who under our system of blanketing in are put under the bill, and then when we go that far we seem to have taken another step and allow Members of Congress to share its benefits. It is not a very good time and it does not come with very good grace to enact this kind of a measure.

Mr. COX. Does the gentleman think we have reached the stage when it would be advisable for Congress to seek to graft upon the General Government by contributing a pension for its Members?

Mr. REES of Kansas. I am glad the distinguished gentleman from Georgia raised the point. I do not think so. I think there never should be a time when that sort of thing could be done.

Mr. MURDOCK of Arizona. Mr. Speaker, will the gentleman yield?

Mr. REES of Kansas. I yield.

Mr. MURDOCK of Arizona. Should we call this proposal a pension, or is it a businesslike retirement plan? I agree that if it is in this measure as a bait to draw votes to pass the bill, I am against it; but I wonder from the general tenor of the gentleman's remarks whether he would be in favor of some kind of retirement for Members of Congress if it should be placed in another bill and properly drawn and considered?

Mr. REES of Kansas. I am not in favor of any kind of retirement for Members of Congress where the taxpayers' money is being used to provide for the retirement.

Mr. RICH. Mr. Speaker, will the gentleman yield?

Mr. REES of Kansas. Gladly.

Mr. RICH. Ultimately we will have everybody on the Government pay roll, either in the form of a salary or a pension. Where are you going to get the money to pay all these bills?

Mr. REES of Kansas. The gentleman from Pennsylvania can answer that just as well as I. I do not know, but nobody seems to care the way we are operating these days.

Mr. RICH. That is the point, nobody cares. What is going to happen to your children and your children's children?

Mr. HOFFMAN. And your children's children's children?

Mr. RICH. And your children's children's children's children's children?

Mr. BENDER. Mr. Speaker, will the gentleman yield?

Mr. REES of Kansas. I yield.

Mr. BENDER. How can any Member go back and ask his electorate to return him to this body when he votes for a pension for himself? Is it not a signal to the electorate to retire him for his effort to retire himself on pension?

Mr. REES of Kansas. I will let the gentleman answer his own question when he votes on the amendment I shall offer to strike out this particular section of the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. LEWIS of Colorado. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

EXTENSION OF REMARKS

Mr. BOREN. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein an editorial from the New York Sun.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

CIVIL SERVICE RETIREMENT

Mr. RAMSPECK. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 281) to amend further the Civil Service Retirement Act, approved May 29, 1930; and pending that, I ask unanimous consent that it shall be in order to consider the substitute amendment recommended by the Committee on the Civil Service now in the bill, that such substitute for the purpose of amendment shall be considered under the 5-minute rule as an original bill, and that any Member may demand a separate vote in the House on any of the amendments adopted in Committee of the Whole to the bill or committee substitute.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The SPEAKER. The question is on the motion of the gentleman from Georgia.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 281) to amend further the Civil Service Retirement Act, approved May 29, 1930, with Mr. CLARK in the chair.

The Clerk read the title of the bill.

By unanimous consent the first reading of the bill was dispensed with.

Mr. RAMSPECK. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, my friend and colleague, the gentleman from Kansas [Mr. REES], has announced that he proposes to offer an amendment to strike out the language giving an option to Members of Congress and to Senators to participate in this fund. Let me say to the membership that we have provided a social-security plan for 40,000,000 private employees in this country, a civil-service retirement plan for some 550,000 people who draw their pay from the Federal Government; and I see no reason why we should deny to ourselves the protection we have extended to more than 40,000,000 people in this country, especially when it is based upon a contributory plan and is the same in principle as that applied under the Social Security Act, the Railroad Retirement Act, and under the Civil Service Retirement Act to our own employees and other employees of the Federal Government. I hope this Committee will vote down such an amendment. Let us for once have courage to do something for ourselves while we are setting up a social-security system for everybody else in the country.

This is not a political grab bag that we are setting up here. If a man serves here for 15 years under this plan and contributes $500 a year out of his salary he has to reach age 62 before he gets an annuity, and then he will get $1,673.16 a year.

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. RAMSPECK. I am glad to yield to my colleague.

Mr. COX. What contribution does the Federal Government make to this annuity?

Mr. RAMSPECK. Exactly the same that the Member of Congress would make.

Mr. COX. How much per year?

Mr. RAMSPECK. It would be $500 per year.

Mr. COX. That is taken out of the pots and pans of the poor people of the gentleman's district as well as mine.

Mr. RAMSPECK. Not any more than the gentleman's salary and my salary. I may say to the gentleman I think it is warranted and it is justifiable and that we have just as much right to do for ourselves the thing we are doing for others as we have to do it for them.

Mr. RICH. Will the gentleman yield?

Mr. RAMSPECK. I yield to the gentleman from Pennsylvania.

Mr. RICH. The gentleman states that the Federal Government pays in $7,500 and the individual Congressman would pay in $500 a year for 15 years, which would be $7,500. That is a sum total of $15,000.

Mr. RAMSPECK. That is right.

Mr. RICH. And at retirement you will receive back for 15 years' service an annuity of $1,673.16.

Mr. RAMSPECK. That is right.

Mr. RICH. The interest on $15,000 at 4 percent would be $600. You will be short over $1,000 a year over and above the interest that you will receive from the investment of this money at 4 percent. You will be that much short of what you take in. Where in the world are your children's children and your children's children's children's children going to get the money to pay that additional $1,073.16?

Mr. RAMSPECK. I do not agree that the gentleman's figures are correct. According to the computation made by the actuaries, a person who serves 15 years would have accumulated in the fund $9,967.01. Of course, $7,500 of that would be his actual payments and the balance would be interest. The Government would contribute an equal amount and the annuity would be $1,673.17. Those figures are furnished by the actuaries connected with the Civil Service Commission, and I assume them to be correct.

Mr. RICH. The only thing about that is that the figures we get from these actuaries that come here do not ring true to good sound business. You are going to compel taxes to be paid in the amount that they will receive and you are sinking the ship. You will never get us out.

Mr. RAMSPECK. May I ask the gentleman if he voted for the social-security law?

Mr. RICH. There might be some justification in trying to give social security to some other people so that they can get $40 a month, that would amount to some compensation to them, but here you are trying to give Members of Congress three times as much.

Mr. RAMSPECK. And we are paying in three times as much and more.

[Here the gavel fell.]

Mr. RAMSPECK. Mr. Chairman, I yield myself 5 additional minutes.

Mr. BENDER. Will the gentleman yield?

Mr. RAMSPECK. I yield to the gentleman from Ohio.

Mr. BENDER. In the biographical index of the Congressional Directory there is listed the vocations of the various Members of Congress. There are listed lawyers, publishers, insurance men, department-store managers, and so forth. Is it not a fact that almost without exception every Member of Congress is engaged in some form of business or profession other than that of being a Member of Congress and that he has some other source of income other than that received as a Member of Congress?

Mr. RAMSPECK. If the gentleman asks my opinion, I would say that I doubt if 15 percent of the Members of this House today have any other source of income than their salaries here. If a man stays here 10 years or more, he will find it very difficult to reestablish himself back home in whatever business or profession he may follow. I am serving my tenth year here. I am a lawyer. If I have to go back home and start practicing all over again, I know I would find it very difficult. I think that if we can furnish some

security for the Members of Congress, they will be more independent in their attitude toward legislation, and it will help to get better legislation for this country.

Mr. PARSONS. Will the gentleman yield?

Mr. RAMSPECK. I yield to the gentleman from Illinois.

Mr. PARSONS. How many years does a Member have to serve before he would be entitled to any benefit and what age would he have to be before he participates?

Mr. RAMSPECK. He must serve a minimum of 5 years to be a beneficiary under this act. If he serves less than that he gets back all he has contributed, plus 4-percent interest. If he serves 6 years and retires from Congress and is not old enough to receive an annuity—in other words, he is less than 55 years of age—the money he has contributed stays in the trust fund until he reaches 55 and at that time he can draw an annuity which will be based upon his contributions and his age at the time.

Mr. PARSONS. There are different rates for the various ages and for the years of service he has put in the House?

Mr. RAMSPECK. Yes. It is computed upon an actuarial basis.

Mr. PARSONS. If he serves 10 years, then retires from Congress, he cannot draw anything until he reaches the age of 55?

Mr. RAMSPECK. That is the minimum age at which he can get an annuity.

Mr. MASSINGALE. Will the gentleman yield?

Mr. RAMSPECK. I yield to the gentleman from Oklahoma.

Mr. MASSINGALE. I am concerned about one feature of the bill. I am not contending that the bill is not justified, especially as applicable to some Members of Congress; but I think there is a difference in the status of a Member of Congress who goes out and by his wiles or his ability of some sort is able to get himself elected to this position of honor that pays $10,000 a year and the fellow who qualifies himself to do some kind of clerical work for the Government of the United States. In addition to that, there is another thing that would bother me, not because I fear it will have anything to do with my reelection. We are in the midst of a period now where there is a great deal of unrest. The people are depressed. There are hundreds of thousands of people all over this country who would be tickled to death if they could get $10,000 in 20 years. Here we are getting $10,000 a year. Does the gentleman from Georgia think it is really in good taste to insist upon the passage of this provision under the circumstances?

Mr. RAMSPECK. Yes, I do; just as much as it is for us to do that very thing for the man downtown in one of the executive departments who is drawing just as much money as we are and who comes under this law today, and just as much as by title II of the Social Security Act we provide for 40,000,000 people in private employment. We should not deprive ourselves of this opportunity simply because we get elected to the Congress.

As far as I am concerned, I am not afraid to go back home and face my people on this issue and talk to them about it. I believe we are entitled to an annuity system the same as any other person in this country.

Mr. MASSINGALE. I agree with the gentleman in some respects, but my thought is this: Is it right and is it good propriety for us, as representatives of the people of the United States, to vote ourselves an additional salary?

Mr. RAMSPECK. It is not an additional salary; it is an annuity and I believe it is right. [Applause.]

Mrs. ROGERS of Massachusetts. Mr. Chairman, I yield 10 minutes to the gentleman from Kansas [Mr. REES].

Mr. REES of Kansas. Mr. Chairman, I am using this time to discuss again exactly the same proposal I discussed a few minutes ago. I want to express my appreciation to our distinguished chairman, Mr. RAMSPECK, for his fairness and for the fine manner in which he has handled this and other legislation that has been presented to the Committee on the Civil Service. I want to pay tribute to him because of the effort that he has put forth, as well as the earnest consideration he has given such measures. His judgment commands the respect of the membership of this House. Here is a measure that contains a provision that would permit Members of Congress, elective officials if you please, take advantage of civil-service retirement and permit the Federal Government to contribute to the payment of retirement annuities on their behalf. For the life of me, and I am expressing my own opinion, I cannot see why this legislation should ever be brought to the House in connection with a bill to amend the law affecting civil-service employees.

Is the House expected to let it ride through just because it happens to be a part of that bill? We have been following that practice a little too much in this Congress, and there is another body that does it more than we do. If this provision is worth while, and if the Members of the Congress want it, then bring it in as a separate measure, but not as a part of this most important bill.

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. REES of Kansas. I yield to the distinguished gentleman from Georgia.

Mr. COX. Does not this proposal impress the gentleman with the idea that we are undertaking to take advantage of the position of trust we occupy and to pinch something for ourselves off the fund that passes through our hands? In other words, is it not an abuse of the confidence the people in our respective districts have reposed in us?

Mr. REES of Kansas. I believe the gentleman is correct. Furthermore, I am afraid it is an abuse of authority that has been granted to us as Members of this great body.

Mr. COX. Does not the gentleman believe that the people in the districts back in the country, when informed of what we have done if we adopt this bad proposal, will take action with respect to whipping out of public life every man who votes for this bill?

Mr. REES of Kansas. It is my humble opinion that the people will not only lose respect for this membership but they will likewise be pretty much disappointed in us.

Mr. COX. It will prove to be a retirement bill, and very much more quickly than those sponsoring it now figure.

Mr. REES of Kansas. I am afraid it will.

Mr. ROMJUE. Mr. Chairman, will the gentleman yield?

Mr. REES of Kansas. I yield to the gentleman from Missouri.

Mr. ROMJUE. I expect to support the gentleman's amendment when he offers it, but I wish to ask the gentleman if it does not appear to him that there is no need to make this expenditure. Is not this a time when we ought not to make expenditures that are not necessary? And your amendment should be adopted, striking out the annuity for Members of the House and Senate.

Mr. REES of Kansas. This most certainly is a time when we should not be offering a gesture of this kind. It is certainly a time, it seems to me, when we should attempt to cut down expenses, no matter what the amount may be. The very principle of this provision, I believe, is wrong. I will agree with the gentleman from Georgia [Mr. RAMSPECK] that you do not have to take advantage of it if you do not want to. Each Member of Congress can do as he pleases about that. Let us get it straight that you are not compelled to take advantage of it. But I believe what the gentleman from Oklahoma [Mr. MASSINGALE] said a moment ago—that it is not in very good taste.

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. REES of Kansas. For a brief question.

Mr. RICH. Does the gentleman believe that the people who elected the Members of Congress to come here and serve them had any thought that the Members would try to do anything at the expense of the taxpayers that would in any way further their own interests while serving here or after they cease to serve here?

Mr. REES of Kansas. Not intentionally, anyway.

Mr. WHITTINGTON. Mr. Chairman, will the gentleman yield?

Mr. REES of Kansas. I yield to the gentleman from Mississippi.

Mr. WHITTINGTON. The gentleman is a member of this committee, and I should like to ask him a question. Is it not true that this bill provides generally for a very material

increase in the contributions from the Federal Treasury toward retirement and annuity benefit payments?

Mr. REES of Kansas. My contention is that this bill does increase such payments. However, our distinguished chairman feels that in the general change in the measure it does not make much difference so far as all the civil-service employees are concerned. It is my own personal judgment that it does create a considerable additional expense on the part of the Government, and with this amendment in the bill there is no question about it.

Mr. WHITTINGTON. I asked the gentleman that question because he is the ranking member of the committee. I have a very high regard for the views of the chairman of that committee, but I believe it is peculiarly unfortunate that, in connection with a bill where there is at least room for the contention that the Federal contribution for retirement is being increased, Members of the House and Members of the Senate should be included.

Mr. REES of Kansas. Of course, that is my contention, too.

Mr. WHITTINGTON. I believe it is in bad taste.

Mr. REES of Kansas. That is my position. It is not right.

Mr. STEFAN. Mr. Chairman, will the gentleman yield?

Mr. REES of Kansas. Always glad to yield to my good friend from Nebraska.

Mr. STEFAN. May I say to the gentleman from Kansas that I agree with everything he has said on this question, but may I ask the gentleman if his amendment will be to strike out that section which deals with the retirement of Members of the House and of the Senate?

Mr. REES of Kansas. The gentleman is correct.

Mr. STEFAN. I wish to say I will support the gentleman's amendment.

Mr. REES of Kansas. I am glad to have the opinion of the gentleman from Nebraska, whom I have observed always gives his most careful and earnest consideration on the measures of importance that are presented on the floor of this House.

Mr. TERRY. Mr. Chairman, will the gentleman yield?

Mr. REES of Kansas. I am glad to yield to the gentleman from Arkansas.

Mr. TERRY. We have heard the merits of the congressional provision of this bill discussed very fully, but I should like to hear the gentleman discuss the merits of some of the other features of the bill. No one has done that yet.

Mr. REES of Kansas. I should be glad to do so, but I thought the gentleman from Georgia explained the general features of the bill pretty well a while ago.

I would not like to take up too much time on those changes, because I am particularly interested in the amendments I expect to propose in a few minutes.

I am not, on this occasion, offering objections to the portions of the bill. I am directing your particular attention to paragraph G which should be stricken out.

Something was said about our contribution to this fund. We do not even take any chance if we put our money into this fund, even if we go out of office. If we had been here for 2 years and had paid in our money, even then under this section we are entitled to receive our money back with interest on it from the Government. So we are not only protected, but we are getting our money back with interest on it at the proper time. So, I say to you that we do not even take a chance if we make our contribution to the fund.

I say to the Members, just use your own judgment. If you think the Members of Congress are entitled to this, if you think as a matter of right we ought to do this so far as you are individually concerned, well and good, but I do not think now is the time and I cannot think of any other time when Members of Congress, with all of the trust that is imposed in them, or is expected to be imposed in them, should attempt in anywise to dip into the Federal funds in this way. It just is not in good taste. It is not fair to the Government or to the people.

Mr. JOHNSON of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. REES of Kansas. I yield to my distinguished colleague from Oklahoma.

Mr. JOHNSON of Oklahoma. The gentleman does not seriously believe this body is going to pass this bill with a clause in it granting pensions to Members of Congress?

Mr. REES of Kansas. I will say to the gentleman that I do not know. In view of a lot of extravagant legislation that has been passed by this Congress, it is rather difficult to hazard a guess. I certainly hope not.

Mr. COFFEE of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. REES of Kansas. I yield.

Mr. COFFEE of Nebraska. I shall be pleased to support the gentleman's amendment, and I may say that I believe the people of this country are expecting Congress to pay more attention to the question of Federal expenditures than they are to providing retirement funds for the Members themselves. [Applause].

Mr. REES of Kansas. I think the gentleman is right in his statement. I appreciate his contribution.

Mr. TABER. Mr. Chairman, will the gentleman yield for a question?

Mr. REES of Kansas. Yes; glad to yield to the distinguished gentleman from New York.

Mr. TABER. Does not the gentleman think that if the House should adopt this provision giving Members of Congress an opportunity to receive a large amount of money from the Federal Government—and it really is that—that we are going back on the duty we owe our constituents at this time?

Mr. REES of Kansas. I think the gentleman is correct, and along with that I have in mind the very principle of the thing—the very idea of doing a thing of this sort. It just will not do, and you know it. [Applause.]

[Here the gavel fell.]

Mrs. ROGERS of Massachusetts. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. BENDER].

Mr. BENDER. I am against the amendment in this measure that provides pensions for Members of Congress.

I know that public life is about as strenuous as any vocation. I know that public service takes more of one's energy, time, and industry than almost any other vocation, but no one drives us to public service. All of us, I believe, are in public life because we enjoy it and, irrespective of the difficulties, the time and energy required, there is not one of us who is not concerned about remaining in public life as long as our people are willing to have us remain there. I never knew a Member of Congress who ever died in the poorhouse; in fact, when Members of Congress leave here, as a rule, if they are lawyers there is a lucrative practice awaiting them at home or they hang up a shingle here in Washington to practice before various Government bureaus. My own United States Senator hung up his shingle after his defeat last year and I am told has a very fine practice here in the city of Washington. I know several Members of the House in my home city who are now practicing law and doing very well. I believe, from an examination of the Congressional Directory, that practically every Member of this House is engaged in some other work.

Mr. MURDOCK of Arizona. Mr. Chairman, will the gentleman yield?

Mr. BENDER. Yes.

Mr. MURDOCK of Arizona. Did I understand the gentleman to say that he feels that a Member of Congress cannot live in Washington on the salary that he is receiving? In that case, unless he has an independent income, he must borrow money to be a Congressman.

Mr. BENDER. I did not say that. I said that in connection with his service and his campaign and the time required by his service here, that it is necessary for him to have some other means of support. I believe, from an examination of the Congressional Directory, that, with the exception of possibly two dozen Members of Congress, the Members do have means of support other than the salary they are receiving.

Mr. MURDOCK of Arizona. I think the gentleman's estimate is far too high on that particular. Would the gentleman be in favor of having a requirement that a member of a lawmaking body such as this should have an independent income in addition to his salary? If so, why not do away with salaries and let rich men write our laws? Do the American people want that?

Mr. BENDER. Frankly, one never knows whether he will be continued here in Congress or not. The great majority of the Members, before they came here, were successful businessmen, lawyers, or publishers, or were engaged in some field of endeavor which distinguished them in their own communities, which provided them with the opportunity to represent their constituents in this body.

Mr. JOHNSON of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. BENDER. Yes.

Mr. JOHNSON of Oklahoma. Permit me to say to the gentleman that I am opposed to the bill with the amendment that would permit Members of Congress to be pensioned, but I feel sure that the gentleman is in error if I understood him correctly in the statement that there are not more than a dozen Members of Congress who have not other means of support. I say to the gentleman that he would come nearer stating the situation correctly if he would say there are not a dozen Members of Congress who have any other means of support than their salary.

Mr. GEYER of California. And does the gentleman believe that a man can properly represent his constituency and have an interest in some other business?

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mrs. ROGERS of Massachusetts. Mr. Chairman, I yield 5 minutes to the gentleman from South Dakota [Mr. MUNDT].

Mr. MUNDT. Mr. Chairman, I rise to speak briefly in favor of the amendment which will be offered by the gentleman from Kansas [Mr. REES] to eliminate the section of this bill which would provide pensions for Congressmen. I expect to support this amendment as I feel I should as a representative of one of the great farm States of the country. Most of the people in my State belong to that thirty-million-odd people of America who are engaged directly or indirectly in agriculture. I want to say just a few words in rejoinder to a statement made by the gentleman from Georgia [Mr. RAMSPECK] that he felt we were justified in voting for this security pension for Members of Congress because it would be doing for Congressmen only what we have done for the rest of the Nation.

I do not believe we have as yet provided a social-security system for the agricultural people of America which would warrant us in appearing before the people of the country and sincerely contending that in providing social security for Congressmen we were simply doing for ourselves what we had done for the rest of America. I submit that until and unless we have been able through our collective thinking and efforts to correct the injustices and inequalities in the present social-security set-up which will enable the farmers of this country to enjoy some of these benefits and social-security privileges that are enjoyed by certain other groups at the present time—until that happy day has come we, as Members of Congress, should not concern ourselves about providing a social-security system for ourselves, but should continue to study the problem in behalf of the agricultural population of America. We should not forget that at present the farmers of this country are already paying in increased taxes and higher prices for a social-security set-up from which they are largely denied the benefits.

Mr. JOHNS. Mr. Chairman, will the gentleman yield?

Mr. MUNDT. Yes.

Mr. JOHNS. Does the gentleman know of any farmer in this country who has any money from social security at the present time.

Mr. MUNDT. No; I do not, and I represent one of the best agricultural States in the country.

I think this is not a reasonable time to approach this problem. There certainly is considerable merit in the contention of those who state that a Congressman who serves here for a long period of time is not able to save any money during his service. I grant that it is an expensive profession, but I believe that social security for Congressmen and Senators should come as the finishing touch to a well-rounded American social-security program enacted by them. Let it come as the last shingle on the roof of the social-security house, and not be inserted as one of the first foundation stones in such a security program. Our first responsibility is to provide an honest and impartial pension and social-security program for others, and until we have solved this problem, at least, we should not in good conscience pass legislation simply providing for ourselves.

Mr. H. CARL ANDERSEN. Mr. Chairman, will the gentleman yield?

Mr. MUNDT. Yes.

Mr. H. CARL ANDERSEN. The gentleman comes from the same section of America that I do. Would the gentleman like to go and face an audience of farmers or small-business men in our section and try to convince them, regardless of the merits of this bill, that Congressmen are entitled to any such consideration from the Government, when the gentleman and I both know that many a farmer is losing his farm today through foreclosure?

Mr. MUNDT. Well, I would not like to do that, because I do not believe we are entitled to it, at least until such time as we have provided a Federal social-security program which includes the agricultural class in its advantages. We have tried on a number of occasions during this session of Congress, by several different methods, to equalize and perfect the advantages of social security for our agricultural groups. Thus far we have conspicuously, definitely, and dismally failed. Until we succeed I urge you to support the amendment which will be offered by the gentleman from Kansas [Mr. REES] and exempt ourselves from these social-security benefits. [Applause.]

[Here the gavel fell.]

Mr. RAMSPECK. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I am rather put out as I listen to some of the remarks of my colleagues on the left side of the aisle and likewise some on this side of the aisle who, in their pharisaical way, say that they are so thankful that they are not like the speaker here, in that they would not think of providing social security for themselves. I think this is a show of sheer, downright demagoguery, and it is an indication that with the most sacred things the Members of this House will play politics. It is pure bunk. It is lack of courage for the Members here to express themselves in that manner. I am willing to take my chances with my people and I think you should. I think they will be fair with you. The people of this land of ours are convinced that social security is essential to the welfare of each and every Member of this House as much as it is essential in the lives of the lowliest of our people.

Insurance figures indicate that 85 percent of our people, and that includes Congressmen, sitting Members of today, at the age of 65 will become totally or more or less dependent on someone else for a livelihood, for support. They will become objects of charity. Why not make some provision for that contingency here and now.

I remember in the Seventy-third Congress talking to an old Republican war horse whom most of you know. I met him in the office of the Whip of the House, and I asked him why it was that he chose to retire. He told me he had served in this House for some 24 years, and it was high time that he got back to private life in order to reestablish himself because he was financially down and out.

I had a colleague from Michigan who in that same session told me he was going to retire. The Lord have mercy on his soul. He never did retire, and he never risked knowing what dependency really meant; but he, too, was going to retire from this House in order that he might provide for himself and his aging wife.

There are men who have served in this House who later became doorkeepers. There are others who have pleaded

for a miserable job in one of the departments. There are Members sitting in this House today who are going to be down and out some time in the future.

Now, you are asking for no charity. You are not the first foundation stone in the plan, as my rookie colleague said a moment ago. We are really the last shingle on this social-security structure, if the gentleman wants to know. We have provided for everybody else but ourselves. The generals and admirals in the armed forces are taken care of by retirement provisions. All Federal judges and Government employees have been similarly protected.

Mr. MUNDT. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am sorry. My time is limited.

Mr. MUNDT. The gentleman referred to me.

Mr. DINGELL. I told the gentleman I refuse to yield. He understands English, I presume. He made a misstatement, and I am simply calling it to his attention.

The membership of this House avail themselves of this plan or they do not have to. There is nothing compulsory about it. My good friend from Pennsylvania and my good friend from Massachusetts spoke in favor of this amendment. If I had their incomes, certainly I would be insistent that this House of Representatives be made an exclusive and a rich man's club and that only those who could show so much on the profit side of the ledger would have any right to come here. They will not need any assistance after they retire, but in my position and in the lives of 90 percent of the Members of this House this legislation is very desirable; it is essential. I am wondering how many Members here have confidence in the fairness of their constituents and have the courage to stand up and be counted and take their chances.

[Here the gavel fell.]

Mr. RAMSPECK. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. DINGELL. I would like to call the attention of the Members of the House to the fact that Congress has provided for full retirement for all Federal judges who have attained the age of 70 years and have served a period of 10 years. They are to receive a full $10,000 a year for the balance of their lives—Supreme Court and circuit court judges even greater amounts for life. These retirements are provided as a gratuity. The Nation has not objected to that. People have not risen in rebellion against the generosity of the Government. I want to say to you that the people of this Nation generally will approve of this action of the House. They are making no distinction between Members of Congress and any other class of Federal employees.

Ninety percent of the Members of this House are employees of the Federal Government. Our businesses as a rule are nonexistent. They have evaporated and we have no industrial enterprise to depend upon. We have no hotels. We have no business of any kind that will sustain us. Therefore this is our only employment. If I am willing to make my contribution on the same basis as any other civil-service employee, I do not believe there is a single, solitary individual in my district who will raise any objection. I am willing to take my chances on that point. I am sure that I could sustain my position.

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. My time has about expired.

[Here the gavel fell.]

Mr. DINGELL. If the gentleman will get me more time, I will yield.

Mrs. ROGERS of Massachusetts. Mr. Chairman, I yield 1 minute to the gentleman from Michigan.

Mr. RICH. Does the gentleman think it is good business after a Member has served here, we will say, 15 years, and paid in $7,500, then draw out of the Federal Treasury forever after during his life the amount of $1,673.16 a year?

Mr. DINGELL. That is the same sort of question the gentleman from Pennsylvania asked the gentleman from Georgia. The plan is based on an actuarial study. If the actuaries consider it sound, I think it is good business; yes.

Mr. RICH. The point is that the Government pays 4 percent interest on this money, yet the Government cannot get 4 percent on any of its own money. When the Government pays $600 a year interest on that money the beneficiary is getting $1,073.16 more than the Government can possibly get. It seems to me that after 15 years' service Members of Congress are going to get a lot more than they really deserve.

Mr. DINGELL. The gentleman has asked me a question and has answered it in his own way without giving me the opportunity.

[Here the gavel fell.]

Mrs. ROGERS of Massachusetts. Mr. Chairman, I yield the balance of my time to the gentleman from New York [Mr. HARTER].

The CHAIRMAN. The gentleman from New York is recognized for 9 minutes.

Mr. HARTER of New York. Mr. Chairman, I yield to the gentleman from South Dakota who wanted to make a reply to the gentleman from Michigan.

Mr. MUNDT. Mr. Chairman, I merely want to say a word in reply to the somewhat amusing—although I suppose it was intended to be sarcastic—remark of the gentleman from Michigan. I did make the statement that if we were going to provide this social security for Congressmen it would be in the form of a foundation stone in the structure of social security, because we have not yet provided for the 30,000,000 agricultural citizens in this country and call the attention of the committee to the fact that in none of the gentleman's remarks did he show where or how we have provided social security for the farmers of this country. Therefore, while he charges me with misstatement in this connection, he completely fails to answer my argument.

Mr. KERR. Mr. Chairman, will the gentleman yield?

Mr. HARTER of New York. I am sorry; I cannot yield further.

Mr. Chairman, the gentleman from Michigan [Mr. DINGELL] in substance charged everyone who has taken a position against this amendment that will be offered by the gentleman from Kansas [Mr. REES] with demagoguery. I am not inclined to take that view. I do recognize the fact that Members who have spent many years in the House are in such position that should they leave Congress they would have a very hard time to rehabilitate themselves. There is no doubt in the world about that. On the other hand, we must take into consideration the fact that we are being besieged on all sides for social security from all classes of people, people, may I say, who are probably much less able to rehabilitate themselves than most of the Members of this House; and I do feel with those conditions existing throughout the country we would be somewhat remiss in our duties if we at this time voted ourselves into this retirement system.

There is another point I wish to bring to the attention of the membership, and that is that the Members of Congress from the State of New York, and I am one of them, have the right to join the retirement system of the State of New York. May I say that should this amendment which the gentleman from Kansas [Mr. REES], will shortly present by any chance be voted down, I intend to offer an amendment which will preclude the Members from New York State from receiving Federal retirement benefits or joining the retirement system of the Federal Government as well as that of the State; in other words, that they will have to elect between the two systems.

Mr. SIROVICH. Mr. Chairman, will the gentleman yield?

Mr. HARTER of New York. I am sorry; I cannot yield.

Mr. Chairman, with that in mind as a preamble, I say again I think it is not fair for anyone to take the floor and say that a Member who opposes this provision of the bill is a demagogue or is guilty of demagoguery. In opposing it myself, I do so because I feel from my short experience in this House that we should not, particularly at this time, vote ourselves any benefits. I say this, mindful of the fact that I have been here only 6 months and mindful, also, of the fact that many of the Members have given marvelous service to the country through many years of their lives as Members of this body. I take this position, too, knowing

full well that the Senate sent this bill to us without this provision in it. Members of that body have served equally long and, in most instances, equally honorably as Members of this House. They sent this bill to us without this retirement provision for Members of Congress and Senators. Are we not somewhat presumptuous in inserting such a provision in this bill at this time? Are we not setting a bad example to put such a provision in the bill at a time when the Government is spending more Federal money than ever before? Are we not in a rather poor position to come in and try to save some appropriations and then place ourselves in the position of getting additional funds from Uncle Sam.

I voted for the bill. We recently voted on an appropriation bill for W. P. A., and I was in accord with the recommendations of the administration and the W. P. A. Administrator on that and most recommendations of our Appropriations Committee. Can we, after having done that so recently, come in here and say in all good grace that we are willing to take a fund from the Federal Treasury to help ourselves? I admit that the fund will be comparatively small, but nevertheless it is taking something from the Federal Treasury. I do not believe in such actions. I am going to support the amendment to be offered, and I do not believe any one can seriously question my integrity when I say that I am doing that by the dictates of my conscience and there is no demagogy in my action. Nothing would please me more than to favor this for the benefit of some in here whom I love and whom I feel have given of their best years and best talents to the people of this country.

Mr. COX. Will the gentleman yield?

Mr. HARTER of New York. I yield to the gentleman from Georgia.

Mr. COX. With reference to the entire bill, I wonder if the gentleman does not agree with me that the Federal employees constitute the favored class of workers in this country already, that much is being done for them at the expense of the rest of the people, and that this bill as a whole is a proposal to do more for them than has already been done?

Mr. HARTER of New York. I agree with the gentleman to the extent that during these times of stress it would seem that people on the Government pay roll, whether it be of the States or the United States Government, if you please, are in a favored position.

However, I have definitely in mind that men of intelligence, men who have been able to earn in private industry more than they could with the Government have come into the Government service at a pay which was not commensurate with what they could earn in private industry. However, during these depressed times I feel that those who are on the taxpayers' pay roll, if you want to call it that, are rather favored. I may say that I propose to support the balance of the bill.

Mr. HAWKS. Will the gentleman yield?

Mr. HARTER of New York. I yield to the gentleman from Wisconsin.

Mr. HAWKS. Is it not a fact that the average income of the Government employees is about three times the average cash income of the farmers of this country?

Mr. HARTER of New York. The gentleman is speaking of the present time?

Mr. HAWKS. Yes.

Mr. HARTER of New York. The gentleman has in mind the economic stress that exists today?

Mr. HAWKS. Yes.

Mr. HARTER of New York. I assume that is correct.

[Here the gavel fell.]

Mr. RAMSPECK. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. VOORHIS].

Mr. VOORHIS of California. Mr. Chairman, I think there are certain features of this bill that are very important, and I am frank to say I do not think they are the ones that have been discussed today. I would like to ask the able and devoted chairman of the Civil Service Committee a question, if I may. I have been very much interested in the problem faced by the people in our country beyond the age of 50 and the matter of their employment. I think there should be no discrimination against them in Government employment. I realize the problem of retirement provisions is serious in connection with the older age group. Therefore, I am anxious to know what this bill will do with regard to those Government employees who are not now covered by any existing retirement law? Does it have any provisions that will cover them?

Mr. RAMSPECK. I may say to the gentleman it does not. As a matter of fact, a committee, composed of Senator NEELY, myself, and some Government officials, is studying that question now, and I think there will be some effort made to take care of them at an early date. However, they are not included in this bill.

Mr. VOORHIS of California. Does the gentleman think that can be done during this session?

Mr. RAMSPECK. I doubt it, unless the session lasts longer than I think it will.

Mr. VOORHIS of California. What does the language at the top of page 12 and at the bottom of page 11 mean? I refer to subsection (i). Does that not give the President the power to extend the benefits of the retirement system to people who are not now covered? Could that not be done by Executive order?

Mr. RAMSPECK. Yes; I think the President could extend it if he sees fit to do so.

Mr. VOORHIS of California. May I ask the gentleman if he will explain a little bit further for my benefit at least the meaning of subsection (d) at the bottom of page 13, which I believe, if I understand it correctly, is a most important provision of this bill.

[Here the gavel fell.]

Mr. RAMSPECK. Mr. Chairman, I yield the gentleman 1 additional minute. I may say to the gentleman we wrote that provision in here so that it will be possible for an employee or other person coming under the benefits of this act to divide his annuity with a named beneficiary, sometimes called a widow's annuity, although it is not that. It does not increase the annuity. It simply gives the option of dividing the annuity.

Mr. VOORHIS of California. The man who is entitled to the annuity can take a smaller amount during his lifetime, then extend the benefits of it to somebody who survives him?

Mr. RAMSPECK. Yes. It is safeguarded so that the total amount paid out will not exceed the amount which would have been received by the single person.

[Here the gavel fell.]

Mr. RAMSPECK. Mr. Chairman, in concluding the general debate, may I remind my colleagues that this Congress not long ago voted retirement at full pay for judges of the United States courts after 10 years of service without any contribution; that we have provided retirement benefits to retired officers of the Army, Navy, Coast Guard, and Marine services, which are more generous than can be given Members of Congress under this proposal and without requiring any contribution whatsoever. May I also remind the Members of the fact that we propose here to give ourselves nothing more than has been given for nearly 20 years to people who draw their pay from the same employer—the United States Treasury. May I say to my friend who talked so feelingly about the farmers that while it is true they do not come under title II of the Social Security Act, they have received a great many financial benefits from the United States Treasury. I am in favor of them getting that, but that is no reason why we should deny ourselves some protection for our later years when we may be retired from service here. I feel that we are justified in making this provision, and I can remind you that no Member of Congress and no Senator is required to exercise the option conferred in this bill.

[Here the gavel fell.]

The Clerk read as follows:

Be it enacted, etc., That section 1 of the Civil Service Retirement Act approved May 29, 1930, as amended, is amended by striking out the whole thereof and substituting in lieu thereof the following:

"(a) All employees to whom this act applies who shall have attained, or shall hereafter attain the age of 70 years and have rendered at least 15 years of service computed as prescribed in section 5

of this act shall be eligible for retirement on an annuity as provided in section 4 hereof: *Provided*, That city, rural, and village letter carriers, post-office clerks, railway postal clerks, sea-post clerks; laborers and mechanics generally, mechanics and laborers in navy yards, and such supervising mechanics and laborers, master mechanics, leadingmen, quartermen, and foremen who perform mechanical or manual work in connection with their supervisory duties; those employees engaged in pursuits whose occupation is hazardous or requires great physical effort, or which necessitates exposure to extreme heat or cold; employees of the Indian Service at large excluding clerks; and those employees whose terms of service shall include 15 years or more of such service rendered in the Tropics, shall, under like conditions, be eligible at 65 years of age; the classification of employees for the purpose of assignment to the various age groups shall be determined jointly by the Civil Service Commission and the head of the department, branch, or independent office of the Government concerned: *Provided further*, That the term 'mechanics,' as used in this act, shall include all employees in the Government Printing Office whose duties are to supervise, perform, or assist in apprentice, helper, or journeyman work of a recognized trade or craft, as determined by the Public Printer.

"(b) Any employee to whom this act applies who shall have attained, or shall hereafter attain the age of 60 years and have rendered at least 30 years of service computed as prescribed in section 5 of this act, or who shall have attained, or shall hereafter attain the age of 62 years and have rendered at least 15 years of such service may, upon his own option, retire and shall be paid an annuity computed as provided in section 4 of this act.

"(c) The head of a department or independent Government agency concerned may request the retirement of any such employee described in subsection (b) of this section who, by reason of a disqualification is unable to perform satisfactorily and efficiently the duties of his position or some other position of the same grade or class as that occupied by the employee and to which he could be assigned. No such request shall be submitted to the Civil Service Commission unless and until the said employee has been notified in writing of the proposed retirement. Each such employee shall, upon request by him, have opportunity for a hearing before the Civil Service Commission, at which hearing the employee may appear in person or he may be represented by a person of his choice. No such employee shall be so retired unless the Civil Service Commission after examination finds that he is so disqualified. The determination of the Civil Service Commission as to whether the employee shall be retired under this subsection shall be final and conclusive. Any person so retired shall be paid an annuity computed as provided in section 4 hereof.

"(d) Any employee who has completed 30 years of service computed in accordance with the provisions of section 5 hereof and who has reached or may hereafter reach the age of 55 years may voluntarily retire and shall be paid an immediate life annuity beginning on the 1st day of the month following the date of separation from the service having a value equal to the present worth of a deferred annuity at the age of 60 years computed as provided in section 4 of this act.

"If none of the options provided in this section is exercised prior to the date upon which the employee would otherwise be eligible for retirement from the service, the provisions of this act with respect to automatic separation from the service shall apply."

Mr. RAMSPECK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RAMSPECK: On page 7, after the word "concerned" in line 23, add the following: "*Provided, however*, That those employees who at the date of approval of this act are serving in the 62-year-age group and those supervisory employees who by the provisions of this act would fall within the 70-year-retirement-age group, shall be and they hereby are exempted from the provisions of any law relating to the automatic retirement of civilian employees until the effective date of this act after which such employees shall be subject to automatic separation from the service in accordance with the terms of this act upon reaching the retirement age for the group to which assigned.

Mr. RAMSPECK. Mr. Chairman, in explanation of this amendment I should like to point out that we are raising the compulsory age of retirement for one group from 62 to 65. This deals primarily with the Railway Mail Service and the navy-yard workers. A great many of them who will reach the age of 62 between now and January 1, which is the effective date of this act, have asked that an extension of 3 years in the permissible time of service be given to them. That is the only change this amendment makes. It simply would provide that any person in the 62-year age group reaching that age before the effective date of this act would get the benefit of the change in the compulsory age.

Mrs. ROGERS of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. RAMSPECK. I yield to the gentlewoman from Massachusetts.

Mrs. ROGERS of Massachusetts. Is it not true that a very small group is involved?

Mr. RAMSPECK. Yes; it is a rather small group. Of course, it will involve only a few people, those who may reach the age of 62 between now and January 1 of next year.

Mrs. ROGERS of Massachusetts. The Civil Service Commission advises that this change be made, as I understand?

Mr. RAMSPECK. Yes; they drafted this amendment for me.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia.

The amendment was agreed to.

The Clerk read as follows:

SEC. 2. Strike out all of section 2 of the act of May 29, 1930, as amended, and insert in lieu thereof the following:

"(a) Except as provided in section 204 of the act of June 30, 1932 (47 Stat. 404), section 3 of the act of July 13, 1937 (Public, No. 206, 75th Cong., 1st sess.), and section 3 (g) of this act, all employees to whom this act applies shall, on the last day of the month in which they attain retirement age as defined in the preceding section; and having rendered at least 15 years of service, be automatically separated from the service, and all salary, pay, or compensation shall cease from that date, and it shall be the duty of the head of each department, branch, or independent office of the Government concerned to notify each such employee under his direction of the date of his separation from the service at least 60 days in advance thereof.

"(b) No person separated from the service who is receiving an annuity under the provisions of section 1 of this act shall be eligible again to appointment to any appointive office, position, or employment under the United States or of the government of the District of Columbia."

Mr. DIRKSEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DIRKSEN: On page 10, line 14, after the word "any", insert the word "permanent."

Mr. DIRKSEN. Mr. Chairman, I shall take no great amount of time in discussing the proposed amendment. The amendment merely provides for the insertion of the word "permanent" in line 14 between the words "any" and "appointive." The reason for this amendment is simply that lots of these annuities will run from $15 to $20 a month, or $30 or $40 a month, but they will certainly not be enough by themselves to sustain any individual. Under the language carried in the bill providing that an annuitant shall not be eligible again for appointment to any appointive office, such an individual could not even accept a job as a census enumerator for 2 weeks. It would mean that he could do no temporary work of any kind. Surely it is not the intent of the Congress of the United States to preclude an annuitant from accepting temporary or emergency work that may provide a bit of funds to supplement an otherwise meager annuity. For this reason I believe the word "permanent" should be inserted in the bill.

Mr. RAMSPECK. Mr. Chairman, will the gentleman yield?

Mr. DIRKSEN. I yield to the gentleman from Georgia.

Mr. RAMSPECK. I may say to the gentleman, speaking only for myself and not for the committee, that I have no objection to having the gentleman's amendment adopted and letting it go to conference.

Mr. DIRKSEN. I submit it to the wisdom and good grace of the committee.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The amendment was agreed to.

The Clerk read as follows:

SEC. 3. Section 3 of the act of May 29, 1930, as amended, is amended by striking out all of that portion thereof beginning with paragraph (g) and continuing to the end of the section and inserting in lieu thereof the following:

"(g) All persons duly elected as Senators, Members of and Delegates to Congress, and the Resident Commissioners in the legislative branch of the United States Government: *Provided, however*, That this act shall not apply to any person described in this paragraph until such person gives notice in writing to the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, of his or her desire to come within the purview of this act. Said notice must be given in the case of any such person in the legislative branch of the Government on the

effective date of this act, within 6 months from such effective date, and in the case of any such person elected and serving after the effective date of this act, within 6 months from the taking of the oath of office: *Provided further*, That no provision of this or any other act relating to automatic separation from the service shall have any application whatever to any person described in this paragraph.

"(h) This act shall not apply to such employees of the Lighthouse Service as come within the provisions of section 6 of the act of June 20, 1918, entitled "An act to authorize aids to navigation and for other works in the Lighthouse Service, and for other purposes,' nor to members of the police and fire departments of the municipal government of the District of Columbia, nor to such employees or groups of employees as may have been before the effective date of this act excluded by Executive orders from the benefits of the act of May 22, 1920, and amendments thereof.

"(i) The provisions of this act may be extended by Executive order, upon recommendation of the Civil Service Commission, to apply to any employee or group of employees in the civil service of the United States not included at the time of its passage. The President shall have power, in his discretion, to exclude from the operation of this act any employee or group of employees in the civil service whose tenure of office or employment is intermittent or of uncertain duration.

"(j) Any officer or employee to whom the act of July 13, 1937 (Public, No. 206, 75th Cong., 1st sess.), applies who has failed to exercise the option provided thereby to come within the terms of the Retirement Act of May 29, 1930, as amended, may exercise such option within 6 months from the effective date of this act."

Mr. REES of Kansas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REES of Kansas: On page 10, line 21, strike out all of paragraph (g) of section 3 of the bill.

Mr. REES of Kansas. Mr. Chairman——

Mr. RAMSPECK. Mr. Chairman, I wonder if we can get an agreement as to time.

Mr. WHITTINGTON. Mr. Chairman, I make the point of order that an agreement cannot be made because there has been no debate on this section.

Mr. REES of Kansas. Mr. Chairman, I do not believe it should be necessary for me to take the floor for the third time this afternoon on the subject of this particular amendment, but I wish to say again that in my judgment it is an extremely important one.

The gentleman from Michigan offered some suggestions and I would like to answer in a brief way some of the things that he said. The gentleman said that, after all, the vote on this bill was a matter for demagogues, I believe. If you want to classify yourselves as demagogues, go to it, but there is not any demagogy about voting against this particular portion of the bill as I see it. It is a matter of keeping faith with the folks at home. If you figure it out in that way, then it is all right with me. You vote your own opinion on it because that is a matter which is up to you. I hope there is no one here who does not use his own judgment as to how he should vote, and let us not call it demagogy.

The gentleman has said that he is willing to take his chances. We are all willing to do that or we ought to be, but let us not forget the fact that we are elective members. We are not appointive members, and we are going clear out of the classification of civil service in this matter and you and I know it. You are saying that here is a group of Members of Congress who happen to have this authority in their hands and they want to use it and they have decided this afternoon that they will not only use this authority, but usurp it, if you please.

We have not even begun in this Congress to take care of the thousands, yea, millions, if you please, of aged persons in this country who actually, honestly, and fairly need assistance, and it is just too bad that living in a great democracy that there are 435 Members here and 96 Members in another body who, regardless of party affiliation, have not been able to solve the problem by even providing the necessities of life for the aged people of this country; yet we come in here this afternoon and say that so far as we are concerned we are going to at least take care of ourselves; that we are going to see to it that so far as we are concerned, as Members of Congress, we are going to be protected, anyway, in our old age, and we are going to ask the taxpayers of this country to help us in that respect. If you feel that way about it, as Members of Congress, or if you feel that the taxpayers of this country owe us what we are asking this afternoon, it is perfectly all right with me; go ahead and support it; but I just do not believe you want to do that sort of thing. I do not think it is right. I do not think it is fair to the taxpayers of this country in your district and in mine.

Mr. MARTIN of Colorado. Mr. Chairman, will the gentleman yield for a question?

Mr. REES of Kansas. I yield for a question; yes.

Mr. MARTIN of Colorado. How did the gentleman vote on the Townsend bill?

Mr. REES of Kansas. I voted against the Townsend bill.

Mr. MARTIN of Colorado. Well, you had a chance there to do something for the old folks of the country.

Mr. REES of Kansas. That is a matter of judgment. If you think that is the kind of bill that ought to be passed by this Congress, well and good, but you and I know that so far as the Ways and Means Committee is concerned, they have not recommended any measures yet that would have done much along that line. They submitted that bill under a gag rule to us and we voted it down. It might have been amended or worked out in such fashion that it could be used, but as it came before the House I voted against it, and the RECORD shows it.

Mr. HILL. Mr. Chairman, will the gentleman yield?

Mr. REES of Kansas. I yield for a question.

Mr. HILL. To be consistent the gentleman ought to favor an amendment to retire all judges without pay because they can now retire after 10 years of service on full pay. The gentleman ought to be consistent and offer such an amendment.

Mr. REES of Kansas. If the gentleman wants to be consistent, he will vote against this bill, anyhow, and then if he wants to bring in that sort of measure he can bring that up separately.

Mr. HILL. Will the gentleman support that kind of amendment or that kind of bill? To be consistent the gentleman ought to do so.

Mr. REES of Kansas. If the gentleman wants to support that kind of bill, bring it in separately. We will be glad to discuss it on its merits. But I just do not see how the distinguished gentleman can support a measure with this kind of a provision in it.

Mr. WHITTINGTON. Mr. Chairman, will the gentleman yield?

Mr. REES of Kansas. I yield.

Mr. WHITTINGTON. In all fairness, are not all judges appointed for life just as civil-service employees are hired for life, and are not judges in a different position from those holding elective positions?

Mr. REES of Kansas. Yes. Certainly they are appointive offices.

[Here the gavel fell.]

Mr. KNUTSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. RAMSPECK. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 15 minutes.

Mr. WHITTINGTON. Mr. Chairman, reserving the right to object, I would like to have 5 minutes.

Mr. HARTER of New York. Mr. Chairman, reserving the right to object, I have an amendment to this amendment.

Mr. RAMSPECK. Mr. Chairman, I ask unanimous consent that all debate on this section and all amendments thereto close in 20 minutes.

Mrs. ROGERS of Massachusetts. Would the gentleman amend that and make it 30 minutes?

Mr. RAMSPECK. We are anxious to get through, and it seems to me this would give us enough time.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent that all debate on this section and all amendments thereto close in 20 minutes. Is there objection?

Mr. HARTER of New York. I object, Mr. Chairman.

Mr. RAMSPECK. Mr. Chairman, I ask unanimous consent that all debate on this section and all amendments thereto close in 25 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. KNUTSON. Mr. Chairman, I rise in opposition to the amendment. The late Speaker Clark on a number of occasions in this House said that if there is anything in the world that is more cowardly than a Congressman it is two Congressmen, and the debate this afternoon has demonstrated beyond peradventure of a doubt that Mr. Clark knew what he was talking about. In his long, distinguished, and patriotic service in this body he learned what goes to make up a Congress. I presume that time has proven that it is no more possible for a Congress to change its modus vivendi than it is for a leopard to change its spots. The gentleman from Georgia [Mr. RAMSPECK] deserves credit rather than censure for bringing this measure before the House. [Applause.] I recall some years ago, when a member of long and distinguished service in this body passed away after having been defeated and retired to private life. When he died it was necessary for our delegation to make up a purse of $1,000 to send his remains home for burial and make some provision for his widow. Members of Congress rarely lay aside anything. We are beseiged on all sides for contributions for this and that and every 2 years have expensive campaigns to go through.

I think this is about the only country in the world that makes no provision for its legislators when they retire. We make generous provisions for those who have served in the Military and Naval Establishments when they retire, either as a result of long service or for disability. We have made generous provision for the judicial and civil lists, but nothing for those who give up their business or practice to come here and probably serve for 8 or 10 or 12 or 15 or 18 years and then go back home, to find that all of their connections are broken. Then they are in the sunset of life and for them there is no such thing as a new start. I appeal to the membership of the House to lay aside their fears of what the people back home will say and face this thing in a realistic and a manly manner. [Applause.] The best investment the American people can possibly make is to provide for their National Legislators in their old age so that they may face every issue and measure fearlessly and honestly. In my own case, after 23 years of service I would only draw $775.75 annually unless I can pay into the retirement fund $9,266.08. If I had that much cash I would not be concerned.

I believe in old-age pensions. It should be on a contributory basis and it should apply to all.

Mr. Chairman, sooner or later we must remove the fear of dependent old age, whether it be for the high or the lowly.

Mr. CREAL. Mr. Chairman, should this bill pass in this form, I presume it would be the first time in the history of America that any legislative body, be it a city council, a State legislature, or Congress, which had the power to appropriate money, voted themselves a pension. Of course, I know there is a certain amount of demagoguery about this, but in spite of what you say, we are all here as a matter of choice, because we prefer to be here to doing something else. There is no dispute about that, and at this time of financial crisis, with so many people demanding aid, it is the wrong time of the year, the wrong time of the moon, for Congressmen to vote themselves a pension, and then go back to have hurled in their teeth some particular thing that did not get through that somebody else wanted. People would say that we had voted a pension for ourselves and had failed to do so for somebody else. Talk about retirement. God knows that as far as retirement is concerned you will get it pretty quick—those of you who vote for this bill. You will get it and you will get it without pay besides. This is a nice issue with which to go before the people in 1940, is it not? What about the Democratic Party? Remember if this bill passes, it will have to pass through a majority of Democrats voting for it. Then I say especially again that it is the wrong time of the moon to take this question up.

Further, there are certain sections of the country where the political party on one side or the other is predominant and where Members come back to Congress year after year, but more than half of the districts waver back and forth as between the two parties, and it is not fair to those men who live in doubtful districts, as compared with those who live in districts where the politics is one way and where Members have opportunity for coming back year after year. I shall be quite well satisfied if I can come here the required length of time to which I might be eligible to get an annuity, without the annuity, and please do not forget that there are lots of people just as able as you are, just as smart as you are, regardless of who you are, who are ready and willing to take your places at any time you indicate that you are through—and sometimes when you do not. This is laden with political dynamite, and lots of you who cast your vote for this bill will get retirement without annuity.

The CHAIRMAN. The gentleman from Mississippi [Mr. WHITTINGTON] is recognized.

Mr. WHITTINGTON. Mr. Chairman, the bill under consideration is a bill for more generous treatment of Federal employees. That can mean but one thing. This bill cannot be more generous than the existing law unless it provides for larger contributions and appropriations from the Federal Treasury for the retirement and pensioning of Federal employees. I follow the committee and the distinguished chairman of that committee respecting Federal employees because I believe in adequate salaries for Federal employees; but I think that in a bill that increases the Federal contribution for Federal employees it is most unwise that provision should be made for retirement for Members of the House and Senate, even if such retirement were desirable. Moreover, if such provision is to be made by the Congress it should be made in a separate measure, and should not be effective until the succeeding Congress, just as an increase in salaries of Members of Congress has not been effective until the following Congress.

Mr. Chairman, whatever else may be said with respect to spending and appropriating in excess of the revenues of the Government, this must be admitted: That finally whether recommended by the Executive, whether requested by our constituents, the responsibility for continued borrowing in order that we may spend more and appropriate more lies at the door of the Congress of the United States. We have made provision for increasing the efficiency of our office during this term. We voted for an additional clerk. Personally I opposed the increase and personally I voted against it, but it is not fair to say that we have not made any provision this session for the Members of Congress. Additional provision has also been made for Senators under the conference report that is now pending.

I respectfully submit that if elective officers, not appointed by the Executive either as employees of the Government or judges of the courts, but elective officers, Senators and Representatives, are to be retired, it should be at another time when there are not so many demands from those who are in need, from the suffering, from those out of employment; when there is no grave emergency that confronts the country, but in normal times. The case of Senators and Representatives is not parallel with Federal judges and Federal employees. They serve until they reach the age of retirement and are usually dependent upon their salaries. Federal judges often serve long after they have reached the three score years and ten. Generally they make sacrifices to accept positions on the bench. Who would deny Justice Brandeis retirement when he was earning many times the salary when he was appointed to the Bench? All thoughtful patriots know that borrowing and spending cannot continue. If there is to be economy and retrenchment, Congress must set the example and make the necessary sacrifices. If we provide any additional benefits to Members of Congress when there is widespread unemployment, we estop ourselves from maintaining that Congress will reduce public expenditures so that they will not exceed public revenues. So far as I am concerned, I oppose the principle of retirement for Senators and Members of Congress. They

should be impartial and not embraced in legislation that provides for additional Federal benefits for Federal employees. I trust that this amendment to eliminate Senators and Representatives from the retirement benefits of the pending bill may be adopted. [Applause.]

[Here the gavel fell.]

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. HARTER].

Mr. HARTER of New York. Mr. Chairman, mention has been made here of retirement and pension for judges. Some speaker this afternoon said he had heard no complaint of that. Let me say to you that I believe New York State is probably as generous in its care and treatment of government employees as any State, and I do receive considerable complaint from my district concerning these very same pensions for judges. It so happens that in our legislature, which has just adjourned, effect was given to a reduction, not to the present judges, but those who were retired and acting as referees. I just make that comment in passing.

If this amendment should not be agreed to, then I have an amendment which in substance will require Congressmen who do come from States where they have a State-retirement system, to elect to enter one or the other but not both. By that amendment or by my opposition, I do not intend to keep any Congressman who has been here longer in service than I have from getting any benefit; but I do urge that you Members who come from States which have no retirement system, to see to it that your States provide a retirement system and then recognizing the sterling service you are giving to the State and to the national Government, you be included in that retirement system, the same as New York has done. Do you not believe that if you were in a State retirement system rather than in a Federal-retirement system you might give better and freer attention to matters having to do with the retirement system than you could if you were a member of it? Not that I feel that we would be consciously affected by it, but naturally when we have something at stake we are unconsciously affected. We might be affected in favor of it or we might sit up so straight that we would fall over backwards, as the saying goes. Do you not think that gives you something to think about? Go back to your States and if they follow your advice, see that not only a retirement system is given which will include you, but will take care of the lower salaried people in your State as well. Let us see that they get something. I understand that New York State is one of the very few, if not the only one in the Nation, which gives retirement benefits not only to employees of the State but to Congressmen as well. It strikes me that when we sum up this whole picture it not only affects you in your actions in your district, but it affects all of us in our actions that we will give to legislative matters, particularly legislative matters having to do with the retirement system of the Federal Government.

I appreciate that the amount which would go into this is insignificant when you take into consideration the amount of money we have been spending, which, by the way, we do not have, but some of us seem immune to any plea along the line of curtailed spending. I admit that if this amendment is passed we will be curtailing very, very slightly, but I, for one, want to see that we curtail to the greatest possible extent. The taxpayers of the Nation pay into the Federal retirement system, while your State taxpayers only take care of the State's share in a State system.

I pause to call to the attention of the Nation that if benefits from the Federal Treasury, or debt, whichever you will, measured by States against the taxes paid State by State determined the issue of Congressmen being permitted to join their State retirement system, New York Congressmen should be about the last to be so rewarded.

The record of Federal tax moneys collected State by State, and Federal moneys paid out State by State, is well known to all. If not, go to a Representative from a State which pays more to Uncle Sam in taxes than it receives and you will quickly get the figures.

I have been here a little over 6 months, during which time I have listened to many beautiful memorials in this House in honor of Members passed away, Members who gave of their exceptional talents for their State and Nation services that money, in most instances, could not buy, services given early and late, day in and day out for their State and for their Nation. Yes; the press also recognized the value of their services. The same thing can and will happen to practically each Member of this body should he survive, politically or otherwise, for a reasonable time, because he sincerely carries out the oath of his office.

This is an age of security-mindedness and as the affairs of our country are being handled with continuing and astounding increases in our Federal debt and deficiencies, it might well be argued that the additional claim upon Uncle Sam's Treasury required to put Congressmen under the Federal retirement system not only means little but is far more justified than many of the bills passed in the last few years which have taken so many of Uncle Sam's millions and billions that he just does not have. However, that cannot justify our action, and we well know it. You can well point out that as a Congressman you are serving not only your district but your State and Nation as well. This is recognized when we are paid our salary from the Federal Treasury, given offices at Federal expense, and so forth. I frankly admit the weight of that argument, but I believe other matters I am attempting to point out make the amendment the more advisable course for us to follow.

If we by legislation place ourselves under the Federal retirement system we must justify our action, at least to ourselves. Probably it would be comparatively easy to justify our action in our own minds, but let us look carefully.

Again I repeat the truth that Members in the past have and in the future will continue to give their all for their Government, irrespective of action on this bill. However, your State should not object to making some "flowers" available to you while you are serving, rather than leaving all until you are dead. That being so, the enactment of State retirement systems for State employees, including recognition of your service by permitting you to join, is the answer, and not the section of this bill subject to this amendment. Such State retirement systems will help to give security to you and your fellow employees of your State, and at the same time help you to give freer attention to your duties as a national legislator and Representative.

I hope this amendment will be adopted.

[Here the gavel fell.]

The CHAIRMAN. The Chair recognizes the gentleman from Illinois [Mr. SABATH].

Mr. SABATH. Mr. Chairman, I assure the House and the country that I will not ask or receive any benefit under this act. In the first place, I expect to remain in service until it will not be necessary for me to draw any retirement. [Applause.] I feel that most freshmen on the Republican side—I do not blame them for being opposed to the bill—I fear that they will not be the beneficiaries of this bill, because it provides that they must be in service for 5 years before any benefits can be derived under its terms. [Applause.] I have not heard any of the older Members on the Republican side, however, or on our side, with the exception of one or two, oppose this bill.

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. SABATH. No, no, no!

Mr. RICH. I want the gentleman to hear from somebody who is opposed to the bill.

Mr. SABATH. Rich men do not need it. This legislation is designed to help the poorer men and the poorer Congressmen.

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. SABATH. I do not yield. Please do not interrupt me.

Mr. RICH. The poor are those who will have to pay for it.

Mr. SABATH. Mr. Chairman, when Members oppose this provision they are making a great deal of noise about very little. This will apply to only a few who will be retired. I realize there will not be more than 40 or 50 Members retired on the Republican side, and very few on this side. [Laughter.]

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. SABATH. I do not yield.

So for the first few years this will affect only a very small number, not more than 60, I should say.

The amount involved is very small, indeed. I, as one Member who for many years has advocated old-age pensions, naturally cannot oppose this proposition. I am in favor of it because it will not apply to those rich Senators and Congressmen trained in the law who have a lucrative practice. It will apply to the Members who have devoted years of honest effort in behalf of the country; Members who, when retired involuntarily, find themselves financially embarrassed. I can say in all sincerity that if I have helped one Member in my many years of service I have helped 50 who have been retired, men who have appealed to me for aid. I have done it because they were deserving. Many of them did not deserve to be retired. They served their country well; but, unfortunately, when a man serves his people well, the vested interests dislike him and make every effort to bring about his retirement; and I am for those Members, whether they serve on the Republican or the Democratic side. I want to be helpful to them, and this provision will be.

[Here the gavel fell.]

Mr. McGRANERY. Mr. Chairman, I ask unanimous consent that the time of the gentleman from Illinois be extended 2 minutes.

The CHAIRMAN. The time has been fixed by unanimous consent.

Mr. McGRANERY. Mr. Chairman, I submit the further unanimous-consent request that notwithstanding that, the gentleman from Illinois may proceed for 2 additional minutes.

Mr. RICH. Mr. Chairman, reserving the right to object, will the gentleman yield out of those 2 minutes?

Mr. SABATH. I will if I can.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. SABATH. We provide retirement for judges. Private industry takes care of many men at much greater rates of retirement. We take care of the Army and the Navy splendidly. We take care of the officers from childhood when we send them to the Naval and Military Academies. I do not see why we should not do something for Members of this House who are deserving and who are in need of it. I maintain that those who do not need it will not apply for it, and I have given you my word that I will at no time ask for any benefit under this bill. I plead, however, in behalf of those who may be retired who have served the country well. I feel that this legislation is a step in the right direction.

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. SABATH. I yield to the gentleman from Pennsylvania.

Mr. RICH. According to the Treasury statement of July 12, the Government is going in the red about $25,000,000 a day. This means its expenditures exceed by $25,000,000 the revenue it receives. In spite of this, however, you add to the taxpayers' burden by a new bill. How are you going to get the money?

Mr. SABATH. I will answer the gentleman. This bill will not increase taxes by one red cent, not by the thousandth part of a cent. The charge that this will increase taxes is not well taken.

As to the farmers, I know what you are trying to ask. We have been taking care of the farmers through bills we have passed here year after year. Unfortunately you Republicans failed to vote for social security, and today you regret that we have not gone further. I am with you at any and all times to increase old-age pensions.

[Here the gavel fell.]

The CHAIRMAN. The gentleman from Pennsylvania [Mr. MOSER] is recognized for 2 minutes.

Mr. MOSER. Mr. Chairman, Thomas Paine met Benjamin Franklin in a London coffee shop, and by him was urged to come to America where thinkers were needed, and with letters of introduction became the editor of the Pennsylvania Gazette, later to write Common Sense, proceeds from the sale of which he donated to the cause of American freedom and liberty.

As a soldier in General Greene's ragged army, leaving its bloody footprints in the snow on the retreat from Fort Lee to Newark, N. J., by the light of the campfire's embers at night he wrote The Crisis, which General Washington had read to every company.

When Benjamin Franklin, in Paine's presence, made the statement: "Where liberty is, there is my country," Paine immediately replied: "Where liberty is not, there is my country." Having been in the unrivaled position of contributing to, being present during, and sharing in the struggle for liberty on the part of the people of three nations, it was Robespierre who had condemned him to be beheaded because he pleaded to save the life of the conquered, degraded, and completely subdued French King Louis XVI, but the assassination of Robespierre before Paine's execution was accomplished left him to languish ultimately in destitution in a garret in Paris.

Here it was that James Monroe, as Minister to France, a future President of the United States, found him; revived, restored, rejuvenated, and thus resurrected, sent him back to America, where he immediately became politically insistent that President Jefferson appoint him Postmaster General.

It was a grateful Congress that provided for his old age at a place near New Rochelle, in New York State, where he died. When a predecessor of mine lay dying in an attic in his district, forgotten by all, there was no Congress that looked after him. When his widow died in a bathtub of a rooming house some months thereafter there was no one to look after that destitute family, whose only offense toward society was poverty after years of public service and sacrifice in rendering it. There is now a living predecessor of mine and successor of the former, whom the court has committed to an institution. These are some of the vicissitudes that have overtaken men who preceded me.

Let me say to my colleagues that if I am to be retired, as has been suggested here by those supporting to those opposing the pending amendment to this bill on the ground of demagoguery, if we support this measure, I will willingly submit to retirement at the hands of the constituency that trusted in my judgment to represent them here. I know the class of people I represent; they expect frugality; they counsel it; they practice it; and want the Government to practice it. They are more apt to applaud than condemn, emulating by legislation if necessary, their example as set. I have never heard of the Government's system of compulsory saving on the part of its employees toward their old age and retirement challenged, criticized, or condemned by any but its own employees who would prefer to spend their portions like prodigals and have the public taxed to provide liberally for their retirement in old age that they might evade any share in their own responsibility. I have never heard a word of criticism from the public against the retirement of rural carriers, city letter carriers, post-office clerks, or any other employee of the Government. I have yet to hear the first word of criticism raised or voiced against Congress for having extended the Retirement Act to legislative employees at their option. On the contrary, you have under the pending bill an answer to the appeal to permit those who did not avail themselves of the privilege within the time limit in giving further opportunity to embrace it.

The proposal to permit Members of Congress to exercise their own option of availing themselves of the Retirement Act is not novel. It has been extended to all others of the legislative branch of the Government. The demagoguery that has been practiced in predecessor Congresses should the more readily apply to that act which created retirement to the employees of the Government, who receive gratuitous retirement benefits exclusively at the hands of the taxpayers of the Nation through the several acts of Congress bringing it about, without compulsory or optional contribution from their salaries, which are high, yea, very high as contrasted to those coming within the arbitrary, compulsory, or optional

classifications. To those who charge demagoguery today, I can only inquire, what could it possibly have been termed when retirement without contribution or assessment was extended to judges, and officers of the Army, Navy, and Marine Corps, and by what term can it be styled that individuals so retired at public expense, without forfeiting retirement pay or rights, continuing physically and mentally active, are permitted to fill appointive positions at salaries higher than available to them under their series of promotions or politically sponsored appointments? I make the challenge to all who condemn this proposal to state publicly whether they would vote to stop the practice I have just cited. If it is supposedly wrong to encourage a Member of Congress to accept Uncle Sam's reassuring suggestion of thrift and frugality to provide against old age and destitution, how much further wrong is the other course in the sight of the public demand that Congress practice frugality?

It was deemed advisable as well as necessary, to provide for the integrity of the courts, to also provide for the security of the judges, who are permitted to retire optionally at full pay, without contributing anything to a retirement fund as herein proposed to the legislative branch. With 303 judges of record who are receiving full pay for active and retired pay, at rates up to $20,000 per annum for an Associate Justice of the Supreme Court, if this security is necessary for the integrity of those who judge the law, recent evidence to the contrary notwithstanding, how much more desirable should it be determined that those enacting the law should have the right to contribute to their own security under the terms of the pending bill? Note that no member of the judiciary contributes one penny to his own security from his salary.

Mr. Chairman, I am going to support this bill and oppose the pending amendment. May I say further that in the State of Pennsylvania the judges have a very liberal retirement law. People who are otherwise employed by the State do not have such latitude under the retirement law. A very eminent judge who was defeated later got himself appointed by a Governor to subsequent public employment, and by the most clever and adroit manipulation of the application of the retirement law of the Commonwealth of Pennsylvania was retired with a very substantial bounty. Though the press widely publicized the skillful application of this retirement to the act, there was no public criticism. The man was a particular friend of mine; his uncle served with me in the classified civil service. I shall not refer to individuals by name, because I would not want to embarrass anybody.

From the standpoint of the classified civil service, as has been referred to this afternoon by one of my colleagues on the committee who did not oppose bringing this bill out for the action of the House that we are safe if we elect to make our contributions to the retirement fund; that we cannot lose because the money contributed will be paid back if retirement precedes the date of eligibility. It is optional. He failed to distinguish, however, there is not a single person in the classified service of the United States now having the compulsory benefit of the retirement fund, nor anyone having exercised the optional privilege, who, on retirement, does not have compulsory or optional contributions to the fund reimbursed to the person so retiring from the public service.

I believe this is a proposition we should face fairly and squarely, as the gentleman from Minnesota [Mr. KNUTSON] stated when he was quoting the late Champ Clark. I could not possibly know Champ Clark made the statement. But I have heard it said by many of my colleagues in the House that if every Member of the Congress could be guaranteed to retire at the end of his term, at full salary in the same manner and form with which the judiciary has been provided with financial security, we would have representative government in the interest of the publ'c good and general welfare of the Nation under the Constitution, and there would not be any demagoguery such as has been referred to here this afternoon. Catering to articulate and clamoring minorities as organized to the prejudice of the unorganized would cease, and there is not one among you who does not believe and know it to be true. [Applause.]

Who is there to condemn or decry the optional and voluntary action of a Member of Congress to elect to have 5 percent of his salary deducted and held by the Government against his retirement? If he retires early, his money is refunded; and if he serves his district long and well and retires in advanced age, where is there anyone to deny he has well earned his retirement pay to which he has long contributed voluntarily?

Mr. Chairman, I shall support the bill, and yield back the balance of my time. [Applause.]

[Here the gavel fell.]

The CHAIRMAN. The gentleman from Georgia [Mr. RAMSPECK] is recognized.

Mr. SIROVICH. Will the distinguished chairman of the Civil Service Committee yield to me?

Mr. RAMSPECK. I yield to the gentleman from New York.

Mr. SIROVICH. As ranking member of the Civil Service Committee I want to call the attention of every Member of the House to the fact that the great State of New York has 45 Members of Congress in this distinguished body, all loyal, patriotic Members. Fifteen years ago the Legislature of the State of New York passed a retirement act, which included every Member of Congress, and provided that they had the right to optional retirement by paying in 5 percent of their salary. No one has ever questioned that and every Member here has observed what the great, progressive State of New York has done. We can all do the same thing here today by voting for this fine measure of the gentleman from Georgia [Mr. RAMSPECK], that will give to the Congressmen of the other 47 States, the rights, privileges, prerogatives, and immunities that the great State of New York has given to its Members of Congress.

Mr. RAMSPECK. I thank the gentleman for the contribution. May I say to the Members of the House that certainly I am not going to quarrel with anybody who does not see this matter as I do. I shall not accuse anybody of being a demagogue. You have a right to vote your convictions and I presume you will. But sitting right in front of me is one of my colleagues who succeeded to the representation of a district here, although he was not the direct successor, of a fine gentleman who served in this Congress for 26 years. He rendered a faithful service to his people. He gave his salary away to the people in his district who made requests of him. When he left here, after having given more than a quarter of a century of the best years of his life to the public service, I doubt seriously whether he had enough money to live on for 30 days.

That is what I am trying to stop by making it possible for the men who come here and serve faithfully, who stay here for years, who do not accumulate any money and who have no outside source of income, to put aside some money through this saving plan, which does not provide a large amount. It does not entail any large cost to the taxpayers of this country, but it would contribute not only to the peace of mind, the happiness, and the welfare of the Members after they leave this body, but it would also inspire many of them to have more confidence when they cast their votes to do what they think is for the best interests of the country. [Applause.] I hope that we will not be swayed in this matter by a fear that some demagogue back home may charge us with having done something for ourselves. Of course, there are many people who would like to have these jobs. There are many people who would like to have any Government job in the United States. It is also true there are not many people who make as much salary as we make. But it is likewise true that we have to spend most of that money in living expenses and in campaign expenses. I do not know of a single Member who has been here during the 10 years it has been my privilege to serve in the House who has accumulated anything out of the salary he has drawn as a Member of Congress.

Mr. Chairman, I think the time has come when we might well make some provision by way of savings for ourselves so that when we reach old age or we retire from this service, we

might find it possible at least to prevent ourselves from facing want and misery in our old age.

[Here the gavel fell.]

The CHAIRMAN. All time has expired. The question is on agreeing to the amendment offered by the gentleman from Kansas [Mr. REES].

The question was taken; and on a division (demanded by Mr. REES of Kansas) there were—ayes 104, noes 71.

Mr. RAMSPECK. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. RAMSPECK and Mr. REES of Kansas.

The Committee again divided; and the tellers reported that there were—ayes 119, noes 73.

So the amendment was agreed to.

The Clerk read as follows:

SEC. 4. Strike out all of section 4 of the act of May 29, 1930, as amended, and insert in lieu thereof the following, so that this section shall read:

"(a) The annuity of an employee retired under the provisions of the preceding sections of this act shall be a life annuity, terminable upon the death of the annuitant, and shall be composed of (1) a sum equal to $30 for each year of service not exceeding 30: *Provided*, That such portion of the annuity shall not exceed three-fourths of the average annual basic salary, pay, or compensation received by the employee during any 5 consecutive years of allowable service at the option of the employee; nor shall such portion be less than an amount equal to the employee's purchasable annuity as provided in (2) hereof; and (2) the amount of annuity purchasable with the sum to the credit of the employee's individual account as provided in section 12 (a) hereof, together with interest at 4 percent per annum compounded on June 30 of each year, according to the experience of the civil-service retirement and disability fund as may from time to time be set forth in tables of annuity values by the Board of Actuaries.

"(b) The total annuity paid shall in no case be less than an amount equal to the average annual basic salary, pay, or compensation, not to exceed $1,600 per annum, received by the employee during any 5 consecutive years of allowable service at the option of the employee, multiplied by the number of years of service, not exceeding 30 years, and divided by 40.

"(c) Any employee at the time of his retirement may elect to receive, in lieu of the life annuity herein described, an increased annuity of equivalent value which shall carry with it a proviso that no unexpended part of the principal upon the annuitant's death shall be returned.

"(d) Any employee retiring under the provisions of section 1 of this act may at the time of his retirement elect to receive in lieu of the life annuity described herein a reduced annuity payable to him during his life, and an annuity after his death payable to his beneficiary, duly designated in writing and filed with the Commission at the time of his retirement, during the life of such beneficiary (a) equal to or (b) 50 percent of such reduced annuity and upon the death of such surviving beneficiary all payments shall cease and no further annuity shall be due or payable. The amounts of the two annuities shall be such that their combined actuarial value on the date of retirement as determined by the Civil Service Commission shall be the same as the actuarial value of the single life increased annuity with forfeiture provided by this section: *Provided*, That no election in lieu of the life annuity provided herein shall become effective in case an employee dies within 30 days after the effective date of retirement, and in the event of such death within this period, such death shall be considered as a death in active service.

"(e) For the purpose of this act all periods of service shall be computed in accordance with section 5 hereof, and the annuity shall be fixed at the nearest multiple of 12.

"(f) The term 'basic salary, pay, or compensation,' wherever used in this act, shall be so construed as to exclude from the operation of the act all bonuses, allowances, overtime pay, or salary, pay, or compensation given in addition to the base pay of the position as fixed by law or regulation."

SEC. 5. Section 6 of the act of May 29, 1930, as amended, is hereby amended as follows:

"(a) At the end of the first paragraph add the following: 'The time limitation for execution of claims for retirement under the terms of this section may be waived by the Civil Service Commission in cases of employees who at the date of separation from service or within 6 months thereafter are adjudged mentally incompetent, but the application in such cases must be filed with the Civil Service Commission within 1 year from the date of restoration of any such person to competency or the appointment of a fiduciary whichever is the earlier. In the case of any such person heretofore separated from service application may be filed within 1 year after the effective date of this act.'

"(b) The second paragraph of section 6 of such act of May 29, 1930, as amended, is amended by striking out the words '90 days from the date of the medical examination showing such recovery' and inserting in lieu thereof the following: '1 year from the date of the medical examination showing such recovery.'"

SEC. 6. Section 7 of the said act of May 29, 1930, as amended, is hereby repealed, and in lieu thereof the following is substituted:

"(a) Should any employee to whom this act applies, after having served for a total period of not less than 5 years and before becoming eligible for retirement become separated from the service, such employee shall be paid a deferred annuity beginning at the age of 62 years, computed as provided in clauses (1) and (2) of section 4 of this act: *Provided*, That any such person involuntarily separated from the service not by removal for cause on charges of misconduct or delinquency may elect to receive an immediate annuity beginning at the age of 55 or at the date of separation from the service if subsequent to that age having a value equal to the present worth of a deferred annuity beginning at the age of 62 years, computed as provided in section 4 of this act.

"(b) Should an annuitant under the provisions of this section be reemployed in a position included in the provisions of this act, the annuity and any right to an immediate or deferred annuity as provided herein shall cease as of the date of such employment. If such annuitant is reemployed in any position in the service of the United States or the District of Columbia, not within the provisions of this act, annuity payments shall be discontinued during the period of such employment, and resumed in the same amount upon termination of such employment.

"(c) Interest shall be allowed on the amount credited to such separated employee's individual account in the retirement fund at 3 percent compounded on June 30 of each year until the beginning date of annuity."

SEC. 7. That in section 9 of the act of May 29, 1930, as amended, after the words "and also 3½ percent of the basic salary, pay, or compensation for services rendered from and after July 1, 1926" insert the following: "and prior to January 1, 1940, and also 5 percent of such basic pay, salary, or compensation for services rendered on and after January 1, 1940."

SEC. 8. Add to the first sentence of section 10 of the act of May 29, 1930, as amended, the following: "*Provided*, That after December 31, 1939, there shall be deducted and withheld from the basic salary, pay, or compensation of any employee to whom this act applies a sum equal to 5 percent of such employee's basic salary, pay, or compensation."

SEC. 9. The following paragraph shall be inserted after the first paragraph of section 10 of the act of May 29, 1930, as amended:

"Any employee may at his option and under such regulations as may be prescribed by the Civil Service Commission deposit additional sums in multiples of $25 but not to exceed 10 percent per annum of his annual basic salary, pay, or compensation, for service rendered since August 1, 1920, which amount together with interest thereon at 3 percent per annum compounded as of June 30 of each year, shall, at the date of his retirement, be available to purchase, as he shall elect and in accordance with such rules and regulations as may be prescribed by the Civil Service Commission with the approval of the Board of Actuaries, in addition to the annuity provided by this act, an annuity according to the experience of the civil-service retirement and disability fund as may from time to time be set forth in tables of annuity values by the Board of Actuaries based on an interest rate of 4 percent. In the event of death or separation from the service of such employee before becoming eligible for retirement on annuity, the total amount so deposited with interest at 3 percent per annum compounded on June 30 of each year shall be refunded in accordance with the provisions of section 12 of this act."

SEC. 10. Strike out paragraph (b) of section 12 of the act of May 29, 1930, as amended, and insert in lieu thereof the following:

"In the case of any employee to whom this act applies who shall be transferred to a position not within the purview of this act, or who shall become absolutely separated from the service before he shall have completed an aggregate of 5 years of service computed in accordance with section 5 of this act, the amount of deductions from his basic salary, pay, or compensation credited to his individual account, together with interest at 4 percent compounded on June 30 of each year shall be returned to such employee: *Provided*, That when an employee becomes involuntarily separated from the service, not by removal for cause on charges of misconduct or delinquency before completing 5 years of creditable service the total amount of deductions from his basic salary, pay, or compensation with interest at 4 percent compounded on June 30 of each year shall be returned to such employee: *And provided further*, That all deductions from basic salary, pay, or compensation so returned to an employee must, upon reinstatement, retransfer, or reappointment to a position coming within the purview of this act be redeposited with interest at 4 percent compounded on June 30 of each year before such employee may derive any benefits under this act, except as provided in this section, but interest shall not be required covering any period of separation from the service."

SEC. 11. Nothing in this act shall be so construed as to affect any rights of employees separated prior to the effective date of this act, but all such rights shall continue and may be enforced in the same manner as though this act had not been made.

Mr. DIRKSEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DIRKSEN: On page 16, line 10, strike out the period, insert a colon and the following: "*Provided further*, That any such person separated from the service not by removal for cause on charges of misconduct or delinquency may elect to receive

a refund of the aggregate of all payments made hereunder along with interest computed at the rate of 4 percent per annum compounded to the date of separation from the service."

Mr. DIRKSEN rose.

Mr. RAMSPECK. Mr. Chairman, if the gentleman will yield, if I correctly understand the reading of the amendment, persons who have served and not reached their retirement age but have separated from the service shall get the money contributed?

Mr. DIRKSEN. Yes; with interest.

Mr. RAMSPECK. The purpose of having a person who has served more than 5 years leave his money in the fund until he reaches an age at which he can get an annuity is to tie this system in, if possible, with the social security. It is recommended by the Commission. For that reason, while I understand the gentleman's motives and his purpose in offering the amendment, I really believe that we would be better off to leave the money in the fund so that a person who goes out of the Government service can have that "backlog" of annuity, because he would not have time to build up much annuity under title II of the social security if he went out.

Mr. DIRKSEN. I may say to the gentleman from Georgia that, irrespective of the reason for which one might be separated—it might be voluntary or it might be involuntary—it would appear to me to be a very poor practice for him, having paid into the fund and then separating himself from the service of the country, not to be able to regain his money with interest compounded to the date of separation. That would follow out only good practice followed by every insurance company in the country. Certainly the Federal Government ought not to be barred from that good, settled, actuarial practice.

Mr. RAMSPECK. Under title II of the Social Security Act a person might work in industry, we will say, for 18 years and reach the age of 45, and then quit his job and buy a farm and retire to it for the purpose of engaging in farming. He would not get back the money he had paid in under title II of the Social Security Act. The money would stay there until he was 65 years of age, and then he would get an annuity. It is the purpose of this provision to tie in with that principle established in the Social Security Act.

Mr. DIRKSEN. Of course, I would say in answer to the contention of the gentleman from Georgia that one who separates himself from the service might have money in the fund and might need that money, but it would be frozen there under the provisions of this bill unless there was the right of election to receive a refund.

On page 18 of the bill, where an employee makes a separate contribution in order to make the annuity come at an earlier date, there is provision for a refund, but where he has served for more than 5 years but not for the retirement period which would make him eligible for the annuity the money is frozen. He ought to be entitled to take that money out, as would be the case if he had an annuity in an insurance company.

Mr. Chairman, I believe the amendment commends itself to fairness, to common sense, and to good practice, and should be adopted.

[Here the gavel fell.]

Mr. RAMSPECK. Mr. Chairman, I rise in opposition to the amendment.

I have the highest regard for my friend from Illinois. I believe he is one of the most able and conscientious Members of this House. However, I really believe that in order to tie in with the principle established under title II of the Social Security Act a person who has worked in the Government service 5 years or more ought to have his payment left in this trust fund to accumulate interest. The purpose of all these laws dealing with the question of an annuity or social security is to make it possible for a person to have some income when he gets past the earning age of life.

Mr. Chairman, I hope the Committee will vote down this amendment.

Mr. CROWTHER. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I offer this pro forma amendment not because I have any objection to the amendment offered by the gentleman from Illinois but for the purpose of reading into the RECORD a little incident that happened on a similar occasion, on February 26, 1925, when the question was before this House of raising the salaries of Members of Congress. The action then was very similar to that taken today, many Members arguing and intending to vote against the proposition with their fingers crossed and hoping to God it would pass. A man who had the real courage of his convictions was the Honorable Frank Clark, of Florida, who was succeeded by the gentleman from Florida, the Honorable LEX GREEN. He came down into the Well of the House and said this:

Mr. Speaker, $10,000 is not commensurate with the service performed here. Some of my good friends opposed this increase and I know they did it conscientiously and sincerely. They did not want it but sometimes it is necessary to make people, for their own good, do things against their will. The action of some of my good friends reminds me of a story told me by a colleague only a few days ago, and I will repeat it here because I think it illustrates the point.

"An old gentleman who had been a drinking man in his day, had finally concluded to quit, and he did quit. A few months later he was taken deathly ill, and lying upon his bed of pain and sickness, and as everybody said, his last illness, he called his wife to him one day and he said, 'Mary, down in the hall is an old hair trunk of mine. Many months ago I hid in that trunk a bottle of good old peach brandy. I hid it from you, Mary, and I have not touched it since. I want you to go down there and get that bottle of peach brandy; I want you to take a glass, pour it about half full, put a little sugar in it, and stir it; then put a little piece of ice in it, Mary, and then bring it up here, and, Mary, no matter what I do or say, you make me take it."

[Laughter and applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment was rejected.

The CHAIRMAN. The question is on the committee substitute for the Senate bill.

The substitute amendment was agreed to.

The CHAIRMAN. Under the rule the Committee will rise.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. CLARK, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee had had under consideration Senate bill 281, and pursuant to House Resolution 250, he reported the same back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER. Under the rule the previous question is ordered. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. St. Claire, one of its clerks, announced that the Senate still further insists upon its amendment to the bill (H. R. 6577) entitled "An act to provide revenue for the District of Columbia, and for other purposes"; that it agrees to the still further conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. OVERTON, Mr. KING, Mr. GLASS, Mr. TYDINGS, and Mr. CAPPER to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5610) entitled "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1940, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House

to the bill (S. 1796) entitled "An act to amend the Tennessee Valley Authority Act of 1933."

The message also announced that the Senate had ordered Mr. WALSH and Mr. CONNALLY be appointed additional conferees on the part of the Senate to the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 6635) entitled "An act to amend the Social Security Act, and for other purposes."

The message also announced that the Senate recedes from its amendment, disagreed to by the House, to the bill (H. R. 5748) entitled "An act to amend the Second Liberty Bond Act, as amended."

The message also announced that the Senate agrees to the amendments of the House to a joint resolution of the Senate of the following title:

S. J. Res. 118. Joint resolution to provide for the establishment and maintenance of the Franklin D. Roosevelt Library, and for other purposes.

EXTENSION OF REMARKS

Mr. HOUSTON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein a statement of the National Advisory Committee on Aeronautics by Dr. Bush, and also to extend my remarks and include therein a statement on the wool industry.

The SPEAKER. Is there objection?

There was no objection.

Mr. HOBBS. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein a statement by Gov. Frank M. Dixon, of Alabama, who testified at the hearing on the wage and hour textile code.

The SPEAKER. Is there objection?

There was no objection.

Mr. BRYSON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. MASSINGALE. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the cost of production of farm products, and the attacks that have been made on the bill during this session of Congress.

The SPEAKER. Is there objection?

There was no objection.

Mr. GEYER of California. Mr. Speaker, I ask unanimous consent to extend my remarks and include an article from a magazine on Japan and the United States.

The SPEAKER. Is there objection?

There was no objection.

LEAVE TO ADDRESS THE HOUSE

Mr. DICKSTEIN. Mr. Speaker, I ask unanimous consent that on Wednesday next, after the disposition of matters on the Speaker's table, and the legislative business of the day, I be permitted to address the House for 15 minutes.

The SPEAKER. Is there objection?

There was no objection.

EXTENSION OF REMARKS

Mr. RANDOLPH. Mr. Speaker, I ask unanimous consent to extend my remarks and to include a letter addressed to the managing editor of the United States Daily News relative to my view on neutrality, and also a brief editorial on the same subject.

The SPEAKER. Is there objection?

There was no objection.

Mr. GATHINGS. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. MICHENER. Mr. Speaker, I ask unanimous consent that my colleague, the gentleman from Michigan [Mr. CRAWFORD], be permitted to extend his remarks in the RECORD and to include therein a letter from the German Embassy.

The SPEAKER. Is there objection?

There was no objection.

Mr. REES of Kansas asked and was granted permission to revise and extend his remarks.

Mr. FENTON. Mr. Speaker, I ask unanimous consent to extend my own remarks and include an article by Henry DeSoto, combustion engineer, the article appearing in Anthracite Tri-District News.

The SPEAKER. Is there objection?

There was no objection.

Mr. HAWKS. Mr. Speaker, I ask unanimous consent to extend my own remarks and include a joint resolution by the Wisconsin State Legislature.

The SPEAKER. Is there objection?

There was no objection.

Mr. DICKSTEIN. Mr. Speaker, I ask unanimous consent to extend my own remarks by inserting a brief editorial appearing in the Washington Times on the Wagner-Rogers children-refugee bill.

The SPEAKER. Is there objection?

There was no objection.

ADJOURNMENT OVER

Mr. RAYBURN. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection?

There was no objection.

CALENDAR WEDNESDAY

Mr. RAYBURN. Mr. Speaker, I ask unanimous consent that the business on the calendar for Wednesday next may be dispensed with.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

The SPEAKER. Under special order of the House heretofore made, the gentleman from Pennsylvania [Mr. VAN ZANDT] is entitled to recognition for 20 minutes.

THE HIGH COST OF CHEAP TRANSPORTATION

Mr. VAN ZANDT. Mr. Speaker, there are few, if any, congressional districts in this country with a larger proportion of population dependent on the railroad industry than the Twenty-third District of Pennsylvania, which I have the honor to represent. For that reason it is only natural that I take a keen interest in legislation to afford a measure of relief to the railroads, which contribute directly and indirectly to the economic welfare of so many of my constituents.

Aside from such practical considerations, I have a deep personal interest in railroad-relief legislation. I come from a family of railroaders. I am a railroader myself, with 24 years of service. Most of my friends in my home town of Altoona, one of the great railroad centers of the country, are railroaders. So I have a sentimental feeling about railroading and a sympathetic understanding of the railroaders' problems, which are bound up with the general railroad problem.

For these reasons I am doubly anxious to contribute anything I can to the solution of the railroad problem; and, aside from these personal and practical considerations, my knowledge and experience in railroading convinces me that this problem must be solved in the interest of the national welfare. The railroad employee, the management, and the investor in railroad securities are not the only parties interested in a sound solution of the problem. Primary consideration must be given to the public—the passenger and the shipper. Any legislation which fails to consider all the factors involved in this problem is neither just nor in the national interest.

And, inasmuch as the railroads constitute a vital part of the national defense, the Government itself has an interest of paramount importance in the efficiency of the rail-transportation systems. The break-down of the railroads in a war crisis would be disastrous. We had a sad experience in Government operation of the railroads during the World War. We should profit by that experience in the face of danger in the future.

Fortunately, the American public realizes the railroad problem must be approached from a broad, national standpoint. The people understand the human side of the railroad problem. They know the high wages paid to the army of skilled workers who man the roads constitute an important factor in our national economic well-being. They know the numerous investors in railroad securities must receive a fair return on their money or the funds will be diverted to other industries and enterprises. They know the roads cannot be expected to produce revenue to pay dividends unless the rail carriers are given something approaching equality with competitors in matters of taxation and regulation.

In fact, the crux of the railroad problem is the unequal and economically wasteful competition for traffic among the various modes of transportation. This unequal and economically wasteful competitive problem has been growing more acute with each passing year. No other industry in the country is confronted with such a difficult competitive situation as the railroads. Most of the other modes of transportation enjoy some sort of Government subsidy not granted to the railroads. This favoritsm has resulted in the creation of transportation facilities beyond the ability of the traffic to support them all. The favoritism to the competitors of the railroads in matters of subsidies, taxation, and regulation has produced the present crisis in the railroad industry. The only sound way to meet this crisis is to adopt a policy of equal rights for all modes of transportation and special privileges for none in matters of regulation, taxation, and subsidies. That policy should be pursued so as to preserve the special advantages of each mode of transportation.

Whether the legislation now in the making will accomplish this result remains to be seen, but at least a somewhat tardy recognition of this crisis has come from the administration, and, in response to public demand for action, the President has called upon Congress to enact remedial legislation to solve some of the more pressing railroad problems. It is encouraging that railroad-relief legislation is among the important matters remaining for Congress to complete before this session adjourns sine die.

Already the Senate has passed a bill designed to reach and correct some of the factors contributing to the railroad problem. For several months the House Committee on Interstate and Foreign Commerce has been working on the legislation, and a measure is expected to be reported to the House within a few days. I wish to call attention to certain activities from without Congress in connection with that legislation.

Everyone who takes even a casual interest in this matter knows the railroad-relief bill passed by the Senate provides that the transportation facilities on inland waterways shall be placed under the supervision and regulation of the Interstate Commerce Commission for the first time in our history. And despite the fact that these inland waterways transportation facilities enjoy subsidies and taxation advantages over the railroads and some other land carriers, in addition to a great difference in the cost of equipment and numerous items of overhead and maintenance, these interests are raising a great row about the provision in the Senate bill.

The railroad employees and the investors in railroad securities, as well as the people who pay for the Government subsidies, have a legitimate complaint about unjust discriminations which affect their bread and butter, their investments, and their taxes. But certainly, the inland-waterway interests have no right to complain. Even under the strict regulation of the Interstate Commerce Commission, these interests still will enjoy many advantages over the railroads.

Not content to rest their case on a solid foundation of fact, some of the inland-waterway interests are inspiring false and misleading information in an effort to fool Congress and the country. As might be expected under the circumstances, the farmer is being used as a foil to fight the battle of the water lines. All too frequently the farmer is used for such purposes without his knowledge or consent, and it seems this case is no exception to that rule.

Certain statements have been made to the effect that the farmers are opposed to the regulation of the water lines by the Interstate Commerce Commission. It is very doubtful whether some of those who assume to speak for the agricultural industry really are authorized to do so. And here is a case in point.

Recently, Mr. Harry Feltus, who claimed to speak for 400,000 farmers, appeared before a Senate committee in opposition to regulations of waterway transportation facilities. On the heels of his appearance there came a denial from the very association which this gentleman claimed to represent and a disclaimer that he spoke for the members. There appears in the CONGRESSIONAL RECORD of May 22, 1939, page 5876, a complete repudiation of Mr. Feltus and his views on this issue. Mr. Feltus had opposed regulations of waterways, but the Farmers' Union, which he claimed to represent, wrote to Senator WHEELER, of Montana, chairman of the Senate Interstate Commerce Committee, and condemned his statement. This repudiation stated, in part:

> So far as the regulation of traffic on the river is concerned, there is no more reason why traffic thereon should not be regulated than as applied to railroads. In any important branch of our industry, bad practices, such as discrimination, rates, rebates, preferences, or what not, can only be minimized through governmental regulation.

That statement leaves no room for doubt as to whether Mr. Feltus speaks for the farmers or whether that group of farmers speaks for itself.

More recently, Mr. Brenckman, the Washington representative of the National Grange, issued a statement in which he opposed any legislation which would subject the water carriers to regulation by the Interstate Commerce Commission. He indicated that his statements reflected the sentiments of the farmers of the country.

Now, let me call attention to certain resolutions of the Farm Bureau and Grange organizations. These do not indicate that Mr. Brenckman really voices the sentiments of the farmers of the Nation.

The Indiana State Grange declared:

> Corresponding regulation of rates and service should extend to all other agencies—water, highway, and air—to the extent that they are competitive with railroads.

The Iowa State Grange declared that—

> Federal regulation of rates and service should be extended to truck lines, waterways, and pipe lines.

The Ohio State Grange recommended—

> Equality and fairness in regulation of rates and service.

The development and improvement of inland waterways have cost the American taxpayers hundreds of millions of dollars. There is a question about the wisdom of these huge outlays of the taxpayers' money. Now, let us apply the test that must be applied to the essential problem in dealing with any agency of transportation: Does the consumer get the benefit of vast expenditures of his tax money?

The only valid reason that can be given for spending millions and millions of dollars of the taxpayers' money every year on inland waterways is to provide transportation at more reasonable rates than can be furnished by other carriers. This saving in transportation costs is supposed to be passed on to the taxpayers who pay for the facility. So, unless the rates for water transportation actually result in a saving to the taxpayers, then the only reason and excuse for the waterways is gone. Now, let us apply the test.

Senator WHEELER, speaking before the Senate and basing his remarks upon extended hearings on this subject, said:

> The fact of the matter is that when the oil companies, the steel companies, or any of the rest of them ship their products by water they receive a benefit, but the consuming public does not get one 5-cent piece benefit out of it. As a matter of fact, when the companies ship oil or steel on the Mississippi River they charge the railroad rate from Pittsburgh to the particular point, whether the commodity is shipped by water or whether it is shipped in any other way.

That statement appears in the CONGRESSIONAL RECORD of May 22, 1938, page 5872.

The Senator also referred to hearings before the Interstate Commerce Commission, held in Memphis, Tenn., in February 1939. It involved rates on gasoline and kerosene from Baton Rouge to Alabama points. In that case, Mr. A. M. Stephens, general traffic manager of the Standard Oil Co. of Kentucky, testified thus:

We exercise our judgment and foresight in consideration of all these matters. We have found that none of the other companies are passing any of this money on to the consuming public.

Now, as an instance in mind, I have before me at the present time a statement of the market price delivered to points in northern Georgia, to which you move gas out of Guntersville, for instance, at Dalton when you first began operation the market price at Dalton was 18 cents; that is, the posted market on May 8, 1938. In December 1938 it was 17.5, reflecting a reduction in the refined market at Shreveport and the Gulf coast, and it represents one-half cent reduction entirely in the tank price so far as dollars are concerned. In other words * * * we have not seen any passage of this savings to the consuming public. * * * We have not found that any of that has been passed on to the consumer.

Recently Mr. W. H. Reed, an oil dealer in Memphis, Tenn., made an address in which he said:

Taxpayers are fed the baloney that the Mississippi River is a wonderful thing for the people of Memphis. * * *

As to the oil business, the truth is "the Mississippi River is the curse of Memphis."

On the one hand, public taxes keep the river highway open for oil barges of the oil corporations. On the other hand, water transportation, made possible by millions of dollars of public money, has crucified the railroads and there would be thousands of jobs for railroad men if they got the freight that now moves by water.

The question is * * * if the public pays millions in taxes to get the benefit of cheap water transportation, does the public get the benefit of water transportation or what?

The answer is that the oil corporations get the benefit of cheap water transportation. And the oil corporations keep the profits themselves. The public pays the bills to make water transportation possible. The oil corporations get richer.

When I buy a tank of gasoline I pay the spot market price for the gasoline. But in addition I have to pay the oil company as freight the railroad freight rate on gasoline from Shreveport, La., to Memphis. Understand that the gasoline I get never saw Shreveport, La. It came to Memphis by water from the New Orleans refining district. The actual water charge on this gasoline is about one-half cent per gallon, but I have to pay a railroad rate from Shreveport, which is over 2 cents a gallon. In other words, the oil corporation takes me for a buggy ride to the extent of 1½ cents per gallon. In money, this means that every time I get a 10,000-gallon car of gasoline the oil company makes $150.

The Federal Trade Commission has just finished a study of the motor-vehicle industry. In summarizing their conclusions, the Commission said:

Some manufacturers often bill their dealers for transportation in amounts in excess of the actual cost of delivering automobiles to the dealers. * * * The Ford Motor Co.'s transportation charges are based on the carload rate from Detroit, Mich., to destination. Both General Motors Corporation and the Ford Motor Co. have assembly plants in various parts of the country.

Transportation charges in excess of the actual amount paid apparently are not confined to deliveries from assembly plants.

Both these companies use water as well as highway operations, and yet charge the purchaser the rail rate, whatever the savings may have been on subsidized waterways and highways.

Much has been said in support of waterway improvement to the effect that it would benefit the producer, especially the farmer, in his production of grain. On this point Mr. M. W. Thatcher, of the Farmers' Union Grain Terminal Association at St. Paul, has written to Senator WHEELER as follows (CONGRESSIONAL RECORD, May 22, 1939, p. 5876):

Years ago we built a terminal elevator at St. Paul, on the river. I have managed that elevator, with over 2,000,000-bushels capacity, for several past years. I have made many attempts to secure facilities and rates of transportation that would permit us to put farmers' wheat through that elevator and ship it abroad in competition with others. I have not once been quoted a rate on the river that would enable us to ship any grain in foreign commerce because the rate was just too high. We have been able to move a little oats and barley in domestic commerce down the river, and all in the world that accomplishes is to put us into competition with producers in other areas who had a railroad advantage over us. That sort of business, which would give us an advantage by river over another group of farmers in the United States using rail service, tends to bear down on price of the agricultural product. It certainly doesn't enhance the income to agriculture.

Our entire group has historically been for development of waterway transportation. The theory back of our support rests upon an excess charge by the railroads, but, since railroads are generally in the "red," the question now comes to our mind as to whether or not there is a great deal of value in our old position. We believe that water transportation is desirable as a means of competition against railroads, which might otherwise have a monopoly. It is generally believed amongst our group that with some of the products moved up the river to our consumers, that gain from lower transportation is sometimes retained by the shipper and not of any material benefit to the consumer.

As further proof of my statement that the farmers and the farm organizations are being used in a deliberate effort to mislead Members of Congress as to their true position on the question of regulation of inland waterways, I wish to place some documentary evidence in the RECORD at this point. I am submitting statements and resolutions made and adopted by various farm organizations to show that the farmers favor the regulation of the water lines and other methods of transportation in competition with the railroads. These statements and resolutions come from North Carolina, Montana, Arkansas, California, Ohio, Mississippi, Wisconsin, Nevada, Minnesota, Louisiana, Indiana, Iowa, and Virginia.

I believe there can be no doubt of these documents reflecting the views of a representative cross section of the American farmers on this issue of equality and fairness in regulation of transportation facilities. I would be very happy to have the gentlemen representing districts in those States to examine these resolutions in case there is any question in their minds about the position of the farmers in their own district on this important national question. It might set some of these gentlemen straight on this question.

Statement of position on behalf of the North Carolina Farm Bureau by its executive committee, meeting at Wilson, N. C., Wednesday, August 31, 1938, with respect to transportation

1. We believe that an adequate and efficient railway system is essential in the interest of agriculture's development and prosperity.

2. We believe that the best interests of agriculture will be served by a continuation of private ownership and operation of our railroads.

3. We believe that our railroads should continue under reasonable regulation of rates and service to assure to agriculture a fair consideration as to reasonableness of rates and adequacy of service. Reasonable freedom and flexibility should be left to management to enable it to explore all avenues to economy, all improvements in service, and every advancement in methods. A reasonable element of competition should be retained between railroads themselves. Corresponding regulation of rates and service should extend to all other agencies—water, highway, and air—to the extent that they are competitive with railroads and for that reason. Competition as to every agency should be fair.

4. While the interests of agriculture require adequate, dependable, and efficient transportation service, with a reasonable element of healthy competition, an excess of facilities and unnecessary duplication will prove to be a burden in which agriculture must share. The Farm Bureau has always stood for improvement of farm-to-market roads to reduce cost of initial movement of produce from the farm, and we believe that expenditures on such roads should be stressed rather than on expensive through highways duplicating existing agencies, or on waterway improvements of doubtful usefulness. Proper coordination of service can best be secured this way and total cost of transportation be kept down.

5. We believe that Government should not compete unfairly with private business in transportation. Government barge lines now operating do not have to meet all costs paid by private companies in competition, such as interest, taxes, damage claims, telegraph, workmen's compensation, unemployment insurance. In fairness, Government should dispose of its waterway facilities to private interests on all inland waterways, where they compete with privately owned and operated facilities.

6. Abandonment of unprofitable mileage and consolidation of lines should be permitted where, in the first instance, other transportation is available and, in the second, public interest is served.

7. Under reasonable regulation of rates and service railroads should be permitted to become transportation agencies, utilizing all agencies to best advantage, and to develop to the fullest the inherent advantages of each.

8. There should be adopted a fair and comprehensive national transportation policy with full consideration given to the needs and usefulness of each agency so as to bring about a genuine coordination and a smoothly working relationship among them all. This will result in the best service at the lowest cost.

Resolutions adopted by Montana State Farm Bureau and associated women of the Farm Bureau at annual meeting, November 15, 1938

Whereas the railroads of the Nation have come to a place where definite changes must be made in their policies of operation and revenue income: Therefore be it

Resolved, That we support the railroads in this matter:

1. Railroads are the most important and essential means of transportation. Other agencies have developed more recently. All are useful and should be sustained within their bounds of usefulness. The growth of all agencies has been without plan or program or policy. The situation in the transportation field today, and especially with respect to railroads, demands a sound, consistent national policy covering all agencies, so that the people of the country will be given an efficient, smoothly working system at the lowest level of cost. In framing this policy organized agriculture must have a voice.

2. In determining a national transportation policy, provision should be made for a continuance of railroads under private ownership and operation.

3. With adequate protection to public interest, provision should be made for a fair and reasonable coordination of facilities and service, for consolidation and unifications found to be in the public interest in reducing costs and improving service, and for eliminating unproductive investment.

4. Regulation of rates and service should apply fairly to all agencies engaged in the business of transportation for hire and competing for the same traffic, and with ample protection to shippers and the public, should leave management the necessary freedom to seek out every practical possibility for improved service and lower costs and to make required adjustments to meet changing conditions.

5. We go on record as being opposed to government going into business in competition with private enterprise, including transportation.

6. Since hazards at rail-highway grade crossings are now largely created by highway operations, the financial burden of crossing protection and elimination should be removed and the present policy, now an emergency policy, should be made permanent. A fair principle is for each agency to pay in proportion to benefits received.

7. State and Federal policies should be harmonized with fair and consistent treatment to every means of transportation. This includes fair treatment with respect to taxation, as well as other policies.

Resolution of the Arkansas Farm Bureau Federation in Little Rock, November 17 and 18, 1938

We believe that the regulation of all forms of transportation—railways, waterways, highways, pipe lines, and airways—should be under one Government agency.

We favor the enactment of new laws or amendments of existing laws that will give the railroads greater freedom in making rates to meet competition.

We think that the railroads should be permitted to remain under private ownership, and continue to pay taxes so necessary for the maintenance of our State and local governments and our public schools.

Resolution adopted by California Farm Bureau Federation at State convention, Sacramento, Calif., November 17, 1938

Resolution No. 11

NATIONAL TRANSPORTATION LEGISLATION

Resolved, That the public interest demands that, in order to preserve an adequate rail transportation system, helpful legislation must be enacted relative to the rate-making power of the railroads, land-grant rates repealed, increased tolls established for inland waterways, restrictions removed to enable the securing of governmental or other loans, the revision of the long-and-short-haul rules, and other remedial legislation passed in connection with taxation, consolidations, grade crossings, coordinated and allied transportation on highways, construction of bridges, labor relations, and other important matters materially affecting the ability of the railroads to operate and to render effective service to the public, and be it further

Resolved, That agriculture be represented on all governmental or quasi-governmental bodies or groups organized for the purpose of recommending remedial action in connection with rail matters, or formulating rules or regulations in connection therewith.

Resolution regarding transportation passed at the annual meeting of the Ohio Farm Bureau Federation, Columbus, Ohio, November 17 and 18, 1938

1. The great majority of farmers, being located at points not adjacent to seaports or navigable inland waters, are dependent in large measure upon rail transportation in sending their products to market. We believe that every increase in general traffic carried by the railroads will have a tendency to minimize the burden upon the farmers and to lower the rates upon agricultural products. In order to obtain volume of traffic, the railroads should be permitted to adjust their rates promptly to meet the needs of commerce and to meet competition. Therefore, subject to the power of the Interstate Commerce Commission to suspend tariffs, to fix maximum and minimum rates, and to prohibit unreasonable discrimination, we favor the repeal of the long-and-short-haul clause of the fourth section of the Interstate Commerce Act.

2. Recognizing that an economical and a speedy interchange of commodities between farm and market is necessary to agricultural prosperity, we believe that an adequate and efficient system of railway transportation, privately owned and operated under reasonable regulations, is essential. In furtherance of this belief, we think the following principles should be recognized by the public, the Government, the railroad employees, and the railways:

a. Equality and fairness of treatment in regulation of rates and service and in taxation among all competing forms of commercial transportation agencies—air, highway, pipe line, rail, and water.

b. An immediate abandonment by State and Federal legislative bodies of expensive, make-work, or unnecessary transportation legislation.

c. A state and national transportation policy providing for such consolidation, coordination, private ownership, and public regulation of all competing forms of commercial transportation agencies as may best promote adequate and more economical service to agriculture.

3. We oppose any further increase in freight rates on fertilizer or fertilizer materials at this time.

Resolution with respect to transportation, by Mississippi Farm Bureau, November 30 to December 3, 1938, Jackson, Miss.

We believe that an adequate, efficient, and dependable system of railway transportation is vitally necessary to Mississippi agriculture, and that a continuation of private ownership and operation of our railroads is to the best interest of agriculture. Regulation of rates and service should be extended to all forms of transportation alike, and safety to life and property be required and assured by all transportation agencies. Finally, we believe that there should be adopted a fair and comprehensive national transportation policy with full consideration given to the needs of each agency so as to bring about a genuine coordination and smoothly working relationship among all.

Resolution adopted by Wisconsin Farm Bureau Federation in convention at Madison, Wis., December 6, 1938

In view of the fact that large sums of money are being expended for the construction of new highways to accommodate today's traffic, much of which is commercial hauling, be it resolved by the Wisconsin Farm Bureau Federation in convention assembled, That further studies be made by our legislative bodies in order that we may establish a sound policy of transportation legislation, which will give a fair chance for each form of transportation to compete in that field of service for which it is best adapted; and that the practice of subsidizing certain forms of transportation to the detriment of others be discontinued.

Resolution adopted by Nevada State Farm Bureau in annual convention at Reno, Nev., January 31–February 3, 1939

1. The time has come for the adoption of a sound national transportation policy, including all agencies engaged in competition for interstate commerce, and for a corresponding policy within the States, recognizing all agencies are useful, each should be developed to the extent of its usefulness, fully protecting the inherent advantages of each, avoiding excess facilities and making possible a proper coordination of both facilities and service.

2. Railroads should continue in private ownership and operation.

3. With proper public safeguards, provision should be made for coordination of facilities and service under one management, unification of lines for improvement of service and reduction of cost, and for the abandonment of unproductive mileage where other agencies exist.

4. Regulation of rates and service of competing agencies that is fair to all and with ample protection to shippers and the public and such necessary freedom to management as to enable it to seek out every practical possibility for lower costs and improved service, and to make necessary adjustments to changing conditions.

5. The law creating a government corporation to operate in interstate commerce and in competition with private business intended the sale of these Government facilities to private business. The intent of the law should be carried out and the Government operations disposed of to private interests.

6. Each transportation agency should bear its own burden for protecting persons and property. No higher standards should be set up for one agency than for another. In respect to rail-highway grade-crossing protection and elimination, each agency should bear the cost in proportion to benefits received.

7. State action relating to transport agencies, like Federal action, should be fair to all, and should be in harmony with Federal action, the State preserving fully its essential rights and authority. This includes fair treatment with respect to taxation.

Resolution of Minnesota Farm Bureau

To the end that each form of transportation shall be enabled to do the work for which it is best suited and that agriculture may be adequately served at lowest level of cost, we recommend the adoption of a sound national transportation policy that will give to each form of transportation:

1. The right to meet competition on equal terms;
2. The opportunity to coordinate facilities and service;
3. Equality in the matters of regulation, taxation for general governmental purposes;
4. Repeal of the long-and-short-haul clause;
5. Repeal of land-grant rates.

The Minnesota Farm Bureau further goes on record opposing any legislation, either State or national that will increase the cost of transportation.

Resolution adopted by American Farm Bureau Federation at New Orleans, La., December 13–15, 1938

American farmers are vitally interested in the maintenance of a highly efficient transportation system. We reaffirm the comprehensive resolution on transportation adopted at the annual meeting in 1936.

We recognize that American railroads constitute an essential transportation agency and believe their continued operation under private ownership will best assure the highest degree of efficient and improved service to the public.

Rules and regulations causing enforced costs entering railroad operations and transportation rates of the railroads should be adjusted to the extent necessary under efficient operations to permit improvement of services and a reasonable return on prudent investment.

On the other hand, the railroads must continue under such reasonable regulation as will assure the public fair and reasonable rates and adequate service; but the underlying purposes of such regulation should be to foster and encourage, rather than to restrict, sound and orderly development and operation, of an efficient and economical railroad system. Reasonable freedom and flexibility should be left to railroad management in fixing rates and in exploring all avenues to economy, including consolidation and elimination, all improvements in service, and every advancement in methods.

To accomplish this end requires immediate readjustment of governmental policies to provide relative treatment of different types of transportation without limiting any natural advantages accruing to any particular type where such advantages are being reflected to the public interest.

Report of Resolutions Committee at Indiana State Grange Annual Meeting, Goshen, Ind., October 20, 1938

A TRANSPORTATION PROGRAM

1. We believe an adequate and efficient railway system is essential to the interest of agriculture's development and prosperity.
2. We believe the best interests of agriculture will be served by a continuation of private ownership and operation of our railroads.
3. We believe our railroads should continue under reasonable regulations assuring agriculture fairness in rates and adequate service.
4. Corresponding regulation of rates and service should extend to all other agencies—water, highway, and air—to the extent that they are competitive with railroads.
5. Organized farmers have always stood for improvement of farm-to-market roads, and we believe that expenditures on such roads should be stressed, rather than on expensive through highways duplicating existing transportation agencies or on waterway improvements of doubtful usefulness. Proper coordination of service can be helpful in keeping the cost of transportation to a minimum.
6. Abandonment of unprofitable mileage and consolidation of lines should be permitted where other transportation is available and the public's interest is not impaired.

Report of the legislative committee, Iowa State Grange, 1938 session, Newton, Iowa

The time is here for organized agriculture to take a stand for farmers and demand just treatment of the Government toward all agencies of transportation so that agriculture and industry may be well and efficiently served and real progress made toward a more sound and better transportation policy. Such a policy should include:

1. Continuation of railroads as privately owned and operated enterprises.
2. More flexibility in rates and service of common carriers based on general price levels and density of traffic.
3. Federal regulation of rates and service should be extended to truck lines, waterways, and pipe lines.
4. Safety to life and property should be required and assured by all agencies.
5. Preferential rates based on old land grants should be repealed.
6. Government subsidized transportation agencies should not be continued so long as taxpayers must support them.

Be it

Resolved, That we favor the enactment of a law limiting the speed of motor vehicles to 50 miles per hour; be it

Resolved, That we are opposed to recipients of relief from either Federal, State, or local funds being holders of liquor permits; be it

Resolved, That we are opposed to additional hard surfacing of primary roads until at least all existing mail-route roads are graveled and all farm-to-market roads brought to grade; be it

Resolved, That we advocate legislation requiring the registration of all unnaturalized foreign born, with deportation of those refusing to become naturalized within a reasonable time.

RALPH LONGLEY, *Chairman*.

Adopted.

Report of transportation committee, Virginia State Grange Meeting, Marion, Va., October 26 and 28.

Recognizing that an adequate, efficient, and dependable system of railway transportation is vitally necessary to Virginia agricultural development and prosperity, we believe that—

The best interests of agriculture can be served by maintaining the railroads in their full vigor and usefulness; and also recognizing that fair and equitable competition and regulation in transportation are essential to the economic well-being of the Nation, we favor a national transportation policy which will treat all agencies of transportation fairly and impartially.

We favor the coordination and unification of all Federal activities in the field of common-carrier transportation developments to the end that costly and unnecessary duplication of transportation system and overproduction of transportation facilities may be avoided.

We believe that amendments should be made to existing transportation laws and regulations to permit railway management, under proper regulatory supervision, all proper freedom of judgment and action in meeting changing conditions and competition. We believe that under present conditions the best interests of agriculture and the Nation at large will be served by a continuation of private ownership and operation of our railroads.

Ohio State Grange, adopted Thursday, December 15, 1938

Maintaining a speedy and economical transportation is a vital necessity to agriculture, our national defense, and prosperity: Therefore be it

Resolved, That we stand for just treatment by the Government toward all agencies of transportation.

We recommend:

1. Continued private ownership of railroads.
2. Equality and fairness in regulation of rates and service, based on general price levels and density of traffic.
3. All agencies should be required to assure safety to life and property.

One of the popular fallacies of a few decades ago to the effect that inland waterways furnish "cheap transportation" also has been exploded. Even a casual examination of this question reveals that what once may have been "cheap transportation" is now dear. And the cost, as usual, falls on the taxpayers. They are paying for service they do not receive. And that is a fraud on the taxpayers.

For example, let us take the old Erie Canal. That was a genuinely cheap and useful public project in its time, but that time has long since passed. The Erie Canal now is a "white elephant" and a very expensive one on the hands of the American taxpayers.

When the Erie Canal was dug the shippers who used it were willing to pay for its use. Later the shippers were unwilling to pay tolls for the use of the canal. More than 50 years ago we relieved the users of the payment of tolls and added the cost of maintaining and operating the canals and improved waterways to the general tax burden. Thus did we cast free from the only true test of economic justification and embark upon a program of so-called "cheap transportation." It was "cheap transportation" for a very few shippers at the expense of all the American taxpayers.

Now, let us take another look at this so-called "cheap transportation" with the old Erie Canal, now the New York State Barge Canal, as an example. Since 1903, when its rebuilding started, this particular piece of "cheap transportation" has cost the American taxpayers in construction work alone about $337,000 a mile. It is costing nearly another $5,300 per mile per year to maintain and operate it. And that figure does not take into consideration anything at all for interest on the enormous investment per mile. This waterway, created at such a cost and used without any toll payments, has only a fraction of the annual freight-carrying capacity of a good single-track railroad. But this was done and is being continued in the name of "cheap transportation."

Now let us consider the cost of an improved natural waterway. Take the Ohio River. It is regarded as the most successful of the long-distance inland river transportation projects. The improvement of the Ohio River amounted to the virtual building of that waterway. It cost the taxpayers approximately $142,000 per mile for that job. Now it is costing them about $3,880 per mile per year in maintenance and operating charges. And all that is provided free of charge to the comparative few who are in a position to make use of this "cheap transportation."

We find the same story of "cheap transportation" on the Mississippi River. No sooner was the Mississippi improved with a 9-foot channel up to St. Louis then a demand came from Minneapolis and St. Paul for an extension of the channel up to them. That was done at a cost so far of $228,000

per mile for construction and of $2,300 per mile per year for maintenance and operation. And all the American taxpayers are paying for it day in and day out, year after year.

Now, let us compare those costs with the investment in rail roadway. The average for a mile of rail roadway is about $61,000 for each mile of line. That includes the cost of sidings, yard tracks, and second, third, and fourth, and other additional main tracks. Maintenance of track and structures averages $1,733 a year for each mile of line, less than half the cost of maintaining the channel of the Ohio River.

And—do not overlook this fact—the total economic cost of doing the job on the railroads is less than it is on the rivers and canals—even when it is considered that, besides paying their own costs, the railroads pay taxes averaging more than $1,400 per mile of line each year.

Go down the list of river building and the development, improvement, and maintenance of all the inland-waterway projects in the country and you will find the same story in a slightly varying degree. The result will be the inescapable conclusion that this so-called cheap transportation is a myth, a delusion, and a snare and a fraud upon the American taxpayers. If the American taxpayers were getting their money's worth, you would hear no protest from me. But the facts show they are not even getting a good run for their money and therefore I protest.

The gentlemen of this House would do well to scrutinize closely all of this false and misleading propaganda being put out in the name of the American farmers and their falsely alleged opposition to the regulation of the water lines. Gentlemen would do well to remember there is no substitute for rail transportation. But no matter how economically and how efficiently the railroads may be run, they cannot be expected to compete with subsidized transportation facilities of all sorts, which also go untaxed and unregulated. At any rate, none of the competing modes of transportation is regulated as rigidly as the railroads and none of them pay taxes comparable with the levies imposed upon the railroads by Federal and State governments and municipalities.

If gentlemen look sharply, they will find these fake farmers wearing false whiskers in an effort to perpetrate further fraud upon the American taxpayers and ruin the best, cheapest, and safest means of transportation yet devised for weight and distance. And probably the unkindest cut of all is the use of the taxes paid into the Treasury by the railroads themselves to create and subsidize unregulated and untaxed competition.

The railroads are not asking for any special concessions. All they ask is that Congress place subsidized, unregulated, and untaxed competitors, such are the water carriers, upon a footing nearer an equality. Absolute competitive equality is impossible because even with the proposed regulations, the water carriers still would enjoy extra breaks in many respects.

The railroads long have been one of the best business barometers in this country. Railroad prosperity means national prosperity. Sound public policy with respect to the railroads, economic statesmanship, and fair dealing will have more effect than any other single factor in restoring prosperity in this country. There is economic advantage to the country at large in other modes of transportation, but let us assess them at their true value to the American people. Let every transportation facility stand on its own feet, on an equality with all others so far as subsidy, taxation, and regulation are concerned. Do that and you will hear no complaint from the railroaders, the investors, or the public.

After all, the public—the taxpayer—is the chief sufferer from this economic nonsense. The public is learning the fallacy of "cheap transportation." The taxpayer is learning that he is paying two prices for his "cheap transportation." He is paying for the subsidies and he finds no saving in the rates charged for "cheap transportation." It is only a matter of time before the taxpayers make this discovery in sufficient numbers to bring about a change in our national transportation policy. When that time comes some gentlemen will be retired from public office by the voters and we will establish a policy of just and equal opportunity for all transportation agencies, for all will be free to render their best service at the lowest true cost. Then and only then will we have truly cheap transportation in the United States of America.

The SPEAKER. Under special order of the House the gentleman from Michigan [Mr. HOFFMAN] is recognized for 5 minutes.

THE WRECKERS ARE AT WORK

Mr. HOFFMAN. Mr. Speaker, the wreckers are at work destroying the economic structure of our country; depriving the citizen of his property, his liberty; tearing out the very foundations of our constitutional government.

John L. Lewis, his C. I. O. with its communistic methods and leaders, assisted by this administration, using the N. L. R. A. and the National Labor Relations Board, on the background prepared by the activities of the Senate Civil Liberties Committee, are making good the prophecy of Wilson's Secretary of State, Bainbridge Colby, when, in 1934, of the President's advisers, he said:

> The overthrow of our institutions, including the Constitution, is their avowed goal.

DENIAL OF CIVIL LIBERTIES

In Harlan County, Ky., are coal mines. Twenty-two of the companies operating these mines belong to the Harlan County Coal Operators Association, and for years there was comparatively little labor trouble. Steadfastly they refused to submit to the demands of John L. Lewis that all miners join his United Mine Workers Union.

Remember, now, that John L. Lewis' United Mine Workers is the organization which contributed $470,000 to the New Deal campaign fund and that it is the organization which loaned the Democratic National Committee $50,000. Do not forget that other sympathetic organizations contributed other sums, swelling the grand total of the campaign contributions from these labor organizations to $1,700,000.

With this in mind, consider the attempt of the Senate Civil Liberties Committee, the so-called La Follette committee, to brand Harlan County, Ky., as "bloody Harlan." Recall its strenuous efforts to stigmatize the operators of those mines who had refused to yield to Lewis' demands as greedy, lawless, and the instigators of violence. Do not forget that at the instigation of that committee one of the operators, Ted Creech, was charged by the agents of the La Follette committee with giving false testimony before it; forced him to trial for perjury, where he was acquitted by a jury of his peers.

Keep in mind, if you will, the fact that many of the companies and many of the operators who rejected Lewis' demands were indicted and tried at London, Ky., for a criminal conspiracy; that the jury disagreed; and as they filed out of the courtroom the five jurors who voted for conviction were met and warmly greeted by Government agents, thus indicating that the Government officials who prepared and assisted in the trial of the case had some knowledge of the deliberations of the jury.

Keep in mind, also, the fact that some of the companies operating these mines were charged by the National Labor Relations Board with unfair labor practices, and that one was charged and convicted by the N. L. R. B., and that in at least one instance a heavy money judgment was about to be rendered against it.

UNION CONTRACT SIGNED

Under these circumstances, in September of 1938, the operators signed a contract with the United Mine Workers union. The contract, however, did not provide for a closed shop although it provided for the check-off. The contract expired on the last day of March 1939.

Lewis then demanded the execution of a closed-shop contract, under the terms of which only those miners who joined and remained members of his organization would be permitted to work in the mines of Harlan County.

MINERS LOSE

Under these contracts the miners, in some instances at least, received less than they did prior to the making of the contracts.

Let me give you this illustration taken from the books of one operator, from the statement of miners who worked prior to the date of the contract and who worked after the contract was made.

In this particular mine, when the contract was signed in September of 1938, there were less than 10 union men of the 369 employed. The lowest wage, and that was the wage paid to the old men and the boys—the slate pickers—was $4 a day. Many of the miners made $33 a week. Under the union contract, the maximum they could hope to earn was $20 a week. The tonnage of the mine dropped from 33 to 35 cars a day to 22 to 24 cars a day.

Before the contract was entered into with the union, the miners were paying from $6 to $6.50 per month for house rent. The contract was signed. Under its terms, a charge of $2.25 per room was made, which raised the rent to $9 for a four-room house, which, prior to the making of the contract, rented for from $6 to $6.50.

MINERS' PAY CUT

In this particular mine, working under the union contract, the miners, instead of receiving 65 cents a ton, took a cut to 59 cents a ton. The cutting machine operator was cut from 10 cents a ton to 8 cents a ton on over two-thirds of the mine's operation.

One miner, and I have his name and saw his record on the books, made, in October of 1937, $306.71; in the corresponding month in 1938, he made $111.48. In November of 1937, this miner made $300.57; in November of 1938, he made $54.04. In December of 1937, he made $242.37; in December of 1938, he made $89.92. In January of 1939, he made $156.16; in February, $149.72; and in March, $152; and since April has been on strike, earning nothing.

The books disclose that the miners made less. Now what of the operators?

OPERATORS LOSE

In 1937, the company mined 455,000 tons, and they made 4½ cents per ton on the coal mined. In 1938, they mined but 270,000 tons and they had a net loss of 26.4 cents per ton. This year, up to June 1, they had a net loss of 47 cents on every ton mined, and they now have 145 men working.

LEWIS CAUSES LOSS TO MINERS AND TO OPERATORS

The foregoing is an illustration of what happened to the miners and to the operators in this one mine after Lewis, the wage and hour law, and the social-security law began operating.

In June 1939, not working under a union contract, a 19-year-old boy, a coal loader working 6 days a week, made $146.40, while his father, a small man, during the same month and loading coal, made $200.49. Another young man 22 years of age, a coal loader, in June of 1939 made $151.63.

This mine had been operated without a strike from 1922 until April 1, 1939, and the relations between management and workers had always been good.

MINER WHO IS AN ECONOMIC ROYALIST

I talked with one man who has worked for this company since June of 1920. He is now a tipple man, 56 years of age, married; has raised an adopted son now 25 years old. This miner told me he had never been overworked, never forced to put in any excessive number of hours, and that for most of his work he was paid by the ton. That he had been sick off and on for 3 years; that an operation performed last March cost him $425. That his wife had been operated on at a cost of $300. That he never drew relief money of any kind.

That when he began working at the mine he had about $700. He now has in excess of $19,000, all of which he has saved from the earnings he has made from working for this coal company. He never at any time has denied his wife or adopted son anything they needed, and never performed any work except manual labor.

MINERS DO NOT WANT TO JOIN U. M. W.

At the time that the so-called La Follette committee was making its charges that these operators were denying the civil liberties of the miners, the union claimed that, if given 60 days, it could and would organize all of the miners in the district. It was given an unrestricted opportunity for more than 60 days to organize the miners in this county. At one time it had as many as 60 organizers in the district. It had 12 additional weeks in which to carry on its organizing activities.

Some of its organizers, or those acting in its behalf, told the miners that if they joined they would get unemployment insurance in 9 days from the time they became unemployed. They told the men that unless they joined the union they would not be eligible for unemployment insurance, and they made many other statements which were not justified by the facts.

LABOR BOARD ATTEMPTS INTIMIDATION

Leonard Shore, a Labor Board representative, on one occasion, in the presence of Charles Ryan, attorney for the Board, told an operator that it was foolish for the Harlan operators to attempt to buck the United States Government; that the Government intended to see that everyone signed with the United Mine Workers and that, if they did not sign, the Labor Board would bankrupt them, and, for good measure, he made the added statement:

We may also put some of you behind penitentiary bars.

This man, Turnblazer, whose speech on Sunday last may well be termed the inciting cause for the attack which on Wednesday last resulted in the death of one man and the serious wounding of four others, from a sound truck in front of one of the mine offices, on June 30, 1939, made the statement in substance that, if the company did not sign up with the U. M. W. A., "Phillips—regional director for the N. L. R. B.—has promised me to take up the Labor Board case just as soon as he returns from his vacation."

COLLUSION BETWEEN UNION HEAD AND REGIONAL DIRECTOR OF LABOR BOARD

Early this last spring the members of the Harlan County Coal Operators Association, with one exception, refused to sign a United Mine Workers' closed-shop contract.

Forthwith, Turnblazer, president of the local union, made a complaint to Phillips, regional director of the National Labor Relations Board, and Phillips forthwith notified the companies that charges had been preferred against them.

The Wagner law does not require an employer to sign a contract with his employees. All that it requires, and the Supreme Court in at least two cases has so held, is that he negotiate in good faith. The Supreme Court of the United States has twice held that a failure of the employer to agree to the terms demanded by the employees or by the union does not render the employer guilty of an unfair labor practice.

Notwithstanding the fact that the Harlan County Coal Operators Association and individual members of that association have negotiated time and again—yes; almost continuously—with representatives of the United Mine Workers; notwithstanding the fact that they have been told that the operators will not sign a closed-shop contract, the operators have, on several occasions, been charged by Turnblazer with refusing to negotiate.

And following that charge, and acting in conjunction, it might be said, with Turnblazer, Phillips, regional director, has on occasion notified the mine operator that he has been charged with an unfair labor practice because he has refused to negotiate, this notwithstanding the fact—known to both Turnblazer and to Phillips and to the members of the Board itself, if it is cognizant of the proceedings of its directors—that such a charge had no foundation; in fact, was false.

NATIONAL LABOR RELATIONS BOARD PRACTICES COERCION

Thus you will see how the National Labor Relations Board has lent itself to the organizing activities and to the contract-making efforts of the United Mine Workers. You see how, working hand in glove with the United Mine Workers' officials, it threatens the mine operator with ruinous, expensive

legal proceedings in order to bludgeon him into signing a contract which the law itself does not require him to sign.

RACKETEERING CONTRACTS

These contracts, as we have seen, are of no advantage to anyone except to the officials of the United Mine Workers. These contracts result in a lessening of the miners' wages. They result in a loss of profits to the operator. But they enable the union, as an organization, to collect for political and other purposes $1.50 each month from the pay checks of the miners, and to collect such other special assessments as John L. Lewis and his executive board may see fit to levy.

LEWIS' FLYING SQUADRONS

As so often when persuasion and peaceful picketing fail, Lewis called upon his flying squadrons of wreckers, who, answering his call, appeared by the thousand in Harlan County, where, outnumbering the resident miners, they kidnaped the son of a mine owner and operator and held him for hours; threw George Hobbs, when he refused to sign a union application, in the river and then, while he was in the water, threw rocks at him, and as he emerged from the river, again caught him and forced him to sign a union application.

They shot Bob Blevins. They caught a miner named Mills and in the presence of his wife beat him, and, when George Whitfield, Jack Whitfield, and William Whitfield, mine operators, attempted to rescue him from the mob, they beat the three; and the sound truck bravely pealed out to its more than a thousand pickets who were opposed by less than 200 workers, the message, "Get every damned Whitfield off the hill"—this, although the Whitfields owned the mine and the hill.

What investigation, if any, will the Senate Civil Liberties Committee make of this incident? We know the answer. It will follow its former course and pass by all deprivations of civil liberty when instigated and carried out by union men, by strikers, "goon" squads, and flying squadrons.

Lewis got away with his rule of violence, his intimidation and coercion, as administered by his subordinates, Turnblazer from Tennessee, and Titler, both officers of the local, until Governor Chandler called out the troops and this particular period of violence ended.

ADMINISTRATION AND LEWIS UNABLE TO FORCE COMPLIANCE WITH HIS DEMANDS

Notwithstanding the fact that United Mine Workers closed these mines in Harlan County by calling in armed pickets from other States until Governor Chandler, recognizing his duty under the constitution of the State, called out the National Guard to protect the property of the operators and to safeguard the miners in their attempts to work, Lewis was unable to organize the miners of Harlan County, and last week the mines of that district were operating quietly, peacefully, under the protection of the National Guard of Kentucky.

Notwithstanding all of the activities of John L. Lewis, the N. L. R. B., the Senate Civil Liberties Committee, the prosecutions instituted and the trials carried on by the Department of Justice, in June of 1939 the car loadings of coal out of Harlan County exceeded by more than 5,000 cars of 50 tons each the output of June of 1938.

SO LEWIS RESORTS TO FORCE, AND DEATH AND BLOODSHED FOLLOW

The fact that these mines were operating in spite of Lewis' demands; that miners were going to and from their work earning a livelihood for themselves and their families without paying tribute to him was gall and wormwood to John L. Lewis and his subordinates.

On May 15, 1939, at Lenarue, 6 miles south of Harlan, at a union rally, among other things, Turnblazer, who is cognizant of the violence which occurred in April of this year when these mines were closed by pickets, many of whom came armed from other States, said—

> No miners will go hungry and, if they are evicted from their homes, the United States Government will give you tents and we will feed you.
>
> G-men are here watching the operators and we have more on them now than ever before.
>
> If they (the operators) want to spend another 6 or 8 weeks at London, that's up to them to decide.

A direct threat by William Turnblazer, head of the local U. M. W. union, to use an agency of the Federal Government—the Department of Justice—in a criminal prosecution if the operators did not yield to his demand for a closed-shop contract.

INTIMIDATION AND COERCION FAIL—THEN CAME VIOLENCE

In spite of all the organizing efforts put forth by the United Mine Workers; in spite of the intimidation practiced by the agents of the National Labor Relations Board; in spite of the threats made by William Turnblazer, head of the local United Mine Workers union, and notwithstanding the bringing into the county of thousands of armed pickets, who by force prevented the residents of Harlan County following their daily tasks, the liberty-loving miners of that county refused to submit to John L. Lewis' demands; refused to join his union; and the operators, although it might have been to their financial advantage—although certainly it would have saved them from prosecution by the National Labor Relations Board and some of them from trial on criminal charges by the Department of Justice, steadfastly refused to sell their men to John L. Lewis—refused to compel them to join a union which they did not want to join.

John L. Lewis was demanding not only that the men join his organization in order to work, but he insisted, and he attempted to make good that demand by force, that the Harlan County Coal Operators' Association and the individuals belonging to it, violate the National Labor Relations Act by compelling their men to join his organization before they could be given work.

Lewis, arbitrary tyrant that he is, causes complaints to be filed against those employers who advise their men that they do not need to join a union; and then, on the other hand, demands that other operators tell their employees they must join his union—a plain violation of the act which in so many instances he has used to enforce his demands.

A GOVERNOR WHO BELIEVES IN CIVIL LIBERTIES

Undoubtedly, John L. Lewis and his United Mine Workers would have closed all the mines in Harlan County by force, had it not been for the action of Governor Chandler. Unlike the Senate Civil Liberties Committee and Attorney General Frank Murphy, who talk so much about guaranteeing civil liberties but who by their acts do much to destroy them, Governor Chandler called out the National Guard so that men who wanted to work, who desired to exercise their civil liberties, might do so.

Frank Murphy, when Governor of Michigan, called out that State's National Guard to prevent men from working. Governor Chandler of Kentucky called out the National Guard so that men might work. Governor Murphy violated his oath of office. Governor Chandler kept his oath of office.

LEWIS BRINGS DEATH AND VIOLENCE TO A PEACEFUL COMMUNITY

On Monday and Tuesday last it was my privilege to visit Harlan County and the city of Harlan; to go from mine to mine; to talk with miners and with operators. It was my first visit to Harlan and I found the people there to be the same as in other average American communities.

A beautiful little city and high in the surrounding mountains, the rich coal veins from which the community derives its livelihood. The people mostly of English ancestry, native Americans; few, if any, foreigners; not many colored folks. Homes clean and comfortable, as were the streets and public places of the city. In short, a typical American community, with no evidence of intolerance or violence or disregard for the law in sight; nothing, in fact, which would distinguish it from any one of a thousand cities in our land, except for the fact that around and about some of the mines were National Guardsmen on duty, and up and down the highways were patrolling trucks, in which rode National Guardsmen.

This was on Monday and Tuesday of this week, but on Sunday last, according to the Harlan Daily Enterprise, William Turnblazer, of Jellico, Tenn., president of District No. 19, United Mine Workers, addressing a union mass meeting, called for the re-forming of picket lines to "curtail production" at nonunion mines, and to "get the strikebreakers

out." Turnblazer declared that such action should be taken "while the lake trade is going on" and as a move to break the deadlock between the union and the Harlan County Coal Operators Association holding out against signing the union closed-shop contract.

The men working in the Harlan mines are residents of Harlan County, most of whom have always worked in the coal mines. That is their only occupation. Under the Constitution of our Federal Government and the Constitution of their State, they have the right to work and they have the right to work without signing a contract prescribed by William Turnblazer or John L. Lewis.

In utter disregard of the rights of these men; denying to them their civil liberties, Turnblazer, of Tennessee, called upon his listeners to get these free-born American citizens, exercising their constitutional right, out of the mines.

Early Wednesday morning, following his demand and his advice, pickets formed around the mine of the Mahan-Ellison Coal Co. and attempted to prevent Harlan County citizens entering the mine to toil at their daily tasks. Among those pickets was Dock Caldwell, 31-year-old miner, a member of the union, who undoubtedly believed, from what Turnblazer said, that he had the right to prevent other men going into the mine to work.

Dock Caldwell undoubtedly was familiar with the demands of John L. Lewis that all must join his organization before they would be permitted to work. Dock Caldwell undoubtedly had heard that the National Labor Relations Board, the New Deal administration, stood back of John L. Lewis.

And so Dock Caldwell, ill-advised, attempted to folow the directions of William Turnblazer; attempted to pull a fellow worker from a car which was taking him into the mine. Dock Caldwell was shot. Dock Caldwell died, and he died because of the un-American, the unlawful, demands made by John L. Lewis.

The responsibility for his death rests not only upon the shoulders of John L. Lewis, of William Turnblazer, who incited him to take part in these unlawful activities, but upon the shoulders of the members of the National Labor Relations Board, who in Harlan County have given the people to understand that, unless they yield to the demands of the United Mine Workers, the operators are guilty of a violation of the National Labor Relations Art.

Here today we have in Harlan County, Ky., a community attempting to carry on in the soft-coal industry, an industry which has been almost ruined by John L. Lewis and his United Mine Workers, by the Guffey Coal Act, by the activities of the National Labor Relations Board.

Here we have a community where the mine owners and operators, under the Wagner Act, the wage-hour law, the social-security law, have suffered almost continuous losses; where the miners, under these laws, have from day to day seen their yearly earnings diminishing; a community where the mine owners and the operators, where the miners themselves, are denied the right to go about their daily tasks.

Here we have a community, the members of which, unwilling to give up the liberties won by their forefathers in bloody battle, are today willing to face and meet not only violence and bloodshed, but death itself, in order to preserve those liberties so dearly won for them.

And here in Washington we have an administration which extends the hand of friendship to John L. Lewis and his communistic allies, who would deny a fundamental constitutional right to American-born men and women.

Here we have an administration lauded, praised by the Communists and the Communist Party, which seek the destruction by force of our form of government, extending aid and comfort to those who are seeking to forge the shackles which deny liberty to the citizens of Harlan.

If we in Congress sit idly by and permit this situation to continue, upon us rests a part of the responsibility if violence, bloodshed, and death follow our failure to extend a helping hand to those patriotic citizens of Harlan who are fighting an uphill battle without Federal aid.

EXTENSION OF REMARKS

Mr. HOFFMAN. Mr. Speaker, I ask unanimous consent to extend my own remarks in the Appendix of the RECORD.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

SPECIAL ORDER

The SPEAKER. Under special order of the House, the gentleman from Missouri [Mr. ANDERSON] is entitled to recognition for 15 minutes. The Chair does not see the gentleman from Missouri in the Chamber.

BILL PRESENTED TO THE PRESIDENT

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H. R. 1882. An act for the relief of Otis M. Culver, Samuel E. Abbey, Joseph Reger, and August H. Krueger.

ADJOURNMENT

Mr. RAYBURN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 18 minutes p. m.), pursuant to the order heretofore made, the House adjourned until Monday, July 17, 1939, at 12 o'clock noon.

COMMITTEE HEARINGS

COMMITTEE ON THE JUDICIARY

On Saturday, July 15, 1939, Dr. C. E. R. Sherrington, British railroad expert, will testify before the Committee on the Judiciary with respect to the bills H. R. 6369 and S. 1869, to amend the 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 create a railroad reorganization court, and for other purposes. The hearing will be public, and will begin at 10 a. m. in the Judiciary Committee room, 346 House Office Building.

COMMITTEE ON MERCHANT MARINE AND FISHERIES

The Committee on Merchant Marine and Fisheries will hold public hearings in room 219, House Office Building at 10 a. m., on the bills and dates listed below:

On Tuesday, July 18, 1939, at 10 a. m., hearings will be held on H. R. 7090, to amend section 4488 of the Revised Statutes of the United States, as amended (U. S. C., 1934 ed., title 46, sec. 481), and H. R. 7091, to amend section 4471 of the Revised Statutes of the United States, as amended (U. S. C., 1934 ed., title 46, 464).

COMMITTEE ON FOREIGN AFFAIRS

There will be a meeting of the Committee on Foreign Affairs on Monday, July 17, 1939, at 10: 30 a. m., on House Joint Resolution 207, to authorize the Secretaries of War and of the Navy to assist the governments of American republics to increase their military and naval establishments, and for other purposes.

The Foreign Affairs Committee will start hearings on Tuesday, July 18, 1939, at 10 a. m., on proposed legislation dealing with treaty violations, with special reference to the Orient: H. R. 4232 (Mr. VOORHIS of California), H. R. 5432 (Mr. COFFEE of Washington), H. R. 6837 (Mr. EATON of New Jersey), H. R. 7159 (Mr. IZAC), House Joint Resolution 42 (Mr. CRAWFORD), House Joint Resolution 113 (Mr. FISH), House Joint Resolution 254 (Mr. FISH), House Joint Resolution 318 (Mr. WALLGREN).

COMMITTEE ON THE PUBLIC LANDS

There will be a meeting of the Committee on the Public Lands on Monday, July 17, 1939, at 10 a. m., in room 328, House Office Building, to consider H. R. 6668.

COMMITTEE ON IMMIGRATION AND NATURALIZATION

There will be a meeting of the Committee on Immigration and Naturalization on Wednesday, July 19, 1939, at 10:30 a. m., for the consideration of H. R. 6443 and H. R. 7066. Public hearing.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

999. A communication from the President of the United States, transmitting a schedule of claims amounting to $123,944.96, allowed by the General Accounting Office, as covered by certificates of settlement, under approprations, the balance of which have been carried to the surplus fund under the provisions of section 5 of the act of June 20, 1874 (H. Doc. No. 418); to the Committee on Appropriations and ordered to be printed.

1000. A communication from the President of the United States, transmitting supplemental estimates of appropriations for the Department of Labor for the fiscal year 1940 amounting to $2,000,000 (H. Doc. No. 419); to the Committee on Appropriations and ordered to be printed.

1001. A letter from the Secretary of War, transmitting a letter from the Chief of Engineers, United States Army, dated July 5, 1939, submitting a report, together with accompanying papers, on reexamination of Charlotte Harbor, Fla., requested by resolution of the Committee on Rivers and Harbors, House of Representatives, adopted May 12, 1938; to the Committee on Rivers and Harbors.

1002. A letter from the Secretary of War, transmitting a letter from the Chief of Engineers, United States Army, dated July 5, 1939, submitting a report, together with accompanying papers, on a preliminary examination of Allapatchee River (Alligator Creek), Fla., authorized by the River and Harbor Act approved June 20, 1938; to the Committee on Rivers and Harbors.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. ELLIOTT: Committee on the Disposition of Executive Papers. House Report No. 1150. Report on the disposition of records of the United States District Court for the Southern District of California. Ordered to be printed.

Mr. ELLIOTT: Committee on the Disposition of Executive Papers. House Report No. 1151. Report on the disposition of records in the Department of the Treasury in the custody of the National Archives. Ordered to be printed.

Mr. ELLIOTT: Committee on the Disposition of Executive Papers. House Report No. 1152. Report on the disposition of records in the Veterans' Administration. Ordered to be printed.

Mr. ELLIOTT: Committee on the Disposition of Executive Papers. House Report No. 1153. Report on the disposition of records in the Department of the Treasury. Ordered to be printed.

Mr. ELLIOTT: Committee on the Disposition of Executive Papers. House Report No. 1154. Report on the disposition of records in the Farm Credit Administration. Ordered to be printed.

Mr. ELLIOTT: Committee on the Disposition of Executive Papers. House Report No. 1155. Report on the disposition of records in the Department of the Interior. Ordered to be printed.

Mr. ELLIOTT: Committee on the Disposition of Executive Papers. House Report No. 1156. Report on the disposition of records in the Department of State. Ordered to be printed.

Mr. ELLIOTT: Committee on the Disposition of Executive Papers. House Report No. 1157. Report on the disposition of records in the Department of Labor. Ordered to be printed.

Mr. ELLIOTT: Committee on the Disposition of Executive Papers. House Report No. 1158. Report on the disposition of records in the Department of Commerce. Ordered to be printed.

Mr. ELLIOTT: Committee on the Disposition of Executive Papers. House Report No. 1159. Report on the disposition of records in the Department of the Navy. Ordered to be printed.

Mr. ELLIOTT: Committee on the Disposition of Executive Papers. House Report No. 1160. Report on the disposition of records in the Post Office Department, Postal Service. Ordered to be printed.

Mr. ELLIOTT: Committee on the Disposition of Executive Papers. House Report No. 1161. Report on the disposition of records in the Department of Agriculture. Ordered to be printed.

Mr. ELLIOTT: Committee on the Disposition of Executive Papers. House Report No. 1162. Report on the disposition of records in the Department of the Treasury. Ordered to be printed.

Mr. MAGNUSON: Committee on Naval Affairs. H. R. 6045. A bill to authorize the Secretary of the Navy to accept on behalf of the United States certain land in the city of Seattle, King County, Wash., with improvements thereon; with amendment (Rept. No. 1165). Referred to the Committee of the Whole House on the state of the Union.

Mr. JONES of Texas: Committee on Agriculture. H. R. 7171. A bill to amend section 22 of the Agricultural Adjustment Act; with amendment (Rept. No. 1166). Referred to the Committee of the Whole House on the state of the Union.

Mr. COLLINS: Committee of conference. H. R. 5610. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1940, and for other purposes (Rept. No. 1167). Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. KELLER: Committee on the Library. House Concurrent Resolution 32. Concurrent resolution establishing a commission to be known as the Virginia (Merrimac)-Monitor Commission; without amendment (Rept. No. 1168). Referred to the Committee of the Whole House on the state of the Union.

Mr. WARREN: Committee of conference. H. R. 6205. A bill to provide for additional clerk hire in the House of Representatives, and for other purposes (Rept. No. 1170). Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. DARDEN: Committee on Naval Affairs. H. R. 5634. A bill granting 6 months' pay to Sidney M. Bowen; without amendment (Rept. No. 1163). Referred to the Committee of the Whole House.

Mr. MOTT: Committee on Naval Affairs. S. 1901. An act to extend to Sgt. Maj. Leonard E. Browning, United States Marine Corps, the benefits of the act of May 7, 1932, providing highest World War rank to retired enlisted men; without amendment (Rept. No. 1164). Referred to the Committee of the Whole House.

Mr. FADDIS: Committee on Military Affairs. S. 2370. An act for the relief of Corinne W. Bienvenu (nee Corinne Wells); with amendment (Rept. No. 1169). Referred to the Committee of the Whole House.

Mr. KENNEDY of Maryland: Committee on Claims. H. R. 7050. A bill for the relief of certain former disbursing officers for the Civil Works Administration; without amendment (Rept. No. 1171). Referred to the Committee of the Whole House.

Mr. KENNEDY of Maryland: Committee on Claims. H. R. 7049. A bill for the relief of John L. Summers, former disbursing clerk, Treasury Department, and for other purposes; without amendment (Rept. No. 1172). Referred to the Committee of the Whole House.

Mr. KENNEDY of Maryland: Committee on Claims. H. R. 6641. A bill for the relief of the Arkansas State Penitentiary; without amendment (Rept. No. 1173). Referred to the Committee of the Whole House.

Mr. WINTER: Committee on Claims. H. R. 5931. A bill for the relief of Elizabeth Hessman; with amendment (Rept. No. 1174). Referred to the Committee of the Whole House.

Mr. HALL: Committee on Claims. H. R. 5557. A bill for the relief of V. H. Scheuring, Elmer Eggers, and Thomas Fahey; without amendment (Rept. No. 1175). Referred to the Committee of the Whole House.

Mr. GATHINGS: Committee on Claims. H. R. 5348. A bill for the relief of certain postmasters; without amendment (Rept. No. 1176). Referred to the Committee of the Whole House.

Mr. EBERHARTER: Committee on Claims. H. R. 5259. A bill for the relief of Mrs. Layer Taylor; with amendment (Rept. No. 1177). Referred to the Committee of the Whole House.

Mr. THOMAS of New Jersey: Committee on Claims. H. R. 5211. A bill for the relief of D. L. Mason; with amendment (Rept. No. 1178). Referred to the Committee of the Whole House.

Mr. RAMSPECK: Committee on Claims. H. R. 4085. A bill for the relief of certain disbursing agents and employees of the Indian Service; without amendment (Rept. No. 1179). Referred to the Committee of the Whole House.

Mr. KEOGH: Committee on Claims. H. R. 2860. A bill for the relief of Ben Willie Jones; with amendment (Rept. No. 1180). Referred to the Committee of the Whole House.

Mr. SASSCER: Committee on Claims. H. R. 2344. A bill for the relief of James McConnachie; with amendment (Rept. No. 1181). Referred to the Committee of the Whole House.

Mr. KENNEDY of Maryland: Committee on Claims. H. R. 377. A bill for the relief of Harry Bryan and Alda Duffield Mullins, and others; with amendment (Rept. No. 1182). Referred to the Committee of the Whole House.

Mr. KEEFE: Committee on Claims. S. 2275. An act for the relief of Floyd M. Dunscomb; without amendment (Rept. No. 1183). Referred to the Committee of the Whole House.

Mr. POAGE: Committee on Claims. S. 2114. An act for the relief of Virginia Pearson; without amendment (Rept. No. 1184). Referred to the Committee of the Whole House.

Mr. WINTER: Committee on Claims. S. 2082. An act for the relief of Hugh A. Smith; without amendment (Rept. No. 1185). Referred to the Committee of the Whole House.

Mr. ROCKEFELLER: Committee on Claims. S. 1905. An act for the relief of Elizabeth E. Burke; with amendment (Rept. No. 1186). Referred to the Committee of the Whole House.

Mr. GATHINGS: Committee on Claims. S. 1882. An act for the relief of Thomas A. Ross; with amendment (Rept. No. 1187). Referred to the Committee of the Whole House.

Mr. COFFEE of Washington: Committee on Claims. S. 1816. An act for the relief of Montie S. Carlisle; without amendment (Rept. No. 1188). Referred to the Committee of the Whole House.

Mr. POAGE: Committee on Claims. S. 1722. An act for the relief of Hannis Hoven; without amendment (Rept. No. 1189). Referred to the Committee of the Whole House.

Mr. KEOGH: Committee on Claims. S. 1467. An act for the relief of the Standard Oil Co., Inc., in Kentucky; without amendment (Rept. No. 1190). Referred to the Committee of the Whole House.

Mr. COFFEE of Washington: Committee on Claims. S. 1429. An act for the relief of Earl J. Reed and Giles J. Gentry; with amendment (Rept. No. 1191). Referred to the Committee of the Whole House.

Mr. PITTENGER: Committee on Claims. S. 821. An act for the relief of Charles L. Kee; with amendment (Rept. No. 1192). Referred to the Committee of the Whole House.

Mr. POAGE: Committee on Claims: S. 765. An act for the relief of Hugh McGuire; without amendment (Rept. No. 1193). Referred to the Committee of the Whole House.

Mr. SASSCER: Committee on Claims. S. 683. An act for the relief of Fae Banas; without amendment (Rept. No. 1194). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

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

By Mr. DURHAM:

H. R. 7231. A bill to authorize the fiscal agent of the director of the Civilian Conservation Corps to permit certain persons compensated from Civilian Conservation Corps funds to make pay allotments; to the Committee on Labor.

By Mr. LEWIS of Colorado:

H. R. 7232. A bill authorizing an appropriation for the construction and equipment at Denver, Colo., of a technical aeronautics laboratory and other facilities for aeronautical research; to the Committee on Interstate and Foreign Commerce.

By Mr. TOLAN:

H. R. 7233. A bill to amend the act entitled "An act to provide for the disposition, control, and use of surplus real property acquired by Federal agencies, and for other purposes," approved August 27, 1935 (Public, No. 351, 74th Cong.), and for other purposes; to the Committee on Public Buildings and Grounds.

By Mr. CARLSON:

H. R. 7234 (by request). A bill to provide a civil government for Puerto Rico; to the Committee on Insular Affairs.

By Mr. CELLER:

H. R. 7235. A bill to prohibit the maintenance of gambling establishments within the admiralty and maritime jurisdiction of the United States, and for other purposes; to the Committee on the Judiciary.

H. R. 7236. A bill to provide for the adjustment of certain claims against the United States and to confer jurisdiction in respect thereto on the Court of Claims and the district courts of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. HARRINGTON:

H. R. 7237. A bill to amend the Revenue Act of 1932 by imposing an excise tax on pork and pork products; to the Committee on Ways and Means.

By Mr. HENNINGS:

H. R. 7238 (by request). A bill creating the General Mexican Claims Commission; to the Committee on Foreign Affairs.

By Mr. MARCANTONIO:

H. R. 7239. A bill to authorize the naturalization of Filipinos who are permanent residents of the United States; to the Committee on Immigration and Naturalization.

By Mr. RABAUT:

H. R. 7240. A bill to exempt certain persons with dependents from the provisions requiring separation from Work Projects Administration rolls at the end of 18 months; to the Committee on Appropriations.

By Mr. BRADLEY of Pennsylvania:

H. R. 7241. A bill to provide additional compensation for flying duty by civilian employees of the Government; to the Committee on Interstate and Foreign Commerce.

By Mr. HORTON:

H. R. 7242. A bill giving preference in the appointment of employees in the taking of the sixteenth decennial census to persons on relief and work relief of the Work Projects Administration; to the Committee on the Census.

By Mr. STARNES of Alabama:

H. R. 7243. A bill making appropriations for public-works projects, and authorizing the carrying out of such projects; to the Committee on Appropriations.

By Mr. ANDERSON of California:

H. J. Res. 361. Joint resolution to provide for an investigation by the Administrator of the Federal Works Agency of the feasibility and desirability of the acquisition by the United States of certain property in Burlingame, Calif.; to the Committee on Public Buildings and Grounds.

By Mr. KRAMER:

H. J. Res. 362. Joint resolution to authorize the admission into the United States of a limited number of German refugee children; to the Committee on Immigration and Naturalization.

By Mr. BURDICK:

H. Res. 259. Resolution providing for the appointment of a special committee to investigate the conditions of the Indians of the United States; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. FOLGER:

H. R. 7244. A bill authorizing Maj. Caleb V. Haynes, United States Army, to accept and wear the decoration tendered him by the Government of Chile; to the Committee on Military Affairs.

By Mr. HENNINGS:

H. R. 7245. A bill for the relief of Henry Gideon Schiller; to the Committee on Immigration and Naturalization.

By Mr. KRAMER:

H. R. 7246. A bill for the relief of Madeline Vera Bucholz; to the Committee on Immigration and Naturalization.

By Mr. MYERS:

H. R. 7247. A bill for the relief of Harry Solomon; to the Committee on Military Affairs.

By Mr. ROUTZOHN:

H. R. 7248. A bill granting a pension to William Lennox; to the Committee on Invalid Pensions.

By Mr. SUTPHIN:

H. R. 7249. A bill to correct the discharge of Kenneth A. Cranmer; to the Committee on Naval Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

4665. By Mr. GEYER of California: Petition of Joe Williams and 135 others, asking that House bill 5994, the Geyer antilynching bill, or a similar measure, be enacted into law at this session of Congress; to the Committee on the Judiciary.

4666. Also, petition of Herbert Anderson and 121 others, asking that House bill 5994, the Geyer antilynching bill, or a similar measure, be enacted into law this session of Congress; to the Committee on the Judiciary.

4667. Also, petition of Mrs. Crystal Haiden and 89 others, asking that House bill 5994, the Geyer antilynching bill, or a similar measure, be enacted into law this session of Congress; to the Committee on the Judiciary.

4668. Also, petition of Tom Azoon and 48 others, asking that House bill 5994, the Geyer antilynching bill, or a similar measure, be enacted into law this session of Congress; to the Committee on the Judiciary.

4669. Also, petition of Bob Hillyer and 65 others, asking that House bill 5994, the Geyer antilynching bill, or a similar measure, be enacted into law this session of Congress; to the Committee on the Judiciary.

4670. Also, petition of C. H. Stojewa and 75 others, asking that House bill 5994, the Geyer antilynching bill, or a similar measure, be enacted into law this session of Congress; to the Committee on the Judiciary.

4671. By Mr. MICHAEL J. KENNEDY: Petition of the New York Chapter American Society of Landscape Architects of New York City, opposing House bill 6880, pertaining to an easement for the Battery-Brooklyn Bridge; to the Committee on Public Buildings and Grounds.

4672. Also, petition of the United States Independent Telephone Association, expressing approval of House bill 7133, which contains comprehensive exemptions to the Wage-Hour Act; to the Committee on Labor.

4673. Also, petition of the Travelers Protective Association of St. Louis, Mo., protesting against un-American activities by certain organizations, advocating balancing of the National Budget, advocating that this country maintain strict neutrality, and recommending that our immigration laws be made more rigid; to the Committee on Ways and Means.

4674. Also, petition of the Municipal Art Society of New York, opposing House bill 6880, the Cullen bill pertaining to an easement for the Battery-Brooklyn Bridge; to the Committee on Public Buildings and Grounds.

4675. By Mr. KEOGH: Petition of the E. W. Bliss Co., Brooklyn, N. Y., urging consideration of the Smith resolution (H. J. Res. 229); to the Committee on the Judiciary.

4676. Also, petition of George D. Brown, Jr., secretary, New York State Division of Housing, New York City, urging consideration and passage of House bill 2888; to the Committee on Banking and Currency.

4677. Also, petition of Hon. Edward J. Kelly, mayor of Chicago, favoring the passage of House bill 7120, the Steagall bill, and Senate bill 2758, the Barkley bill; to the Committee on Banking and Currency.

4678. Also, petition of United Electrical, Radio, and Machine Workers of America, New York City, concerning the restoration of prevailing trade-union rates for Works Progress Administration; to the Committee on Appropriations.

4679. Also, petition of the United States State Independent Telephone Association, Washington, D. C., concerning the Barden bill (H. R. 7133); to the Committee on Labor.

4680. Also, petition of the American Federation of Labor, Washington, D. C., concerning the Works Progress Administration situation; to the Committee on Appropriations.

4681. By Mr. KRAMER: Petition of residents of California relative to the Works Progress Administration; to the Committee on Appropriations.

4682. By Mr. PFEIFER: Petition of the New York State League of Savings and Loan Associations, New York City, urging consideration and passage of House bill 6971; to the Committee on Banking and Currency.

4683. Also, petition of the United States Independent Telephone Association, Washington, D. C., urging consideration of the Barden bill (H. R. 7133); to the Committee on Labor.

4684. Also, petition of the American Federation of Labor, Washington, D. C., concerning the Works Progress Administration situation; to the Committee on Appropriations.

4685. Also, petition of Edward J. Kelly, mayor of Chicago, Ill., urging consideration and support of House bill 7120 and Senate bill 2759; to the Committee on Roads.

4686. Also, petition of employees of the Northport, N. Y., post office, urging support and passage of House bill 5479 with Senate amendments; to the Committee on the Post Office and Post Roads.

4687. By Mr. WHITE of Idaho: Petition signed by 95 citizens of Caldwell, Idaho, calling upon Congress to do something for the correction of the present economic conditions due to the control by international bankers over credits and thence over wages and prices of farm products and industrial output; to the Committee on Banking and Currency.

4688. By the SPEAKER: Petition of the Walker County Board of Revenue, Jasper, Ala., petitioning consideration of their resolution with reference to Works Progress Administration relief legislation; to the Committee on Appropriations.

4689. Also, petition of the city of Garfield Heights, Cuyahoga County, Ohio, petitioning consideration of their resolution with reference to Works Progress Administration relief legislation; to the Committee on Appropriations.

4690. Also, petition of W. H. Hariman, Waterloo, Iowa, and others, petitioning consideration of their resolution with reference to Works Progress Administration relief legislation; to the Committee on Appropriations.

4691. Also, petition of the District of Columbia Council, United Federal Workers of America, Washington, D. C., petitioning consideration of their resolution with reference to work-relief legislation; to the Committee on Appropriations.

SENATE

MONDAY, JULY 17, 1939

(Legislative day of Monday, July 10, 1939)

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

The Reverend Duncan Fraser, assistant rector, Church of the Epiphany, Washington, D. C., offered the following prayer:

O God of Peace, who hast taught us that in returning and rest we shall be saved, in quietness and confidence shall be our strength: Come Thou and dwell amongst us as Thou wert in the midst of Thy disciples, and with Thy great might succor us; that, standing in Thy presence and Thou in our midst, our labors may be prospered in all godliness and