

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

1016. By Mr. FENTON: Petition of President Abe Hawkes and members of Mahanoy City Borough Council, Mahanoy City, Pa., requesting that the original wage of Work Projects Administration employees in the sum of \$60.50 be restored immediately as the basic monthly wage in order that Work Projects Administration employees can be provided with the bare necessities of life; to the Committee on Appropriations.

1017. By Mr. HAINES: Petition from the President, members of faculty, and students of Wilson College at Chambersburg, Pa., urging support of President Roosevelt's statement of American policy, etc.; to the Committee on Foreign Affairs.

1018. By Mr. KEOGH: Petition of the Temple Mens' Club of Sharri Zedek, of Brooklyn, N. Y., favoring the McCarran-Meegan longevity bill (H. R. 1057); to the Committee on the Post Office and Post Roads.

1019. By Mr. LAMBERTSON: Petition of T. B. Torkelson and 29 others, urging the passage of House bill 4000; to the Committee on Military Affairs.

SENATE

FRIDAY, MAY 9, 1941

(Legislative day of Thursday, May 8, 1941)

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

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

Almighty God and Heavenly Father, by whom we are bound to life with many holy ties of home and loved ones, around whom the tendrils of our hearts are twined and about whom our plans and purposes revolve: We beseech Thee to reveal the sanctions of Thy will unto Thy servants here, that they may feel Thee drawing nearer to each urgent need for help and direction in all the deliberations of this day.

Help us to put our whole trust and confidence in Thee, for Thou art the true and living God, who, when we are alone, art by our side. If multitudes surround us, lo! Thou art there also.

Enable us more and more to realize that, though the past bears witness to Thy providential care and the future holds Thee in reserve, it is only the consciousness of Thy presence now that robs us of our helplessness, setting all anxieties at rest.

Be Thou our all in all, and create within us a passion for the reign of righteousness, which shall issue in the spread of brotherhood and peace among the nations of the world. We ask it for His sake whose merit doth exceed our own demerit, Jesus Christ our Lord. Amen.

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day of Thursday, May 8, 1941, was dispensed with, and the Journal was approved.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Megill, one of its clerks,

announced that the House had passed a bill (H. R. 4534) to amend the act approved June 28, 1940, entitled "An act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material, in which it requested the concurrence of the Senate.

CALL OF THE ROLL

Mr. HILL. 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	Ellender	Murray
Alken	George	Norris
Andrews	Gerry	Nye
Austin	Gillette	O'Mahoney
Bailey	Glass	Overton
Ball	Green	Pepper
Bankhead	Guffey	Radcliffe
Barbour	Gurney	Reynolds
Barkley	Hatch	Schwartz
Bilbo	Hayden	Smathers
Bone	Herring	Smith
Brooks	Hill	Spencer
Brown	Holman	Stewart
Bulow	Hughes	Thomas, Idaho
Bunker	Johnson, Calif.	Thomas, Okla.
Burton	Johnson, Colo.	Thomas, Utah
Butler	Kilgore	Truman
Byrd	La Follette	Tunnell
Byrnes	Langer	Tydings
Capper	Lee	Van Nuys
Caraway	Lodge	Wallgren
Chandler	Lucas	Walsh
Chavez	McCarran	Wheeler
Clark, Mo.	McFarland	White
Connally	McNary	Wiley
Danaher	Maloney	Willis
Davis	Mead	
Downey	Murdoch	

Mr. HILL. I announce that the Senator from Mississippi [Mr. HARRISON], the Senator from Tennessee [Mr. McKellar], and the Senator from New York [Mr. Wagner] are absent from the Senate because of illness.

The Senator from Idaho [Mr. Clark], and the Senator from Georgia [Mr. Russell] are unavoidably detained.

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

EXECUTIVE COMMUNICATIONS

The VICE PRESIDENT laid before the Senate the following communication and letters, which were referred as indicated:

DRAFTS OF PROPOSED AMENDMENTS—DEVELOPMENT OF LANDING AREAS (S. DOC. NO. 51)

A communication from the President of the United States, submitting drafts of several proposed amendments to the bill (H. R. 4276) making appropriations for the Department of State, the Department of Commerce, the Department of Justice, and the Federal judiciary, for the fiscal year ending June 30, 1942, and for other purposes, relative to the development of landing areas for aircraft under the Department of Commerce, involving an increase of \$61,477,750 (with an accompanying paper); to the Committee on Appropriations, and ordered to be printed.

BEQUEST TO THE UNITED STATES OF THE LATE SAMUEL WILSON WILLIAMS

A letter from the Attorney General, transmitting copy of the will of the late Samuel Wilson Williams, of White Bluff, Tenn., filed for probate in the Cheatham County Court at Ashland City, Tenn., on March 4, 1941, in which the decedent leaves all his property to the United States, "in the event of . . . sudden death," upon certain conditions, and recommending that the bequest be not ac-

cepted (with an accompanying paper); to the Committee on the Judiciary.

OPEN MARKET PROCUREMENTS BY DEPARTMENT OF AGRICULTURE

A letter from the Acting Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the Department of Agriculture to make open-market procurements where the aggregate amount involved does not exceed \$100 (with an accompanying paper); to the Committee on Agriculture and Forestry.

DESIGNATION OF AGRICULTURAL DEPARTMENT EMPLOYEES TO MAKE ARRESTS IN CERTAIN CASES

A letter from the Under Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the Secretary of Agriculture to designate employees of the Department of Agriculture to make arrests for violation of the laws relating to and the rules and regulations established for the protection of lands acquired under or transferred for administration under title III of the Bankhead-Jones Farm Tenant Act (with an accompanying paper); to the Committee on Agriculture and Forestry.

TRANSPORTATION OF HOUSEHOLD GOODS OF CIVILIAN OFFICERS

A letter from the Under Secretary of Agriculture, transmitting a draft of proposed legislation to amend the act approved October 10, 1940 (54 Stat. 1105) to permit such responsible officers as may be designated by heads of departments or establishments to authorize or approve the allowance and payment of expenses incident to the transportation of the household goods of civilian officers and employees when transferred from one official station to another for permanent duty (with an accompanying paper); to the Committee on Expenditures in the Executive Departments.

PUNISHMENT FOR KILLING OR ASSAULTING FEDERAL OFFICERS

A letter from the Under Secretary of Agriculture, transmitting, with renewed recommendation for its enactment, a draft of proposed legislation to amend the act providing punishment for killing or assaulting Federal officers (with accompanying papers); to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate by the Vice President, or presented by a Senator, and referred as indicated:

By the VICE PRESIDENT:

A resolution of the class of 1896 of New York University Medical Department, favoring the granting of all aid to Great Britain, and, if necessary, the use of the United States Navy, to the end that food, arms, and munitions may be delivered to that country; to the Committee on Foreign Relations.

A resolution of the General Court of Massachusetts; to the Committee on the Judiciary:

"Resolutions requesting Congress to call a convention for proposing an amendment to the Constitution of the United States relative to taxes on incomes, inheritances and gifts, and to provide a mode for the ratification of said amendments.

"Resolved, That the General Court of Massachusetts, acting in pursuance of article V of the Constitution of the United States, hereby requests the Congress of the United States that it call a convention under said article for the purpose of proposing an amendment to said Constitution, as follows:

"ARTICLE —

"SECTION 1. The sixteenth article of amendment to the Constitution is hereby annulled.

"Sec. 2. The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration: *Provided*, That in no case shall the maximum rate of tax exceed 25 percent.

"Sec. 3. The maximum rate of any tax, duty, or excise which Congress may lay and collect with respect to the devolution or transfer of property, or any interest therein, upon or in contemplation of or intended to take effect in possession or enjoyment at or after death, or by way of gift, shall in no case exceed 25 percent.

"Sec. 4. The limitations upon the rates of said taxes contained in sections 2 and 3 shall, however, be subject to the qualification that in the event of a war in which the United States is engaged creating a grave national emergency requiring such action to avoid national disaster, the Congress by a vote of three-fourths of each House may for a period not exceeding 1 year increase beyond the limits above prescribed the maximum rate of any such tax upon income subsequently accruing or received or with respect to subsequent devolutions or transfers of property, with like power, while the United States is actively engaged in such war, to repeat such action as often as such emergency may require.

"Sec. 5. Sections 1 and 2 shall take effect at midnight on the 31st day of December following the ratification of this article. Nothing contained in this article shall affect the power of the United States after said date to collect any tax on incomes for any period ending on or prior to said 31st day of December laid in accordance with the terms of any law then in effect.

"Sec. 6. Section 3 shall take effect at midnight on the last day of the sixth month following the ratification of this article. Nothing contained in this article shall affect the power of the United States to collect any tax on any devolution or transfer occurring prior to the taking effect of section 3, laid in accordance with the terms of any law then in effect; and be it further

Resolved, That the Congress of the United States be, and it hereby is, requested to propose as the mode of ratification of said amendment that it shall be valid to all intents and purposes, as part of the Constitution of the United States, when ratified by the legislatures of three-fourths of the several States; and be it further

Resolved, That the State secretary be, and he hereby is, directed to send a duly certified copy of these resolutions to the presiding officer of each branch of the Congress of the United States."

By Mr. CAPPER:

A resolution of the Methodist Ministers' Association of Greater Kansas City, Kans., expressing concern over and opposition to the increasing drift toward involvement of the United States in foreign war; to the Committee on Foreign Relations.

A petition of sundry citizens of Allen County, Kans., praying for the enactment of the bill (S. 860) to provide for the common defense in relation to the sale of alcoholic liquors to the members of the land and naval forces of the United States and to provide for the suppression of vice in the vicinity of military camps and naval establishments; to the Committee on Military Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GEORGE, from the Committee on Finance:

S. 1420. A bill to authorize the Administrator of Veterans' Affairs to transfer by quitclaim deed title in certain lands of Veterans' Administration Facility, Dayton, Ohio, to the county of Montgomery, State of Ohio,

for highway-widening purposes; without amendment (Rept. No. 272);

S. 1421. A bill to authorize the Administrator of Veterans' Affairs to transfer by quitclaim deed to the Norfolk & Western Railway Co. a small piece of land at Veterans' Administration Facility, Roanoke, Va.; without amendment (Rept. No. 273); and

S. J. Res. 74. Joint resolution to authorize the postponement of payment of amounts payable to the United States by the Republic of Finland on its indebtedness under agreements between that Republic and the United States dated May 1, 1923, May 23, 1932, and May 1, 1941; without amendment (Rept. No. 274).

By Mr. O'MAHONEY, from the Committee on Indian Affairs:

H. R. 2672. An act to authorize the Secretary of the Interior to enter into an agreement fixing boundary lines on Wind River Indian lands, Wyoming; with an amendment (Rept. No. 275).

By Mr. BYRNES, from the Committee to Audit and Control the Contingent Expenses of the Senate:

S. Res. 87. Resolution authorizing the Committee on Indian Affairs to hold hearings during the Seventy-seventh Congress (submitted by Mr. THOMAS of Oklahoma on March 13, 1941); without amendment.

PAULA LIEBAU ANDERSON—AMENDMENTS REPORTED BY COMMITTEE ON CLAIMS

Mr. HUGHES, from the Committee on Claims, reported several amendments to the bill (H. R. 327) for the relief of Paula Liebau Anderson, heretofore reported by that committee without amendment, which were ordered to be printed.

BILLS AND JOINT RESOLUTION INTRODUCED

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

By Mr. BAILEY:

S. 1484. A bill for the relief of John T. Dula; to the Committee on Claims.

S. 1485. A bill to amend title X of the Social Security Act, as amended, to provide for additional aid to the blind; to the Committee on Finance.

By Mr. WHEELER:

S. 1486. A bill authorizing the Secretary of the Interior to issue to William Murray, Jr., a patent to certain land; to the Committee on Indian Affairs.

By Mr. JOHNSON of Colorado:

S. 1487. A bill for the relief of William L. O'Brien; to the Committee on Finance.

S. 1488. A bill to amend an act entitled "An act authorizing the temporary detail of John L. Savage, an employee of the United States, to service under the Government of the State of New South Wales, Australia, and the Government of the Punjab, India" (act of June 29, 1940, Public, No. 678, 76th Cong., 3d sess.); to the Committee on Foreign Relations.

By Mr. REYNOLDS:

S. J. Res. 76. Joint resolution extending the application of section 6 of the act entitled "An act to expedite the strengthening of the national defense," approved July 2, 1940 (54 Stat. 714), to all Territories, dependencies, and possessions of the United States, including the Philippine Islands, the Canal Zone, and the District of Columbia; to the Committee on Military Affairs.

HOUSE BILL REFERRED

The bill (H. R. 4534) to amend the act approved June 28, 1940, entitled "An act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material, was read twice by its title and referred to the Committee on Military Affairs.

WITHHOLDING OF MONEY ON NATIONAL-DEFENSE CONTRACTS

Mr. LANGER presented a statement in support of the bill (S. 1478) providing that no money due to persons in connection with national-defense contracts shall be detained by an officer of the United States except by injunction duly issued, and for other purposes, introduced by him yesterday and referred to the Committee on the Judiciary.

Under authority granted yesterday, the statement presented by Mr. LANGER was ordered to be printed in the RECORD, as follows:

STATEMENT BY MR. LANGER IN SUPPORT OF S. 1478

I introduced yesterday a bill designed to make it unlawful for a Government official to delay a payment directed by law to be made to an individual or corporation or found to be due by the proper administrative officers of the Government without an injunction issued by a court of competent jurisdiction.

I believe it is proper to state briefly at this time the reasons which have moved me to introduce a bill of this character.

I find that the practice has grown up here in the District of Columbia of filing suits based on flimsy claims against persons to whom money is due from the United States and that such suits are, at least sometimes, used for the purpose of extorting money from persons who have sums due from the United States in order to avoid long delays in payment.

This matter has been brought forcibly to my attention within the last several days in reading the testimony before the Ways and Means Committee of the House delivered by Lester P. Barlow.

Mr. Barlow stated that half of a sum of approximately \$600,000 directed to be paid to him by an act of Congress has been detained by the Treasury for more than 8 months without an injunction and without a surety bond to protect Barlow against loss, merely because of the filing of a suit in the District of Columbia courts by a Los Angeles lawyer who claims that he is entitled to half of the money directed to be paid to Barlow by law on the basis of a contingency contract for legal fees made 25 years ago. The facts of the case show, furthermore, that Barlow made a settlement with Clark some 16 years ago, in 1924, and that Clark executed a complete release of all claims against Barlow at that time in consideration of a cash payment to him of \$12,000. I do not, of course, care to discuss the merits of this particular claim at the present time, because it is still pending before the United States Court of Appeals for the District of Columbia, but I am interested in the fact that because of this suit, and without an injunction and without a bond, Mr. Barlow's money has been detained for approximately 8 months.

I understand that this state of affairs has been brought about by the fact that the Attorney General has ruled that if such a suit is filed, asserting a claim to part of money due from the United States, officers of the United States are justified in delaying such payments until the claim asserted has been completely litigated or an order has been issued by the court directing payment. In the Barlow case Mr. Justice Bailey of the District Court issued an order requiring the Treasury officials to pay Barlow, but the Court of Appeals for the District of Columbia stayed this order, thus recognizing the right of a Government officer to hold up money due to an individual or corporation to await the outcome of litigation in which such a citizen or corporation may be involved with third parties.

We are all aware, of course, that the Government is spending and about to spend billions of dollars for defense purposes. The contractors and manufacturers with whom the Government must deal in carrying out its defense program are entitled to anticipate that sums due them will be paid when due. It is clear to me that if the practice adopted in the Barlow case with the apparent approval of the Court of Appeals of the District of Columbia is allowed to continue, many large payments will be subject to attacks of the same character, and persons with flimsy and baseless claims can cause such annoyance and delay that persons will either be discouraged from dealing with the Government or when they do deal with the Government they must take into consideration the possibility that in order to get their money promptly it may be necessary to pay or compromise invalid claims which are asserted against them.

I cannot believe that the practice established in the Barlow case is sound, but it seems to me that the quickest and most effective way to cure this situation is to enact legislation which will make it impossible to hold up any Government payment unless there is an injunction by a court of competent jurisdiction issued by that court in strict compliance with the Federal rule which requires a surety bond to protect against loss any person damaged by the delay in payment. This I had always understood to be the law, but the situation which has arisen in the Barlow case, and perhaps in others, indicates the necessity of making the law absolutely certain. Cases of this character are almost invariably brought in the District of Columbia, because it is only here that the higher officers of the Treasury Department may be served with process. I am told that there are a number of cases of this character now pending before the courts of the District of Columbia and that numerous such suits have been filed in the past, many of which have been settled. It is only since the Barlow case, however, so far as I can learn, that Government officials have permitted such suits to indefinitely postpone payments in the absence of an injunction and a bond. The new procedure apparently approved in the Barlow case will undoubtedly encourage a great many more of such suits, and I think this practice should be promptly halted before it interferes with the defense program.

PRINTING OF PROCEEDINGS IN CONNECTION WITH UNVEILING OF STATUE OF HUEY P. LONG

Mr. OVERTON (for himself and Mr. ELLENDER) submitted the following concurrent resolution (S. Con. Res. 11), which was referred to the Committee on Printing:

Resolved by the Senate (the House of Representatives concurring), That there be printed, with illustrations, and bound in such form and style as may be directed by the Joint Committee on Printing, 5,900 copies of the proceedings held in connection with the unveiling of the statue of former Senator Huey P. Long in Statuary Hall, Capitol Building, Washington, D. C., on April 25, 1941, together with such other matter as may be relevant thereto, of which 1,250 copies shall be for the use of the Senate, 3,750 copies for the use of the House of Representatives, and 900 copies shall be for the use and distribution of the Senators and Representatives in Congress from the State of Louisiana.

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

FOREIGN POLICY OF THE UNITED STATES—EDITORIALS FROM SCRANTON TIMES

[Mr. NYE asked and obtained leave to have printed in the Record several editorials from the Scranton Times of May 2 and 5, 1941, which appear in the Appendix.]

STATEMENT BY WOMEN'S NATIONAL COMMITTEE TO KEEP THE UNITED STATES OUT OF WAR

[Mr. NYE asked and obtained leave to have printed in the Record a statement issued by the Women's National Committee to Keep the United States Out of War, dated May 8, 1941, which appears in the Appendix.]

THE JAPANESE-AMERICAN CREED

[Mr. THOMAS of Utah asked and obtained leave to have printed in the Record the Japanese-American Creed, which appears in the Appendix.]

SENATOR FROM WEST VIRGINIA

The Senate resumed the consideration of Senate Resolution 106, seating Joseph Rosier as a Senator from the State of West Virginia.

The VICE PRESIDENT. The question is, Shall the decision of the Chair yesterday, overruling the point of order by the Senator from Missouri [Mr. CLARK] that the Senator from West Virginia [Mr. KILGORE] had yielded the floor by permitting a statement to be made by the Senator from Illinois [Mr. LUCAS], stand as the judgment of the Senate? [Putting the question.] The "ayes" have it, and the ruling of the Chair is sustained.

Mr. CHANDLER. Mr. President, a point of order.

The VICE PRESIDENT. The Senator from Kentucky will state it.

Mr. CHANDLER. Did the Chair undertake to rule on the point of order made by the Senator from Missouri?

Mr. HATCH. Mr. President, will the Senator yield to me?

Mr. CHANDLER. I yield to the Senator from New Mexico.

Mr. HATCH. The Senate was passing on the question of sustaining the action of the Chair on the point of order made yesterday afternoon, which was raised by the Senator from Missouri.

Mr. CHANDLER. Of course, the Senator from Kentucky has no objection; but the Senator from Missouri is not here, and, as I recall, he was the one who made the point.

Mr. McNARY. I call for the regular order.

Mr. KILGORE. Mr. President, yesterday the senior Senator from Missouri [Mr. CLARK] stated that the attorney general of my State had assumed or appeared to be acting as the attorney for Dr. Rosier, Governor Neely's appointee. I call the attention of this body to the fact that the record before the committee in this case shows that Governor Neely, in his official capacity as Governor, requested the attorney general of that State to render him legal advice on this matter. The statutes of West Virginia make it the duty of the attorney general to render such legal advice. I therefore fail to see how a public officer can be criticized for performing the duties imposed upon him by statute.

I also desire at this time to call attention to the fact that yesterday the junior Senator from Kentucky [Mr. CHANDLER] stated that the attorney general of West Virginia had said before the committee that before Governor Neely was eligible to qualify as Governor of the State of West Virginia he should cease to be United States Senator. The Senator is correct in his statement, extracting only that first little part from the record; but the attorney general's statement at that time was taken from a very lengthy opinion rendered by him, which, upon reading, shows that there can be no doubt that the statement does not reflect the general conclusion of the opinion. On page 282 of the record is found a later statement made by the attorney general in response to a query on that very point.

Mr. CHANDLER. Mr. President, will the Senator from West Virginia yield?

Mr. KILGORE. For a question; yes.

Mr. CHANDLER. The Senator has not been very anxious to have light thrown on this matter. Sometimes a question will not do it. Yesterday I yielded to every Senator who asked me to yield for any purpose at all. The Senator has made a statement, and I want it to be correct, because yesterday I read, and if the Senator will turn to page 104 of the hearings he will find that the attorney general of West Virginia said:

As we have seen, it was necessary that you should cease to be a United States Senator before you were eligible to qualify as Governor of the State of West Virginia.

The junior Senator from Kentucky said that the attorney general, when he had an opportunity to correct the record, changed that statement and undertook to make it so that it suited him a little better; but I am not interested in that. I am interested in the statement he made in his written opinion to Governor Neely, and that statement was correct as I gave it.

Mr. KILGORE. The Senator from Kentucky does not, however, object to my reading at this time the corrected statement, I take it.

Mr. CHANDLER. I object to the Senator's trying to make the Senate believe that the attorney general did not make the original statement.

Mr. KILGORE. I beg the Senator's pardon.

Mr. CHANDLER. I said yesterday that the attorney general tried to change it, and that is the thing I did not like about it. He made the statement in a written opinion, and I read it to the Senate. It stands there uncontradicted.

Mr. KILGORE. I believe the Senator from Kentucky misunderstood my statement. The record speaks for itself on this matter, but I desire at this time to read to the Senate the corrected statement. This is the statement complained of—

As we have seen, it was necessary that you should cease to be United States Senator before you were eligible as Governor of the State of West Virginia.

We recognize—

This is the statement of the attorney general—

that the statement standing alone may give them cause for consolation, but this honorable committee will recognize that the reasoning of the opinion and the testimony [Attorney General Meadows] leads to the one and only conclusion that what was meant was that Senator Neely should cease being a United States Senator before he could act as Governor. That was the meaning, and in a correction of the record it has been asked that such be noted. If there be any doubt as to what was meant, it is now stated that to convey the real meaning, the word "qualify" should be stricken out and the word "act" inserted in lieu thereof.

This was a later statement by the attorney general.

There is another point which I should like to bring out today to clarify somewhat a statement made by me yesterday in response to a question from the Senator from Vermont [Mr. Austin]. At that time I was trying to explain the difference between the filing and the preservation of various oaths in the State of West Virginia.

In one section of the Code of West Virginia there is a provision for filing and preserving the certificates of oaths of office. It will be noted by a reading of the entire section that that section divides officials of the State into numerous groups, two of those groups being municipal officials and educational officials of the counties. It is provided in the statute that the original certificates shall be filed and preserved, in the case of educational officials, in the office of the secretary of the board of education, and, in the case of municipal officials, in the office of the clerk of the municipality, or similar officer, and that certified copies of these certificates shall be filed in the office of the clerk of the county court; and later in the act it is made the duty of officials to file the certified copies directed by the section. The mandatory duty imposed there, where the words "It shall be the duty" appear, refers to municipal and educational officials of the various counties.

It was also urged yesterday—and I went into the subject somewhat, but should like to go into it a little more deeply—that the fact that Governor Neely took his oath of office as Governor before his term as Senator had expired, under the terms of his resignation, even though such was required by the laws of West Virginia, automatically vacated his seat in the Senate.

If I recollect correctly, yesterday I was asked as to a judicial determination on that point. I stated at that time that in the State of West Virginia there was no direct judicial determination on that point because with most officials of the State that policy had been followed for years. But I am sure that this honorable body would recognize the great State of Kentucky as a State whose laws and decisions are entitled to weight on any point. I, therefore, refer to the case of *Taylor v. Johnson* (148 K. 649).

In this case a constitutional provision provided that "no person shall at the same time fill two municipal offices."

One Coyne held a municipal office, and while still in office, ran for and was

elected to another municipal office. To qualify for the second office, the law required him to take an oath and give a bond. Coyne took the oath and gave the bond for the new office before his old term of office expired.

It was contended that in so doing he had vacated his first office, but the Supreme Court of Kentucky held that his act in taking the oath and giving the bond did not vacate his present office, nor in any manner disqualify him, but that it was merely a preparation to assume the duties of his new office, and that it was entirely proper in every respect. In other words, the moment his new term began, he, having previously qualified himself, could immediately assume the duties of his new office, and at the very moment of the beginning of the new term, he became the new officer.

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

Mr. KILGORE. Certainly.

Mr. CHANDLER. Does not the Senator know that the case of Taylor against Johnson, which he has just cited, was a case where there was no written resignation, such as there was in the case we are considering? In that case a man undertook to go from the position of alderman to city treasurer—it was a local proposition—and the case we are now considering is that of a governorship and a United States senatorship, certainly involving the question of two incompatible offices, perhaps one State and one Federal, if one agrees that the United States senatorship is a Federal office. I am not certain as to that, but it is not in the same category with two municipal offices.

Mr. KILGORE. The Senator from Kentucky is correct in stating that this case involves municipal offices, but the Senate must also realize that the constitution of the State of Kentucky placed these two offices in a similar situation to what the Senator also contends as to a United States Senator and Governor.

Mr. CHANDLER. I do not believe that the Senator from West Virginia, in looking up the law in Kentucky, Minnesota, and every other State he can find, should avoid as far as he can the law of his own State, because the opposition has not been able to find a single West Virginia case which bolsters up his position in any way.

Mr. KILGORE. Has the Senator from Kentucky been able to find a West Virginia case which holds in accordance with the Senator's idea of what the West Virginia law is?

Mr. CHANDLER. Will the Senator yield again?

Mr. KILGORE. Yes.

Mr. CHANDLER. Senator Neely resigned—

Mr. KILGORE. Just a moment. I should like to have an answer to my question before I yield for another question.

Mr. CHANDLER. Did the Senator ask me a question?

Mr. KILGORE. Yes.

Mr. CHANDLER. I did not hear it.

Mr. KILGORE. I asked whether the Senator from Kentucky had been able to find a decision in point supporting the

Senator's theory as to the law in West Virginia.

Mr. CHANDLER. I refer to numerous cases I cited yesterday. It is more than a theory. It is not only the law. There was a case of Broadwater against Booth, Carr against Wilson, West Virginia cases; Bunting against Wilson, a Virginia case. The Senator cites a case now which has to do with two municipal offices, alderman and treasurer, and where there was no written resignation. In this case there was a written resignation. The man who wanted to leave the senatorship and become Governor sent a written resignation, precisely stating the time when he wanted it to take effect. I have yet to hear the distinguished junior Senator from West Virginia cite a West Virginia case to bolster up his argument. He stayed carefully and studiously away from his own State.

Mr. KILGORE. The Senator from West Virginia does not like to say anything about seniority, but he is not the junior Senator. He happens to be at the present time the only Senator from West Virginia.

Mr. CHANDLER. He must be junior, then, because we must have a junior.

Mr. KILGORE. I do not know; I have known many families which had no junior in them.

I should like to have the Senator from Kentucky at some time, if he makes further remarks, point out how the West Virginia decisions he cites are in point in this case. I have heard of the decisions to which he referred, and I practiced law under those decisions for the last 25 years.

Mr. CHANDLER. Yesterday, in an argument between the Senator from West Virginia and the Senator from Illinois, the Senator from Illinois inquired whether the Senator had heard two of his supreme court justices testify. The question I wish to ask the Senator from West Virginia now is, Is it not a fact that Meredith and Lively, the two judges whose letters I read to the Senate yesterday, were members of the Supreme Court of West Virginia when the Qualls case was decided?

Mr. KILGORE. I cannot say for a fact that they were. I wanted an opportunity to consult the record to determine the exact time when they retired or went into office. Judge Meredith was on the bench for a part of a term only. Judge Lively was on for one full term of 12 years. I believe the Senator from Kentucky was correct in saying that at the time the Qualls case was decided they were on the bench. However, I also can state to the Senator from Kentucky that the Qualls case was decided under a group of special statutes, which, I should like to have the Senate understand, were abandoned and repealed by the Legislature of West Virginia in the year 1931, when the laws were recodified, and when reading from the Code of West Virginia as published, either the official code or the Michie code, the so-called codifiers' notes are not laws; they were merely taken from the recommendations of the codification commission in submitting the code to the State of West Virginia as

an idea of what the codification commission—not the legislature—intended to do by the statute.

Mr. CHANDLER. Of course, I merely want the Senate to understand that these two judges whose letters I read said they were on the West Virginia Supreme Court and participated in the decision, and Mr. Sperry said he was on the revision committee. I wish to ask the Senator whether the Code of West Virginia of 1931, chapter 6, article 1, and section 6 of the code of 1937, serial 271, is the law of West Virginia.

Mr. KILGORE. Just a moment.

Mr. CHANDLER. And whether the decision in Qualls against the Board of Education is not still the law, and that the West Virginia Legislature, in order to make it effective, said the decision was intended, and the legislature and the committee on revision would give it effect?

Mr. KILGORE. I have been unable to get a West Virginia Code from the law library.

Mr. CHANDLER. I have it here. Shall I read it to the Senator? I merely want to know whether that is still the law of the State.

Mr. KILGORE. Read it to me.

Mr. CHANDLER. It reads:

Certificates of the oaths of officers shall be filed and preserved in the office of the secretary of state.

It shall be the duty of every person—

That is, the Governor and everyone else—

who takes an oath of office to procure and file in the proper office the certified copies of his certificate of oath as provided in this section, and it is his duty to file certified copies of his oath of office with the secretary of state.

Mr. KILGORE. Will the Senator wait just a second? The last part was not a part of the section.

Mr. CHANDLER. It is a repetition of what the Senator knows. But the judges whose letters I read said that, in order to avoid any idea that it was purely directory, they intended to make it mandatory, and that was the reason not only for the decision but the law of the Legislature of West Virginia which undertook to make it effective, and they intended to say that every person who took an oath of office in West Virginia had to file it in the office of the secretary of state before he could take any official action.

Mr. KILGORE. The Senator from Kentucky was evidently not in the Chamber yesterday afternoon, and again this morning, when I went into that section of the code. The section quoted is not the complete section, and the complete section, when read, differentiates, as I previously stated, between two different types or groups of officers, one type composed of municipal and educational officers who file first, for preservation, the certificates of oaths with the secretary or clerk of their respective organizations, and who are later required to procure a certified copy of that for filing. There is no place in that section where the Senator from Kentucky, or any other Senator, can find a mandate fixing a definite time

at which the oath has to be filed in any office, aside from the mandate requiring a specific filing of a copy of the certificate on the part of educational officers and municipal officers. The trouble is, the section was not read in its entirety, and unfortunately, at the moment I do not have the code with me. The section in question, of which I had a complete copy, appears to have escaped me, but I will procure the complete section for the Senator if he wants it.

Mr. President, I have now found the complete section. If the Senator from Kentucky is still interested I will read it. I have already discussed it with other members of the Senate, however, so I will not take up any further time on it.

I wish also at this time very briefly to discuss the Farrar case, which was so ably discussed by the chairman of the Committee on Privileges and Elections [Mr. CONNALLY]. The Farrar case, I believe, sets out the perfect philosophy of the succession of office. The Farrar case comes from the State of Minnesota. The opinion in that case deplores the necessity, or the idea of any necessity, rather, for the hasty taking of office and assuming the functions of an office. In that case the facts were that an outgoing board of commissioners, after the termination of the terms of office of its members, endeavored to appoint a sheriff. The incoming members of the board had not taken their oaths of office at the time, it being the first day of their term. The Supreme Court of the State of Minnesota, in a well-written opinion, said it was unseemly that public officials should be required to race to try to get their oaths taken in order that they might carry on the duties incident to their office in the statutory term thereof, and insisted that the correct rule in that case, and in an advisory way said in all cases, was that an officer who had taken his oath of office, as expeditiously as was convenient, as soon as his term began, or as soon thereafter as the dignity of the office would permit, should be held to have taken an oath which dated back to the first instant of his term, to avoid the unseemly racing about and rushing about to try to take an oath at the hour of midnight or at any other hour to keep a predecessor from encroaching upon his term.

There was some discussion by Senators with the Senator from Texas on that point, and I wished to state my viewpoint of one feature of it.

The opinion in the case also held that in that event an officer could complete work which he should have done during his term of office, but after the instant of the expiration of his term of office could undertake no new work, work arising, that could not have been done prior to the actual expiration date in order to enable him to close up the business of his office.

Mr. President, I thank the Senate for its patience. I wanted to try to make the laws of West Virginia clear, and I am firmly convinced, as I stated before, that the laws of my State, coupled with the rulings of the United States Senate in election contest cases, are very plain and very clear on the facts, first, that an out-

going Senator of the United States can fix the date of his retirement in the wording of his resignation, and that the Senate will always respect that right. Second, that the laws of West Virginia permit and require an official to take his qualifying oath in anticipation. Third, that the filing of the oath is for its preservation. That there is now no penalty attached in the State of West Virginia, no vacation of office for failure to file the oath, no time limit in which it can be filed. The purpose of the statute is the preservation in the records of the State of evidence—not of a certificate but of evidence—that the Governor has taken the oath, and that can only be attacked directly on an ouster or a quo warranto against the Governor. So far as we in the Senate are concerned, the Governor of West Virginia is the Governor, and we cannot attack the time he filed any oath, and, as a matter of fact, the law has been so changed that there is no specific time set.

I therefore submit that the law is plain, Mr. President.

UNITY OF THE AMERICAN REPUBLICS

Mr. DAVIS. Mr. President, it has been my privilege to travel through the South and Central American countries. The wide open spaces of those great lands make a lasting impression on anyone who travels there. I have found their peoples awake to the commercial opportunities which the United States presents to them. I have come to understand their feeling of unity with our own citizens, and I have come away realizing that there is a sense of hemispheric solidarity which is thoroughly substantial and lasting. It is my hope that with the coming days the feeling of good will and cordial relations will increase so that the best interests of all the South American republics will be served along with the advancement of the business and cultural ties which we are now so earnestly seeking to develop.

Mr. President, last evening I attended with other Members of Congress a dinner given by the Chief of Naval Operations of the United States for the chiefs of the naval general staffs of the American republics at the Shoreham Hotel.

The affair was truly inspiring. Seated at the tables were men whose noble heads and bearing gave unmistakable signs that they were men of the sea.

Behind the speaker's table was a large oval made up of all the flags of the American republics, with our flag in the center and on the sides, which inspired all those present with the assuring thought that the Americas were united.

I noted with great delight the cordial spirit displayed among these naval representatives of the Western Hemisphere. The lovely ladies who attended were truly ambassadors of cheerfulness and good will. Under the masterful leadership of one of the greatest band leaders in the country, Charles R. Benter, the national anthems of all the American republics represented were played.

With this patriotic feeling of unity and fellowship serving as a background, Admiral Harold R. Stark, Chief of Naval Operations, rose and delivered his inspiring address. The tremendous ova-

tion that welcomed Admiral Stark is a glowing tribute to one who left Wilkes-Barre, Pa., and the anthracite regions as a young man to enter the Naval Academy and become one of the greatest naval experts in our history. It is little wonder that he is so highly respected and loved by men of the sea. We of America owe much to Admiral Stark for his noble work in cementing the American republics in common unity, fellowship, and brotherhood. This meeting was the first of its kind in all the history of America, and it showed convincingly that there is a unity of purpose among the nations of the Western Hemisphere.

The address by Admiral Stark was also printed in Spanish, and as he spoke, the representatives from the republics to the south followed the speech in Spanish.

After the delivery of the address, a tall stately man with the noble marks of the sea upon him, Vice Admiral Castro e Silva, chief of the naval general staff of Brazil, rose and replied in Portuguese to the address of welcome by Admiral Stark. His address was translated into English by Commander E. E. Brady, of the United States Navy.

I asked unanimous consent to have printed as a part of my remarks the address of welcome by Admiral Stark, together with the Spanish translation, and also the address in Portuguese by Vice Admiral Castro e Silva, of Brazil, together with the English translation by Commander E. E. Brady.

There being no objection, the addresses referred to were ordered to be printed in the RECORD, as follows:

ADDRESS OF ADMIRAL HAROLD R. STARK, CHIEF OF NAVAL OPERATIONS, TO THE CHIEFS OF THE NAVAL GENERAL STAFFS OF THE AMERICAN REPUBLICS

Gentlemen, I am proud to welcome you to this country as the honored guests of the North American Navy. I am most happy, personally, to greet the distinguished officers who lead the navies of our sister American Republics. Between all naval officers there exists a natural brotherhood. We who go down to the sea in ships face the same problems and speak the same language.

My first cruise after graduating from the Naval Academy in 1903 was in South American waters. I have always been grateful for that detail to what we then used to call the South Atlantic Squadron.

There is no cruise more vividly recalled by a naval officer than the first one he makes after receiving his commission. But aside from this, I have always been grateful for the contacts I had with the South American countries at that time. I was then, and still am, deeply grateful for the many, many hospitalities which I received in those early days, my memories of which are as bright now as they were then. I have always cherished the hope that some day I might do something in return for the many courtesies which were then extended to me.

You can appreciate, therefore, that in addition to the official welcome which I am so glad to extend to you, I am also very proud personally to welcome you to our country and as honored guests of the North American Navy.

There has always been friendship between your countries and my own. We do not forget that they were South Americans who first proposed the idea of Pan American accord. I recall to you the Chilean leader, Juan Egaña, who, in 1811, urged that the

Independent American States form a confederation, and it was the great liberator, Bolívar, in 1815, whose prophetic mind foresaw the necessity for hemispheric solidarity.

Today, with the other half of the world in flames, Bolívar's vision of a century ago assumes the most urgent importance.

The economic and social problems, the military and naval dangers which the Second World War imposes are not the affair of any one country. They are matters which concern us all.

We are resolved that this scourge of war be barred from our western world. To achieve that objective, we will do what we have to do.

Since all this is so, I thought it would be a fine thing for the chiefs of our naval services to come together, and to become acquainted with each other. Therefore, I have asked you to Washington. I trust it will interest you to see the things the North American Navy is trying to do.

It has been arranged for you to visit our seat of Government and to meet our high officers of State.

You will be asked to inspect our Navy yards, our naval air stations, and the activities of our Marine Corps.

You will see something of our industrial plants now engaged in the production of arms for the defense of the Americas.

You will pass through some of our largest cities. You will traverse our country from one ocean to the other.

And whatever else you do, you will meet a great many North Americans, and they will all be your friends. What you see will show you, better than any words of mine, the steps North America is taking toward our common objective.

Some of you have been here before, and you return to scenes already familiar. Some of you are with us for the first time, and we hope that you, too, will return again. Many of you have enjoyed close professional contacts in the service of your several countries, and are known to each other. But it is the first time in the long history of the American Republics that the chiefs of all our navies have been assembled, and it makes us very happy that it takes place here.

As you say in your gracious way, here, "You are in your own house."

PALABRAS DE BIENVENIDA PRONUNCIADAS POR EL SEÑOR ALMIRANTE HAROLD R. STARK, JEFE DEL ESTADO MAYOR NAVAL A LOS SEÑORES JEFES DE LOS ESTADOS MAYORES NAVALES DE LAS REPÚBLICAS AMERICANAS

SEÑORES: Tengo mucho orgullo en darles a Vds. una cordial bienvenida a este país en su calidad de huéspedes de honor de la Marina Norteamericana. Personalmente me siento muy feliz en saludar a los distinguidos oficiales que dirigen las marinas de las repúblicas americanas hermanas. Entre todos los oficiales navales existe una hermandad natural. Nosotros que navegamos los mares tenemos que afrontar los mismos problemas y hablamos la misma lengua.

MI primer crucero, después de graduarme de la Academia Naval en el año 1903, fué en aguas sudamericanas. Siempre he estado agradecido por haber tenido la oportunidad de servir en lo que en aquel entonces llamábamos la Escuadra del Sud Atlántico.

No hay crucero que más vivamente recuerde un oficial naval que el primero que hace después de recibir su comisión. Mas, aparte de esto, siempre he estado agradecido por las relaciones que tuve la suerte de hacer en los países sudamericanos en aquella época. Estaba, y estoy aún, hondamente agradecido por las muchísimas atenciones que inmerecidamente recibí en aquellos días lejanos, el recuerdo de las cuales se conserva frecuentemente. Siempre he abrigado la esperanza de poder algún día hacer algo en retribución

por las muchas cortesías que me fueron prodigadas.

Por consiguiente, podrán comprender Vdes. que, además del placer de extenderles la venida oficial, tengo un orgullo personal en darles la bienvenida a nuestro país y como huéspedes de honor de la Marina Norteamericana.

Siempre ha habido amistad entre los países de Vdes. y el mío. Nosotros no olvidamos que fueron sudamericanos los que primero propusieron la idea de un acuerdo panamericano. Hágoles recordar que fué el jurista chileno, Juan Egaña, quien en 1810 sugirió que los estados americanos independientes formaran una confederación, y fué la mente profética del gran libertador, Bolívar, que en 1815 previó la necesidad de la solidaridad hemisférica.

Hoy, con la otra mitad del mundo en conflagración, la visión de Bolívar asume una importancia muy urgente.

Los problemas económicos y sociales, los peligros tanto militares como navales que el Segundo Guerra Mundial ha traído no conciernen únicamente a una sola nación. Son problemas y peligros que nos conciernen a todos nosotros.

Estamos resueltos a excluir este azote de la guerra de nuestro hemisferio occidental. Para lograr este fin, haremos todo aquello que sea necesario.

En vista de todo esto, pensé que sería muy conveniente que los jefes de nuestros servicios navales se reuniesen y que llegasen a conocerse. Consecuentemente, me he permitido invitarles a Vdes. a venir a Washington. Espero que les interesará ver lo que la Marina Norteamericana está tratando de hacer.

Arreglos se han hecho para que puedan Vdes. visitar la sede de nuestro gobierno y conocer a nuestros altos oficiales del mismo.

Se les pedirá que tengan a bien inspeccionar nuestros arsenales y las actividades de nuestro Cuerpo de Infantería de Marina.

Verán, también, algunas de nuestras plantas industriales actualmente dedicadas a la producción de armamento para la defensa de las Américas.

Pasarán Vdes. por algunas de nuestras ciudades más grandes. Recorrerán nuestro país de un océano al otro. Y en todo lo demás que hagan, se encontrarán con muchísimos norteamericanos, y todos serán amigos suyos. Lo que verán demostrará, mejor que palabras más, las medidas que Norte América está tomando para alcanzar nuestro fin común.

Algunos de Vdes. han estado aquí antes y vuelven a escenas ya conocidas. Algunos vienen por primera vez, y esperamos que Vdes. también volverán. Muchos de Vdes. ya se habrán conocido personalmente en el servicio de sus respectivos países. Pero ésta es la primera vez en la larga historia de las Repúblicas Americanas que los jefes de todas nuestras marinas se hayan reunidos, y nos complace muchísimo el que la reunión tenga lugar aquí.

Como dicen Vdes. tan cortésmente, aquí "están Vdes. en su casa."

Siendo por los Presidentes de vuestras países.

Sr. Almirante Chefe de Operações dos Estados Unidos, Srs. Almirantes e Generais, Senhores Officiaes, Meus Senhores, a agradável convivência que ha varios dias venho tendo com os meus prezados camaradas das Marinhas Latino-Americanas, as opiniões e conceitos que de varios d'elles tenho ouvido em discursos pronunciados como agradecimento de todos nós ás captivantes gentilezas que vamos recebendo n'esta terra hospitaleira, permite-me a honra de poder falar tambem em nome delles.

Posso assim dizer que foi com muita viva satisfação que recebemos o amavel convite de Vossa Excellencia para visitarmos a

Marinha de sua grande Patria e vermos algo desse formoso paiz, no qual, quasi todos nós já havíamos estado, mas que em uma posição muito elevada na carreira, e como tal, proximos da idade em que a nossa vida activa de ~~Comandante de Marinha se encerra~~, tinha trazido a muitos a esperança de revel-a e verificar em pessoa seu prodigioso adiantamento, principalmente no que se refere a sua forte Marinha de Guerra.

Pelo que até agora nos tem sido mostrado estamos convencidos de que por maior que fosse a idéa que a esse respeito fizessemos, ella estaria sempre um pouco longe da realidade. Nos sentimos felizes por assim termos visto e por desejar que o resultado de tantos esforços corresponda ás vossas justas aspirações.

Sabemos muito bem não ser este o unico esforço que até agora tendes feito, pois a vossa historia nos mostra muitos outros em que dominam o poder da vontade e a vossa incomparavel energia, mas não cremos que possa haver feito muito maiores.

De nossa parte ha uma apreciação ainda mais lisongeira: é que vos entregando a esse herculeo trabalho, em prol do engrandecimento e da segurança da vossa Patria, não esquecesteis nenhum dos sentimentos de cordialidade Pan-Americana de cujos frutos bemfazejos, nossas historias estão repletas.

Não poderia eu definir melhor o futuro que vos almejamos do que repetindo as bellas palavras que o meu prezado amigo Almirante Arala, Director da Marinha do Chile disse no bello discurso que em nosso nome pronunciou em Charleston, e que eu procurarei reproduzir em seu proprio idioma: "Si me permiten una figura, yo digo que se está alzando el pedestal de la Libertad, para que su luz potente alumbre mayor el mundo de uno a outro confín."

Culminarão assim nossos sentimentos fraternais fazendo cada vez mais forte esta phrase que figura nos annaes da vossa historia, dizendo á quem a America pertence, phrase que todos nós muito conhecemos e que traduz a verdade de ser a America uma Patria nossa, sómente nossa, na qual felizmente se pode viver livre, confiante nos principios que constituem as mais elevadas aspirações e conquistas da especie humana.

Essa confiança amplamente justificada, que depositamos uns nos outros creando sinceros sentimentos de cordialidade, que podiam servir de exemplo ha muitos povos da terra, e que nos esforçamos para fortificar cada dia mais teve no convite que tivemos a honra de receber e o acolhimento que vamos encontrando, uma viva demonstração que muito agradavelmente reconhecemos.

Voltaremos ás nossas terras cheios de agradecimentos e mais certos ainda de que podemos continuar a viver como desejariamos, isto é, confiantes uns nos outros e entregues aos principios que estabeleceram no mundo o direito, a justiça e a liberdade.

Grande tem sido a colaboração da Marinha Americana para a grandeza desse extraordinario paiz que tão carinhosamente nos recebe; sua acção cada dia se torna mais importante e necessaria; o conhecimento que temos de sua capacidade material está de facto augmentado agora com esta agradável visita, mas quanto ao valor profissional do seu pessoal, já o tínhamos bastante perfeito, não só pela estadia que varios officiaes de nossas Marinhas tem feito nos seus navios e estabelecimentos da Marinha como também pelas Missões Navaes que varios de nossos paizes têm recebido, entre as quaes me sinto no dever de citar a que tão importantes serviços presta a Marinha a qual petenço, e cujo ultimo Chefe o Almirante Beauregard que tão carinhosamente nos acompanha, seis vezes hospede da minha terra, nós os officiaes brasileiros já consideramos um pouco nosso.

Desempenhado-me como me foi possivel da honrosa incumbencia que me confiaram meus prezados camaradas que commigo vos visitam,

junto aos nossos agradecimentos que renovo, os votos que todos fazemos pela felicidade pessoal de Vossa Excellencia pela prosperidade de sua nobre Patria e pelo brilhante futuro da gloriosa Marinha Americana.

SPEECH OF VICE ADMIRAL CASTRO E SILVA, CHIEF OF THE NAVAL GENERAL STAFF OF BRAZIL, IN REPLY TO THE ADDRESS OF WELCOME BY THE CHIEF OF NAVAL OPERATIONS

Admiral Stark, Chief of Naval Operations; admirals and generals; distinguished officials; ladies and gentlemen, my pleasant association during the past few days with my distinguished comrades of the other American navies and the opinions and remarks which I have heard from several of them in addresses made on behalf of all of us in appreciation of the courtesies and attentions extended to us since our arrival in this hospitable country also enables me to have the honor of speaking in their names.

I may thus say that it was with deep satisfaction that we received Your Excellency's kind invitation to visit the Navy of your great Nation and to have this opportunity of seeing something of your beautiful country, which almost all of us have been privileged to have already seen, but which, by reason of our long service and so close to the age of retirement from the Navy, we no longer hoped to see it again and personally verify its immense progress, mainly on all matters concerning its powerful Navy.

For all we have seen up to this point—and we thought we knew—it was still far from the real picture. We then feel very happy to have seen that the result of such effort corresponds to your further desires.

We are quite sure that this is not the only effort you have made up to now, for your history shows us many other efforts in which your will power and incomparable energy have overcome all difficulties, but we believe that you could not have done more.

I could not better define the future that we all wish to you than repeating the wonderful words that my dear friend, Admiral Allard from the Chilean Navy, pronounced in our name in his marvelous speech at Charleston and which I will endeavor to reproduce in his own language: "If you will allow me to use a figure of speech I will say that we are raising the pedestal of liberty in order that its powerful light might shine to the ultimate confines of the world."

In this manner our sentiments of fraternity in strengthening evermore this phrase which appears indelibly in the annals of your history emphasizing unequivocally to whom America really belongs, a phrase well known to us and which expresses the truth that America is our country and only our country, in which, fortunately, one may still live in liberty and at the same time feel confident in the very principles which by themselves constitute the highest aspirations and conquests of mankind.

This trust, amply justified, which we place in one another, building bonds of genuine sentiments of cordiality which might very well serve as an example to many less fortunate nations of the world, and which we in turn, to the best of our endeavor, labor to strengthen day by day, reached its culmination in the form of the genuine and sincere welcome of which we have been the object ever since our arrival on these shores.

As a result, we will return to our countries with hearts full of gratitude and evermore convinced that life for us might be carried on to the fullest extent of our desires—by that I mean trusting one another—and turned to the very principles that have established in the world the sacred words—right, justice, and liberty.

On our part there is even a more flattering appreciation: it is that you are devoting yourselves to this Herculean task for the

security of your country, not forgetting any of the sentiments of pan-American cordiality, of whose fruits, the history of the Western Hemisphere is replete.

The contribution of the American Navy has been ~~of great importance in the building of this~~ your great country which today received us with such extreme cordiality; the Navy's action in its own sphere grows ever more important and necessary; our knowledge of its material potentiality has now redoubled with this pleasant visit; regarding the professional value of its personnel we already have ample proof, not only through the tour of duty of some of our officers in the American Navy, as well as through the naval missions which have represented you in many of our countries, among which I feel my duty compels me to render my homage at this moment to the last chief of your mission, Admiral Beauregard, who upon six different occasions we had as our guest so much so that we of the Brazilian Navy now consider him as one of our own.

Discharging to the best of my ability this honorable undertaking with which my distinguished colleagues have entrusted me, I seize this opportunity to extend our best personal wishes to Your Excellency for the prosperity of your great country and for the brilliant future of the American Navy.

SUGAR QUOTAS

Mr. THOMAS of Idaho obtained the floor.

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

The VICE PRESIDENT. The clerk will call the roll.

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

Adams	Ellender	Murray
Alken	George	Norris
Andrews	Gerry	Nye
Austin	Gillette	O'Mahoney
Bailey	Glass	Overton
Ball	Green	Pepper
Bankhead	Guffey	Radcliffe
Barbour	Gurney	Reynolds
Barkley	Hatch	Schwartz
Bilbo	Hayden	Smathers
Bone	Herring	Smith
Brooks	Hill	Spencer
Brown	Holman	Stewart
Bulow	Hughes	Thomas, Idaho
Bunker	Johnson, Calif.	Thomas, Okla.
Burton	Johnson, Colo.	Thomas, Utah
Butler	Kilgore	Truman
Byrd	La Follette	Tunnell
Byrnes	Langer	Tydings
Capper	Lee	Van Nuys
Caraway	Lodge	Wallgren
Chandler	Lucas	Walsh
Chavez	McCarran	Wheeler
Clark, Mo.	McFarland	White
Connally	McNary	Wiley
Danaher	Maloney	Willis
Davis	Mead	
Downey	Murdock	

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

Mr. THOMAS of Idaho. Mr. President, several times during the last session of the Congress I pointed out the need of insuring an adequate sugar supply to satisfy the Nation's needs at a reasonable price.

On January 29 the Secretary of Agriculture issued an order reducing the domestic beet acreage allotment by 16.2 percent. At once there was a great protest from the thousands of Americans to whom sugar beets mean bread and butter. Numerous protests from the farmers of Idaho came to me. Petitions were received from Granges and beet-producers' organizations. Resolutions

were sent by laborers in beet-sugar factories. Memorials were forwarded to the Senate by various State legislatures relative to the situation.

I spoke in the Senate last February 20, and urged the Secretary to reconsider his order. I said in the course of my remarks:

It is not too late to change the order by which acreage will be reduced, since planting of beets does not take place until March and April. The approximately 300,000 additional tons of sugar which would be grown because of this change of policy might very well protect us from a very serious shortage.

That same day I addressed a letter to the Secretary of Agriculture bringing his attention to my remarks and asking him to give serious consideration to the question of rescinding his order. He replied under date of March 10, but offered no intimation whatever that the new quotas would be rescinded. In fact, the Secretary seemed to be fully satisfied that the lower quotas set in January were adequate to take care of the Nation's needs.

On March 13 I took the floor of the Senate to make another appeal to the Secretary. I stated at that time:

The point I am making is that the farmers in the sugar-beet areas will start to plant their beets in about 30 days; and by simply a stroke of the pen rescinding that cut, the Secretary of Agriculture could again let us grow the amount of sugar that we grew last year.

As there was no indication from the Department that the policy would be changed, I, of course, was unable to get any action on the matter. Now, obviously, it is too late. Even if the Secretary should now come to realize that the acreage should not have been reduced, it would be of little use to the sugar beet-farmer. The beet raisers have already prepared or planted the beet lands with other crops.

More than 2 months ago Representative COFFEY of Nebraska introduced a bill in the House providing that the mainland beet and cane producers be permitted to fill whatever portion of the duty-free quota granted to the Philippine Islands the Philippines themselves could not fill. In the Senate the Senator from Colorado [Mr. ADAMS] and the Senator from Wyoming [Mr. O'MAHONEY] introduced a similar measure. The Adams-O'Mahoney bill provided, in addition, that domestic producers be allowed to complete the unfilled dutiable portion of the Philippine quota.

The Philippines have never filled the dutiable portion of their quota; and under the Sugar Act of 1937 this amount, instead of being allotted to the domestic producer, is always allotted under the act to foreign countries other than Cuba. This process is in line with the administration's good-neighbor policy.

Last month an order was issued by the Department of Agriculture allotting the dutiable portion of the Philippine quota for 1941. I may say that this was done in accordance with the law, and the Secretary, therefore, is subject to no criticism for the order.

The administration is protesting the passage of the Adams-O'Mahoney bill because it would hamper the proration of the Philippine sugar deficit to foreign countries and would, therefore, be unsuitable to the good-neighbor policy. Let us see what good neighbors were benefited by this reallocation. Among them are Germany, Italy, and Japan. These three great good neighbors are benefiting by this administration's sugar policy. I find on the list Belgium, now under German domination. Czechoslovakia, France, and the Netherlands, all under German domination, are on the Department of Agriculture's list to fill portions of the deficit for the Philippines. Also on the list are some countries that are importers of sugar. This is especially true of France and Mexico. They are unable to export sugar; yet they, together with nations that may be our enemies, are given the right to fill a larger share of the American sugar market—this in the name of good neighborliness.

At this point in my remarks, Mr. President, I should like to have included the order of the Department of Agriculture making proration of the 1941 deficit for the Philippine Islands.

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

The order referred to is as follows:

[From the Federal Register of April 15, 1941]
CHAPTER VIII—SUGAR DIVISION, AGRICULTURAL
ADJUSTMENT ADMINISTRATION

[G. S. Q. R. Series 8, No. 1, Rev. 1, Supp. 1]

PART 821—SUGAR QUOTAS

Proration of 1941 deficit for Philippine Islands

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act of 1937, as amended, I, Paul H. Appleby, Acting Secretary of Agriculture, in order to carry out the powers vested in me by the said act, do hereby make, prescribe, publish, and give public notice of these regulations (constituting a supplement to General Sugar Quota Regulations, Series 8, No. 1, Revision 1¹), which shall have the force and effect of law and shall remain in force and effect until amended or superseded by orders or regulations hereafter made by the Secretary of Agriculture.

Section 821.23 of General Sugar Quota Regulations, Series 8, No. 1, Revision 1, is hereby amended by adding the following new paragraph:

Sec. 821.23. Other quotas.

(b) Deficit in quota for Commonwealth of Philippine Islands: It is hereby determined, pursuant to subsection (a) of section 204 of the said act, that, for the calendar year 1941, the Commonwealth of the Philippine Islands will be unable by an amount of 146,464,000 pounds of sugar, raw value, to market the quota established for that area in paragraph (a) of this section. (Sec. 204, 50 Stat. 905; 7 U. S. C. 1114.)

Section 821.24 of General Sugar Quota Regulations, Series 8, No. 1, Revision 1, is hereby amended by adding the following new paragraph:

§ 821.24. Proration of quota for foreign countries other than Cuba.

(b) Additional prorations. An amount of sugar equal to the deficit determined in paragraph (b) of § 821.23 hereof is hereby prorated, pursuant to subsection (a) of section

204 of the said act, to foreign countries other than Cuba as follows:

Additional prorations (in terms of pounds, raw value)

Country:	Pounds
Argentina.....	42,207
Australia.....	590
Belgium.....	852,170
Brazil.....	3,466
British Malaya.....	75
Canada.....	1,633,662
China and Hong Kong.....	834,236
Colombia.....	774
Costa Rica.....	59,640
Czechoslovakia.....	762,393
Dominican Republic.....	19,308,640
Dutch East Indies.....	612,063
Dutch West Indies.....	19
France.....	507
Germany.....	339
Guatemala.....	969,710
Haiti, Republic of.....	2,668,541
Honduras.....	9,939,029
Italy.....	5,070
Japan.....	11,608
Mexico.....	17,465,350
Netherlands.....	630,830
Nicaragua.....	29,595,003
Peru.....	32,180,972
Salvador.....	23,767,903
United Kingdom.....	1,015,360
Venezuela.....	839,703
Subtotal.....	143,199,860
Unallotted reserve.....	3,264,140
Total.....	146,464,000

(Sec. 204, 50 Stat. 905; 7 U. S. C. 1114)

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the District of Columbia, city of Washington, this 11th day of April 1941.

PAUL H. APPLEBY,
Acting Secretary of Agriculture.

[F. R. Doc. 41-2695; Filed, April 12, 1941;
11:12 a. m.]

Mr. THOMAS of Idaho. The Adams-O'Mahoney bill would have given these additional quotas to the American farmer instead. The Department of Agriculture, however, objects to this. On April 25, the Secretary wrote the distinguished chairman of the Finance Committee, opposing the proposed measure because—

It is the established policy of this administration to develop and improve our trade with other American republics, and under present world conditions the need for encouraging such trade is greater than ever.

How granting additional sugar quotas to nations like Germany, Italy, Japan, and nations under Axis control can be justified by the good-neighbor policy, I cannot understand. Surely this situation should convince every Member of Congress that we must have new sugar legislation at this session of Congress.

Both the Adams-O'Mahoney and the coffee measures are still pending before their respective committees. No action has been taken on them. I understand that the Finance Committee met today for the purpose of considering the legislation.

So far as I can see, there can be no question of the wisdom of the proposal embodied in this legislation. The provision offers a protection against a possible sugar shortage resulting from the failure of the Philippines to deliver their quota. The shipping situation has been

and is dangerous. The normal rate for freight on sugar from the Philippines is \$6.75 per long ton. In February the rate had gone up to as much as \$20 per long ton, and the last available information indicates that now the asking price per long ton if space can be obtained at all has increased from \$28 to \$30 per ton. The trend is upward, and from every present indication it will continue upward.

Evidently, it is the policy of the administration to permit offshore producers to make up any deficiency that may develop. Additional imports of sugar from sugar-growing countries of the West Indies are evidently being contemplated. This is in spite of the fact that it is impossible to book tonnage from the West Indies 90 days ahead, and there are no bookings without a requisition clause. Before the war the price of shipping sugar from the West Indies was about 14 or 15 cents per hundred pounds. Today, it is about 50 cents per hundred pounds, an increase of 333 percent. The price of deadweight tonnage from Cuba and other West Indies countries has risen from less than \$1 per deadweight ton before the war to as high as \$11 per deadweight ton around the first of April.

In the light of this precarious shipping situation, we still continue to make ourselves dependent on offshore deliveries of sugar. As I have stated again and again, it seems utterly foolish to follow such a policy in times like these. If there had been justification for doing so when the world was at peace, the fact that war is being brought closer to our doorstep changes the situation, and we should take steps to protect ourselves.

In addition, we have a situation wherein the sugar-beet processors of the western part of the United States have surpluses on hand, but are not permitted to sell them. It is a peculiar situation, to say the least, in view of the fact that the preliminary sugar deliveries in March totaled 1,029,886 short tons, raw value, the third time in history that deliveries in any one month have exceeded 1,000,000 tons.

In the first 3 months of this year, deliveries have amounted to 2,160,363 short tons, or a gain of 896,442 tons over the similar period a year ago. This is an increase of almost 60 percent over the movement in consuming channels in the same period last year. It is about 50 percent more than the average during the first quarter of the past 4 years.

There is every indication that the movement of sugar this year will reach an all-time high; and at the present rate of deliveries we shall be faced with a serious shortage of sugar in a very short time. Even then, the domestic processors in this Nation are able to sell only a portion of their surpluses. The Export-Import Bank has drawn up an agreement by which a loan of more than \$11,000,000 is to be made to the Cuban sugar interests to finance the production of additional sugar. Just why the bank wants to increase the production in Cuba and to leave the sugar-beet processor with a surplus on his hands has not been explained satisfactorily to me. The

policy simply does not make sense, just as the policy of making ourselves dependent upon offshore production of sugar in these times does not make sense.

It is my feeling that a realistic concern for this Nation's needs demands a more enlightened consideration of this entire problem. Here we have an opportunity to help the farmers of the United States, as well as our entire consuming public.

I believe that a change in the quota system should be made, permitting an increase in the acreage of sugar beets and cane, so that the American producers shall be able to produce all the sugar they can.

The important fact should be kept in mind, Mr. President, that if all those who could profitably produce sugarcane and beets in the United States should do so, there would still be a shortage. If every farmer of this Nation should produce without restraint all the sugar he could produce, we would not be raising enough to meet our needs. In other words, sugar is one of the few commodities raised by the American farmer which would be certain to find a domestic market. Since there is a market for them, sugar beets offer at least a hope of profit, in spite of the fact that last month the price of sugar beets was only 73 percent of parity.

Yet this administration's policy allows the farmer of the West to utilize only a small portion of land that could be used for the raising of sugar beets. This administration makes it necessary for the farmer to plant crops which we already have in tremendous surplus. This administration tells him that even though there is a market for all the sugar beets he wants to raise, he must raise crops that are neither needed nor wanted at the present time. This again, Mr. President, does not make sense. It is foolish; it is absurd; it is basically unsound.

Mr. President, I insist that the time has come when we should take action on a sound and sane policy for the American sugar industry. I can see no reason why the Adams-O'Mahoney bill, or similar legislation, ought not to be passed immediately. I can see no reason why additional legislation ought not to be passed giving the domestic sugar producer the right to the American market.

The sugar industry ought to have a chance to exist. It should be given an adequate share of the domestic market. It ought to be freed instead of stifled. Not only is this necessary in the interest of the growers, but it is important in keeping our Nation in a position to withstand unfortunate international developments.

THE AMERICAN POTASH & CHEMICAL CORPORATION, TRONA, CALIF.

Mr. NYE. Mr. President, for a few minutes I wish to direct my attention and the attention of the Senate to an amazing and somewhat mysterious situation which is publicly reported and which is so closely linked to our national defense that it seems to merit a greater consideration and perhaps closer study than it has received.

There exists, it seems, within our borders, a foreign colonial outpost, ruled

from a foreign capital. It carries on business under an American name, but its policies and its treatment of its American workmen are wholly un-American. Its product comes from the soil of America. Its labor policies are un-American. Its product, essential to war production, has been shipped to our potential enemies. The profits of this concern accrue to the benefit of foreign capital.

It is the function of this foreign concern to manufacture vital defense material, under a secret process, from our own resources, and ship this product abroad to those who might ultimately be our enemies.

Mr. President, this foreign-owned and foreign-directed plant is the largest potash and mineral producer of its kind in the world. From its factories in California come large quantities of bromine, which is an essential ingredient in the conversion of ordinary gasoline into high-grade aviation gasoline and which is used in the manufacture of poison gas. One of its largest customers is Japan.

Important and revealing facts about this foreign outpost have been discovered, not through official inquiry of the Government, but through the courage and enterprise of a lone reporter. Published in the May 2 issue of Friday, a national magazine, the facts and authenticating data, on which I have recently checked, make a story about which the American public should know.

The reporter for Friday magazine drove through the region of the Mojave Desert in California. On a sign at a juncture in the road he read "Private property—permission to pass over revocable at any time." To a good reporter this curious invitation to stay out was merely incentive to check up.

I should like to offer for the RECORD, Mr. President, at this juncture a letter which the reporter wrote to his managing editor describing his experiences. He pointed out in his letter, and furnished photographs in substantiation, that the designation marked upon some of the shipments of this material was Japan.

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

The letter is as follows:

Enclosed you will find the pictures I managed to sneak at Trona. I had a devil of a time getting this stuff.

Trona, as you know, is a couple of hundred miles out in the middle of the desert. As I neared the place, I came across the big sign you will see in the picture, warning everyone to stay out, but instead of staying out I was only more curious about this isolated colony in the desert.

Once I got into the town itself, I was amazed at the conditions. I don't see how people could live in such shacks and in such heat. Whole families were being forced to live in just one and two miserable rooms. Single men are living in barracks, the like of which I have never seen before.

I drove around taking a few pictures when a gang of company detectives descended on me as though I had been robbing the company till. They threatened to smash my camera and haul me off to their stinking jail. They were just about as tough a bunch of hombres as I have ever seen. After we got

to the jail they tried to push me around, but didn't because I threatened to make plenty of trouble, so instead of beating me up they tried to give me a little dose of the third degree. Finally, after sweating me for 4 or 5 hours they gave up and decided they would have to let me go. Then the whole question of smashing my camera came up again. I pleaded with them and promised to surrender my negatives. I was just about dead, what with the desert heat and the grilling and pushing around they put me through, but I'll be damned if I'll let anybody ruin one of the biggest stories I ever found, and so I switched film packs and gave them a blank pack. They'll be plenty surprised when they see all these pictures in Friday.

You should have seen the bewildered look on their faces when I told them this was a free country and a man could go where he pleased and we had a free press and could print pictures of what we found in Trona or anywhere else.

Working conditions are very bad. The company is shipping tremendous quantities of its product to Japan. This is something I learned from a number of workmen. You'll see bags addressed to Japan in some of the pictures.

Mr. NYE. Mr. President, inasmuch as the Bureau of Mines has reported that this company is foreign-owned, but the names and nationalities of the interests owning it have not been disclosed, I cannot say whether the detectives referred to in the letter were a part of the German Gestapo or the Russian OGPU or the South African Constabulary of Great Britain, but I can say that they were not police on the pay roll of an American municipality.

What is this foreign colonial outpost? Its deceptive name is the American Potash & Chemical Corporation. Why have I said that it is a foreign colonial outpost? Because, though it goes under the misnomer of "American" Potash & Chemical Corporation, it is nothing less than a foreign-owned, foreign-controlled, foreign-operated plant located on American soil, fenced in on American soil in the heart of the Mojave Desert in California, with signs placed to discourage inquisitive visitors. It encloses more than 1,200 workers. It owns the town, lock, stock, and barrel, and there are only two places where outsiders can go without trespassing—the United States post office—where the words "United States" are strangely missing—and the railroad waiting room, where unexpected visitors are allegedly allowed to remain long enough to catch the next train out. Do the people there use United States currency in making their purchases in this outpost? They do not. A company scrip is the medium of exchange. Are the stores operated there owned by American citizens? They are not. They are owned and operated by the foreign management. Are the workmen able to purchase their groceries and clothing elsewhere? As a practical matter, they are not. The company scrip is a subtly designed suggestion to the employee to buy from his employer or look elsewhere for a job and the company owns the only railroad leading into the area.

This foreign-owned, controlled, and operated company has imposed working and living conditions on its workers which seem to be a complete violation of every

American living standard. Visual proof of this statement is revealed in the photographs taken by the reporter and published in Friday magazine, and which I have in my possession.

Observe the reported living conditions. The housing provided by this foreign outpost provides one- and two-room shacks for families of 10 and 12 people. For single men the conditions are even worse. They pay \$9 per month for a bed in a dormitory.

Though all the stores are company owned and managed, and thus are able to buy supplies, food, and clothing in quantity, the prices of even staple commodities are reported as much as 25 percent higher than those prevailing elsewhere in this area. Sugar, which sells at 56 cents for 10 pounds elsewhere, is 81 cents in Trona. Hamburger is 18 cents in Los Angeles and 30 cents per pound in this foreign outpost. Since the company owns the only railroad leading into the area, it makes it well-nigh impossible for workers to buy elsewhere; and if they were able to, they would have to defy the scrip system, which furnishes to the company an admirable record of where they buy, and how much.

This foreign dependency's final blow at the American standard of living is directed at the workers' wage. American companies in the same industry pay a higher wage scale than does the deceptively named "American" Potash & Chemical Co. At Carlsbad, in New Mexico, Potash of America pays its workers from 70 cents up per hour for common labor. At Trona the common laborer is paid 62½ cents for the same work; and the processes at Trona call for a large percentage of unskilled laborers. Though the prevailing wage scale in California is much higher than it is in New Mexico, the foreign company at Trona, in California, pays its workers more than 10 percent less than does the American company at Carlsbad. For the dangerous work of loading the chemical product at Trona the workers receive two and one-half times less than do the longshoremen on the docks of Wilmington, San Pedro, and Long Beach, or 62½ cents per hour as compared with \$1.40.

It was conditions such as these that made the workers use their right to organize under the laws of our land in 1936. But this foreign company, used to making its own law, would not recognize this right. The company fought back, through the N. L. R. B., through the circuit courts, and finally, when the Supreme Court forced them to, recognized the Mine, Mill, and Smelter Workers' Union in 1940, and paid back to many workers who had been discharged sums totaling \$80,000. The union was not finally recognized till December 10, 1940.

Though labor sweats and toils under these un-American housing and wage conditions, the foreign interests are making tremendous profits on each employee. In 1939 the net income was more than three and one-fourth million dollars, which is shared by less than 250 foreigners who own all the outstanding stock of the company; and it is probable that, with increasing defense production, these

profits have jumped even higher. The net dividend paid to these foreign owners in 1938 amounted to \$2,300 per employee. How does this compare with the profits of some of our leading American industries? During the past year United States Steel made a net profit of but \$393 per worker; American Telephone & Telegraph made \$725 per worker; and General Motors, in one of its best years, 1940, made \$977 per employee. So this foreign company makes a net profit per employee which is more than 600 percent larger than that made by United States Steel, which certainly is not an insolvent concern.

Looking back at the picture, here we find a foreign-owned, foreign-controlled, foreign-operated national-defense industry which has fenced itself off from the rest of America, made huge profits at the expense of American labor, and has been draining an important American resource at the expense of our own American defense program by sending vital aid to the Japanese program of aggression.

During the Senate's consideration of the lease-lend bill, at a time when every possible pressure was being exerted to have that bill passed, representatives of the British Government, with appropriate and timely publicity, announced the sale of the Viscose Corporation of America to American interests, and suggested that it was the policy of British owners of American industries to liquidate them by transfer to American interests before calling upon the American taxpayer for lease-lend-give sacrifices. The publicity had its effect. The lease-lend bill was passed. As soon as the clamor had died down, the Brown & Williamson Tobacco Co., a subsidiary of the British-American Tobacco Co., Ltd., far from being transferred to American interests, acquired from the R. F. C. a loan of \$40,000,000 of the American taxpayers' money.

Neither of these companies exploited American labor to the extent of the Trona concern. Neither of these companies was producing vital war materials and shipping them to our potential enemies, as was the Trona concern; and yet why has not Trona, which is a highly profitable concern, and which is important to our defense production, been transferred to American ownership?

A large question mark still remains on the horizon: Who actually owns this Trona, Calif., concern?

Perhaps the British do want to turn Trona over to American interests. Perhaps the British interests which manage Trona are not willingly exploiting American labor. Perhaps they are not willingly shipping poison-gas materials to our potential enemy, Japan, which is certainly just as much of a threat to England herself. I cannot believe that British interests would be so self-destructive, or that British interests would deliberately carry out a policy so detrimental to the defense interests of the United States.

There has been a veil of mystery surrounding the American Potash & Chemical Corporation in conflicting reports by agencies of the Government itself. In 1932 the Bureau of Mines reported that,

though under British management, the stock ownership had been transferred.

Available data indicate that the stock sold is still foreign owned—

The report states—

but the names and nationalities of the new interests owning it have not been disclosed.

But in a very recent report on the potash industry, prepared by Willard Thorp and Ernest A. Tupper, for the Department of Commerce, and submitted to the Department of Justice, the authors say, on page 24, that—

In 1929 the Gold Fields group sold a substantial portion of the shares registered in their names and owned by them to a group of Netherlands companies.

Now, Gold Fields is a wholly owned subsidiary of New Consolidated Goldfields of South Africa, Ltd., which in turn is wholly owned by the Consolidated Gold Fields, Ltd. In other words, the ownership of American Potash & Chemical Corporation was transferred in 1929 from its British ownership to a mysterious group of Dutch companies who have never been identified. They remain unidentified at this moment, with no clue as to the solution of the mystery.

Here, then, is the picture with which we are confronted—that of a British-managed colony on American soil, extracting huge profits from a vital defense industry, transmitting these profits to a mysterious group of so-called Dutch interests, and, until recently at least, shipping some of these vital products to our potential enemies.

Mr. President, I shall submit these remarks of mine to both the Department of Justice and the Treasury Department, and ask there for such information as may give us light on reasons why these conditions prevail, or should be permitted to continue to prevail.

SENATOR FROM WEST VIRGINIA

The Senate resumed the consideration of Senate Resolution 106, seating Joseph Rosier as a Senator from the State of West Virginia.

Mr. AUSTIN obtained the floor.

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

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

Mr. CONNALLY. I hope that during the remaining consideration of the pending resolution Senators will abstain as much as possible from interjecting speeches on matters not related thereto, because that course tends to diffuse the arguments that are being made on the resolution and divert the attention of Senators from a highly technical and legalistic discussion. I trust Senators will restrain themselves as much as possible. I say that without any reference to any particular individual. I hope we may go ahead and conclude the consideration of this resolution without excursions into the hinterland too far from home base.

Mr. McNARY. Mr. President—

Mr. AUSTIN. I yield to the Senator from Oregon.

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

The VICE PRESIDENT. The clerk will call the roll.

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

Adams	Ellender	Murray
Aiken	George	Norris
Andrews	Gerry	Nye
Austin	Gillette	O'Mahoney
Bailey	Glass	Overton
Ball	Green	Pepper
Bankhead	Guffey	Radcliffe
Barbour	Gurney	Reynolds
Barkley	Hatch	Schwartz
Bilbo	Hayden	Smathers
Bone	Herring	Smith
Brooks	Hill	Spencer
Brown	Holman	Stewart
Bulow	Hughes	Thomas, Idaho
Bunker	Johnson, Calif.	Thomas, Okla.
Burton	Johnson, Colo.	Thomas, Utah
Butler	Kilgore	Truman
Byrd	La Follette	Tunnell
Byrnes	Langer	Tydings
Capper	Lee	Van Nuys
Caraway	Lodge	Wallgren
Chandler	Lucas	Walsh
Chavez	McCarran	Wheeler
Clark, Mo.	McFarland	White
Connally	McNary	Wiley
Danaher	Maloney	Willis
Davis	Mead	
Downey	Murdock	

The VICE PRESIDENT. Eighty-two Senators have answered to their names, a quorum is present.

Mr. AUSTIN. Mr. President, I wish to address myself to the amendment offered by the junior Senator from Kentucky [Mr. CHANDLER], to strike out all after the word "resolved" in the pending resolution and insert in lieu thereof the following:

That Clarence E. Martin, appointed by the Governor of West Virginia to fill the vacancy created by the resignation from the Senate of Matthew M. Neely, is entitled to be seated as a Senator from West Virginia.

This issue involves an important interest not only of the Government of the United States but the governments of each and all the several States, because at the outset it involves the principle of incompatibility of offices, which is founded on reason. The reason for the rule that one person may not be entitled to an office to which a resignation must be tendered, if he is the man who is resigning, as in this case, is founded upon the theory, first, that our form of government is a Federal form, consisting of States, each one of which shall be independent of the Federal Government to a very great extent; and, second, that the powers of the Federal Government shall be so limited that the Federal Government cannot subordinate the government of a State to the central government.

It often appears in a less important form, rested solely upon the principle that one office should not be subordinated to another by allowing one person to hold control of two offices. That doctrine is so important that we find it prevailing in the Federal law and reiterated in the laws of each State of the Union, and we find it also firmly imbedded in the common law.

The principle expressed frequently is that the subordination of one office to another exists where the incumbent of one office has the power of appointment to the other office. Here, of course, it is applied to two certain appointments, one of which occurred immediately after

midnight of January 12, to-wit, on January 13, at 1 o'clock, less, we will say, all the seconds except the first one, and that was described by Governor Holt as occurring in the following manner:

Mr. HOLT. I made this last appointment just as the second hand of the Naval Observatory time as recorded in the office of the Western Union Telegraph Co. in Charleston passed 12 o'clock, at midnight.

The CHAIRMAN. You had it all written out? Mr. HOLT. Oh, yes; had it laid right before me with pen wet.

Senator AUSTIN. You signed it within 1 or 2 seconds past midnight?

Mr. HOLT. I do not think it took a second, to tell you the truth about it.

Mr. Neely says about the appointment of Dr. Rosier, as appears in the hearings, page 85:

I did not appoint Dr. Rosier immediately after 12 o'clock. I did not appoint him until some time later that day. I think it was toward the end of the day. I said that I qualified for Governor so that there should not be even an infinitesimal fraction of a second between the time I ceased to be a Member of the United States Senate and the time I began to be Governor of the State.

The committee in its majority report states, among other things:

At the time this appointment was made the Honorable Matthew M. Neely was admittedly not only properly qualified to act as Governor of West Virginia but had also been duly inducted into that office.

So one of the facts about which there is entire agreement, I think, among all members of the committee—and it is a fact which should not be overlooked—is that we are dealing with an appointment of Mr. Martin which was made many hours before the appointment of Dr. Rosier. It is of importance in two ways. The most important manner in which it applies is that if the first appointment was legally made it takes effect by priority; it becomes the only appointment, and it creates such a situation that there was no vacancy at the time when the purported appointment of Dr. Rosier occurred. But it has also another significance, and that is that Governor Neely waited until after he had taken the oath, filed it with the Secretary of State, and been inducted into office. In other words, it was after the fourth oath taken by Governor Neely that the appointment of Dr. Rosier occurred. We claim that such an appointment would tend to subordinate the office of Senator of the United States to the office of Governor of the State of West Virginia.

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

Mr. AUSTIN. Yes.

Mr. CONNALLY. I do not desire to disturb the Senator's line of thought.

Mr. AUSTIN. Not at all. I am glad to yield.

Mr. CONNALLY. On the question of the first appointment by ex-Governor Holt, the outgoing Governor, let me ask the Senator a question. Suppose the vacancy in the senatorship instead of occurring on the 13th of January, had occurred on the 15th or the 16th, would the Senator then say that Governor

Holt during his term prior to the 13th could have filled that vacancy?

Mr. AUSTIN. In this case, yes; and I will say why.

Mr. CONNALLY. Well, in any case.

Mr. AUSTIN. Oh, no. They are different.

Mr. CONNALLY. Let me make myself clear, if the Senator will bear with me. Let us forget Mr. Neely altogether. Let us assume that Governor Holt is Governor, and his term ends on the 13th day of January, and a vacancy occurs in the senatorship on the 20th day of January. Could Governor Holt, upon being advised of that vacancy, have filled that vacancy while he was still Governor?

Mr. AUSTIN. Of course, that is a moot question that does not apply to this case.

Mr. CONNALLY. It is hypothetical, I will admit. The Senator does not contend, does he, that an appointing officer can fill a vacancy which does not happen during his own tenure of office?

Mr. AUSTIN. Oh; of course not.

Mr. CONNALLY. Then, if the vacancy in the senatorship in this case occurred at midnight or after midnight of the 13th, how could the outgoing Governor, who had already gone out, have made a prospective appointment to fill that vacancy? I thank the Senator for yielding, and I shall not interrupt him any more.

Mr. AUSTIN. Mr. President, I cannot assume that the outgoing Governor had already gone out, and I am about to discuss that point. There can be no resignation of the office of Senator save to the Governor of the State from which the Senator is accredited, if there is such a Governor. A United States Senator cannot resign to himself. That is an exercise of incompatible power. In the first place, he cannot resign to himself because he cannot be in both offices at the same moment.

Mr. HATCH. Mr. President, will the Senator yield at that point?

Mr. AUSTIN. Yes.

Mr. HATCH. By accepting another incompatible office without resigning at all he can divest himself of an office with the same effect as a resignation to himself.

Mr. AUSTIN. Not always.

Mr. HATCH. Without interrupting the Senator, I wanted to ask the Senator, with respect to the first appointment, whether he had given any consideration to this thought—I do not put it forth as final or conclusive, but it is a suggestion which I wondered whether the Senator had considered, and what he thinks about it—that is, when he said the first appointment by Governor Holt was valid, made at a time before any vacancy existed—

Mr. AUSTIN. I think I misstated what I meant. I did not mean Governor Holt's first appointment.

Mr. HATCH. That is the way I understood the Senator.

Mr. AUSTIN. I was comparing the appointment of Mr. Martin with the appointment of Dr. Rosier when I said "the first appointment." The one occurred hours before the other. When I referred to the first appointment, I

meant the appointment that was made by Governor Holt. I did not intend to say the first appointment which Governor Holt made.

Mr. HATCH. I misunderstood the Senator, although I think I was correct.

Mr. AUSTIN. Oh, I think the Senator is correct, too, as I recall it, but I did not intend that.

Mr. HATCH. With respect to those two first appointments made before the vacancy actually arose, according to the terms of the resignation, has the Senator considered the seventeenth amendment to the Constitution, giving authority to appoint Senators?

Mr. AUSTIN. I think I have.

Mr. HATCH. On that point—and this is what I want the Senator to consider—that authority arises by virtue of the seventeenth amendment only in this language:

When vacancies happen in the representation of any State in the Senate—

Mr. AUSTIN. Yes.

Mr. HATCH. I am wondering if perhaps a vacancy does not actually have to exist before there is any authority in anybody, either Governor Holt or Governor Neely or anybody else, to make an appointment.

Mr. CHANDLER. Mr. President, will my friend from Vermont yield to me for a moment?

Mr. AUSTIN. Let me answer the question first.

I call the attention of my much-esteemed friend to the claims of the minority in its report on that very point. The language in the minority report is:

"When vacancies happen" (amendment XVII) is the determinative phrase in the Constitution from which all action springs:

No writ of election can be issued by the executive authority of any State until "when vacancies happen";

No temporary appointment until the people fill the vacancy by election as the legislature may direct can be provided for under the statute in any State until "when vacancies happen."

So time is the question of importance in determining whether the appointment made by Governor Holt was a valid appointment.

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

Mr. AUSTIN. I yield.

Mr. HATCH. I take it, from what the Senator has just said, when he now says that time is the determining factor, that he means that the appointment made by Governor Holt at midnight, after the vacancy had actually occurred, was a valid appointment. Is that the Senator's contention?

Mr. AUSTIN. I do not think the minority is bound by that single consideration.

Mr. HATCH. I am not trying to bind the Senator. I am trying to understand his views.

Mr. AUSTIN. I have a choice between two grounds which to my mind are equally convincing of the legality of the appointment of Mr. Martin. One of them is that the vacancy happened before 12 o'clock.

Mr. HATCH. By reason of taking the oath?

Mr. AUSTIN. Yes; and other circumstances connected with the transaction. The theory of that ground is that the vacancy happened by abandonment rather than by resignation.

The other ground is that the vacancy happened by resignation in which event it happened precisely at 12 o'clock midnight on January 12.

Mr. HATCH. And did not arise before.

Mr. AUSTIN. And did not arise before. Assuming that the vacancy happened by abandonment, one would want to adhere to the act of Governor Holt in making his appointment prior to midnight; but I do not think that is the best course to take. As legislators earnestly trying to arrive at what is right, not only for the purpose of determining who is the Senator from West Virginia, but in order to have placed on record an act of the Senate which will be correct and which will be safe to rely upon in the future, I think it is better to get upon ground that is perfectly sound.

Mr. HATCH. I think that is what we have been trying to do.

Mr. AUSTIN. Yes; we are all aiming at the same objective; and I am telling the Senator of the processes of thinking which I go through in arriving at that objective.

For example, I have no doubt that both the code and the jurisprudence of West Virginia require the filing of a certificate as a necessary act in order for a Governor of West Virginia to qualify. As I say, I have no doubt of it at all; but I do not need to pass upon that issue. If I assume that an oath of office alone, with nothing more, qualified Governor Neely, then I observe what occurred. Disregarding the oaths taken prior to 12 o'clock, he went through with a certain ceremony in taking that oath, as described on page 71 of the hearings:

Senator BRIDGES. Did the chief justice in administering the oath make you repeat after him?

Governor NEELY. I did not repeat after him.

But let me read what the chief justice did. He read:

I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of Governor of the State of West Virginia to the best of my skill and judgment, so help me God.

Thereupon the Governor signed the oath.

Let us compare the time required barely to read that oath and the time necessary for Matthew M. Neely to sign it with the time described in this way:

Mr. HOLT. I made this last appointment just as the second hand of the Naval Observatory time as recorded in the office of the Western Union Telegraph Co. in Charleston passed 12 o'clock at midnight.

The CHAIRMAN. You had it all written out?

Mr. HOLT. Oh, yes; had it laid right before me, with the pen wet.

Senator AUSTIN. You signed it within 1 or 2 seconds past midnight?

Mr. HOLT. I do not think it took a second, to tell you the truth about it.

I think all reasonable men have difficulty in disregarding the unseemliness of this procedure. Nevertheless, if the taking of the oath was all that was necessary, the appointment occurred during a vacancy in the office of United States Senator which carried over until the qualification by the incoming Governor, and therefore was a legal appointment.

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

Mr. AUSTIN. I yield.

Mr. HATCH. The argument the Senator is now making compels the Senate to sit here today or tomorrow, or whenever we may vote, and say by our votes which time was longer and which was shorter. We are to weigh and divide that time, if we can. The Senator does not know, and I do not know, how fast the chief justice of West Virginia might have read, or how slowly Governor Holt, of West Virginia, might have written. Perhaps he dropped the pen, or perhaps the chief justice stuttered. It may have taken him 10 minutes. I do not know; and none of us knows. That is the kind of a question which I refuse to try to answer, because I do not think any person in the world could answer it.

Mr. CHANDLER. Mr. President, will my friend from Vermont yield to me for a moment?

Mr. AUSTIN. Let me say that I have great respect for the position taken by my distinguished friend. Of course, there can be no feeling between him and me over a question of that kind. My own observation is that nobody can sensibly view the scene without observing the physical fact of the passage of time that was necessary; but there is something else in it. It is like the matter of proximate cause—

Mr. HATCH. Mr. President, will the Senator yield for just a moment before he passes from the point he has just mentioned?

Mr. AUSTIN. Let me finish my sentence. Proximate cause may bring the exciting cause hours before the consequence, and yet it may be the nearest to it in the legal relationship of cause and effect which we are really considering.

I now yield to the Senator from New Mexico.

Mr. HATCH. The Senator said there was no feeling between us. Certainly there is no feeling on this subject. We have worked together in too many committees to have any feeling over a difference of opinion.

Mr. AUSTIN. Surely.

Mr. HATCH. But I must repeat that I think no Senator can divide that second of time. Later, when I take the floor, I hope to express a view with respect to a principle which will make any such decision unnecessary.

Mr. AUSTIN. I now yield to the Senator from Kentucky.

Mr. CHANDLER. It is always easy, of course, to presume a case which is much stronger than the case at hand. I have observed my friendly enemies in this case always trying to presume cases, and we have tried to hold them to the facts at hand. I do not believe they have been able to answer the argument that a Governor in office has the right to appoint to fill a vacancy which will most certainly

occur in his term. We have before us the case of a man trying to go from a United States Senatorship to the Governor's office. If a monkey jumps from one limb to another he cannot do it without being in the air part of the time. [Laughter.]

The Senator from Georgia [Mr. GEORGE] has answered the question. He says that it does not make any difference how long the time was; there had to be an interval, because all hands—including Governor Neely and the attorney general of West Virginia—agree that Governor Neely could not be Governor and Senator at the same time. He resigned to be Governor. He had to vacate his office of Senator. When he did, Governor Holt was in office, had a right to make the appointment, and made it; and when Mr. Neely became Governor, the vacancy had already been filled. There was no longer any vacancy.

Mr. AUSTIN. I thank the Senator for his comment.

Regardless of the element of visible, observable, passage of time, there is another reason why the Senate of the United States should find that the incoming Governor, the new Governor, did not make the appointment, and that the outgoing Governor did make a legal appointment. That reason is the same old proposition that a Senator may not resign to any other officer save the Governor, if there is a governor of the State from which he comes. In other words, when we apply the Seventeenth Amendment, and ask when the vacancy occurred, whether it happened by abandonment before midnight, or whether it happened by the resignation at precisely midnight, there is only one answer—there can be no controversy made about it—and that is that it happened during the term of Governor Holt.

Under the same reasoning, the same principle that underlies the law relating to incompatible offices disqualifying men, it seems to me that Governor Neely could not possibly appoint his own successor as United States Senator. The incompatibility of the offices would prevent it. He could not at the same time be Senator and Governor. He could not at the same time exercise the functions of Senator and Governor; and that rule, which is intended to preserve the separation of these two great offices, a Senator of the United States and a Governor of one of the several States, to keep the power of one away from the power of the other, requires of us that we shall not permit that sort of thing to occur in our Government, of a Senator being able to hold on to his own office as Senator by means of rapidity of action created in any way he might devise which would enable him to perform the function of appointing his own successor.

Mr. HATCH. Mr. President, will the Senator yield? If he does yield I promise that I shall not interrupt him for more than a moment or two.

The PRESIDING OFFICER (Mr. LUCAS in the chair). Does the Senator from Vermont yield to the Senator from New Mexico?

Mr. AUSTIN. I will yield in a moment. I desire to have that which I have to say come in at this point. The quotation

which appears on page 3 of the minority views points out the evil to which I am referring; namely, that no citizen of the United States ought to own any office. Yet, at the hearings Senator Neely, as giving his reason why he ought to be permitted to name his successor, said:

It is my term of office, gentlemen, that is to be completed.

Under our system of government no Senator of the United States ought to be permitted to say, when he is called upon to resign his office of Senator in order to take on the office of Governor, "It is my term of office that I am filling." In other words, he should not be able to hang on to that term of office as Senator, either directly or indirectly.

I now yield to the Senator from New Mexico.

Mr. HATCH. Mr. President, the Senator from Vermont now has passed the point about which I desired to ask him; but he said that the incompatibility rule which he was discussing actually prevented Governor Neely from filling the vacancy in the Senate.

Mr. AUSTIN. Yes; I claim that.

Mr. HATCH. Very well. Will the Senator go so far as to say that if Governor Holt had made no appointment whatever, when Governor Neely took the oath of office in regular form, and became Governor of the State, and the State had but one Senator, Governor Neely then could not have filled that place?

Mr. AUSTIN. Oh, no; if Senator Neely had become Governor, and if no other appointment had been made, of course not.

Mr. HATCH. If, when Governor Neely became Governor, there was a vacancy in the Senate, then he was entitled by law to fill that vacancy. Is that correct?

Mr. AUSTIN. Yes; if he were Governor.

Mr. HATCH. If he were Governor, and if the vacancy existed, he had the legal right to fill it?

Mr. AUSTIN. Yes; if he was a fully qualified Governor.

Mr. HATCH. That is what I mean.

Mr. AUSTIN. Yes.

My attention has been called to page 86 of the record:

Governor NEELY. Yes; I did. I had plenty of faith in my oath; and I also had a good deal of faith in Governor Holt's ability to make trouble for me if I failed to take a single precaution to protect my rights and those of my appointee.

That is to the same effect as the previous statement, and it is something which we ought not to perpetuate by the solemn action of the Senate of the United States. If we are to maintain the vigor of the rule which separates these two offices, which are incompatible because the Governor has the power to fill the vacancy in the senatorial office, and further because the duties, the interests, and the sovereignties which they represent are at times in collision, in opposition to each other, then I think we are starting out upon a very dangerous course which might enable any of us, and, indeed, all of us, to keep a sort of mortmain, a dead hand, on our own offices, if we used de-

vices such as were used in this instance to accomplish such an objective.

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

Mr. AUSTIN. I yield.

Mr. WILEY. Mr. President, I have listened with a great deal of interest to the argument of the distinguished Senator from Vermont in relation to the theory of incompatibility of offices. It has been a long time since I have had occasion to examine the law relating to that subject, but in conjunction with what the Senator has said, I think the Senate of the United States is now called upon virtually to declare a public policy, and I agree with the distinguished Senator that it would be a very unhappy decision if this great body, which has stood through the years as a deliberative body and a body of vision and judgment in government, should now decide that under the circumstances of the present case a former Senator of the United States should have the power to appoint his successor. I think a great question of public policy is involved, and that now we should definitely decide that in the opinion of this body Governor Neely did not have the power to appoint his successor for reasons already advanced by the Senator from Vermont and on the ground of public policy.

Mr. BARKLEY and Mr. HATCH rose.

The PRESIDING OFFICER. Does the Senator from Vermont yield? If so, to whom?

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

Mr. BARKLEY. In regard to that matter, the question of public policy with respect to the choosing of a Senator is a matter in which the State is involved as well as the Senate. I suppose everybody will admit that Senator Neely had a right to run for Governor of West Virginia. As I suggested the other day, the other way around is the usual course; men who become Governor want to come to the Senate, and it is very seldom that a Senator runs for Governor; but in this case nobody can deny that Mr. Neely had a right to do it, and that he did it.

The issue whether he should be allowed to make an appointment of his successor was submitted to the people of West Virginia. It was urged against him as a candidate that if he were elected Governor he would appoint his successor, and the Governor who has made one of the appointments urged that reason against him in the primary election. Regardless of that, the Democratic voters of West Virginia decided by a majority of 48,000 that, so far as their public policy was concerned, they were willing for him to do that. It was made an issue against Mr. Neely in the general election by his Republican opponent, and, by a majority of 112,000 the people of West Virginia decided, so far as their public policy was concerned, they were willing for that to happen.

If, regardless of the law that may apply—and I have been laboring under the impression that we were trying to settle this matter according to law, according to the authority of the respective Governors to make the appointment—it is a matter of public policy, and that question of public policy was passed on by the people of the State whose Senator we are

seeking to decide upon here, does it lie in the mouth of the Senate to override the people of the State involved by deciding that, although they have concluded that, as a matter of their public policy, they are willing for this to happen, we are going to see to it that it shall not happen? Is that the Senator's view about this matter?

Mr. WILEY. Mr. President, will the Senator from Vermont yield to me?

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

Mr. WILEY. The majority leader apparently did not understand my position. Let me say that, while the testimony at the hearings shows that there was a discussion of the question at the general election, in West Virginia, certainly it cannot be the contention of the majority leader that in a primary in which Governor Holt was not even a candidate or in an election involving the governorship the people voted on a referendum, or anything of that kind, in which they had any power to decide, what it is the power of the Senate to decide, namely the qualifications of its Members and who was legally appointed to the Senate in this case.

Mr. BARKLEY. The question of the qualification of these two men, it seems to me, does not hinge upon a question of policy as to whether the incoming Governor shall appoint a Senator or the outgoing Governor shall appoint one. But the Senator from Wisconsin raised the question of public policy, and if that is a matter for legitimate consideration by the Senate, certainly we have a right to consider it in the light of what happened in the State involved. While Governor Holt was not a candidate against Senator Neely for the nomination—he could not be under the laws of the State—he did support the candidate who was opposed to Mr. Neely, and all over the State it was made an issue in the primary, that Mr. Neely, if elected, would be authorized to make an appointment of his successor. It could not be any binding referendum; it did not bind anybody, not even us; but if it is to be injected as an element upon which we are to render a decision as to the wisdom of public policy, certainly it seems to me that the Constitution has not set the Senate of the United States up as a super-moral agency to decide whether the people of any State have the right to determine in an informal way whether they want one man or another to make an appointment to fill a vacancy. This is an unusual situation, one that does not often happen, indeed, never has happened before in the United States; but the question of public policy is one which, it seems to me, the people of the State involved, as well as the United States Senate, have a right to pass on.

Mr. WILEY. Mr. President, will the Senator from Vermont yield further?

The PRESIDING OFFICER. Does the Senator from Vermont yield further to the Senator from Wisconsin?

Mr. AUSTIN. I yield.

Mr. WILEY. The matter of public policy to which I had reference had nothing to do with the question of the vote of the State. It goes more to the matter of determining whether we in the Sen-

ate, who are the judges of our membership, shall under any circumstances permit a condition to exist in our country such as existed in this instance, and say that a Senator can resign to himself and appoint his successor—regarding the Senatorship as the personal property of the Senator who resigned. The matter of public policy goes deeper than the election in West Virginia. It goes to the very vitals of whether we are to permit a growth such as we saw in Louisiana under another distinguished Member of the Senate.

As I have said, the distinguished Senator from Vermont contended that the offices were separate; he contended because of their incompatible nature there should not be permitted such a condition as that a governor could appoint a successor to the office previously held by him. In that respect I believe the argument of incompatibility of offices the Senator from Vermont has made, is four square with the law, and with what we should say public policy should be.

So I interjected the thought that there was something else to consider, and that was the question of public policy. The majority leader has said there has been no case before this body on all fours with this case. Now we are going to set a precedent; and shall we set a precedent which, in substance, will mean if we hold to the majority opinion, that a Senator can resign to himself and then appoint his successor.

The public policy of the Nation will be manifested by the precedents laid down by this Senate. This matter is bigger than Senator Neely or Governor Holt. We are in this body laying the groundwork of the Nation's future.

Mr. BARKLEY. Mr. President, will the Senator from Vermont permit me a moment there? I do not wish to take the Senator's time.

Mr. AUSTIN. I yield.

Mr. BARKLEY. That is the very point on which I feel the Senate of the United States is not called upon to pass. The Constitution of the United States constitutes the House and Senate the sole judges of the qualifications of their Members. There is no appeal from our decision here to any court; we are the final authority. The word "qualification" as used in the popular mind, and as used frequently here, has wider meaning than the mere fitness of a man for an office, although it does include that. It includes the question whether he has reached the age under the Constitution which would permit him to occupy the office; it reaches the question whether he has actually been elected; it touches the question of his moral fitness; all that centers around the individual who knocks at our door for admission here.

There has been no moral question raised as to the fitness of either of these appointees; no one has raised that question, and, I dare say, no one will raise it. I assume, as I think we all may assume, that both these gentlemen are morally and intellectually qualified to be Members of the Senate. So the word "qualification" in its application to this case becomes more or less a technical question, that is, largely the question of law.

Which one of these governors, the outgoing or the incoming governor, should make the appointment. It raises the question whether an outgoing governor can stretch himself across an imaginary line with his feet in his own term and his hands in the term of his successor, with a pen in them, to write his name on an appointment that has already been prepared. That is a technical and legal question, and it seems to me has nothing to do with the question of public policy as to whether a State is willing for either one of them or both of them to make the appointment.

I will probably discuss that feature of it a little later in my own time. I desired, though, to call attention to it in view of the fact that the Senator from Wisconsin seems to think that one of the elements involved is whether, as a matter of public policy, we shall determine whether the people of West Virginia wanted the outgoing governor or the incoming governor to make the appointment. I do not believe that is a legitimate element in this equation, but, if it is, I am prepared to argue it on its own merits.

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

Mr. AUSTIN. I yield to the Senator from New Mexico.

Mr. HATCH. I ask the Senator to yield on this particular point in his discussion of public policy merely to insert in the Record an interesting bit of history concerning the holding of more than one office. It was handed to me just now by the presiding officer (Mr. Lucas in the chair), who was reading at the desk this work by Hayne, *The Senate of the United States*. In the footnote we find this:

In December 1924 Hiram Bingham in Connecticut was at the same time Lieutenant Governor, Governor-elect, and Senator-elect. January 7, in the afternoon, he took the oath as Governor and delivered his inaugural address. In the evening he attended the inaugural ball, and the next morning he resigned and started to Washington; and at noon January 9 he took the oath as Senator.

That recalls some other interesting cases in the history of this country. I do not recollect exactly the number of offices that were held at approximately the same time; but one of the greatest Senators we ever had, our former floor leader, the late Senator Robinson, had a most interesting experience in that regard. I think he was Representative, Governor, and Senator all approximately on the same date. I also know that since I have been in the Senate the terrible evil which has been condemned here today, of a Senator appointing his successor, actually happened. We all recall with a great deal of pleasure our association with the distinguished Senator from New Jersey, Mr. Moore, who ran for Governor of New Jersey, was elected Governor, and appointed his successor, who came here and served in this body with us.

Mr. BARKLEY. And, Mr. President, if the Senator will yield, no question was raised as to the immorality of that sort of thing.

Mr. HATCH. No question was raised.

Mr. BARKLEY. No objection was

raised to the seating of Senator Milton, although he had been appointed by a Senator who had been elected Governor, and who was appointing him in his capacity as Governor. Nobody rose here to denounce that performance as an immoral transaction, one that involved a great public policy, the result of which might shatter the foundations of our Republic, as is being done in this particular case.

Mr. AUSTIN. Mr. President, I am glad to have heard this discussion. It helps me out greatly. The question of public policy is raised here quite emphatically; and the mere fact that there may have been cases such as that last referred to, in which events occurred which were similar in certain ways to the events in this case, and nobody questioned them, does not stop me or my friend from Wisconsin (Mr. WILEY) from making the claim that it is contrary to public policy for the same man to try to exercise the functions of Senator and governor at the same time.

Mr. CONNALLY. Mr. President, will the Senator yield at that point?

Mr. AUSTIN. Yes; I yield.

Mr. CONNALLY. Does the Senator from Vermont seriously make the charge that Mr. Neely was undertaking to be both Senator and Governor at the same time, in the face of his resignation as Senator at 12 o'clock?

Mr. AUSTIN. Why certainly; and he is doing so today.

Mr. CONNALLY. He has never claimed that he became Governor until after the arrival of midnight. Those things cannot occupy the same space. Our theory, of course, is that he ceased to be Senator at midnight, and instantaneously become Governor. What was the time—what hour of the day, or what period—when the Senator from Vermont claims that Mr. Neely was acting both as a Senator and as Governor? I ask that question with all respect.

Mr. AUSTIN. All the time that he could subordinate the office of Senator of the United States to the office of Governor of West Virginia.

Mr. CONNALLY. I see what the Senator means. The Senator means by controlling his appointee.

Mr. AUSTIN. Certainly. The proposition made in this case is unique—I think there is no other case like it—that this is "my term." Although Mr. Neely has gone through the motions of four oaths for Governor, although he has gone through the motions of a resignation, he comes here afterward on January 16 and says, "This is my term, the balance of my term."

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

Mr. AUSTIN. Yes.

Mr. CONNALLY. If a Governor who appoints a Senator is subject to the charge that he thereby is controlling the Senator and influencing his action as a Senator, would not that argument apply to any Governor and any appointment as a Senator?

Mr. AUSTIN. I do not think so, but I am afraid of having such a thing happen again. It is against that repetition that I stand here and undertake to say that we have a peculiar set of circumstances, a number of not midnight hours but

midnight seconds of transactions. That they are unseemly from all points of view, I admit, but this is the point: If it be true, as I am ready to admit, that it is unseemly to burn the candle right up to the midnight hour for the purpose of making an appointment that will fill "my term," or if it is unseemly to hold right up to the midnight hour and 1 second thereafter for the purpose of exercising the functions of Governor to fill a vacancy that occurred in an office—and I admit that it is—then I say it is also unseemly and even more unseemly to create such a condition as to cause the rush to perform these functions; and it is against that that I stand. I do not want the office of Senator of the United States, or the Senate itself, to be used in any such undignified and, I think, immoral way.

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

Mr. AUSTIN. I yield to the Senator from Florida.

Mr. PEPPER. If I correctly understood the Senator, he intimated or said that it was contrary to public policy for this sort of thing to happen.

Mr. AUSTIN. Yes.

Mr. PEPPER. I desire to interrogate the Senator, if I may, on that point.

In the first place, does the Senator contend that there was any element of surprise to the people of West Virginia?

Mr. AUSTIN. Oh, no.

Mr. PEPPER. If there was no element of surprise to the people of West Virginia, does the Senator mean that it would have been the interpretation of the average citizen of West Virginia that Senator Neely, if elected Governor, would be the one to appoint his successor? Does the Senator think that would have been the common understanding of the people of the State at the time they elected Senator Neely their Governor?

Mr. AUSTIN. No; for this reason: The decision had been made prior to that event. The decision had been made in two or three ways: In the first place, by an ancient code, an old code, two or three articles of the code; then by decision of the Supreme Court of West Virginia. All these matters of law were presumed to be known by the people of West Virginia.

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

The PRESIDING OFFICER. Does the Senator from Vermont further yield to the Senator from Florida?

Mr. AUSTIN. Yes.

Mr. PEPPER. The Senator and I, being lawyers, know that it is a maxim of law that ignorance of the law excuses no one from liability to it for its violation; but has the Senator any information that, as a matter of fact, the question of who should appoint Senator Neely's senatorial successor was actually brought up in the campaign and to the attention of the public?

Mr. AUSTIN. Oh, yes. There was some discussion of that matter in the committee; and it appeared, if I recall correctly, that on the platform the charge was made, apparently in order to induce voters to vote against Mr. Neely, that if successful in his candidacy for Governor he would appoint his own successor as

Senator. That is my recollection. I will ask if that is correct.

Mr. HATCH. It is my recollection also that Senator Neely affirmed the fact and said, "Yes; I will appoint my successor."

Mr. AUSTIN. Very well. We can stand on that premise; and what do we have? Do we have a determination of this question which is before us? Not at all.

Mr. PEPPER. Will the Senator yield further?

Mr. AUSTIN. I yield.

Mr. PEPPER. I always appreciate the privilege of discussing a matter with the able Senator from Vermont, because he faces so fairly the issue presented. Let us assume as a fact, then, that the opposition in the campaign charged that Senator Neely would appoint his successor, and Senator Neely affirmed, in the face of that charge, that he would appoint his successor.

Mr. AUSTIN. I think we can assume that. I do not recall exactly what the testimony was.

Mr. PEPPER. Then, since those two facts might be taken as premises, would it not be a fair conclusion that the ordinary citizen of West Virginia, regarding this matter, would have understood and expected that Senator Neely, if successful in the election, would actually appoint his successor?

Mr. AUSTIN. I do not think that follows; it is a non sequitur. I do not question the Senator's right to argue that point, he will understand, but there are so many factors which enter into the election of a man who is a candidate for the office of Governor, and there were so many in this particular election, other than the one we are discussing, that I could not be bound by that as a referendum, and I am not bound by it, certainly, in my view of what should be done.

Mr. PEPPER. Will the Senator yield further?

Mr. AUSTIN. I yield.

Mr. PEPPER. I will ask the Senator, who is a member of the committee and familiar with the record, whether there is any evidence that Senator Neely made any public or private statement which indicated that he would relinquish his status as a Senator before he acquired his new status of Governor if he were elected?

Mr. AUSTIN. Not that I recall.

Mr. PEPPER. In the face of that additional fact, if the Senator will yield further, would the Senator adhere to his previous conclusion that the ordinary citizen would not have been justified, at the time this matter was in the public forum in West Virginia, in assuming that Senator Neely, if elected Governor, would appoint his successor?

Mr. AUSTIN. I do not follow the Senator from Florida in that. I doubt it myself. Let us be practical. How many of the ordinary citizens of West Virginia know anything about the rule of incompatibility? How many of them know why it exists? How many of them, indeed, have that concern which we should exercise here regarding the division between the two offices of Governor of a State and Senator of the United States? I venture to say that the impression made

generally throughout West Virginia on this particular issue which we are trying was nearly zero.

Mr. PEPPER. Will the Senator yield for a further question?

Mr. AUSTIN. I yield.

Mr. PEPPER. Adopting the able Senator's suggestion that the ordinary citizen is not actually familiar with the rules of law, including the rule of incompatibility, does not the Senator believe that the rule of common sense, the rule of reasonableness, would probably be the one followed by a citizen? For example, to use a crude illustration, if there were two chairs side by side, and I was sitting in one chair and there was another man standing by, and I chose to move out of one chair and over into the other, so far as all practical purposes were concerned I would simultaneously give up one chair and occupy the other. Does the Senator think that the ordinary citizen would have applied that rule of reasonableness and common sense, or would he have split hairs, and tried to evaluate the length of time which might elapse between my giving up of the one status and the acquisition of the other?

Mr. AUSTIN. Mr. President, we do not need to answer that question with respect to the two chairs. With respect to the subject which is under consideration, these two offices, there is in West Virginia a public policy, which is expressed in code and in constitution, which is a little more severe and more marked than will be found in most of the States of the Union, and I think it is a little more severe than the common law. West Virginia statutes and constitution result in this proposition, that a Senator of the United States must divest himself entirely of his office as Senator before he is eligible to qualify for the office of governor. On that premise, if I cared to pursue it, I could easily go to the extent of saying that the efforts made by Senator Neely, before his resignation occurred, to take an oath of office for an incompatible office, were fruitless unless they were effectual, and if effectual, they were an abandonment. I do not care to get between these two horns in this discussion. I have taken the course which seemed to me to be the one with which we will be on the safest ground in the United States Senate.

We do not necessarily follow the standard of any community, do we? When we are testing out a great principle of government, such as is involved here, namely, the principle that a Senator's office shall not be under the dominion or subjection of any one man, then we are not to be led, we are not to be pushed about, by the views of any particular group of men or women.

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

Mr. AUSTIN. I yield.

Mr. CONNALLY. Does the Senator contend that there has to be a space of time between the relinquishment of the senatorship and the assumption of the governorship?

Mr. AUSTIN. There had to be in this case.

Mr. CONNALLY. The Senator says there must be a space of time intervening. Suppose Senator Neely had not resigned

at all, but had assumed the office of Governor, an incompatible office. Would there then have been a space of time in between?

Mr. AUSTIN. That is a question, and a marked, legal one. I have looked it up, and I have the authorities here.

Mr. CONNALLY. I am assuming that he did not resign at all.

Mr. AUSTIN. The Senator asked me a question, and I am trying to answer.

Mr. CONNALLY. I am trying to make the question clear. He does not resign, he merely gives up and assumes the duties of Governor. The contention of the Senator's side is that by the act of assuming the governorship, that being an incompatible office, he thereby vacates the senatorship. If that be true, is it not instantaneous, and can there possibly be any interval in between?

Mr. AUSTIN. That is not according to the Constitution and Statutes of West Virginia, and not according to the opinion of the attorney general of West Virginia.

Mr. HATCH. Mr. President, it is on that point that I desire to interrogate the Senator, if he will yield.

Mr. AUSTIN. Certainly.

Mr. HATCH. The Senator has said that under the Constitution and Statutes of West Virginia one must divest himself of one office before he is eligible to qualify for another. Will the Senator give me the citation?

Mr. AUSTIN. Yes. It is found on page 5 of our report, and I will read it. The attorney general of West Virginia, in his opinion, which appears at page 104 of the hearings, stated:

As we have seen, it was necessary that you should cease to be a United States Senator before you were eligible to qualify as Governor of the State of West Virginia (sec. 4, art. VII, W. Va. Constitution hearings, pp. 100, 255).

Mr. HATCH. The constitutional provision to which the attorney general referred provides in substance, does it not, that he shall not hold any other office during his term of service, and it was upon that statement that the attorney general drew his conclusion?

Mr. AUSTIN. I have not that section before me. I am following the hearings.

Mr. HATCH. I know the attorney general made that statement, but I have not found the constitutional requirement to that effect, and I do not think it is the law.

Mr. AUSTIN. Mr. President, I think I have discussed all I care to the principle which I think is involved in the decision we are to make at some time on the case before us.

I wish now to talk about something else. What I have tried to do is to establish the legality of the appointment of Mr. Martin solely upon the theory that in the period of time, however short it was, between midnight, exactly, precisely midnight, January 12, and the qualifying of Mr. Neely for Governor of West Virginia, during that time Mr. Martin was appointed, and nothing more. I say on that set of facts alone his appointment is the only legal appointment in this case.

But there is another aspect to this matter, one that has been so much discussed

that I would not feel satisfied without stating my position regarding it.

Mr. O'MAHONEY. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. BUNKER in the chair). Does the Senator from Vermont yield to the Senator from Wyoming?

Mr. AUSTIN. I yield.

Mr. O'MAHONEY. I ask the Senator to yield before he proceeds to the second aspect of his argument in order that I may suggest to him a point which has given me considerable thought in this matter. In the report of the majority I find, on page 4, a quotation from section 270 of the West Virginia Code of 1937. That is the provision of the code which makes it obligatory upon the Governor to take the qualifying oath before the beginning of his term. I am well aware, of course, that the Senator from Vermont contends that in this case the taking of the oath is only one of the acts which the Governor must perform in order to qualify.

It is contended on behalf of the minority that it is incumbent upon the incoming Governor not only to take the oath in advance of the beginning of the term, as required by the statute, but also to file a certificate of the oath. Upon that point I have been unable to agree.

I wish to ask the Senator whether he does not feel that the legislature must have had some reason for requiring the taking of the oath before the beginning of the term?

My feeling is that the purpose of that requirement was to abolish the interregnum upon which the argument of the minority depends. In other words, it was recognized that the term of the outgoing Governor came to an end at midnight on a certain day. The statute of West Virginia required the incoming Governor to take his oath before that hour. So that when the hour struck, without any interruption, without even the intervention of a second, the new term began, and if the taking of the oath was the only act of qualification which the incoming Governor had to take, then there could not have been any period during which Governor Holt carried over into the vacancy created by the resignation.

Mr. AUSTIN. Mr. President, I think that is a clear question and entitled to an answer. I do not think so, and I will state why. If the Senator will read the whole section, it seems apparent that the legislature did not have that in mind, because they said something which showed that there might be other events upon which a different time would be observed. Therefore they did not make it mandatory and absolute and make it the only way to do, and therefore they did not intend to prevent an interregnum. What they did intend was that the Governor should be qualified for Governor before he performed any function of that office.

I now read from page 236 of the hearings:

Code, chapter 6, article 1, section 5:

The oath required by section 3 of this article shall be taken after the person shall have been elected or appointed to the office, and before the date of the beginning of the term, if a regular term.

That is the part read by the Senator from Wyoming.

But if to fill a vacancy, within 10 days from the date of the election or appointment.

Now, there is one of the events.

And in any event—

It will be noted that they covered every other event—

And in any event before entering into or discharging any of the duties of the office.

That, taken altogether in that sentence, I think, answers the question of the Senator from Wyoming.

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

Mr. AUSTIN. I yield.

Mr. BARKLEY. The question of a vacancy, though, is not involved here.

Mr. AUSTIN. Oh, no.

Mr. BARKLEY. This section refers to the Governor, we will say. If it is for a full term, he must take the oath before he enters upon the duties of the office.

Mr. AUSTIN. Oh, no.

Mr. BARKLEY. Yes.

Mr. AUSTIN. But in any event before he enters upon those duties.

Mr. BARKLEY. Yes; that is what I said. But the only provision as to an appointment or an election to fill an unexpired term or vacancy is that he must do it within 10 days after the appointment or election.

Mr. AUSTIN. Yes.

Mr. BARKLEY. That situation does not arise here.

Mr. AUSTIN. Oh, no; it does not. But here is a thing that is very noticeable. I went through that list of laws which appears on pages 234, 235, 236, and 237, and undertook to put a circle around the word "before" in order to bring it into relief, and see how the legislature has from time to time, as it adopted these different laws, adhered firmly to the thought that before these functions are performed, so and so must be done. That is extremely important to consider, because it has this effect in law, that the performance of all these things must be accomplished as a condition precedent to the qualification for the office.

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

Mr. AUSTIN. Yes; I yield.

Mr. BARKLEY. Let us suppose that Mr. Neely had not been a candidate for Governor, and that he had not been elected, but that the attorney general of West Virginia had been elected Governor, and that following the provision of the constitution of that State he must take the oath before he assumed the duties, and those duties could not be assumed until 12 o'clock midnight on the day on which his term of office began. Is it the Senator's contention that if the attorney general of West Virginia had been elected Governor, and had taken the oath to perform the duties of Governor when he assumed that office, before 12 o'clock, that he would automatically have vacated his office as attorney general by the taking merely of the oath that when he became Governor he would perform the duties of that office to the best of his ability?

Mr. AUSTIN. Of course, that is not this case.

Mr. BARKLEY. I know; but the law is the same, and it applies to all Governors-elect alike. There is nothing in the statute of West Virginia, or in the Constitution of West Virginia that deals with a United States Senator who happens to be elected Governor, differently from the way it deals with an attorney general or a judge of a court or anyone else. Suppose it had been the Lieutenant Governor who was involved. It is a general provision that before assuming the duties of the office, which he could not assume until the midnight of the day in question, he must take the oath. It seems to me that if the mere taking of the oath a quarter of an hour before, or 1 minute before 12, operated to vacate automatically the office already held by a United States Senator, it was bound to be the same as to an attorney general, a Lieutenant Governor, the judge of a court, or the holder of any other office that would be incompatible with the governorship.

Mr. AUSTIN. That is the Senator's opinion.

Mr. BARKLEY. Yes.

Mr. AUSTIN. And I have great respect for it.

I have not studied the exact question the Senator asks, and therefore what I say to him about it is simply a "curbstone" opinion. On principle, I should say that, the offices being incompatible, the attorney general would be ineligible to take the office of Governor. I state that on principle.

Mr. BARKLEY. I did not catch the last statement of the Senator.

Mr. AUSTIN. I should say that the attorney general of West Virginia is not eligible to take the office of Governor, and that he must divest himself of his office before he may take the oath.

Mr. BARKLEY. The provision of the Constitution of West Virginia, although a little different from that of most States, deals only with the attempt to hold incompatible offices at the same time or to perform the functions of two offices at the same time. I think that is the general rule, not only under the common law but under the constitutions of most of the States. No man may hold two incompatible offices at the same time. The constitution of my State describes what offices are incompatible; and, in harmony with the common law, it provides that the mere assumption of the duties of a new office that is incompatible with an office already held automatically vacates the first office. The person does not even have to resign. Automatically as soon as he becomes Governor, or Senator, or judge of the court, the office he has been holding is vacated, without resignation.

Mr. CONNALLY. And without any interval.

Mr. BARKLEY. And without any interval.

There is a provision in the Constitution of West Virginia that the common law shall be held to be the law of West Virginia insofar as it is not modified by the Constitution of West Virginia or by laws enacted under that constitution.

Mr. AUSTIN. "Such parts of the common law" as are in force and are not repugnant to the constitution.

Mr. BARKLEY. Of course. Naturally in the writing of constitutions and in the enactment of statutes all the States have to some extent impinged upon the common law.

Mr. AUSTIN. Yes.

Mr. BARKLEY. In the practice of law we have what we call code States and common-law States. My experience has been that it is much more difficult to practice law in a common-law State than in a code State. However, that has nothing to do with the question before us.

While the Constitution of West Virginia is not exactly the same as that of other States on the subject, as I understand, insofar as the constitution itself does not specifically modify the common law, or the legislature does not specifically modify it in particular instances, the common law remains in effect in that State. That would raise the question whether, since the adoption of the constitution of that State, the legislature has modified, in a special sense, the law with respect to the holding of an office by any man and his election to a subsequent office, and whether the mere taking of the oath of office to perform the duties of the new office when he takes it over automatically vacates the office which he previously held, or merely qualifies him to begin the term of office to which he has been elected when the hour arrives for him to begin it.

Mr. AUSTIN. Mr. President, I have not taken any firm position as to which way the attempts made before midnight operated, my theory being that in either event a vacancy occurred. Whichever decision one comes to—namely, whether Senator Neely was ineligible to take the oaths, and therefore they were a nullity, or whether he was eligible to take them, and that thereby he abandoned his office—in either event a vacancy then happened which was filled by the first appointment made by Governor Holt. I mean the appointment after midnight.

Mr. BARKLEY. Let me ask the Senator a question in that connection. I think we all agree that under the Constitution of West Virginia the term of Governor Holt expired at midnight on the 12th, unless there was a failure to qualify on the part of his successor.

Mr. AUSTIN. No. He did not have to fail to qualify. Under the Constitution of West Virginia, Governor Holt held over until his successor qualified.

Mr. BARKLEY. That is a very sharp question of construction. If there had not been another section of the Constitution of West Virginia, what the Senator says would be true. If the Governor came in under the general provision that officers shall serve their terms and until their successors are elected or appointed and qualified, there would be some basis for that argument; but there is another provision of the Constitution of West Virginia to which the Senator from Texas [Mr. CONNALLY] called attention yesterday. That provision is that whenever, by reason of death or resignation, or by conviction of a felony, or other things, there is a failure to qualify, then the President of the Senate shall immediately, ipso facto, become Governor. That is, he shall act as Governor.

Mr. AUSTIN. That is correct.

Mr. BARKLEY. The people of West Virginia would not have had any intention or purpose in writing a special article on the governorship if they had not intended that it should modify or nullify the general provision insofar as the governorship itself is concerned.

Mr. AUSTIN. Not at all.

Mr. BARKLEY. That is where we differ.

Mr. AUSTIN. When we are dealing with the constitution it is a pretty good idea to have the words in front of us. Article 4, section 6, of the Constitution of West Virginia provides that:

All officers elected or appointed, may, unless in cases herein otherwise provided for, be removed from office for official misconduct, incompetence, neglect of duty, or gross immorality, in such manner as may be prescribed by general laws, and unless so removed they shall continue to discharge the duties of their respective offices until their successors are elected or appointed and qualified.

Mr. BARKLEY. Yes; and there might as well have been written in the words "All officers except the Governor," because later the constitution deals with the Governor alone and by himself in the case of his successor failing to qualify.

Mr. AUSTIN. No; that is a separate subject, taking care of a situation entirely outside this case, and one which does not exist here. There was no failure.

Mr. BARKLEY. There could not be any interim unless there was a failure.

Mr. AUSTIN. Certainly.

Mr. BARKLEY. The only theory upon which the Senator can stand is that for a moment, half a second, the incoming governor had failed to qualify; and the Senator's theory is that he could not qualify because he could not say "So help me God" as fast as Holt could write his name on an appointment which he had already written out.

Mr. AUSTIN. That is an interpretation which I do not think the constitution will bear.

Mr. BARKLEY. That is the only ground on which the Senator has to stand.

Mr. AUSTIN. Oh, no.

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

Mr. AUSTIN. I yield.

Mr. HATCH. As the Senator has just observed, it is well to look at the words of the constitution. I have before me the provision to which the Senator from Kentucky refers.

Mr. AUSTIN. I shall be very glad to have it read.

Mr. HATCH. The provision referred to reads as follows:

In case of the death, conviction, or impeachment, failure to qualify, resignation, or other disabilities of the Governor, the president of the senate shall act as Governor until the vacancy is filled or the disability removed.

Mr. AUSTIN. Yes.

Mr. HATCH. In other words, this is a separate provision of the Constitution of West Virginia relating solely to the Governor.

Mr. AUSTIN. I do not raise any question about that. I think the Senator must have misunderstood me if he thought that was the point at issue.

What I claim is that that provision does not have anything to do with this case. There was no failure under the meaning of the constitution.

Mr. HATCH. For every moment the incoming Governor has not qualified, has he not failed to qualify?

Mr. AUSTIN. Not at all. That is not what that provision means.

Mr. BARKLEY. Suppose the incoming Governor had been sick, and could not take the oath of office for a day.

Mr. AUSTIN. That would not be a failure to qualify.

Mr. BARKLEY. What constitutes failure to qualify?

Mr. AUSTIN. A failure would have to have in it the element of a willful act.

Mr. BARKLEY. Not at all.

Mr. AUSTIN. Yes, indeed.

Mr. BARKLEY. A failure to qualify may be an involuntary matter. It may be because of illness. It may be because of imprisonment. It may be that he has been arrested and is in jail, and cannot qualify.

Mr. AUSTIN. Very well. Mr. President, that would not disqualify him. That would not create a vacancy.

Mr. BARKLEY. That would be a failure to qualify.

Mr. AUSTIN. It would not be a failure within the meaning of the constitution.

Mr. BARKLEY. Neither the statute nor the constitution defines a failure.

Mr. AUSTIN. There must be another element besides the mere lack of taking of the oath and the filing of the oath; there must be the additional fact that the man did not intend to take the oath and did not intend to file it.

Mr. BARKLEY. Then it is the Senator's contention that the word "failure" in the section referring to the Governor means a willful and deliberate failure?

Mr. AUSTIN. Yes, indeed; no other.

Mr. BARKLEY. I do not know of any interpretation of a constitutional provision that sustains that viewpoint. I do not see how one can differentiate between a voluntary and an involuntary failure to do something; because during the interval of failure, whether 3 minutes or 3 weeks, there is no functioning as Governor on the part of the incoming Governor.

Mr. AUSTIN. Then what does the constitution mean? Is this constitution good for anything?

Mr. BARKLEY. Surely; I think it is.

Mr. AUSTIN. Then the present Governor holds over until the incoming Governor qualifies.

Mr. BARKLEY. I do not think so. I think if it were not for this provision—

Mr. AUSTIN. It is useless, I think, for us to argue.

Mr. BARKLEY. Suppose the failure had continued for 3 weeks, in West Virginia or in any other State.

Mr. AUSTIN. That would not be such a failure as would create a vacancy.

Mr. BARKLEY. Why not?

Mr. AUSTIN. The idea of taking a man's office away from him because he is temporarily unable to take his oath is not reasonable.

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

Mr. AUSTIN. I yield.

Mr. CHANDLER. It does not take his office away from him. The situation is very clear as to that. The president of the senate merely acts as Governor until the incoming Governor fully qualifies.

Let me say again that my colleague [Mr. BARKLEY] and the Senator from New Mexico [Mr. HATCH] are rather ingenious in supposing cases that never happened. I say they should stick to the case at hand, and then follow the Constitution of West Virginia and follow the 1937 Code of West Virginia, which provide that the term of every officer, which includes the Governor, shall continue, unless the office be vacated by death, resignation, removal from office, or otherwise, until his successor is elected or appointed and shall have qualified. If that means anything, it means what it says. Of course, one can suppose that if something else had happened, then something else would have happened; and if man were to suppose that his grandfather had been his grandmother, he would have to cogitate on what he would have been. [Laughter.]

Mr. BARKLEY. I will leave that to my metaphysical colleague to work out.

Mr. CHANDLER. I do not mean to suppose that as applied either to my colleague or myself.

Mr. BARKLEY. I understand that; but what did those writing the constitution have in mind in dealing with this matter in the way they did?

Mr. CHANDLER. Only because of a failure to qualify.

Mr. BARKLEY. A failure to qualify is a failure, no matter what the cause may be.

Mr. CHANDLER. My colleague is mistaken. Mr. Neely had announced that he intended to qualify; he intended to resign. He had to divest himself of his office of Senator before he could qualify as Governor. The West Virginia Constitution is clear; the West Virginia Code is clear; and in this case there is no failure to qualify.

Mr. BARKLEY. Not a sentence in the Constitution of West Virginia contains the word "divest." The constitution does not contain the word "divest." It says that no man can hold two incompatible offices at the same time.

Mr. CHANDLER. Very well; but he has to get rid of one before he takes on the other. I do not care whether he divests himself of it, or pitches it away, or takes it off, or sits on it, or rolls it off; he has to get rid of it. [Laughter.]

Mr. BARKLEY. The Senator from Florida used the illustration of his moving from one chair to another; and the Senator from Vermont, I think, concluded there must be a brief interval while the Senator moves from one chair to the other. I do not vouch for the aptness of the illustration, but it may happen that someone is sitting in the chair into which the Senator wishes to move, and that while the present occupant of the chair moves from it and the Senator is about to sit in it someone else pulls the chair out from under him.

Mr. CHANDLER. A while ago I said that not even a monkey can jump from one limb to another without being in the air for a moment; and the Senator was correct this morning when he said

that the time, however short, was there, that it was a lapse that Mr. Neely could not cure, and that whatever way he tried to think of he could not cure it.

Mr. O'MAHONEY. Mr. President, will the Senator yield?

Mr. AUSTIN. I yield.

Mr. O'MAHONEY. I am endeavoring to clear up my own mind about this matter, and not to argue with the Senator, except by way of clarification. I wish to return to the answer the Senator gave to my query a short time ago. It seems to me to be clear from the statute which the Senator has just read, which appears on page 236 of the record, that the term of the office of Governor begins on the first Monday after the second Wednesday of January. There is no question about that. It is also clear from the statute which the Senator from Vermont read a moment ago that before entering into or discharging any of the duties of the office the Governor taking the office on the day fixed must have taken the oath.

Mr. AUSTIN. That is correct.

Mr. O'MAHONEY. It is also provided in the same statute that he shall take the oath before the beginning of the term, if it be a general term.

Mr. AUSTIN. That is not the whole story.

(Mr. CHANDLER handed a paper to Mr. AUSTIN.)

Mr. O'MAHONEY. I am coming to that. After I had read that portion of the statute—I hope the Senator from Kentucky will please bear with me; I was talking to the Senator from Vermont.

Mr. CHANDLER. Excuse me for a minute, please; I was giving the Senator from Vermont some ammunition to shoot at you.

Mr. BARKLEY. The Senator from Vermont does not admit that he needs it.

Mr. HATCH. Yes; the Senator does not admit that he needs it.

Mr. CHANDLER. No; he may not need it; but if he does, it is there.

Mr. BARKLEY. I resent that reflection on the Senator's supply of ammunition. [Laughter.]

Mr. O'MAHONEY. The second portion of the statute, which did not appear in the majority report, but which the Senator read, provides, as I see it, for another contingency; namely, if the appointment is not to a regular term, but to a vacancy, in which event the statute provides that the oath shall be taken within 10 days from the election or appointment. Here we have a statute which says that if it be a general term which is involved, the oath shall be taken before the beginning of the term; but if it be a vacancy, then it shall be taken within 10 days after the beginning.

Then comes the next clause.

Mr. AUSTIN. No; not after the beginning—after the election.

Mr. O'MAHONEY. Within 10 days from the election or appointment; the Senator is correct.

Mr. AUSTIN. Yes; he will not begin his term until he qualifies.

Mr. O'MAHONEY. Yes; within 10 days from his election or appointment.

So in the case of an election, the oath must be taken within 10 days after the election; and during that period, under

the provision cited here, the person elected could not discharge the duties of the office, because the final clause which covers both the general term and the vacancy says:

And in any event before entering into or discharging any of the duties of the office.

Mr. AUSTIN. Yes.

Mr. O'MAHONEY. Now, since it appears from the record—and, I think, without any dispute—that Governor Neely took the oath to discharge the duties of the office for a general term, for a regular term, before the beginning of the term, no question is before us respecting the taking of the oath.

Mr. AUSTIN. Yes; there is.

Mr. O'MAHONEY. What is the question?

Mr. AUSTIN. The point of the question is his ineligibility to take the oath while he was United States Senator.

Mr. O'MAHONEY. Then, is it the contention of the Senator that before taking the oath it was necessary for him to lay down the office of Senator?

Mr. AUSTIN. It is.

Mr. O'MAHONEY. Upon what is that based, because, of course, I think it would be all-important and controlling?

Mr. AUSTIN. I think it is. I think the statute of West Virginia and the constitution require a person who becomes Governor, if he is holding an incompatible office, to divest himself of that office before he can qualify.

Mr. O'MAHONEY. There is no specific requirement of the statute; is there?

Mr. AUSTIN. Let me finish my statement. The necessary part of qualification is taking the oath.

Mr. O'MAHONEY. But since the statute says that the oath shall be taken before the beginning of the term, before the performance of any function in the office, it seems to me that the question of incompatibility does not and cannot arise if by the time fixed in the statute for the beginning of the term the officer has laid down the incompatible office.

Mr. AUSTIN. No. Here is the situation—the statute fits it exactly:

And, in any event, before entering into or discharging any of the duties of the office.

That fits this case.

Senator Neely did resign so as to make his resignation effective on the precise instant of 12 o'clock midnight, and he did take his oath of office before he undertook to perform any of the functions of the office of Governor.

Mr. O'MAHONEY. And that was in accordance with the statute.

Mr. AUSTIN. Yes; he complied with the statute, but I note in passing that he took another further oath at noon in the ceremony of induction into office, his inauguration, and that thereupon after that he made the appointment to fill the vacancy in the Senate, all of which is a practical construction of the law made by him. He was his own judge of when he thought he was qualified to make the appointment.

Mr. O'MAHONEY. I do not think his judgment upon that can bind us; it certainly would not bind me.

Mr. AUSTIN. It does not bind me, but it is in the case, and that is what happened.

Mr. O'MAHONEY. We have here, if I may say so to the Senator, the case of two persons who were struggling with might and main to fill a vacancy which was bound to occur. There was an outgoing Governor whose powers were about to terminate, and who, if I read the record correctly, made two or three appointments.

Mr. AUSTIN. That is correct.

Mr. O'MAHONEY. And we have an incoming Governor who took four oaths and may have made two or three appointments—I do not know.

Mr. AUSTIN. No; he made only one appointment, and he made it at the end of the day.

Mr. O'MAHONEY. I wonder—and then I will conclude—if I may ask the members of the committee here gathered if the Committee on Privileges and Elections ever considered the possibility and the desirability of asking both the appointees to stand aside and to permit the people of West Virginia to make their own choice.

Mr. HATCH and Mr. CHANDLER addressed the Chair.

Mr. AUSTIN. Mr. President, this is a unique question, and I am going to ask the Senator from New Mexico to do the answering. I shall not answer the question.

Mr. HATCH. Mr. President, the reason I think the Senator from Vermont is asking me to answer that question is because I have already expressed to the Senator from Vermont several times and even before we started the hearings, the thought that the office of Senator of the United States did not belong to Governor Holt, although, I am frank to say, I think the attitude of Governor Holt was that he owned that office and wanted to fill it. I also said that the office of Senator of the United States does not belong to Governor Neely or to Senator Neely, although I am sure he acted as though he thought it did belong to him. If the Senate could, by any legal action say to the people of West Virginia "A seat in the Senate of the United States belongs to the people of West Virginia, go back and hold your election, select the candidate and send him here and he will be seated," I should like to adopt such a course.

Mr. O'MAHONEY. Why not do that?

Mr. HATCH. We would have no way of enforcing it.

Mr. O'MAHONEY. The Senate is the judge of the election and qualifications of its own Members.

Mr. CHANDLER. Mr. President, the Senate of the United States cannot call an election in West Virginia, and if we should send the matter back to West Virginia the Governor who is there now, would appoint whomever he pleased, maybe the same fellow or anybody else he chooses. As the Senator from New Mexico says, both sides seem to claim the office, but Governor Neely went further than that. He said, "Boys, it is my term you are filling, and you ought to fill it with somebody who favors my governmental views."

Mr. O'MAHONEY. Mr. President, will the Senator yield further?

Mr. AUSTIN. I yield.

Mr. O'MAHONEY. Of course, the provision of the Constitution of the United States which requires the popular election of United States Senators is a declaration by the people of this great country that the power and the duty of selecting United States Senators resides with the people, and I think it would be quite competent for the Senate of the United States, which is the judge of the qualifications and elections of its Members, to say, having been presented with this spectacle, which is not complimentary either to the outgoing Governor or to the incoming Governor, that the choice should be made by the people and that no person would be seated until that choice was made. That is why I wondered if the committee had considered that matter. The committee apparently did, I take it from what the Senator from New Mexico says, but decided that it would probably not be the proper thing to do.

Mr. HATCH. The committee did consider it, and decided there was no legal method by which we could pursue that course.

Mr. BARKLEY. Mr. President, the only way by which that could be effectuated would be for the Legislature of West Virginia to be called into extraordinary session and amend their laws so as to provide for an immediate election; otherwise there could not be an election until November 1942, and the laws of West Virginia provide that in the meantime the Governor can fill the vacancy.

Mr. LUCAS. Mr. President—

Mr. AUSTIN. I do not want to cut any Senator off but if Senators will let me finish, I should like to sit down. However, I yield to the Senator from Illinois.

Mr. LUCAS. I thank the Senator. This is the first question I have asked that deals with the appointment that was made by Senator Neely. As I understood the Senator's argument, he made some point about the fact that Senator Neely made his appointment late in the day, and Governor Holt made his appointment in the first few seconds of the first minute immediately after the hour of midnight on January 12. Of course, if the Senator's theory is correct, it would not have made any difference if Neely had made the appointment in the first second or in the first minute; in other words, he could have waited until now and the appointment would be just as valid. That question of time does not make any difference.

Mr. AUSTIN. The Senator from Illinois is correct, as he usually is. I have not claimed that that disparity in time of the appointment was determinative at all, except that it throws light upon the situation, and it is an essential fact we may not omit, because, if the first appointment was a legal one, then, Mr. Martin is the lawfully appointed Senator from West Virginia. It was largely because I was persuaded early in the hearings that the appointment of Mr. Martin was legal that I did not assent to the idea of trying to work out some other course. If we feel persuaded that one of these men is the legally appointed Senator from West Virginia, I do not think we should send him back to West Virginia without his office.

Now, on the point we have been discussing as to an officer holding over in West Virginia, a case has been handed to me by the Senator from Kentucky, the case of *Broadwater v. Booth* (116 W. Va. Repts.). I read from page 276 a brief statement:

But there was not in fact a vacancy. Booth was holding over under a prior appointment confirmed.

Then follows a quotation, which evidently is a quotation from the code—

"The term of every officer shall continue (unless the office be vacated by death, resignation, removal from office, or otherwise), until his successor is elected or appointed, and shall have qualified" (Code 1931, 6-5-2). This is in conformity with the general rule (22 Ruling Case Law, p. 554; Throop on Public Officers, sec. 325; Mechem's Public Officers and Officers, sec. 397). There is no vacancy when there is an incumbent legally authorized to discharge the duties of the office.

Citing authorities.

Mr. BARKLEY. Mr. President, will the Senator yield at that point?

Mr. AUSTIN. I yield.

Mr. BARKLEY. That case involved the question of a minor office, and not the governorship, as I understand.

Mr. AUSTIN. It deals with the general principle.

Mr. BARKLEY. I know; but it was dealing with the general principle announced in the constitution dealing with general offices. It did not affect the governorship.

Mr. AUSTIN. What I claim is that it is the expression of the highest court of West Virginia, representing the jurisprudence of West Virginia, as it relates to a provision of the West Virginia Code, which is in debate here.

Mr. President, I have taken much time. I have not abandoned what I have not discussed. I still adhere to the belief that the law of West Virginia makes it the duty of a man who is trying to qualify for Governor of West Virginia to file his certificate, and that no one else may do it for him; that the statute is so precise in its direction and in its command that it is a duty imposed upon him which he must not shirk. He must perform that duty, because the statute says the man who takes the oath must do it.

Mr. HATCH. Mr. President, will the Senator yield at that point?

Mr. AUSTIN. I yield.

Mr. HATCH. I was about to ask the Senator in regard to that point when he said he was not abandoning his argument because he had not stressed certain matters. I understood that the Senator took the position—at least, it has been taken in the debate—that filing the certificate was an essential before any official act was performed.

Mr. AUSTIN. That is correct.

Mr. HATCH. Is that the Senator's position?

Mr. AUSTIN. That is my position. I know what claims can be made about the code, chapter 2, article 2, section 10 (e), because I have heard them made. I will read it.

An officer shall be deemed to have qualified when—

So it relates to time, the time when he is qualified.

An officer shall be deemed to have qualified when he has done all that the law required him to do before he proceeds to exercise the authority and discharge the duties of his office.

There is no punctuation between the beginning and end of that sentence, so it is just as fair probably, under the rules of syntax and prosody, to read into it a comma after the word "do" and before the word "before," or to read it as I do, without the comma, and consistently with all the other statutes that deal with this subject which use the word "before." Practically every time reference is made to the qualifications of a man for office, or the performance of functions of office, it will be found that West Virginia has used that word, making it a condition precedent, providing that this duty must be performed as a condition precedent to his qualifying for office.

I do not need to say a great deal about that, but I want to point out that this provision has quite a history. It comes from a code which was in existence in 1923. That which I have read is the code of 1931, and it was on the code of 1923 that the West Virginia court decided the Qualls case. I do not need to re-read it. Senators all know it. What was not read in full I now wish to read.

I noted, on looking up the record, that the Senator from Kentucky [Mr. CHANDLER] referred to and really epitomized the letter from Judge James A. Meredith. He read in full the letter from Frank Lively. Both of these men were judges of the court who participated in that decision, and therefore what they say about it, although it is outside of court and has not the dignity of a judicial utterance and really is only a personal statement, nevertheless, is useful to me in my consideration of the fact that some say that that decision did not mean what it says, and that it was obiter dictum in a certain way, or that there is something else the matter with it by reason of which we cannot use it now that it is applicable.

This is what James A. Meredith stated in his letter to Hon. Clarence E. Martin, Martinsburg, W. Va. The letter is dated March 29, 1941:

DEAR MR. MARTIN: The case of *State ex rel. E. J. Qualls and L. L. Burdette v. the Board of Education of Curry District and others*, decided by the West Virginia Supreme Court of Appeals in 1923 (92 W. Va. 647) clearly holds that one elected or appointed to office in this State is required to do two things in order to qualify him; namely, (1) take the oath of office, and (2) to file it with the designated officer. These requirements are not merely directory but are mandatory, and this is clearly the effect of the decision in the Qualls case.

Since this decision was rendered, the West Virginia Legislature, in enacting the Code of 1931, by chapter 2, article 2, section 10, serial section 33, and chapter 6, article 1, section 6, serial section 271 (1937 ed.), fortifies and strengthens this decision by making the provision explicit. Quoting from serial section 271: "Certificates of the oaths of all other officers shall be filed and preserved in the office of the secretary of state. . . . It shall be the duty of every person who takes an oath of office to procure and file in the proper office the certified copies of his

certificate of oath as provided in this section."

Any other conclusion, in my judgment, is mere quibbling with words.

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

Mr. AUSTIN. I yield.

Mr. HATCH. The statute which the Senator has just read does not say that the officer shall perform no act until the oath is filed, does it?

Mr. AUSTIN. I will look at it and see. I cannot recall. My recollection is that it does.

Mr. HATCH. I will answer my own question. It does not.

Mr. AUSTIN. Very well. I will take the Senator's word for it.

Mr. HATCH. There is no such requirement. The statute does not say when the oath shall be filed; does it?

Mr. AUSTIN. Oh, no. That is not necessary to create an obligation to file it. That means within a reasonable time.

Mr. HATCH. "Within a reasonable time" is exactly right. Any public official going into office has a reasonable time within which to file his oath; does he not?

Mr. AUSTIN. Oh, yes.

Mr. HATCH. And any act he performs within that period of time would be a legal and valid act; would it not?

Mr. AUSTIN. Yes; but he would also be subject to the other provisions of the law. You cannot pick this out—

Mr. HATCH. I am not picking it out. The Senator has exactly answered this case according, I think, to the correct legal theory; and the Senator is such a good lawyer that I think he knows that his answers are absolutely correct.

Mr. AUSTIN. I do not think the Senator can pull me onto that platform.

Mr. HATCH. What that statute means is simply this: Let us say it is mandatory.

Mr. AUSTIN. We have to.

Mr. HATCH. Very well.

Mr. AUSTIN. It is a duty. When the law creates a duty, a man may not omit it.

Mr. HATCH. Very well. Say it is mandatory: He must do it; but he has a reasonable length of time within which to do it.

Mr. AUSTIN. Very well.

Mr. HATCH. He goes into his office as Governor. He has done everything that is required. He has taken the oath. He has complied with every constitutional requirement. I shall have something more to say about the power of the legislature to tie on additional qualifications; but he has performed all those things, and he is actually Governor of the State, occupying the seat by a title vested in him by the people of West Virginia. Then he has a reasonable time within which to file the oath. Does the Senator mean to tell me that he must rush down, the second after he takes the oath, and file it?

Mr. AUSTIN. I think he must file the oath before he performs any functions.

Mr. HATCH. That is hardly a reasonable time.

Mr. AUSTIN. Yes; that is my opinion.

Mr. CHANDLER. Mr. President, as a practical matter you will not find any governor in America who does not file his oath, or see that it is filed, before he takes any official action.

Mr. AUSTIN. I would not be responsible for acts as a chief executive without doing that.

Mr. HATCH. There are still some other points in connection with that matter which I hope to discuss; but I am very glad the Senator has said that the officer has a reasonable time after taking the oath within which to file it in the office of the secretary of state.

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

Mr. AUSTIN. I yield.

Mr. CHANDLER. I get back to what actually happened. I am still fighting these presumptions. What actually happened in the Qualls case was that two men were elected to the board of education. They did not file their oaths in time, and the superintendent of public instruction appointed two other men to take their places, and the first two men lost their offices. In this case, Neely took two oaths on the 12th, while he was still United States Senator, and filed them both on the 25th day of January; and I am not persuaded that he waited until the 25th day of January, when he went in on the 13th, before he performed any governmental functions pertaining to the office of Governor of West Virginia.

Mr. HATCH. Is there anything in the Qualls case or in any other case the Senator can bring from West Virginia, or anywhere else, saying that the official acts are void in such an instance?

Mr. CHANDLER. What is the difference?

Mr. HATCH. There is a great deal of difference.

Mr. CHANDLER. In this case Neely undertook to appoint a United States Senator. But I do not admit that that means anything here, because we already had a United States Senator appointed. In the Qualls case, however, two men elected to be members of the board of education actually did not file their oaths within a reasonable time. The statute states the time.

Mr. HATCH. A specified time.

Mr. CHANDLER. Within the required time, or the specified time. The county superintendent of schools took the offices away from those men, and gave them to two other men.

Mr. HATCH. Mr. President, will the Senator answer my question?

Mr. CHANDLER. Yes.

Mr. HATCH. Can the Senator find any opinion which says that under such circumstances the act of the official who presumes to act as an official is invalid? Can he find any such case?

Mr. CHANDLER. They lost their offices. When they lose their offices, they cannot act.

Mr. HATCH. The Senator does not answer. We are not concerned with what action Neely took as Governor.

Mr. CHANDLER. But I know the Senator from New Mexico knows that Neely did not wait until the 25th day of Janu-

ary before acting as Governor of West Virginia.

Mr. HATCH. Mr. President, will the Senator from Vermont yield?

Mr. AUSTIN. I yield.

Mr. HATCH. I know the Senator from Kentucky is too good a lawyer to ignore the doctrine of de facto officers. He is ignoring that.

Mr. CHANDLER. The Senator from New Mexico is too good a lawyer to fail to recognize the right of a Governor, who is in the office and who is Governor until his successor is appointed or elected and qualified, not to have it taken away from him while he is acting.

Mr. HATCH. Will the Senator from Vermont yield once more?

Mr. AUSTIN. I yield.

Mr. HATCH. Under the doctrine I have just announced he may occupy the office under a mere color of title, one from which he can be ousted for good and sufficient reasons, but while he is in that office under that color of title every act he does is a valid act and can be questioned by no person in the world.

Mr. CHANDLER. If the Senator will permit me, I am not questioning any official act of Governor Neely.

Mr. AUSTIN. Mr. President, I will resume the floor and try to conclude.

The acts of a de facto officer cannot stand against the acts of a de jure officer. That is the question here. If there were any act performed by Governor Neely while he was not Governor, and it came in collision with an act of Governor Holt while he was Governor, there is no question that the Senate should support the act of the de jure Governor. But that is not the case here, and that is why I thought it important to point out in the opening that one of these appointments was made immediately after midnight, January 12, whereas the other one was not made until late in the afternoon. They were hours apart, so there was no collision between these acts, as acts of one de jure and the other de facto. But let us resume where we were when the interpolation came.

Governor Neely filed the certificate according to the statute, within a few minutes after he took the oath of office on the 13th day of January, although it was in the middle of the night. I read from the report of the majority:

It appears that an oath of office as Governor of West Virginia was taken by ex-Senator Neely on January 13 "instantly after 12 o'clock midnight of January 12," and that a certificate thereof was filed at 12:50 a. m., on January 13 in the office of the secretary of state of West Virginia (hearings, p. 5).

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

Mr. AUSTIN. That is another practical interpretation of what the obligations were. Who had a greater interest in doing this at the right time? Therefore, What act has more weight in practical construction of the law than that act of Senator Neely, who in the middle of the night interpreted the statute which gave him a reasonable time to mean that he must do it before he exercised his functions as Governor of the State of West Virginia? I yield to the Senator from Texas.

Mr. CONNALLY. The Senator read a portion of the majority report about the oath after 12 o'clock. If he had read a little further he would have seen that it referred also to the two oaths which he had taken before 12 o'clock.

Mr. AUSTIN. Oh, yes; but they were not filed until after their absence from the records of West Virginia had gained attention in the committee of the Senate, after the hearings had begun, and we had begun to talk about it. Then it was a sort of filling-in act. I do not need to characterize it. They go down there and file certificates of oaths taken before January 13, filed on the 25th day of January. I think those acts, when we look at the things which actually happened, and give them the natural meaning which the conduct of men has, present a perfect case which fits with this statute.

Senator Neely did not regard those oaths; in other words, he practically said by his conduct, "I do not regard those oaths taken before midnight as requiring any filing." They did not mean anything until after we got to work in the hearing. Then there was an afterthought, "We will button up that hole by filing them now." The one he filed was the oath taken shortly after midnight, and the filing was done before 1 o'clock that night.

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

Mr. AUSTIN. I yield.

Mr. LUCAS. The oath which was taken before midnight was filed on the 25th of January, and the oath which was taken immediately after midnight in the office of the secretary of state was filed 40 or 50 minutes after the taking of the oath.

Assuming that neither of these oaths had ever been filed with the secretary of state, and that Senator Neely were acting as Governor today, what would be his status?

Mr. AUSTIN. That is not a fatal defect. Even the defective performance of an obligation is not necessarily fatal. In his case, any number of things could have happened. I do not pretend to forecast what they all would be, but intervention could have occurred; events could have happened which were without his control. But he could do things himself as Governor, and if they were not against some law or against the public policy of West Virginia, they would be sustained, without a doubt, on the ground that they were the acts of a de facto officer. But we do not have that condition. We speculate a good deal, because we love to roam about on this thing.

Mr. LUCAS. I appreciate that there has been much speculation on both sides.

Mr. AUSTIN. Yes.

Mr. LUCAS. And none of the questions about which we speculate are before the Senate. Nevertheless, it has been done, and I was joining in a bit of speculation.

Mr. AUSTIN. I am not criticizing. I am commenting on something which is perfectly obvious. We have gotten into a subject which is novel and important, and which reaches out and has such influence upon our Government and upon

what we are going to do in the future as well as what we are doing now that it is very interesting.

Mr. LUCAS. Precisely. The thought has occurred to me that in the event neither of these oaths had ever been filed, and Senator Neely had become the Governor of the State of West Virginia, in a direct suit questioning his authority to perform some act because of his failure to file the oath, I sincerely doubt whether the court would not hold such act invalid merely because he did not file the oath.

Mr. AUSTIN. I am inclined to believe the Senator from Illinois is correct. But here we have a different situation. We have a man whose title to the office of United States Senator is involved in the question of whether his successor had qualified before he was given his title.

Mr. LUCAS. Of course, I have great respect for the opinion of the Senator from Vermont, but I disagree with him.

Mr. AUSTIN. I am grateful to the Senator from Illinois. Now I wish to conclude.

To sum up, my claim is that Mr. Neely, as an individual, as a private person, not an officer, did not qualify until after the lapse of time required for taking his oath and filing his certificate.

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

Mr. AUSTIN. I yield.

Mr. CONNALLY. I dislike to interrupt the Senator, but I do not want the Senator's very able argument to be concluded without covering practically the whole case. Let me ask the Senator if it is his contention that when 12 o'clock arrived Governor Holt had a right to hold over until Senator Neely qualified.

Mr. AUSTIN. Yes.

Mr. CONNALLY. Very well. If he held over at all he was holding over because Mr. Neely had failed to qualify?

Mr. AUSTIN. No.

Mr. CONNALLY. Why was he holding over?

Mr. AUSTIN. He was holding over because Senator Neely had not qualified.

Mr. CONNALLY. Because Senator Neely had not qualified. If he had not qualified then he had inevitably failed to qualify.

Mr. AUSTIN. Oh, no. No; that is as illogical as can be. There is not any relationship between the other matter which is described as "failing" in another section of the constitution, and the matter of qualifying as Governor. I have had that out with the Senator from Kentucky [Mr. BARKLEY]. I cannot agree. I cannot follow that course.

Mr. CONNALLY. But in what kind of a case would the Constitution of West Virginia, which provides for the president of the senate performing the functions of the Governor—

Mr. AUSTIN. When there is a failure.

Mr. CONNALLY. Well, what is a failure?

Mr. AUSTIN. A failure involves something besides absence.

Mr. CONNALLY. It must be a willful failure?

Mr. AUSTIN. I am not satisfied with that statement. I think there must be something more in it than merely illness

which incapacitated him for a short time, or some accident which intervened which had no meaning that he would not qualify. In order to have a failure to qualify within the constitution it must be shown that there was an intention not to take the office, not to take the oath.

Mr. CONNALLY. If the Senator contends that the Governor had a right to hold over because Mr. Neely had not qualified, and he holds that that is not a failure, of course, I shall not pursue the inquiry.

Mr. AUSTIN. No; we cannot get together on that.

Mr. CONNALLY. Then, I shall not pursue the inquiry.

Mr. AUSTIN. I think that one part of the constitution of the State is certainly equally as important and impressive as another, and the other part of the constitution must be considered in determining what the first one means. The other one says, without any question at all, that the Governor shall hold over until his successor is qualified. That means hold over.

Mr. CONNALLY. Does not the Senator recognize that that provision is a general provision which refers to all State officers?

Mr. AUSTIN. Yes.

Mr. CONNALLY. And that the other provision refers exclusively to the Governor?

Mr. AUSTIN. Yes; I recognize that.

Mr. CONNALLY. Does not that special provision leave the Governor out of the provisions of the general constitutional clause and treat him specifically?

Mr. AUSTIN. Oh, no; not so. That would be a strange construction of it.

Mr. CONNALLY. Why did the legislature do it then? If the general clause was wholly effective with respect to all State officers, why would the legislature adopt a special clause with respect to the governorship?

Mr. AUSTIN. Because it relates to another matter entirely.

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

Mr. AUSTIN. I yield.

Mr. CHANDLER. Is it not true that in this case we had an express declaration of intention on the part of Senator Neely, evidenced by his resignation sent to the Governor, that he intended to take the office at a certain time? Instead of a declaration of refusal, we had by him a declaration of intention to qualify for the governorship of West Virginia.

Mr. AUSTIN. That observation is a very persuasive one.

Mr. President, I wish to conclude. I make the claim that Senator Neely could not have been Governor when the vacancy happened. The vacancy had to happen in order for the Governor of West Virginia to be able to make the appointment, and Senator Neely could not have been Governor when that happened for the following reasons:

(a) He had to tender his resignation to an officer having authority to accept it, namely, the Governor of West Virginia, Mr. Holt.

(b) Because the offices of Governor of West Virginia and Senator from West Virginia are incompatible; and

(c) Because, as we have seen through the interpretation made several times by the attorney general of West Virginia, it was necessary that he should cease to be a United States Senator before he was eligible to qualify as Governor of the State of West Virginia.

In other words, he was not eligible to take the oath of office before the precise moment of midnight. The only oath he did take that was effectual in any way at all was the oath taken after midnight and the one he regarded as effectual when he sent down to the secretary of state's office the certificate that he had taken that oath and omitted to file the other oaths which he had taken.

We have seen the picture of the taking of that oath; we heard it read, and we know that the mere signing by Governor Holt of his name to the commission for appointment of Mr. Martin was done long before Governor Neely had finished taking his oath; and, of course, we know that he had not filed his certificate until some 40 minutes after that.

So, on any view of this matter, I feel firmly persuaded that there is one man here who has the legal title to this office, and no other, and that is Mr. Martin, and that the way to invest him in that office is, first, to agree to the resolution offered by the Senator from Kentucky [Mr. CHANDLER].

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

The PRESIDING OFFICER. The clerk will call the roll.

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

Adams	Ellender	Murray
Aiken	George	Norris
Andrews	Gerry	Nye
Austin	Gillette	O'Mahoney
Bailey	Glass	Overton
Ball	Green	Pepper
Bankhead	Guffy	Radcliffe
Barbour	Gurney	Reynolds
Barkley	Hatch	Schwartz
Bilbo	Hayden	Smathers
Bone	Herring	Smith
Brooks	Hill	Spencer
Brown	Holman	Stewart
Bulow	Hughes	Thomas, Idaho
Bunker	Johnson, Calif.	Thomas, Okla.
Burton	Johnson, Colo.	Thomas, Utah
Butler	Kilgore	Truman
Byrd	La Follette	Tunnell
Byrnes	Langer	Tydings
Capper	Lee	Van Nuys
Caraway	Lodge	Wallgren
Chandler	Lucas	Walsh
Chavez	McCarran	Wheeler
Clark, Mo.	McFarland	White
Connally	McNary	Wiley
Danaher	Maloney	Willis
Davis	Mead	
Downey	Murdock	

The PRESIDING OFFICER. Eighty-two Senators have answered to their names. A quorum is present.

Mr. LUCAS. Mr. President, I doubt that a more interesting legal narrative has ever found its way into the United States Senate. Not only has the Committee on Privileges and Elections been enlightened by weighty arguments and lengthy briefs prepared by eminent counsel representing the respective appointees, but we are also delightfully entertained by some illuminating testi-

mony and a few fallacious arguments, notwithstanding their irrelevancy and immateriality to the real issues in this extraordinary case.

Many topics were embraced that were completely foreign to the issue before us. For example, the committee is fairly well fortified and informed about the political turmoil and factional strife of the Democratic party in the State of West Virginia, all of which was of no aid to your committee in determining who should serve West Virginia as a United States Senator for the next 2 years. Yet I doubt that any Senator can seriously complain—certainly the committee did not object—because in connection with almost every bill introduced in the Senate we find a variety of subjects being discussed by various Senators before we finally conclude consideration of the bill. That is because in the Senate there is no rule of germaneness.

Mr. President, my views are presented in order that I may give to the people of West Virginia and of the Nation my justification for the vote which I intend to cast. With a full realization that we are setting a precedent that will be canvassed throughout the country and perhaps referred to for many years to come, I deem it my duty as a member of the committee to assign my reasons for my vote.

As a further preliminary to my main object in detaining the Senate, allow me to say for myself that I want all parties to this action thoroughly to understand that I show no disrespect for any of them by any remarks which I shall make or any vote which I shall cast. Let it be understood that I am sincere in the belief that the authorities of the State of West Virginia—both Governor Holt and Senator Neely—did precisely what they conceived to be their constitutional duty. What they did I receive as executed in what they believed to be the performance of their public duty under the laws of that State. I question none of the various documents or court decisions which have been filed with the committee, or any of the statements made, even though I shall eliminate some of them as having no bearing upon the merits of the case.

Mr. President, as one who has been engaged in the practice of law for many years, and having had some experience in election contest cases in the State of Illinois, I took it upon myself to make what I believe to have been a fair and thorough research of the law as I saw it applicable to the facts before me in this case. I did this because we are dealing with a novel case. There is no precedent in previous contests in the Senate that any Senator can safely follow. I have read each and every one of them. There is not a single precedent in the Senate in all the contests we have had in the past which is anything like the case before us at the present time. In all previous appointments title to the seat in the Senate was not denied without this body. This is the first time we have had contestants for a seat in the Senate whose right to qualify by taking the constitutional oath hinges upon the power vested either in the outgoing or the incoming Governor

of the State to make a valid appointment to fill a vacancy.

Mr. President, I submit with the utmost sincerity that this is a legal matter which does not embrace the social, political, or economic theories of the respective appointees.

It is a legal problem that should be determined without prejudice or without regard to friendship. It is a legal question which should be decided upon the facts adduced at the hearings, with the law of the land being applied thereto.

Mr. President, I appreciate that members of the legal profession who are members of the Committee on Privileges and Elections in this important case do not agree upon the law as applicable to the facts which were presented before the committee at its hearing. I understand, and know, that this is what we call a close legal question. As a member of a law school, I distinctly recall that in the early days we had a very pious old instructor who, when he was in somewhat of a mental quandary as to what he should do with a legal question, would piously turn his eyes to the ceiling of the classroom and say, "Young gentlemen, there is much to be said on both sides of that question."

I take it from what has been said here in these debates that there is much to be said on both sides of the question and that it is a close legal proposition. Any fair-minded lawyer who understands legal principles must admit that it is a close legal question.

Being a close legal question, Mr. President, there are some things that have been argued here, especially by the distinguished Senator from Vermont, on the question of public policy; and in the course of this argument I shall have some things to say upon the question of public policy, a question that heretofore has not been discussed by any Member of the Senate; and it is a question of public policy that the lay mind in the United States Senate can understand.

Yesterday one Senator came to me and said, "I am not a lawyer, Senator LUCAS; I do not understand all those fine legalistic points that Senators HATCH and CONNALLY and the Senator from Vermont and others are discussing."

Mr. President, I can understand that situation, because there are some fine legal points involved in this case; and when there are legal points of that kind, I can understand how an individual on the outside, who has never studied law, but who is a good United States Senator, would like to have a presentation of the practical side of the question, from the standpoint of public policy.

Mr. President, it is also advisable to say to the Senate that, as a Member of the House of Representatives during the 4 years before I came over to this august body, I was a member of the Committee on Elections No. 3, and during that time I had occasion to consider a case that was brought by an individual named Albert McCandless, a Democrat from the Territory of Hawaii, who was contesting the seat of Delegate SAMUEL KING, a Republican. We listened for days to the testimony in that case; and after all the

testimony was in I was convinced that the law applicable to the facts and the equities in that case was with Mr. KING, the Republican; and I had no hesitancy in leading the fight for SAMUEL KING, to seat him as a Republican in the House of Representatives, over the Democrat McCandless, who was contesting the seat, because I thought Mr. KING was right.

So, in the case before us, frankly, I started out from the standpoint of one who harbored a curbstone opinion, against the position taken here by Senator Neely and those who represent him; but the more I studied this case and the more I read the law in connection therewith and the facts applicable thereto, I could reach but the one conclusion, viz: That the appointee of Senator Neely is in line with the law and in line with the facts applicable thereto.

Mr. President, let us now hear the facts. Such is necessary in order to arrive at a just and intelligent decision.

On the 6th day of November, 1936, the Honorable Matthew M. Neely was elected by the people of West Virginia as a United States Senator for a full term of 6 years. While a United States Senator he became a candidate in the primary of 1940 for Governor of West Virginia. He was successful, and became the Democratic nominee. He was elected Governor of West Virginia on November 7, 1940, over his Republican opponent. The record shows that Senator Neely was eligible, had the qualifications, and received from the proper authorities of West Virginia a certificate of election, and that he took the constitutional oath or oaths to which I shall refer later. Senator Neely continued as United States Senator until the hour of 12 o'clock at midnight on January 12, 1941, which was the precise time when the constitutional term of Governor Homer Holt expired.

The record further shows that on the 10th day of January last, Senator Neely sent to Governor Holt his resignation as Senator, to become effective on January 12, precisely at the hour of 12 o'clock p. m. In the meantime, the record shows that Governor Holt on the 10th day of January, 1941, anticipating a vacancy in the Senate of the seat then held by Senator Neely, appointed the Honorable Clarence E. Martin to fill the so-called vacancy. On the 11th day of January, 1941, having received the resignation of the Honorable Matthew M. Neely, as United States Senator from West Virginia, Governor Holt again appointed Clarence E. Martin as a Senator from the State of West Virginia, to represent that State in the United States Senate.

On the 13th day of January, 1941, Governor Holt again appointed Clarence E. Martin as Senator from the State of West Virginia to fill the vacancy—as he claimed—caused by the resignation of the Honorable Matthew M. Neely, all of these credentials having been filed in the Senate and referred to the Committee on Privileges and Elections.

On January 13, Governor Holt also sent a telegram to the Vice President of the United States, advising that at the

first moment of January 13, 1941, confirming the respective appointments of January 10 and January 11, he again appointed Clarence E. Martin as Senator from the State of West Virginia, to represent it in the Senate of the United States.

On the 13th day of January 1941, the Honorable Matthew M. Neely, then Governor of the State of West Virginia, appointed the Honorable Joseph Rosier as Senator to the United States Senate from the said State until the next general election to be held in the State of West Virginia.

The record further discloses that Senator Neely took the regular statutory oath required before one can assume the duties of Governor. In fact, he took four oaths in all: The first one at 11:35 p. m., on the night of the 12th; the second oath at 11:45; the third oath a minute after 12 o'clock on the morning of the 13th; and he took a fourth oath in the afternoon of that day, during the inaugural ceremonies.

Mr. President, these are the facts upon which the Senate of the United States must make a decision as to who is entitled to represent the State of West Virginia in the United States Senate.

I shall discuss what I believe to be the principal questions, from the standpoint of law, arising under these facts—questions the determination of which would seem vital to a proper decision of the case. In discussing these legal points I shall welcome any interruption.

Mr. DAVIS rose.

Mr. LUCAS. I welcome any interruption at any time, even by my distinguished friend from Pennsylvania, who stands over there. I shall be glad to attempt to answer in my humble way, as I understand this case, because I feel that I am somewhat familiar with it; and I hope that any Senator who is not familiar with the facts and who is not on the committee will feel free to interrupt me at any time.

Point No. 1: Can a Senator who, under the Constitution, has the right to resign, appoint a future date for his retirement from the United States Senate?

In discussing this legal question it is well, in passing, to advise the Senate that the second paragraph of the seventeenth amendment to the Constitution states:

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointment until the people fill the vacancies by election as the legislature may direct.

This provision of the Constitution is the authority for the resignation of a United States Senator. On the question of a resignation in futuro there is a long line of unbroken precedents where Senators have made such resignations without being questioned.

It is also common knowledge that Federal and State laws provide for resignations in other offices to take effect at some future time. This point is too well settled both in practice and in precedent to admit of controversy; and, as I understand, no one does make any contention over this particular question.

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

Mr. LUCAS. I yield.

Mr. HATCH. Probably the Senator will come to and cover the point that just came to my mind as he was talking about the practice in the Senate of having the resignation effective at some future time. I myself have looked at those cases, and I have been unable to find a single case in which the date fixed by the Senator was not observed. In other words, when a Senator resigned, with his resignation to be effective at some date in the future, that date has always been followed, with the exception of one or two cases in which death intervened. Am I correct in that?

Mr. LUCAS. The Senator is absolutely correct. The precedent is unbroken as far as a resignation taking effect in the future is concerned. However, in some of those early cases, as the Senator knows, that very question was debated upon the floor of the Senate, and it was always determined by a majority as to whether or not a man could resign to take effect in the future; and that is why I say it is axiomatic, as far as the principle is concerned, viewing the precedents of the Senate.

Now, as to point No. 2, which is an interesting point, namely, Can a United States Senator, after tendering his resignation to the Governor of his State to take effect in futuro, take, and make a valid statutory oath for the Governorship, to which he has been elected, before the time his resignation from the Senate becomes effective? Mr. President, that is a question around which considerable debate has revolved, and it seems to me in order, to argue in a logical way, that it is necessary in the beginning to quote verbatim the resignation of Senator Neely, which is as follows:

UNITED STATES SENATE,
COMMITTEE ON RULES,
January 10, 1941.

HON. HOMER A. HOLT,
Governor of West Virginia,
Charleston, W. Va.

SIR: I hereby respectfully tender you my resignation as a United States Senator from the State of West Virginia, to become effective at precisely 12 o'clock midnight on Sunday, the 12th of January, 1941.

Very respectfully yours,
MATTHEW M. NEELY.

I hereby acknowledge the receipt of the original of the foregoing resignation which was delivered to me in person in the city of Charleston, State of West Virginia, by the Honorable Arthur B. Koontz on the 11th day of January, 1941, at 1:30 p. m.

HOMER A. HOLT,
Governor of the State of West Virginia.

As heretofore stated, Senator Neely after submitting the above resignation, took the first oath to qualify as Governor of West Virginia at 11:35 o'clock on the night of January 12, 1941. In the construction of that oath it is only fair to say that there were certain reservations attached to the oath, and, so far as I am concerned, the oath was invalid because of the reservations included in it. That was the first oath. The second oath was taken at 11:45 o'clock on the same night, and that oath is as follows:

OATH OF OFFICE AND CERTIFICATE
STATE OF WEST VIRGINIA,
County of Kanawha, to wit:

I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of Governor of the State of West Virginia to the best of my skill and judgment so help me God.

(Signature of affiant) MATTHEW M. NEELY.

Subscribed and sworn to before me, in said county and State, at 11:45 p. m., this 12th day of January 1941.

JO N. KENNA,
President of the Supreme Court of Appeals.

Mr. President, counsel for the Honorable Clarence Martin vigorously contend that if any oath taken by Mr. Neely prior to midnight is valid, then, by such action Mr. Neely vacated his seat in the United States Senate, because he could not hold office as Governor and Senator at the same time, since the two offices in question are incompatible. No one challenges the incompatibility of the two offices, but I submit that this rule of law does not apply to the facts before us.

All the arguments which have been made by the distinguished Senator from Vermont and the distinguished junior Senator from Kentucky on the question of incompatibility of office, while, of course, setting forth good law, do not apply and cannot apply to the facts in this case if my theory of the law and the facts be correct. I can find no evidence in the record which shows that Matthew Neely failed to discharge his duty as a United States Senator up to the precise moment his resignation took effect. All the evidence is to the effect that he discharged his functions as a Senator, with all the privileges and immunities attached to the office, up to the very moment Governor Holt's term expired and Mr. Neely's duties as Governor of West Virginia began. The evidence shows that on Friday Senator Neely made a speech in the Senate and on the following day he was in control of his Senate offices. He testified before the committee that he controlled his offices in the Senate of the United States and considered himself a Senator up to precisely the hour of 12 o'clock on the night of January 12, and the record actually shows that he was paid by the Government up to that very minute, which is another piece of evidence that he was a Senator of the United States up to precisely the hour of 12 o'clock, although a number of implications have been made here and some direct argument to the effect that the taking of the oath, if it was valid, at 11:45 on the night of January 12 vacated his office as a United States Senator; but no Senator since that time has ever challenged or taken issue with the fact that Senator Neely was a Senator up until that time.

Neither can I find anything in the record, Mr. President, which shows that Senator Neely, while acting as Senator, attempted to assume any of the duties of Governor of West Virginia prior to the hour of midnight, January 12. When Mr. Neely took the oath at 11:45 p. m. on January 12, 1941, he was, in my opinion, merely pursuing the constitution and statutes of West Virginia in preparing himself to assume the duties of the office

of Governor at the time when the term for which he was elected should begin.

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

Mr. LUCAS. I am glad to yield to the Senator from New Mexico.

Mr. HATCH. In line with what the Senator from Illinois is saying about Senator Neely not performing any of the duties of Governor, it might be argued, as it has been suggested to me, that he could not have performed the duties of Governor because Governor Holt was in the Governor's office; but I should like to ask the Senator whether or not there was any evidence before the committee to show that Governor Neely attempted to perform any duty as Governor before his resignation as Senator became effective, such as making an appointment to be effective in his term. Did he do anything like that?

Mr. LUCAS. There was not a scintilla of evidence which showed that Senator Neely attempted, in any way whatsoever, to assume the slightest duty or obligation of the office of Governor which would be entailed upon him by the statutes and Constitution of West Virginia.

Mr. HATCH. On the contrary, just as the Senator is so ably arguing and presenting, all the evidence shows that he considered himself a Senator, and he performed only the duties of a Senator of the United States?

Mr. LUCAS. The Senator from New Mexico is absolutely correct, and the RECORD bears his statement out to the limit. In other words, several steps are necessary to qualify one for the Governor of the State of West Virginia. First, he must be eligible for election; he must be validly elected; he must have the requisite declaration of election; he must be qualified to hold the office, and, finally, he must take the oath. Those are the steps which are necessary under the laws of West Virginia for one to be Governor. The only one in question, insofar as the appointment of a United States Senator is concerned, is the taking of the oath.

Mr. President, it is common knowledge with every Senator that nearly every elected official—county, State, or Federal—can take the oath of office in advance of the beginning of his term, and that is true whether the offices are incompatible or otherwise. The people of West Virginia were so struck by the soundness of this legal doctrine that the legislature passed a statute specifically dealing with the question.

Section 270 of the West Virginia Code of 1937 provides in part:

The oaths required by section 3 of this article shall be taken after the person shall have been elected or appointed to the office and before the date of the beginning of the term, if a regular term.

There is also the following specific requirement in section 274 of the West Virginia Code of 1937 as to the qualifications of executive officers, which includes the Governor:

Provided—

It says, among other things—

That the State executive officers shall qualify on or before the first Monday after the second Wednesday of January next after their election.

This law, Mr. President, gave Matthew Neely, while serving in the capacity of United States Senator, the unquestioned right to take the oath for the office of Governor. That statute is plain and certain as to what an elected officer in West Virginia can do with regard to taking the oath; certainly no one who can read the English language can misunderstand its meaning; and yet some on the floor of the Senate, as I see it, have, not willfully, of course, misinterpreted the meaning of that statute. No one can contend with conviction that Senator Neely could not take a valid oath before the hour of 12 o'clock p. m. on the night of January 12; and the contention made that if such oath is valid the seat of Matthew Neely in the United States Senate was vacated is equally untenable, as such position is not sustained by either the facts or the law.

I have quoted to the Senate the facts with respect to what Senator Neely did as a Senator up to precisely the hour of 12 o'clock. In addition to the West Virginia case which has been cited here by the Senator from Texas [Mr. CONNALLY] as to what an individual may do before he assumes the duties of an office, I also quote from *Ballentyne v. Bower* (99 Wyo., p. 869), in which the court said in its opinion:

We are not to be understood as denying the right of one elected to an office to take the required oath and execute his bond, and deposit the same with the proper officer prior to the date when his term is to commence, or the time fixed by law for qualifying. We assume that may be done. But as qualifying acts they do not become effective until the time fixed by law for their performance.

What could be clearer than that, Mr. President?—and that is the exact case which is before the Senate at the present time.

Again the case of *Taylor v. Johnson* (148 Ky. 649), cited by the Attorney General of West Virginia and referred to in the arguments in this case, I say is decisive of this question, and not a single opinion will be cited to the Senate to overturn what the Supreme Court of Kentucky said in that case. So important is the case in connection with what is before the Senate that I propose to take some time in discussing the facts and what the court said.

Joseph Coyne was a member of the board of aldermen of Covington, Ky. He was elected in 1910 for a term of 2 years. In 1911 he was elected city treasurer for a term of 4 years. There we have the case of a man being elected city treasurer who is serving in the office of alderman. The two offices are highly incompatible, the same as the offices of Governor and Senator. On December 30, 1911, he took the oath of office as city treasurer and executed his bond. On the same afternoon the board of aldermen, thinking that Mr. Coyne had vacated his office as a result of taking the oath and giving the bond, appointed Edward J. Taylor to succeed Mr. Coyne. This was the afternoon on which he took the oath and gave the bond before he was to assume the duties of his office on the following day.

On the same afternoon, as I have said, the board of aldermen, thinking that Mr. Coyne had vacated his office as a result

of taking the oath and giving the bond, appointed Edward J. Taylor to succeed Mr. Coyne. On January 5, 1912, a new mayor of Covington was elected. He disregarded the appointment of Taylor made by the old mayor and appointed Frank J. Johnson to succeed Mr. Coyne. Johnson took the oath and brought mandamus proceedings to enforce his right to hold the office, and the circuit court sustained Johnson. Taylor appealed to the higher courts in Kentucky.

It is one of the most important cases that any fair-minded Senator can read for himself in order to make an honest and intelligent decision in line with the law of the case before us. The court said:

On December 30, when Coyne took the oath of office and gave bond as treasurer, he was not holding two municipal or incompatible offices. He could not hold the office of treasurer until his term began on the first Monday in January. While his taking the oath and executing the bond had qualified him to enter upon the discharge of the duties of the office of treasurer, he had not accepted that office within the meaning of the statute so as to vacate his existent office of alderman.

Mr. President. If that is the law, and you care to follow it, does anyone believe that Matthew Neely, as the result of taking the oath at 11:45, vacated his office in the Senate of the United States, as has been argued upon this floor, both directly and by implication?

The court of Kentucky further said:

Until the time when he could legally enter upon the discharge of the duties of the new office, there was nothing in the spirit or letter of the law declaring that his preparation for entering upon such new duties would vacate his former office. His taking the oath and executing the bond were but such preparation.

That is all there is to this matter. In other words, all the acts that Neely did from the time he became a candidate, and was morally and legally qualified, and got the votes, until he took the oath at 11:45, were steps, one after another, in qualifying him to assume the duties of Governor, and nothing else.

The court further said:

Had the term of his new office then commenced such qualification would be the statutory acceptance such as would vacate the former office. That condition did not obtain here.

As there was no vacancy on December 30, the appointment of Taylor was void.

Mr. President, as pointed out in the case I have just mentioned, Kentucky, at the time this decision was made, had a constitutional provision prohibiting the filling by one person of the two offices involved, just as we find the Constitution of West Virginia prohibiting a citizen from being Governor and United States Senator at the same time. The statutes of Kentucky provide that the acceptance by one in office of another incompatible office vacated the first office. Another statute repeated what the constitution said; to-wit, that no person at the same time could fill two municipal offices. These provisions of the Kentucky Constitution and statutes are comparable with the provisions of the West Virginia Constitution and statutes under which the point in question must be decided.

The Kentucky case holds that the mere

taking of the oath before entering upon the officer's duties in the office to which he had been elected, while still serving in an office incompatible with the elected office, was merely a part of the preparation to enter upon the duties of the second office. That is good law. That meets headlong the facts in this case; and there is nothing in the arguments or briefs of counsel, there is nothing in the arguments or briefs that have been presented here in argument up to this time, which overturns or overrules or challenges the soundness or the wisdom of that decision.

Under the law and under the set of facts heretofore related, is any Senator prepared to say that the taking of the oath is more controlling than eligibility, or is more impressive than the certificate showing the validity of election? Does the oath carry more weight than moral or legal qualifications to become a United States Senator, all of which are necessary before one may take the oath?

Heretofore, I have discussed the oath of office taken by Matthew Neely at 11:45 p. m., January 12. The evidence discloses that Mr. Neely also took a third oath of office immediately after midnight on the morning of January 13. While Senator Neely took the fourth oath at the inaugural proceedings, we find that it was the third oath, taken immediately after midnight, that was filed with the secretary of state at 12:50 a. m., January 13.

It is urged with some force by counsel for Hon. Clarence Martin that the filing of one of these oaths was mandatory before Matthew Neely could assume the responsibilities of Governor. It is urged with equal force by the attorney general of the State, in behalf of Hon. Joseph Rosier, that the filing of the oath with the secretary of state was merely directory.

At this point of the argument I wish to read into the Record a section of the Constitution of the State of West Virginia, which, so far as I am concerned, completely determines this fact. Section 5 of article 4 of the Constitution of West Virginia is as follows:

Every person elected or appointed to any office, before proceeding to exercise the authority, or discharge the duties thereof, shall make oath or affirmation that he will support the Constitution of the United States and the Constitution of this State, and that he will faithfully discharge the duties of his said office to the best of his skill and judgment.

Mr. President, here is the important part of this section of the constitution. Up to this time no one has seriously challenged this phrase of it, and it was discussed yesterday in a colloquy between the Senator from Wyoming [Mr. O'MAHONEY] and myself and the Senator from West Virginia. I refer to this part of the provision of the constitution:

And no other oath, declaration, or test shall be required as a qualification, unless herein otherwise provided.

What does that mean? It means exactly what it says. When the Legislature of West Virginia or anyone attempts to say that a statute which provides that the oath of the Governor must be filed under a general provision which has been

suggested here, it is necessary to ignore the plain understandable language of the Constitution of West Virginia.

I specifically call the attention of the Senate again to that last part, which says that no declaration or test shall be required as a qualification unless provided in some other section of the constitution. That language is all-inclusive, and unless it is provided in some other section of the constitution it can in no way be repealed by the legislature in any other statute. The principle of law here set forth in the constitution admits of no controversy. Senator Neely, having taken the oath before the hour of midnight on January 12, met the last qualification the Constitution of West Virginia lays down as necessary before he could exercise his authority as governor.

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

Mr. LUCAS. I yield.

Mr. KILGORE. It provides, does it not, that he shall "make oath or affirmation"?

Mr. LUCAS. Yes.

Mr. KILGORE. It does not in any way say that he shall subscribe to a written oath, or anything of that kind?

Mr. LUCAS. That is correct, and the subscribing of the oath by Senator Neely, as shown on the oath of 11:45, was unnecessary; but he did it. That was unnecessary, under this provision of the constitution, under which all officers are compelled to take the oath of office.

Mr. KILGORE. And under that it would be purely an oral oath?

Mr. LUCAS. That is correct; there is no doubt about it. Had he taken the oral oath, and that had been the end of it, so far as I am concerned he would be the Governor of West Virginia today, and all his acts would be valid; and when a few minutes ago I asked the Senator from Vermont as to whether or not the acts of Senator Neely would be invalid had not the oath taken a few minutes after midnight been filed, or the oath taken before midnight been filed on the 24th, he would not say that the acts of Senator Neely as Governor were not valid. To me that is an admission, so far as I am concerned, that the oath, so far as filing it with the secretary of state was concerned, was absolutely unnecessary, insofar as making Neely Governor was concerned.

Mr. KILGORE. I thank the Senator from Illinois.

Mr. LUCAS. Senator Neely having taken the oath before the hour of midnight on January 12, as I have said, he met the last qualification the Constitution of West Virginia lays down as necessary before he could exercise his authority as Governor. The filing of the certificate of the oath by the secretary of state, as provided by the statute, is one of the statutory declarations or tests which the framers of the West Virginia Constitution were discussing when they gave to the people of West Virginia that constitution. It plainly points out that that is one of the things which is not required as a qualification.

Mr. President, everyone understands the dignity of the office of Governor. In this case the Governor was not required to give a bond for the faithful perform-

ance of his duties as Governor of West Virginia. There is no question about that. He is not required to give a bond for the careful handling of all the affairs and the money he has to spend in West Virginia. But the opposition say that because he did not file an oath with the secretary of state his act is invalid and he could not be the Governor of the State.

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

Mr. LUCAS. I yield.

Mr. HATCH. It is not the filing of the oath made by the Governor that is required; it is the filing of a certificate made by a third person.

Mr. LUCAS. That is correct, and no one has yet charged in this debate that it was absolutely mandatory upon the Governor himself to see that that certificate was filed.

Mr. HATCH. I asked yesterday—and this is not an impossible situation—that we suppose that the third person failed or refused to file the certificate. Then the machinery of a great State would be upset, and the acts of Governor would be invalid because that third person failed to perform his duty.

Mr. LUCAS. Of course; and to my way of thinking that is a foolish argument and just cannot be upheld by any fair and prudent mind which wants to give the State of West Virginia what it is entitled to in connection with the orderly and efficient conduct of its government.

Mr. HATCH. Let me ask the Senator another question, because I have regard for his legal ability. This question is along the line I expect later to discuss myself.

Here is a man who has been nominated by a party as governor. In the general election he is elected. He receives a certificate of election. He takes the required oath of office. He does everything the constitution of his State requires. He actually enters upon the performance of the duties of his office by appointing a United States Senator. Would the Senator say that that would amount to as much as color of title?

Mr. LUCAS. I would, of course. There can be no question about it. It is an inchoate right.

Counsel for Mr. Martin lay much stress upon the proposition that the section of the constitution heretofore quoted requires that an officer shall "make oath," and that such language indicates the necessity of a signed oath, an oath properly signed. This has not been argued in the debate as yet, but it was argued with a great deal of vehemence by counsel for Mr. Martin and by Mr. Martin himself before the committee.

To me, this position is untenable, because the framers of the Constitution of West Virginia—and this is something which is very interesting on the question of the oath—created different kinds and types of oaths which individuals had to take. For instance, in prescribing the type of oath senators and delegates should take, section 11 of article 5 of the constitution qualifies section 5, article 4, which we have just been discussing, by compelling senators and delegates to do the very thing which counsel for Mr. Martin contend necessary for a governor

to do, that is, take and subscribe. In this section of the constitution they use the word "subscribe," to which the Senator was alluding a moment ago. This is what they say:

Members of the legislature, before they enter upon their duties, shall take and subscribe the following oath.

This refers to members of the legislature, who must "take and subscribe the following oath." Why did the framers of the constitution make a distinction between the Senators and delegates of West Virginia, and the Governor? There is a distinction, and no one can challenge or deny that statement.

The oath prescribed is:

I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of West Virginia, and faithfully discharge the duties of Senator (or Delegate) according to the best of my ability.

Hear me, Senators, on this question. This section further provides that any member who shall refuse to subscribe to that oath shall lose his seat in the Senate. That is forfeiture clause, just as it was found in the Qualls case, which has been so much debated in the Senate. A forfeiture provided there.

In other words, if the candidate elected in West Virginia did not take and subscribe to an oath, he forfeited his right to take his seat in that legislative hall in West Virginia as a delegate or senator. Senators cannot find a single provision that affects a Governor in a similar way, again demonstrating that the framers of the constitution believed that a man who had the qualifications and the character and the ability to become Governor of a great Commonwealth such as that State should not enter into every minute detail, such as the filing of the oath with the secretary of state, in order to qualify him to become Governor of the State, and one cannot successfully challenge that argument. To hold otherwise would mean to put the Governor on the same basis as a justice of the peace with respect to the question of filing of the oath. That is exactly what it would mean. No distinction is recognized when the argument is made that the filing of the oath is necessary as a qualification.

Here is a provision with a penalty attached dealing with delegates or senators. Such law makes it mandatory that delegates and senators of West Virginia not only make but subscribe to the oath, and failure to do so means forfeiture of the seat. There is nothing in the constitution of West Virginia which makes it mandatory that certificate of oath of the Governor be filed. There is no penalty provided if the Governor does not file the oath. He is not required to give bond. The reason for such omission is obvious if anyone wishes to read section 5 of article 4 of the constitution.

Plainly Mr. President, the framers of that constitution intended to make a clear distinction as to the making or taking of an oath on the one hand and the making and subscribing to an oath on the other hand.

The case of *State Ex Rel. Qualls v. Board of Education* (92 W. Va. 647),

cited by counsel for Mr. Martin, is not in point, in my opinion, notwithstanding the opinion of the late judge out in the country to the contrary, who brings his evidence here by way of letter, instead of coming before the committee and testifying, and giving a few lawyers such as the Senator from New Mexico [Mr. HATCH] and others, a chance to cross-examine him.

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

Mr. LUCAS. I yield.

Mr. CHANDLER. Does the Senator have any objection to judges writing letters if they want to?

Mr. LUCAS. No; I have no objection to judges writing letters, but if I had been a former judge of the supreme court, before I would have submitted my testimony by way of letter of this kind, I would have presented myself to the Committee on Privileges and Elections, and let its members at least cross-examine me rather than write a letter here, without giving an opportunity to a single member of the Committee on Privileges and Elections to cross-examine me or ask the judge who wrote the opinion a fair question about the case. That is what I am objecting to. I do not think what he did was fair, if the Senator wants to know what I think about it.

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

Mr. LUCAS. I yield.

Mr. CHANDLER. There was some controversy yesterday between the Senator from Illinois and the Senator from West Virginia [Mr. KILGORE] about those judges. Those two judges were members of the Supreme Court of West Virginia when the Qualls case was decided. They participated in the opinion. They did not have any special desire to please the Senator from Illinois or the Senator from West Virginia.

Mr. LUCAS. They wanted to please somebody.

Mr. CHANDLER. They pleased me very much, and they undertook to say that when they were on the court they wanted to make the filing of oaths mandatory, that it was their intention to do so, and the court was unanimous in that respect. Mr. Sperry did not come before the committee, but he said that the reviewers tried to get the codes and the statutes to agree, that they intended to carry out the opinion in the Qualls case, to make the filing of oaths mandatory, not directory. I am sorry, but I do not think they intended to please the Senator from Illinois.

Mr. HATCH. Mr. President, will the Senator yield to me for a moment?

Mr. LUCAS. I yield.

Mr. HATCH. The statement which has just been made about judges intending to make certain provisions of law mandatory causes me to rise and ask: Who makes the law in the State of West Virginia?

Mr. CHANDLER. I have been asking that a long time. If the Senator wants to know who makes the laws of the United States I do not know, but when the court says such and such is the law, it is the law. Criticism has been made of the Supreme Court of the United

States, but every time it makes a decision, it is accepted, or if not, those interested wish they had accepted it. Of course, complaint is made concerning decisions of courts, but the law is what the court says it is.

Mr. LUCAS. I am not going to yield any further. I am very happy that the junior Senator from Kentucky made that last statement, because I have always understood that when the Supreme Court handed down an opinion, or even the circuit court of my own county handed down an opinion, that that was the law, and the judges did not go about after that writing letters over the State attempting to qualify and explain a decision already made.

Mr. CHANDLER. The Senator is mistaken. The Supreme Court—

Mr. LUCAS. I do not yield to the Senator.

Mr. CHANDLER. That is characteristic of my friend when he does not want an answer.

Mr. LUCAS. I make the point of order against the Senator. When I get ready to yield to him I will yield.

The PRESIDING OFFICER. The Senator from Illinois has the floor, and refuses to yield.

Mr. LUCAS. But that is the situation, and I complain about it. I do not care who knows it. I do not think a judge of reputation, who has handed down a decision, and it is in the law books, has any business writing a letter to a United States Senator, or to the attorney for one of the contestants in this case, explaining a decision he has heretofore made, and which is the law. If that decision does not explain itself, then the judge is in a mighty poor business writing letters to United States Senators or to the attorneys in the case, attempting to explain the decision, and bolstering up a case, and I, as a United States Senator, denounce it.

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

Mr. LUCAS. I yield.

Mr. HUGHES. I am very much interested in the Senator's discussion of the requirement of the Constitution of the State of West Virginia as to taking an oath. In one instance the Governor is required to subscribe to a certain oath, and in the other instance members of the legislature are required to subscribe to a certain oath. I wondered whether the Senator noticed a distinction in the provisions of the code, that while the Governor is required to take an oath supporting the Constitution of the United States and the Constitution of the State of West Virginia, a Member of the General Assembly is required to take an additional oath as follows:

I will not accept or receive, directly or indirectly, any money or other valuable thing, from any corporation, company, or person, for any vote or influence I may give or withhold, as senator (or delegate) on any bill, resolution, or appropriation, or for any act I may do or perform as senator (or delegate).

Is there not a reason for a distinction being made? In that case the law is very positive about requiring that that oath be subscribed to, and that it be filed in the office of the secretary of state, and made of record, because in the case of

prosecution of a senator who is accused of taking bribes, or anything of that sort, there would be a record of the oath. That provision does not appear in the other case.

Mr. LUCAS. Mr. President, I appreciate the contribution made by the distinguished Senator from Delaware. That merely bears out the argument I have been making as to the distinction made here in the matter of officers, between one who is a delegate and one who is a Governor. You can carry it on down to, we will say, the lowest office; I do not mean that in any disrespectful way, but to the most humble office of constable or justice of the peace. There is a certain dignity which must be given to the Governor's office that is not given to the office of justice of the peace. There is a certain amount of dignity which must be given to the President of the United States that is not given to the office of constable or justice of the peace in one's home community. As a result of that very thing, the point I am making is that under section 5, article 4, of the Constitution I have read it is absolutely unnecessary for the Governor of a State to file that oath in line with what the statute says, because the statute does not contravene the Constitution of the State of West Virginia. The oath the Senator cited here is another one that the framers of the Constitution had in mind. As I said in the beginning, there are various types and kinds of oaths, and to put a Governor down in the same category as a constable or justice of the peace is not what the framers of the Constitution had in mind.

Mr. HUGHES. The Constitution says that that is a test to which the governorship shall not be subjected. That is to say, the Governor shall not be subject to any other test than the provisions in the Constitution.

Mr. LUCAS. That is correct.

Mr. HUGHES. But it does not say that a Representative or a Delegate may not be. So the Constitution does not require that they shall make oaths and subscribe them and have them filed, and so forth, even though that is an additional test beyond what the Governor is required to do.

Mr. LUCAS. The Senator is correct, and I thank him very much for the additional contribution upon the question of oaths.

Let me conclude with respect to the Qualls case. I wish further to discuss the case of State ex rel. Qualls versus Board of Education, because that case has been bandied back and forth in the Senate. I have read the entire case. I believe I understand the facts. I believe I understand the law. I have read the statute under which that case was prosecuted. I do not care what the judges who made the decision said in an extraneous way in an attempt to qualify the decision made. We cannot get away from what was said in the opinion itself. Anybody who reads the case knows that those men were elected to the board of education under a special statute. Under the special statute, it was specifically provided that if members of the board of education did not file an oath and a bond within a period of 10 days they forfeited

their right to that office. That is what the statute said, and that is exactly what the court held. Can anyone show me any provision in the Constitution of West Virginia to the effect that if the Governor does not file an oath his office is forfeited? Not at all.

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

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

Mr. CONNALLY. Even under the extreme case on which reliance is placed, the Qualls case, the penalty for failure to file the oath required to be filed within 10 days, namely, forfeiture of the office, would not invalidate any official acts which might have been performed up to the end of the 10 days.

Mr. LUCAS. Of course not. If they had assumed the duties of office, during that time all their official acts would have been valid, as those of de facto officers.

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

Mr. LUCAS. I yield.

Mr. KILGORE. I may have overlooked it, but is there anything in the record in the Senate which shows what the inquiry was, or the wording of the inquiry which elicited the letters from the judges in West Virginia, or whether they were voluntary?

Mr. LUCAS. So far as I know, there is nothing in the record but the letter which was written to the Honorable George B. Martin. I learned that when the Senator from Vermont read the letter into the RECORD. That is all I know about it. I do not know anything about the inquiries. I do not know how it got in the RECORD. I do not know that the Senator from Kentucky [Mr. CHANDLER] was so interested in the matter that he said he would have gone out there and obtained the letter if it had not been sent to him.

Mr. KILGORE. Is it not the experience of the Senator from Illinois that the letter asking for information frequently governs the wording of the letter of reply and must be used properly to interpret it?

Mr. LUCAS. Certainly. Whatever elicited the reply from the judges in West Virginia should have been presented along with their reply. I cannot imagine a judge of high reputation and honor projecting himself into an important case of this kind by writing a letter to the attorney for one of the appointees, and then having a United States Senator reading the letter on the floor of the Senate. I cannot understand how that can be done. If the individual wanted to qualify the opinion he had rendered when he was a judge he should have submitted himself to the committee and let the members of the committee interrogate him, rather than attempt to qualify his opinion by writing a letter and having it read on the floor of the Senate.

Mr. KILGORE. I am in full accord with the Senator.

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

Mr. LUCAS. I yield.

Mr. MURDOCK. I am wondering whether or not the present Supreme Court of West Virginia would consider

the two letters which have been read in the Senate as precedents in interpreting that decision later, in the event that Mr. Martin should have the audacity to use them as a precedent.

Mr. LUCAS. Mr. President, I do not think the members of the Supreme Court of West Virginia at the present time would take any judicial notice or official notice, or any kind of notice, of what is going on in the Senate at the present time. If they should do so, and attempt to interfere and intervene, then they are not the kind of judges that have caused me to have such a high regard for the judicial branch of government.

In my opinion, the Qualls case is not at all in point in connection with what we are attempting to consider. I do not question the interpretation of honest lawyers in connection with this case. I have read and reread it. For the life of me I cannot see how it can be said that the statute referred to applies to a governor.

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

Mr. LUCAS. I yield.

Mr. BARKLEY. I understand from the Senator from Illinois that he will not be able to conclude his remarks this afternoon.

Mr. LUCAS. I have two or three further points to cover.

Mr. BARKLEY. If he cannot conclude this afternoon, I think we might rise now, and permit the Senator to conclude on Monday.

CONVOY PROPAGANDA AND POLLS OF PUBLIC OPINION

Mr. NYE. Mr. President, during the past few weeks I have been led to believe that some pressure was being exerted to accomplish the sending of telegrams and communications from over the country which would cause the President of the United States to believe that the people are ready to accept convoying as a necessity at this hour. However, I have never felt called upon to charge that the cause of intervention might be reaching out to resort to so-called chain telegrams. This afternoon I received from Augusta, Ga., a telegram signed by Edison Marshall, reading as follows:

AUGUSTA, GA., May 9, 1941.

Senator GERALD NYE,
Washington, D. C.:

Have received telegram urging me to continue telegraph chain, each recipient to wire President and induce 10 others to do so urging convoys. Think this movement should be exposed to Senate and public immediately.
EDISON MARSHALL.

Mr. President, we must all concede that we are living in an hour of pressure, with all sides bringing into play all possible evidence concerning what might be public opinion with regard to the issue of convoys; but it seems to me that if it is necessary to resort to the chain telegram method, there is being at once revealed a very definite weakness on the part of those who would have the United States take the long step to war by convoying.

Let me refer to one further matter, Mr. President. On May 6 I introduced Senate Resolution 111, which was referred to the Committee on Interstate

Commerce. The resolution calls for an investigation by the Committee on Interstate Commerce of polls of public opinion.

This afternoon I have conferred with the chairman of the Interstate Commerce Committee, who assures me of very early consideration in connection with the resolution. I should like to say now that if that kind of investigation is undertaken, I am satisfied that, without reflecting upon Dr. Gallup or the Institute of Public Opinion, it will be revealed that among those taking the polls throughout the country are men and women who are not bothering to feel the public pulse in their communities, but are dispatching to the Institute of Public Opinion a response that is reflective only of the opinion and the wish of the one taking the poll.

In this connection I ask unanimous consent to have printed in the RECORD at this point in connection with my remarks an analysis of American Institute of Public Opinion polls relating to intervention in the European war, by Ross Stagner, of Dartmouth College.

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

AN ANALYSIS OF AMERICAN INSTITUTE OF PUBLIC OPINION POLLS RELATING TO INTERVENTION IN THE EUROPEAN WAR

(By Ross Stagner, Dartmouth College)

The American Institute of Public Opinion has been "taking the pulse of democracy" for over 5 years. During that time its notable accuracy in predicting election returns (as compared with the Literary Digest Poll, for example) has given it high prestige. Its reports are considered, in a way, to speak with the voice of the American electorate.

One is hardly surprised, therefore, to find that men in public life are influenced by its reports. G. F. Lewis, Jr., found that while many Congressmen denied that the polls influenced their votes on foreign policy, his evidence suggested that not less than two-thirds of them take the results into consideration in making a choice.

This is indeed a natural state of affairs in a democracy. But it runs a risk of serious nature if public opinion is not accurately and impartially recorded. The Institute has repeatedly published figures seeming to show that an overwhelming majority of Americans favored an aggressive foreign policy as against the Germans and Italians. It would be most deplorable if Congressional policy were influenced by these reports and it later developed that they were inaccurate.

The Institute reports have consistently favored intervention of one sort or another almost since the outbreak of war in September 1939. If these figures are taken loosely and at their face value (as some commentators have), they may lead to hasty action which is actually not endorsed by a majority of the general public. This assertion is based on a careful examination of the polls taken by Dr. Gallup's organization relating to intervention in the Anglo-German conflict over the past several years, but especially since the outbreak of war.

Public opinion studies are delicate and subject to distortion by unconscious prejudice even if no deliberate intention to deceive is present. Shrewd lawyers know how easy it is to get the average man to testify to absolutely contradictory happenings by clever questioning. Some studies have shown that a fair proportion of men will vote for a tariff increase (on an opinion blank) and, 5 minutes later, endorse the Hull program for tariff reduction. Social psychologists have made

elaborate investigations to determine how opinions may most accurately be recorded.

This report covers an examination of all of the American Institute of Public Opinion questions relating to foreign policy from April 1937 to February 1941. The questions asked have been studied from the point of view of strict impartiality, that is, whether they conformed to scientific principles of opinion measurement; and the results have also been examined to see whether or not they agree with each other and with outside measurements of opinion.

Fifty-nine questions were chosen for special study because they related specifically to the problem of intervention against Germany. Only seven of these were asked before the outbreak of war; about one-third centered around the repeal of the Neutrality Act late in 1939; most of the remainder have come since the invasion of the Low Countries in May 1940. Such items as "Do you think the United States will be drawn into the war?" have been omitted as having no clear suggestion as to policy. On the other hand, we have included such questions as "Do you think the United States will have to fight Germany again during your lifetime?"

Four types of influence on free answers were set up as being most important. These were: The inclusion of emotion-arousing words (Nazis, dictatorship nations); the introduction of prestige-bearing names or terms (President Roosevelt, Ambassador Bullitt); the presence of unjustified assumptions in the statement of the question—and suggestion of a positive answer. All of these have shown by laboratory studies to have a significant effect upon opinion measures.

None of the 59 items were found guilty of improper inclusion of emotional terms. The Institute's vocabulary is as impartial as possible, without the use of scientific terminology. Forty-six questions, however, were criticized on one of the three remaining points. Since some questions violated more than one rule, a total of 55 cases of dubious practice were listed. Of these 55 items, 48 were biases in favor of an interventionist answer, while only 7 tended to elicit a non-interventionist reply.

We may take up these criticisms one by one and show how important they are. First, the question of introducing the name of a prominent person may be mentioned. Four items were found in which prestige may have been a factor in the results. All four of these favored intervention. We may illustrate the significance of this, first, by taking an experimental study. Roslow, Wulfack, and Corby asked two matched groups if they approved the action making the date for Thanksgiving the third rather than the fourth Thursday in November. To one group Roosevelt's name was not mentioned; to the other, the question was presented as President Roosevelt's action. Five percent more of the latter group approved. The same point has been demonstrated in other studies.

Comparing one opinion poll with another proves the potency of Roosevelt prestige in influencing opinions. During the week beginning May 29, 1940, a special poll was conducted by the Institute for the Princeton Public Opinion Research project. The following question was asked: "The United States Army and Navy have about 5,000 airplanes. Would you approve of selling all, some, or none of these planes to England and France at this time?" Forty-nine percent of the population answered "none." On June 30, 1940, the Institute published a survey—taken only a few days after the one just mentioned—using the form: "President Roosevelt has taken action making it possible for England and France to buy some airplanes that were being used by our Army and Navy. Do you approve or disapprove of this action?" Only 20 percent of the people disapproved. At face value this means that 29 percent of the voters have switched almost overnight. No one experienced in opinion work would be-

lieve this. The true explanation is that the prestige value of Roosevelt's name, plus the fact that the action was completed and disapproval futile, produced the change in percentages.

The same errors appear in a question citing Ambassador Bullitt's assertion that if Great Britain is defeated the Germans will invade the United States. It is also found in the mention of "our Government" selling destroyers to England. Singularly enough, not a single question was asked quoting any prominent noninterventionist.

The most recent and most significant illustration of this subtle suggestion through appeal to prestige is found in the poll on the lease-lend bill released February 9, 1941. The question was asked: "Do you think Congress should pass the President's lease-lend bill?" The results might have been quite different if the question had been: "Do you favor passage of a bill which permits unlimited subsidies to foreign munitions manufacturers from the United States Treasury?" or "Do you favor passage of a bill which authorized repair of belligerent warships in violation of international law?"

In addition to items which introduced prestige-bearing names, such as those listed above, several questions were classified as double-barreled in the sense that they brought in some other consideration besides the main point of the question. The chief offender in this connection has been that watchword of interventionist strategy, "aid short of war." This may be illustrated by reference to polls such as that of July 18, 1940, which asked: "Do you think we are giving enough help to England, or do you think ways should be found to give England more help than we are at present, but short of going to war?" This proposition elicited a vote of 53 percent for "more help." But the simultaneous Fortune poll simply asked: "Do you think we should do more than we are now doing to help England against Germany?" The vote showed only 34 percent in favor of increased aid. A difference of 19 percent simply does not occur when two polls sample the American people scientifically on the same question. It is apparent that the introduction of the phrase "short of war" changes the question. It implies, unjustifiably in the opinion of many observers, that more help "short of war" is possible.

An all-time low in the history of the institute, however, was probably reached in the poll of December 27, 1940. At this time the question was asked: "Have you read or heard about the speech of a Nazi official published recently which said that the German plan to make slaves of the people in Europe and to control American industry and trade?" This question does not even make that gesture in the direction of accuracy used by most editors, who would refer to "the alleged speech." No mention is made of the fact that the Nazis have denied the occurrence of this speech—whereas they have boasted of other aggressive statements of policy—nor of the fact that the publishers of this speech have so far refused to identify the source from which they obtained it. To a psychologist it looks like one of the hysterical creations given to official publicity by the Allies in 1914-16. For the institute to quote this reference and ask if it is believed—80 percent of those who had heard of it said they believed it—seems almost to be on the level of propagandizing for the British.

The two types of errors so far discussed—prestige factors and unjustified assumptions—constitute the more flagrant violations of scientific opinion sampling. Eight of the 59 questions examined, about 14 percent made these errors. We wonder if it is conceivable an accident that all of these favor interventionist answers by the persons questioned.

Another type of biasing factor is that involved in presenting questions in such a fashion as to take advantage of what psycholo-

gists call the "yes" tendency. This simply means that when the average man is presented with a question he seems to find it easier to say "yes" than "no."

To a person uninformed about the experiments on this topic such a criticism may seem very trifling. The evidence, however, indicates that it is very important. Blankenship, for example, in an excellent controlled investigation, asked matched samples of voters in Irvington, N. J., the following questions: "Is it desirable to balance the National Budget within the next 4 years?" and "Is it undesirable to balance the National Budget within the next 4 years?" The change from "desirable" to "undesirable" caused a decline of 25 percent in the number of votes cast for Budget balancing. Blankenship reports that the chance that such a difference could be accidental is about 1 in 14,000,000. Hence, it seems certain that such phrasing of questions prejudices the results obtained. Better than either type Blankenship found to be: "Is it desirable or undesirable to balance the National Budget within the next 4 years?" In this case the alternatives are clearly called to the voter's attention.

Most of the Fortune polls on intervention have been of this last type—i. e., they have offered several answers to choose from. The Institute, on the other hand, has preferred the positive type of statement, mentioning only one alternative. Thus, 46 of the 59 questions studied were of the positive type.

The wide difference obtained from such changes in questioning may be demonstrated by reference to the A. I. P. O. poll of September 24, 1940: "Should the neutrality law be changed so England and France could buy war supplies here?" Fifty-seven percent were recorded as favoring the change. But the simultaneous Fortune poll asked: "Which of these comes closest to what you think the United States should do?" A list of seven items was presented for the voter to choose from. They ranged from "help Germany" to "go to war against Germany." In this case only 37 percent favored steps to help England and France. The difference of 20 percent here is due chiefly, if not entirely, to the question form.

Such a criticism can be leveled at an amazingly large proportion of the polls dealing with the attitude of America on the European war. Of the 46 questions which were positive in form, 39 were so phrased as to foster interventionist answers, only 7 so as to oppose interventionist policies. Can this amazing difference be due to accident?

The handling of the institute polls has at times seemed questionable in terms of the time at which certain topics were asked or ignored. The organization is, of course, commercial, and must cater to some extent to newspaper-reader interest. It seems strange, however, that in October 1937 the question was used: "Which plan for keeping out of war do you have more faith in: Having Congress pass stricter neutrality laws or leaving the job up to the President?" At that time 69 percent favored Congress, doubted giving much power to the President. Why has this item not been repeated in recent weeks?

On the other hand, questions of extreme complexity and intensely emotional nature have been asked at the peak of waves of public perturbation. On June 2, 1940, the institute released the results of the following survey: "Do you think our country's Army, Navy, and air forces are strong enough so that the United States is safe today from attack by any foreign powers?" Aside from the fact that no one nation could conceivably be strong enough to defeat all the other nations on the globe, as is implied here, it is significant that this question was circulated at the time when the "impregnable" Maginot line had been passed and the British were evacuating Dunkerque. The myth of German "military invincibility" was in full flower. Such a question in December

1940 would certainly have led to different results, if not an actual reversal of majority opinion. (It is noteworthy that at various times in the past year proponents of all-out aid to Britain have raised the bogey of German invasion, and at other times have referred to this as a false scare.)

The omission from the institute polls have perhaps been more significant than the questions asked. On one occasion voters were asked, "Do you think you, personally, would be affected by a German victory?" Why not ask, "Do you think you, personally, would be affected by our entry into the war?"

Attention has been called in several paragraphs above to the conflict between the Gallup and Fortune polls. In no case has the Fortune survey given a higher percentage favoring intervention than the institute; rather, differences for several simultaneous studies have shown the Fortune percentage running 20 percent to 50 percent lower on interventionist policies. Why is this? And which figure is closest to the "true" public opinion?

The chief reason for the difference is found in the fact that Fortune surveys have relied heavily on the objective type of question which does not suggest a particular answer. Very few of the errors listed for the institute polls in preceding pages could be listed for the Fortune survey. On the contrary, much valuable information has been uncovered which the Gallup procedure does not bring to light. For example, in April 1940, Fortune reported querying voters about the "best way to strengthen the Nation." Of four alternative answers, it was found that ending poverty and unemployment ranked clearly ahead of building armaments. If voters think that ending poverty at home is more important than building up military strength at home, what must they think about giving arms away to another nation?

The Fortune poll has pretty consistently outscored the Gallup survey in predicting national elections. In November 1940 the institute gave Roosevelt a majority of only 52 percent, whereas the Fortune poll indicated 55.2 percent for the third term. The actual vote deviated less than 1 percent from the Fortune figure. Dr. Gallup explained the error in his results (which, incidentally, was quite large for the number of persons interviewed) by saying that his interview sample did not include enough women or enough low-income voters. But this is of the utmost importance in evaluating the outcome of polls on European intervention, for it is precisely these two groups who have shown most anti-intervention sentiment. Women have consistently opposed an aggressive foreign policy more than men, and low-income voters in general have done so, as compared with those in the upper brackets.

It seems likely, then, that in addition to errors in question formation, there has been a consistent sampling error of 3 percent or more in favor of the interventionist elements in the population. Certainly the greater accuracy of the Fortune survey on elections suggests that their estimates of support for intervention, running far smaller than those of the American Institute, may be more dependable.

Can we accuse the American Institute of Public Opinion of being biased in favor of intervention against Germany? It would seem unfair to conclude that there was necessarily any conscious prejudice, or rather that any institute staff members deliberately fostered prejudiced results. The men in charge of the surveys are intelligent, well-trained, and intellectually honest. It is not likely that there has been any attempt to mislead the public or, more specifically, Congress, about trends of opinion.

Nevertheless, any psychologist will recognize that unconscious, unintentional prejudice could operate to produce one-sided results in this as in other situations. The old, informal straw votes were clear illus-

trations of this. The Dunn poll and other partisan surveys failed to predict the Presidential vote, because the persons making these studies talked only to people they agreed with, and saw only what they wanted to see. Scientific population sampling, the mainstay of the Fortune and Gallup polls, does away with some of this, but it is still to be made fool proof. Even with the best of sampling technique, unconscious prejudice may influence the wording of questions, the decision as to what questions should be asked or omitted, and the time at which they should be circulated.

It is apparent that the institute staff, like most upper-income easterners, is somewhat biased toward intervention. Dr. Gallup has usually been reserved about his own feelings. But Dr. Hadley Cantril, director of the Princeton public opinion research project (which cooperates with the institute), has indicated his own opinion in the New York Times for June 2, 1940. Says Dr. Cantril: "When people were asked early in the spring whether or not they thought the Allies were fighting to preserve democracy against the spread of dictatorship, or mainly to keep their power and wealth, opinion was about evenly divided. Present results indicate the process of a shift of this opinion toward the side of preservation of democracy."

"This is due not so much to domestic or Allied propaganda as to a growing belief, brought about by events, that Hitlerism is a power which threatens whatever Americans hold dear." Aside from the fact that Dr. Cantril cites no evidence for this shift, how can he say that it is not due to domestic or Allied propaganda? Newspapers, the magazines, and the radio have been full of both. European censorship prevents much of the true course of events from being known. Dr. Cantril, in this statement, merely expresses his own opinion.

The status of the institute as a commercial venture, dependent upon subscriptions from newspapers for its existence, may also be an unconscious biasing factor. As anyone can immediately see by measuring column-inches of news and editorial space, American newspapers are overwhelmingly in favor of intervention against Germany. Again, without insinuating any deliberate intent to mislead, we may suggest that the set-up of the polls may unconsciously have been influenced by this situation.

Are these criticisms of the Gallup poll important? I believe they are. Mention has already been made of the observation by Lewis that more than two-thirds of Congressmen appear to be influenced in some degree by the poll findings. Particularly on a complex question such as that of foreign policy, where the Congressmen may be subject to conflicting pressures, a step in a direction of what seems to be "majority opinion" may be very easy to take.

Further, the "bandwagon" factor must not be neglected. Dr. Gallup has, on several occasions, tried to prove the publication of straw vote results in a political contest did not lead to any sweep toward the leading candidate. None of these reports have been very convincing, first because many experiments under controlled conditions have shown that opinions are influenced by knowledge of a majority vote, and second, because a choice of intervention versus nonintervention is not as simple and mechanical as picking a candidate in an election. In the latter case, stereotyped emotional responses make the decision for most of the public. Party devotion is a considerable factor. But such established habits do not function in this complex field of international affairs, and so the bandwagon effect can be expected to be much stronger.

This is not to say that public opinion polls are bad and should be suppressed. On the contrary, democracy demands some instrument such as the opinion poll. But the instrument must be accurate, and must be handled impartially.

Less that one voter in five endorses war against Germany. More Americans seem concerned about improving conditions at home than about the dubious course of "rescuing democracy" abroad. They feel a strong friendship for England, but they have given Congress no mandate to accept a junior partnership in the British Empire.

By all means, let us take "the pulse of democracy." But, at the same time, let us insist that the pulse be scientifically measured, with no opportunity for conscious or unconscious bias to influence the result.

RECESS TO MONDAY

Mr. BARKLEY. 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 50 minutes p. m.) the Senate took a recess until Monday, May 12, 1941, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES

FRIDAY, MAY 9, 1941

The House met at 12 o'clock noon.

Rev. Frank A. Kilday, O. M. I., rector of St. Louis Cathedral, New Orleans, La., offered the following prayer:

We pray Thee, O God of might, wisdom, and justice, through whom authority is rightly administered, laws are enacted, and judgments are decreed, assist with Thy Holy Spirit of counsel and fortitude the President of these United States, that his administration may be conducted in righteousness and be eminently useful to Thy people over whom he presides by encouraging due respect for virtue and religion, by the faithful execution of the laws in justice and mercy, and by restraining vice and immorality. Let the light of Thy divine wisdom direct the deliberations of this House and shine forth in all the proceedings and laws framed for our rule and government, so that they may tend to the preservation of peace, the promotion of national happiness, the increase of industry, sobriety, and useful knowledge, and may perpetuate to us the blessings of equal liberty.

We recommend likewise to Thy unbounded mercy all our brethren and fellow citizens throughout the United States that they may be blessed in the knowledge and sanctified in the observance of Thy most Holy Law; that they may be preserved in union and in that peace which the world cannot give, and after enjoying the blessings of this life be admitted to those that are eternal. These benefits, O God of might, wisdom, and justice, we ask in the name of the Father and of the Son and of the Holy Ghost. Amen.

The Journal of the proceedings of yesterday was read and approved.

EXTENSION OF REMARKS

Mr. REED of New York. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD by including a letter addressed to the Secretary of War.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GRAHAM. Mr. Speaker, I ask unanimous consent to extend my own

remarks in the RECORD and to include therein a short article from the Washington Times-Herald of Thursday, May 8.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERMISSION TO FILE REPORTS

Mr. VINSON of Georgia. Mr. Speaker, I ask unanimous consent that the Committee on Naval Affairs may have until midnight tomorrow night to file reports on the following bills: H. R. 4671, H. R. 3783, H. R. 3149, H. R. 3537, and H. R. 3782.

Mr. MARTIN of Massachusetts. Mr. Speaker, reserving the right to object, is there any opposition to any of these bills?

Mr. VINSON of Georgia. There is no opposition to them, but we have not had time to write the reports. I hope to finish them today or tomorrow with the intention of going before the Rules Committee Monday to get rules for their consideration.

Mr. MARTIN of Massachusetts. And the committee has been unanimous in its action with respect to all of these bills?

Mr. VINSON of Georgia. The committee is unanimous and I may say that most of these measures are being reported by minority members.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

EXTENSION OF REMARKS

Mr. MACIEJEWSKI. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein a resolution from the Joseph Mordecai Brenner Relief Society.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

(Mr. MACIEJEWSKI asked and was given permission to revise and extend his own remarks in the RECORD.)

Mr. DOWNS. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein an editorial from the Bridgeport Telegram of May 7, 1941.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mrs. ROGERS of Massachusetts. Mr. Speaker, I ask unanimous consent to insert in the RECORD a survey made by the Merchants' Association of New York regarding daylight saving, as it seems to me this is such an important part of national defense. The matter would take about one-fourth of a page more than is allowed, Mr. Speaker.

The SPEAKER. Is there objection to the request of the gentlewoman from Massachusetts?

There was no objection.

Mr. STEVENSON. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include a resolution adopted by the County Board of Supervisors of La Crosse, Wis., on May 6, 1941, in opposition to convoying.

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The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. JENNINGS. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein an editorial from a paper published in east Tennessee.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

(Mr. WINTER asked and was given permission to revise and extend his own remarks in the RECORD.)

PERMISSION TO ADDRESS THE HOUSE

Mr. WOODRUFF of Michigan. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. WOODRUFF of Michigan. Mr. Speaker, on the evening of Tuesday, May 6, Secretary of War Henry Stimson in a Nation-wide broadcast advocated openly and emphatically the use of American naval vessels for convoy purposes, in whatever form of convoy, or escort, or patrol would most effectively deliver munitions of war to Great Britain. Mr. Stimson further said we must be ready to die if need be to preserve freedom of the seas, and that if we are not ready to sacrifice even unto death, to preserve freedom of the seas, freedom of the seas will not be preserved.

In a White House press conference on the same day Mr. Stimson made his speech the President's secretary, Steve Early, in answer to a direct question as to whether or not the President had approved the Stimson speech in advance, assured the newspapermen that they might properly and safely assume Mr. Stimson had talked the speech over with the President in advance.

By all the laws of evidence, by every logical process of deduction, we now must arrive at this inescapable conclusion:

The Secretary of War, Mr. Stimson, favors the use of American naval ships to convoy supplies to Britain; he also favors American youth dying, if necessary, to preserve freedom of the seas. President Roosevelt approves what Mr. Stimson said. Therefore President Roosevelt must approve the use of American naval ships to convoy supplies to Britain, and he must favor American youth fighting and dying, if necessary, to preserve freedom of the seas.

In his first press conference following his third-term inauguration, Mr. Roosevelt said that such a resort—as convoying—

clearly invited war, for American ships surely would be shot at and shooting comes dangerously close to war.

He further stated, in ruling out the report that American naval ships would be used for convoy purposes or in some other way to accomplish the delivery of supplies to Britain, that—

The convoy suggestions are cow-jumped-over-the-moon stuff.

By the same laws of logical deduction, then, the inescapable conclusion is that Mr. Roosevelt, recognizing that convoying means shooting and shooting means war, is now ready to embark upon a "cow-jumped-over-the-moon" course and have America engaged in a shooting war.

This development further clarifies his statement in dedicating the Woodrow Wilson birthplace in Virginia as a national shrine that America is ready to "fight for democracy again." There was some doubt as to what he meant by the word "fight." His approval of the Stimson speech makes it clear that what he meant in his Wilson birthplace speech by the word "fight" was a shooting fight and not simply a moral struggle.

Thus all promises and assurances that have been made to the people that the country would not be taken into war now go into the discard. [Applause.]

AID TO GREAT BRITAIN

Mr. STEARNS of New Hampshire. 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 New Hampshire?

There was no objection.

Mr. STEARNS of New Hampshire. Mr. Speaker, the New Hampshire State Federation of Women's Clubs has been in convention in the city of Nashua this week. No individual or organization has a better claim to express the views of the women of New Hampshire. I have received from them the following resolution:

NASHUA, N. H., May 8, 1941.

Representative FOSTER STEARNS,
House Office Building,
Washington, D. C.:

Whereas the United States of America is now engaged in a policy of all-out aid to the democracies of the world who are the victims of aggression; and

Whereas supplies sent to these democracies mean the first line of defense to America; and

Whereas Nazi Germany has threatened to destroy all ships being sent to Britain; therefore be it

Resolved, That this organization go on record as favoring immediate convoy if necessary for safe delivery of aid to the democracies, and that a copy of these resolutions be sent by wire to our Senators and Representatives in Washington.

NEW HAMPSHIRE STATE FEDERATION
OF WOMEN'S CLUBS.

[Applause.]

EXTENSION OF REMARKS

Mr. ANGELL. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and include a telegram.

The SPEAKER. Is there objection?

There was no objection.

Mr. BISHOP. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by including an editorial from the Herrin (Ill.) Daily Journal of May 6.

The SPEAKER. Is there objection?

There was no objection.

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by the inclusion of two letters on the production of sugar beets.

The SPEAKER. Is there objection? There was no objection.

CONVOYS

Mr. RANKIN of Mississippi. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection? There was no objection.

[Mr. RANKIN of Mississippi addressed the House. His remarks appear in the Appendix of the RECORD.]

Mr. HOFFMAN. Mr. Speaker, I ask unanimous consent to proceed for 1 minute and extend my remarks in the RECORD.

The SPEAKER. Is there objection? There was no objection.

Mr. HOFFMAN. Mr. Speaker, we were told that the lend-lease bill was to keep us out of war, and now you are going to convoy ships to keep us out of war, and you are going to take American ships and put them under the British flag, to keep us out of war.

Mr. RANKIN of Mississippi. And would the gentleman rather that we would put them under our own flag?

Mr. HOFFMAN. Oh, no; I would stay at home and attend to our own business, as the President promised the people he would do before election. I would be honest and consistent, and not drag our people into war.

Mr. RANKIN of Mississippi. We are out of the war, so far.

Mr. HOFFMAN. So far, yes; but the gentleman is frightened to death every time he goes to bed at night that we may be in before he wakes up in the morning.

Mr. RANKIN of Mississippi. Not at all; but if these vessels are placed under the British flag, it will not drag us into war.

The SPEAKER. The time of the gentleman from Michigan has expired.

Mr. RICH. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection? There was no objection.

Mr. RICH. Mr. Speaker, I received a letter from a friend of mine who is in Tennessee and it reads in part as follows:

In my work I contact the masses in most every part of the United States and I want to tell you that you are fighting on the side of 90 percent of the people as a whole. Nowhere have I found any desire on the part of the working classes to send their sons to the battlefields of Europe, nor do I find any sentiment in favor of using our Navy for convoy purposes.

Unfortunately the people have an attitude of helplessness. When I ask why they don't write their Representatives in Washington, they simply shrug their shoulders and say "What is the use?"

I am now in the South, in the Democratic stronghold, and yet I find at least 90 percent of the people opposed to any participation in the holocaust of Europe.

If the people could only be aroused to the point where they would make their will known to the dictators in Washington, no Senator nor Congressman would dare raise his voice in the support of any measure which might involve us in war.

If I can help you in any way to keep the "madmen of America" from destroying our Nation and from filling European graves with the bodies of America's sons, you can count on my support 100 percent.

Mr. Speaker, I receive many, many letters opposed to the things the administration is doing here in Washington in getting us into the European war. Why does the Congress and the President do those things that are leading us into war? I say let America stay in this hemisphere and attend to its own business and then we will not get into a foreign war. We all promised that to the American people. Will you do it?

EXTENSION OF REMARKS

Mr. SMITH of Washington. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and include an article by Richard L. Newburger.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. CASE of South Dakota. Mr. Speaker, I ask unanimous consent to extend my remarks and include a statement by the Woman's National Committee.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. CASEY of Massachusetts. Mr. Speaker, I ask unanimous consent to extend my remarks in the Appendix and insert some headlines from various newspapers featuring the necessity of W. P. A.

The SPEAKER. Without objection, it is so ordered.

ACQUISITION AND EQUIPMENT OF PUBLIC WORKS

Mr. COLMER. Mr. Speaker, I call up House Resolution No. 200.

The Clerk read as follows:

House Resolution 200

Resolved, That immediately 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. 4545, a bill to provide for the acquisition and equipment of public works made necessary by the defense program. That after general debate, which shall be confined to the bill and shall continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Buildings and Grounds, 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.

Mr. COLMER. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois [Mr. ALLEN]. I now yield myself 5 minutes.

Mr. Speaker, this is a rule providing for the consideration of the bill H. R. 4545, which is a bill to provide for the acquisition and equipment of public facilities made necessary by the defense program.

The rule is an open rule with ample opportunity for amendment. This legislation, reported from the Committee on Public Buildings and Grounds, is found necessary due to the fact that in many of the areas where defense projects have been erected it has been found necessary to build defense houses to house the people who have migrated to those communities to carry on the defense program. In many instances it has been found that as a result of this unusual and abnormal influx of people to those communities the facilities already existent in those communities have been overtaxed, such as school systems, sewage disposal, waterworks, and many other similar facilities. This bill authorizes the appropriation of \$150,000,000 to assist those communities in carrying on their programs which have been swamped as a result of the influx of people to those communities.

Mr. RICH. Mr. Speaker, will the gentleman yield?

Mr. COLMER. I yield to the gentleman from Pennsylvania.

Mr. RICH. Could you tell the House and the public where you are going to get that \$150,000,000?

Mr. COLMER. Let me say in response to my friend, who so often asks that question, that I am sympathetic with him in his desire to balance the Budget and practice more economy in national affairs. But I cannot subscribe to the doctrine of economizing in the national-defense program insofar as essential items are concerned. I do want to say, however, that I have a very high regard for the gentleman and I appreciate the fact that he is one man on this floor who is continuously interested in the financial and economic future of the country. But let me say to my friend that while I agree with him in many instances, when it comes to the question of the defense program of the United States, where the money appropriated is necessary for the defense of the Nation, his question is not an appropriate question. I will ask the gentleman where Mr. Hitler got all the money that he expended in building up the greatest and most gigantic war machine the world has ever witnessed? It is not a question of where we are going to get the money. It is mandatory that we get the money to build this war machine that will answer the one that Hitler has built.

Mr. RICH. There is no one in this House I like better than the gentleman, and he knows it.

Mr. COLMER. Well, we agree on our mutual admiration then.

Mr. RICH. But by the wildest stretch of the imagination I cannot see how you can call this a defense measure.

Mr. FADDIS. Will the gentleman yield?

Mr. COLMER. I yield.

Mr. FADDIS. I would like for you also to ask the gentleman from Pennsylvania [Mr. RICH] where they get the money for the dissemination of the German propaganda that he just read from the Well of the House.

Mr. RICH. I will tell him that if he will give me a minute.

Mr. COLMER. I yield to the gentleman very briefly.

Mr. RICH. These great oil interests in this country that are interested in trying to save their oil interests in Europe are behind this propaganda, trying to get you fellows to serve them. You are now trying to save those economic royalists. You ought to be ashamed.

The SPEAKER. The time of the gentleman from Mississippi has expired.

Mr. COLMER. Mr. Speaker, I yield myself 5 additional minutes.

As I was attempting to say, it has been found necessary in the defense program to construct these houses and to construct these facilities. It has been found necessary to have additional facilities for those communities. Let me say to the gentleman from Pennsylvania [Mr. RICH], and others who are interested, that I personally know, and I am sure many of us know, of many small towns where the population as a result of this congestion under the defense program, has more than doubled by people coming into those communities. Those communities were going along under normal conditions, but they cannot carry on without the assistance of the Federal Government because of the fact they do not have the financial resources with which to carry on. Let me remind you that these defense projects are just as essential as the soldiers we are drafting and sending into training camps to be trained.

The health of these workers is just as essential as that of anyone else. We cannot have these situations where unhealthy conditions exist and at the same time carry on this program. If it were not essential, after my study of it, I would not be for it. I am sure most of you know I do not participate in and do not share the views of those who believe this defense program should be carried on in rocking-chair style.

Mr. WALTER. Mr. Speaker, will the gentleman yield?

Mr. COLMER. I yield.

Mr. WALTER. Was it indicated to the gentleman's committee whether or not all the money provided in this measure has been allocated?

Mr. COLMER. My understanding is that the various departments interested in this program have caused surveys to be made. I do not understand that the money has been definitely allocated.

Mr. RUTHERFORD. Mr. Speaker, will the gentleman yield?

Mr. COLMER. I yield.

Mr. RUTHERFORD. I want to say to the gentleman that members of our committee made an investigation of conditions down around the Hampton Roads section of Virginia. Conditions there are typical of conditions in other sections of the country where this program is being put into effect. We found enlisted men paying \$45 a month rent for one room and the use of a bath. We ran across two men who were sent out on Government projects. They said: "Mister, this is heaven. You do not know what you have done for us."

Mr. COLMER. I think the gentleman has illustrated the necessity for this kind of program. What I wanted to say, Mr. Speaker, was that I do not regard this program unnecessary, as my friend from Pennsylvania has indicated. I regard it

as a necessary part of the defense program. I believe in the basic fundamentals of this defense program, but I do hope those charged with its administration will see to it that this money is wisely and economically expended, and expended only where necessary. As I pointed out to this House and to the country, this thing of completing a war machine is not a rocking-chair proposition. We must get down to the basic fundamentals. This country has got to get down to the realization sooner or later that we are faced with the task of building a gigantic war machine, the only answer we can give to Hitler and his associates; and that it is necessary for this country to make sacrifices to carry out the program. It cannot be consummated without real sacrifice, sacrifice not alone by the taxpayer, but sacrifice by the laborer, the industrialist, the farmer, the banker, and, in fact, by Americans in all walks of life. The sooner the American people realize this, the better.

Mr. Speaker, since this legislation is an adjunct to and a part of the defense housing program, there are a few pertinent remarks that I desire to make at this time. As I have already indicated, I am favorable to this legislation because I believe that it is essential to a well-rounded defense program. I do not want to see any of this money wasted. My position on this is the same as was my position on the defense housing which we authorized some months ago, namely, that it should be done upon a businesslike basis, without all of the frills and ultra luxuries that some of the brain trusters would like to provide. In this connection I am sure you will pardon me if I refer personally but briefly to the incident that occurred in the consideration of a rule for the last defense-housing bill.

When that bill came up for consideration before the Rules Committee, of which I am a member, I had just returned from a brief visit at home and witnessed first hand some of the work that was going on in the construction of the defense housing project in my home town of Pascagoula, Miss. I found that, contrary to the intent of the Congress, a number of things were being done which would not have been done by any business concern. For instance, in the heart of the deep South pine trees sufficiently large to make lumber for houses were being cut down and thrown away while steel, which could have been more wisely and advantageously used in the defense program, was being imported a thousand miles or more to build steel houses—and this to house a Negro population in a semitropical climate. Only brass fittings were being used in certain plumbing connections; electric and gas ranges were being installed in cheap defense houses; electric refrigerators were being installed, all for the use of defense workers who draw good wages and who were accustomed to purchasing these items, and in many instances already owned their own stoves and refrigerators. These items were being furnished at Government expense, while all other taxpayers were forced to purchase similar articles out of their own pockets. In other words, the entire population of the country was being taxed to provide necessities, and in some in-

stances luxuries, for defense workers who received wages ranging from five to twenty dollars a day.

I must assume that the electric ice boxes were provided because it was realized that the tropical sun would make the lives of the Negro workers who were to occupy them unbearable unless something was done to offset the heat that would be engendered thereby.

Practically the whole Rules Committee felt that this was wrong. Likewise, the distinguished gentleman from Texas [Mr. LANHAM], the author of this bill and the housing legislation, shared our views on these questions. As a result of these disclosures an amendment was offered by the distinguished gentleman from Texas [Mr. LANHAM] upon the floor of the House, when the bill reached the floor which prohibited the use of such unnecessary articles at Government expense in future construction of defense houses. For my own pains in calling this matter to the attention of the Congress and the country I became the victim of some rather scurrilous and unfavorable publicity. In fact, I was charged by some Washington newspaper columnists with having held up the whole housing program in the Rules Committee for a period of 10 days in order that a friend of mine who was engaged in the ice business might profit thereby. When, as a matter of truth and fact, as attested to by the entire membership of the Rules Committee, and by the gentleman from Texas [Mr. LANHAM], the chairman of the Public Buildings and Grounds Committee, I had done nothing of the sort, but on the contrary had endeavored to expedite the consideration of the legislation after having pointed out these erroneous, unfair, and uneconomic practices in the administration of the legislation. But I must say in fairness to the authors of the column to which I above referred—the Washington Merry-Go-Round—that after publication of the article they did investigate the matter at my request, and at the request of the gentleman engaged in the ice business, who, likewise, was charged with unfair practices. And as a result of such an investigation they saw fit to apologize and give publicity to their apology. My only regret in the matter is that they did not make their investigation before making their charges. The letter written by Mr. Robert S. Allen, of Pearson and Allen, the authors of the Washington Merry-Go-Round, follows:

Several weeks ago the Washington Merry-Go-Round carried a story concerning the delay in the consideration of the \$150,000,000 emergency defense housing bill in the House Rules Committee. Our story reported that the delay was due to objections raised by Representative WILLIAM M. COLMER, Pascagoula, Miss., to the installation of electric refrigerators in a local defense-housing project, and that Mr. COLMER raised this issue in behalf of H. F. Gautier, a constituent and owner of a local ice plant. The story also indicated that Mr. Gautier had a controversy with the Government over the acquisition of some of his land for the housing project.

Since then we have personally discussed the matter fully with Mr. COLMER and have exchanged correspondence with Mr. Gautier on the land question. Both gentlemen have presented additional information, and in

complete fairness to them and to clarify the whole matter we are glad to make the following statement:

The Pascagoula housing project was not held up because of a controversy over the price of the land it occupies. Mr. Gautier did not raise such an issue. The price of the property was fixed by a local appraisal board. Mr. Gautier paid more for his land than the figure fixed by the board, but he accepted the figure without delay. We are assured from a number of informed sources that Mr. Gautier is a sincere and public-spirited citizen and has the high esteem of his community.

Representative COLMER's criticisms were not aimed at defense or any other kind of low-cost public housing. He has supported such measures and has an excellent labor record. Illustrative of this is the fact that he was one of the few Members from his section of the country who voted for the wage-hour law. Mr. COLMER's basic protests were against waste and extravagance in the erection of temporary defense houses—such as the use of steel for structural purposes when far cheaper timber was readily available locally, the use of brass fittings and fixtures, and expensive plumbing material.

It was on these basic grounds, which we personally heartily approve, that Mr. COLMER waged his fight and in which a number of Congressmen took part. He was not against the bill and was a leader in securing the passage of defense-housing legislation and in securing the Pascagoula housing project. The entire Rules Committee, both Democrats and Republicans—of which committee Mr. COLMER is a member—have gone on record to this effect. Representative FRITZ G. LANHAM, chairman of the Public Buildings Committee and sponsor of the measure, warmly lauds Mr. COLMER's assistance on the legislation. Mr. LANHAM states that he attended all of the open hearings of the Rules Committee and that Mr. COLMER was sympathetic toward granting a rule for the consideration of this legislation, and that Mr. COLMER was helpful in getting the bill out to the floor rather than retarding it. Mr. LANHAM says further that Representative COLMER conferred with him on numerous occasions both in the writing of the legislation and in an effort to expedite its consideration. He further states that he respects and concurs in the economic views advocated by Mr. COLMER in trying to hold the governmental expenditures for defense housing to a minimum, consistent with comfortable and adequate housing.

Mr. Speaker, there is one other matter that I desire to call to the attention of the House, and especially for the benefit of the record. These defense houses become a part of the community in which they are constructed. In many instances many of them will become surpluses upon the market after the defense program is over. From the very inception of this program I have been interested in seeing some provision made for the disposal of these houses by the Government to the defense workers. I have in mind two things primarily: First, I want to see as much of this money expended in the construction of these houses returned to the Government Treasury as possible; and, second, I want to see as many of these defense workers become contented citizens and a part of the community as possible. One of the best methods of securing the desired results would be for the Government to sell these houses to the defense workers. Many of these defense workers will desire to purchase the houses, thereby becoming better citizens

and better workers because of the interest created in owning one's own home. They should be allowed to purchase these houses upon a monthly basis if they so desire. To that end I appeared before the Public Buildings and Grounds Committee when the legislation was under consideration and offered an amendment which would bring about this result. I found both the committee chairman and the committee members sympathetic with my views, but upon further investigation we found that the Government already had such authority. I am therefore herewith reading into the RECORD for the benefit of those persons interested a letter received from Mr. Alan Johnstone, General Counsel of the Federal Works Agency, which agency is charged with the administration of this program:

FEDERAL WORKS AGENCY,
Washington, May 8, 1941.

Hon. WILLIAM M. COLMER,
House of Representatives.

MY DEAR MR. COLMER: You inquire of the legal authority to sell and dispose to prospective householders, dwelling properties built under Public, 849, of the Seventy-sixth Congress, popularly known as the Lanham Act. The act contains two provisions in that respect. Under section 4 of the Federal Works Administrator is required to sell and dispose of the properties "when the President shall have declared the emergency declared by him on September 8, 1936, to exist as ceased to exist." Section 7 of the act confers authority "to rent, lease, exchange, sell for cash or credit, and convey their whole or any part of such property and to convey without cost portions thereof to local municipalities for State or other public use."

Under the present statute, therefore, the Federal Works Administrator is required to sell and dispose of these properties after the emergency has ceased and is authorized to sell and dispose of them at any time. A printed copy of the act is enclosed herewith for ready reference.

Sincerely yours,

ALAN JOHNSTONE,
General Counsel.

I am very hopeful that those charged with the administration of this legislation will exercise the authority which they have to dispose of these houses to defense workers. The argument has been made that since the houses are for defense workers they should not be sold, because the workers in turn might sell them to someone who is not a defense worker. But this argument does not hold. A covenant could very easily be written into the contract of sale providing that the Government could repossess the houses so sold in the event they were not used for the purpose of housing defense workers.

[Here the gavel fell.]

Mr. ALLEN of Illinois. Mr. Speaker, I yield myself such time as I may require.

The SPEAKER. The gentleman from Illinois is recognized.

Mr. ALLEN of Illinois. Mr. Speaker, this is another measure that has the earmarks of a perfect unadulterated pork barrel bill. Knowing the need for financial assistance in certain communities where the population has greatly increased because of the program for national defense, some of our starry-eyed boys who want to make America over asso-

ciated with our Government, come forth with a measure that would build recreational centers, libraries, gas plants, electric plants, amusement centers, dance halls, parks and play grounds, hospitals, boat lines, roads, sewerage plants, fire houses, picture shows, schools, and many other things at a cost to the taxpayers of one hundred and fifty million, as a starter. In other words, it is "right down the alley" for these planners whose main object is to spend and spend and spend.

To those of you who have some respect for economy and all that goes with it I would say, I am well aware that certain limited funds are needed for community facilities in various areas where the population has greatly increased because of the program of national defense. The Government has financed the construction of air depots, naval bases, army cantonments, and factories. We have moved thousands of people to communities of small population. Many of these workers have brought their families. We have added new problems to these communities. They have not adequate school facilities. They need more police, sanitary, and fire protection. It goes without saying they are unable to financially accept these responsibilities. All of us feel that the Government should come to their aid by giving certain grants in lieu of taxes for the payment of these added school, police, fire, and sanitary expenditures. These governmental bureaucrats knew that is the way that we would feel about it. So they thought this would be a good time to come before the Public Buildings and Grounds Committee and stack it up with a lot of their pet hobbies and social experiments. They knew that we could provide school grants, fire, police, and sanitary protection for a few millions of dollars. But millions is not sufficient for them to handle. They want hundreds of millions.

Mr. Speaker, I ask you, Where has our sense of proportion gone? It has not been so long ago that we talked of economy. Chief among us was our President, who was then a candidate for the Presidency for the first time. It was back in 1932. What did he say?

On July 30, 1932, at Albany, N. Y., Mr. Roosevelt said:

We advocate an immediate and drastic reduction of governmental expenditures by abolishing useless commissions and offices, consolidating departments and bureaus, and eliminating extravagance, to accomplish a saving of not less than 25 percent in the cost of Federal Government, and we call upon the Democratic Party in the States to make a zealous effort to achieve a proportionate result.

At Sioux City, Iowa, on September 29, 1932, Mr. Roosevelt, then a candidate for the Presidency the first time, said:

I accuse the present (Hoover) administration of being the greatest spending administration in peacetimes in all history. It is an administration that has piled bureau on bureau, commission on commission, and has failed to anticipate the dire needs and the reduced earning power of the people. Bureaus and bureaucrats, commissions and commissioners, have been retained at the expense of the taxpayers.

At Wheeling, W. Va., October 19, 1932, Candidate Roosevelt said:

If this Nation wants to know what is wrong with its National Government I will answer them in one word. That word is "mismanagement."

At Pittsburgh, October 19, 1932, Candidate Roosevelt said:

I shall approach the problem of carrying out the plain precept of our party which is to reduce the cost of current Federal Government operations by 25 percent.

At Sioux City, September 19, 1932, Candidate Roosevelt said:

And I propose to use this position of high responsibility (the Presidency) to discuss up and down the country, in all seasons and at all times, the duty of reducing taxes, of increasing the efficiency of Government, of cutting out the underbrush around our governmental structure, of getting the most public service for every dollar paid in taxation. That I pledge you, and nothing I have said in the campaign transcends in importance this covenant with the taxpayers of the United States.

At Pittsburgh, October 19, 1932, Candidate Roosevelt, then seeking the Presidency for the first time said:

Taxes are paid in the sweat of every man who labors because they are a burden on production and are paid through production.

That is what I want to talk to you about today.

It is unfortunate that these spenders of the taxpayers' money do not possess the knowledge of the members of the Ways and Means Committee. This is the information before that great committee:

As of June 30, we will have a national debt of \$50,000,000,000, and authoritative information is that this will shortly exceed \$90,000,000,000. The national-defense program—including the "lease-lend" appropriation—is between \$39,000,000,000 and \$40,000,000,000, of which amount the Treasury estimates \$19,000,000,000 will be required during the coming fiscal year. This, the Treasury proposes to raise as follows: \$9,200,000,000 revenue yield under present tax laws; \$3,500,000,000 from new and additional taxes, and the remainder from borrowing.

In other words, after raising \$12,000,000,000 under present tax laws and the new tax law to be enacted, we are then to add \$6,000,000,000 deficit to our already national debt of \$50,000,000,000.

The magnitude of this proposed tax is emphasized when we realize it is nearly twice as much as the peak tax collections for the last World War. This, together with State and local taxes, means that next year the American taxpayer will pay one-fourth of all gross income in the form of taxes.

Under the tax plan now under consideration, the Treasury proposes to increase the individual tax rate, the surtax rates, corporation tax rates, and to impose excise taxes on some 27 articles. The details of the plan are too complicated to cover in a limited time, but as a general indication, may I call your attention to the fact that of the first bracket of income above personal exemptions, the

combined surtax, normal tax, and defense tax rate is 16.5 percent, as compared with 4.4 percent under present law. Under present law a married person with no dependents with a net income before personal exemption of \$2,500 pays a tax of \$11; the proposed schedule would raise his tax to \$72. The same person with a \$5,000 net income pays \$110 under the present law. Under the Treasury proposal he would pay \$506. For a married person having no dependents, with a \$10,000 income, the proposed schedule will increase the tax from \$528 to \$1,628.

Many varying views are being presented to the Ways and Means Committee as to rate matters to be taxes, and so forth, but all have this one thing in common: A tremendous increase in the tax burden our people will be called upon to bear. It is unfortunate that the Appropriations Committee does not work as ardently to cut down expenses as does the Ways and Means Committee trying to obtain more taxes.

I have trespassed upon your time to emphasize the tremendous sacrifice every American will shortly be called upon to make to meet a grave national emergency. It is fruitless to recall that had this administration through the past 8 years not piled up such a huge national debt, largely through political extravagances and "boondoggling," the burden the people are now called upon to bear would not be so great, but at least in this hour of financial reckoning the American people have a right to demand that there be no expenditures for activities and purposes that can be curtailed without doing injury to those essential purposes which a government must perform for its people.

When you and I, in our private affairs, are confronted with the necessity of some grave and emergent expenditure, of vital character to our family, so vital that our failure to provide the money would endanger those we hold dear, we look about and reduce our usual and normal expenditures, do without those things less essential, until the emergency has passed. In fact, you and I know that if we did not do this, we could not meet our family emergency. So it is with this Government. I call upon this administration to cease giving lip service and to eliminate all possible nondefense expenditures in order that the people may be able to sacrifice to the extent essential to meet the tremendous oncoming defense burden, and do it having faith in the honesty of their Government.

To me it is both inexcusable and unthinkable that in this hour this administration, or any other administration, mindful of the gravity of the situation that confronts our Nation, and responsive to the spirit of sacrifice our people are called upon to make in the cause of national loyalty, should be insisting upon a continuation of nonessential extravagances, instead of demanding that every absolutely nondefense expenditure be eliminated, that the emergency burden of taxation to defend our common country may be measurably lightened upon

those of our people who from their experience must realize that the "path which leads to a loaf of bread winds through the swamps of toil."

So I say to you, let us begin now by reducing the amount of this bill from \$150,000,000 to the adequate sum of \$25,000,000. That would be sufficient for outright grants to the various communities in congested areas. It would take care of the added school, police, fire, and sanitary expenditures. I am certain it is all the reliable people of these congested areas desire. They do not feel that the Government is required to furnish rocking chairs and hammocks for everyone connected with our national defense.

Mr. Speaker, as I say, this bill is nothing more than a pork-barrel bill to indulge the whims of certain individuals. Certain starry-eyed boys here have the idea of making the Government over and knowing it is necessary in certain congested areas to provide a small amount of money for school, fire, police, and sanitary protection, these boys instead of asking for the \$25,000,000 that may be necessary to expend along this line come in with a bill for \$150,000,000. What does this bill provide? In addition to taking care of school grants, police, hospital, and sanitary grants, it provides for recreational centers, gas plants, electric plants, amusement centers, dance halls, libraries, parks and playgrounds, sewer plant, fire houses, and picture shows.

Mr. LANHAM. Mr. Speaker, will the gentleman yield?

Mr. ALLEN of Illinois. I yield.

Mr. LANHAM. Where does the gentleman find anything in the bill providing for the construction of dance halls, amusement halls, libraries, and so forth? He cannot find that in the bill.

Mr. ALLEN of Illinois. Does the chairman deny this money could be used for that purpose among others?

Mr. LANHAM. I think by a far-fetched interpretation of it they might do that, but as stated in the report, a subcommittee of the Committee on Public Buildings and Grounds intends to follow up the administration of this act. This is not usual procedure, but I think it very good procedure in this case. Furthermore, from the statements of the one named in this bill as the administrator of the act, I am sure the gentleman would find no frills or fancy furbelows with reference to the administration, because the actual definite need for necessary community facilities will certainly approximate if not exceed the amount authorized to be appropriated by this measure.

Mr. ALLEN of Illinois. As I said, Mr. Speaker, in my opinion, I think they could do the things I enumerated, and the gentleman from Texas himself just said they might use some of the money for that purpose.

Mr. LANHAM. I may say to the gentleman from Illinois it is not anticipated it will be used for that purpose at all. If, however, we started upon a policy of exclusion and said this shall not be used for this, that, or the other purpose, it would be absolutely impossible to enumerate all the exceptions. Something must be left

to the wise discretion of the Administrator, especially when a subcommittee of the Public Buildings and Grounds Committee intends, as stated in the report, to follow up the administration to see, insofar as it can, that the purpose of the bill is carried out.

Mr. ALLEN of Illinois. I would remind the gentleman that a lot of things are being done in the name of national defense.

Mr. MCGREGOR. Will the gentleman yield?

Mr. ALLEN of Illinois. I yield to the gentleman from Ohio.

Mr. MCGREGOR. I concur in the statement of the gentleman that we are doing a lot of things under the guise of national defense in the way of spending a lot of money wastefully, but I would like to ask the gentleman if he thinks it would be possible for our committee or any committee to set forth in a bill every item for which the money should be expended?

Mr. ALLEN of Illinois. I think that would be well and I would like to see the committee make a cut in this bill down to \$25,000,000, because we all know there are certain responsibilities of schools, police, fire, and sanitary protection that they need this added money for. I would like to see them bring in a bill for approximately \$25,000,000, and state in there that this money shall go by way of a grant for school purposes and that no bureaucrat will have the power to cooperate, to manage or influence the schools in any way. Then I would be happy to support this bill.

Mr. MCGREGOR. I think if the gentleman will read the bill he will find on page 3, sections (b) and (c) where it is specifically provided that the schools will be maintained in their own local jurisdictions, and that applies as well to the hospitals. I think the gentleman will agree with me that it would be impossible for any committee to set forth the exact items for which the money shall be expended because they would be too numerous. I will admit that this bill can be made a racket, but we cannot legislate morality and we must leave some power in the hands of the administrator. As far as \$25,000,000 is concerned, we have requests for \$400,000,000 instead of \$150,000,000 at the present time, and I think the gentleman will agree with me that \$25,000,000 would be too minor an item in this type of legislation.

Mr. TABER. Will the gentleman yield?

Mr. ALLEN of Illinois. I yield to the gentleman from New York.

Mr. TABER. We have had a lot of experience with the delegation of power to different individuals in this Government to pick out schools, school sites, sewers, water systems, and all that sort of thing. We had that privilege abused tremendously. We have had set-ups created which were absolutely unneeded and all out of proportion and all out of line with the needs. We have had engineering designs which were not suitable at all which increased the expense tremendously. I think it is a great mistake to turn over

to any bureaucrat the right to furnish to any community facilities of that character without any restrictions at all.

Mr. ALLEN of Illinois. I agree with the gentleman.

Mr. TABER. That is where the trouble with this set-up is. We should have a definite, positive set-up, as the gentleman has suggested.

Mr. CASEY of Massachusetts. Will the gentleman yield?

Mr. ALLEN of Illinois. I yield to the gentleman from Massachusetts.

Mr. CASEY of Massachusetts. Does not the gentleman know we are engaged in a national-defense program in which speed is of the essence, in which there is no date unless it is tomorrow, that we must do as much as we possibly can today; and therefore, faced with that situation, we can talk of economy, but we must appreciate as a matter of cold logic that we can only approximate it in the face of these huge expenditures and necessary speed?

Mr. ALLEN of Illinois. I thank the gentleman from Massachusetts, but whenever the gentleman and I have some unusual emergency like we have now in our national defense we are compelled to cut down on our frills and frivolities along other lines. My purpose here today is not to speak against national defense but to say that if I had an emergency in my private life I would try to eliminate and cut down expenses. That is what we should do regarding our national expenditures.

Mr. HOFFMAN. Will the gentleman yield?

Mr. ALLEN of Illinois. I yield to the gentleman from Michigan.

Mr. HOFFMAN. The gentleman from Massachusetts' statement is the best possible argument, is it not, that we should not waste any more?

Mr. ALLEN of Illinois. I would say that is true.

I am particularly happy, Mr. Speaker, that the chairman of the Committee on Appropriations is here. I do not know whether the gentlemen who are coming in here wanting these great expenditures are aware of the fact that the Committee on Ways and Means is now holding hearings and working ardently to raise money through taxation. I wish the Committee on Appropriations would work just half as much to cut down these expenditures as the Committee on Ways and Means is working to find a solution of the problem of raising more money through taxation.

Mr. TAYLOR. Mr. Speaker, will the gentleman yield?

Mr. ALLEN of Illinois. I yield to the gentleman from Colorado.

Mr. TAYLOR. I may say that the Committee on Appropriations and its 11 subcommittees are working practically all the time during the entire session of Congress. We cut under the requests of the President and the Budget all of the time. Every one of the 40 members of the Committee on Appropriations constantly strives to the utmost to reduce expenditures. That committee works harder and much longer than any other committee in Congress. If this House and the Senate would not increase our recom-

mendations, our Federal Government would be saved many millions of dollars every year. The House Committee on Appropriations is not only the greatest but I often think the only watchdog of the Treasury there is in our system of government. [Applause.]

Miss SUMNER of Illinois. Mr. Speaker, will the gentleman yield?

Mr. ALLEN of Illinois. I yield to the gentleman from Illinois.

Miss SUMNER of Illinois. I should like to know who is going to administer this program. This administration has been in power for 8 years. We have a pretty good idea as to how some of their principal administrators are going to operate. There is no showing here that I can find of who is going to do the work.

Mr. ALLEN of Illinois. My understanding is that Mr. Carmody will have charge of this work.

Miss SUMNER of Illinois. Who are his assistants?

Mr. ALLEN of Illinois. That I do not know.

Mr. MAGNUSON. Mr. Speaker, will the gentleman yield?

Mr. ALLEN of Illinois. I yield to the gentleman from Washington.

Mr. MAGNUSON. I came in late, but do I correctly interpret the gentleman's remarks to mean that he advocates that we cut the amount in this bill?

Mr. ALLEN of Illinois. Yes; that is correct.

Mr. MAGNUSON. The reason the gentleman is advocating cutting the amount is that there are apt to be some frills come into the administration of this bill?

Mr. ALLEN of Illinois. That is correct.

Mr. MAGNUSON. I wonder if the gentleman and the gentlewoman from Illinois know that this \$150,000,000 will just about take care of the schools alone in the crowded areas. There is no possibility for frills. In my own State \$4,000,000 or \$5,000,000 is needed for schools alone, and I am sure the same condition obtains in other communities in which defense operations are being carried on. In my town of Bremerton the children are given red and blue slips. Those that have the red slips go to school on one day and those that have the blue slips go on another day. I know the gentlewoman from Illinois is not for that.

Miss SUMNER of Illinois. Of course not. We are both for the same thing.

Mr. MAGNUSON. That is right.

Miss SUMNER of Illinois. However, in my district schools have been built on which politicians have received commissions even out of the varnish. I am trying to help you provide for the schools.

Mr. MAGNUSON. The local Republican school board in Bremerton will handle that matter.

Miss SUMNER of Illinois. I do not know anything about Republicans or Democrats handling it, but I am simply anxious to see that this money is spent properly.

Mr. ALLEN of Illinois. In answer to my good friend from Washington, I would say that the best argument he could put up, inasmuch as the schools alone are going just to start with \$150,000,000, is

that next week we will have another bill in here for another \$150,000,000 for the same purpose. [Applause.]

Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. CRAWFORD].

Mr. CRAWFORD. Mr. Speaker, this is another case where we will be forced to set aside theory and get down to absolute cases. A defense program is actually operating, more or less, and that program is having an enormous effect in the way of increasing loads on communities where defense plants have been built, where old plants have been expanded, and where a tremendous number of people have come into those communities, overburdening the housing requirements, sewer facilities, water facilities, and the schools in particular.

I hold in my hand a copy of a brief which has just been forwarded to the Government authorities by the city manager of my own town, and another brief sent in by the board of education. These came to me. Recently I visited my home town and went over detailed figures with them and asked them to supply me with this information as quickly as possible.

Most of the cities in Michigan have a situation where there is a tax limitation and where there are debt restrictions, and it is utterly impossible, it is fantastic, to talk about those communities carrying this load themselves. They did not ask for the defense program. It has been imposed upon them. New plants have been built there. The load has been placed on the communities. The benefits of the spending go to the investors in the property and to the workers in the mills, but that does not relieve the community burden. The tax limitation or the debt restrictions set the figure, and beyond that the community cannot go. Here is a proposition which the Government will have to carry if it is to be carried.

Mr. MCGREGOR. Mr. Speaker, will the gentleman yield?

Mr. CRAWFORD. I yield to the gentleman.

Mr. MCGREGOR. Knowing the gentleman's regular attendance at these particular meetings and knowing his record for economy, I wonder if the gentleman would give us his opinion as to whether or not this \$150,000,000 is in excess of the need he has heard stated and the requests that have been made to the committee.

Mr. CRAWFORD. No; I do not think this will cover the requirements on the first spin of the wheel. I think this entire program will call for at least one-half billion dollars before we finish the absolute necessities. This is my frank opinion about it. I would have been delighted to have a bill come in dealing specifically with schools, another dealing specifically with the public utilities that are involved, but the bill is here as it is, and I propose to support it because your defense program is imposing on the communities a load which they cannot carry. There is no provision in the State laws or their local city council authority, and the restrictions under which they operate will not permit them to carry this load. Of course, the bill will be en-

acted into law sooner or later, otherwise the facilities in the communities will break down. This is a reality, and we need not try to tie it into the fabric of theory.

Mr. RUTHERFORD. Mr. Speaker, will the gentleman yield?

Mr. CRAWFORD. I yield.

Mr. RUTHERFORD. Is it not a fact that in most instances the municipalities are up to the limit of their bonded indebtedness already and even if they wanted to, they could not go on with this program?

Mr. CRAWFORD. That is it exactly, and these briefs I hold in my hand set that out very completely. I believe the administrators of this program will require details to be set forth just as they are put forth in this brief from our city manager so that they can prevent the bugs from appearing in the various propositions. There will be such demand for this money, and there is such a small amount being provided, there will be no chance whatsoever, in my opinion, for big blocks of these funds to be obtained without first showing justification.

Mr. WADSWORTH. Mr. Speaker, will the gentleman yield?

Mr. CRAWFORD. I yield to the gentleman from New York.

Mr. WADSWORTH. Was the committee informed as to the character of the construction which would be pursued in the matter of schools and dwellings?

Mr. CRAWFORD. In some cases, I am quite sure they were, because the people from my city came down here and brought more or less detail with them and made presentation to the committee in an effort to give the committee the benefit of the real things they intended to do and presented maps, for instance, showing details as to where lines were to be operated as illustrated here on this map. So I think the committee has more or less information on that.

The present crisis in my home city of Saginaw, Mich., can be illustrated by pointing out that over \$82,500,000 in Federal defense orders have been placed in its immediate vicinity. Orders will eventually reach or exceed \$100,000,000. A canvas of the firms involved in filling the defense orders indicates that at least 6,900 additional workers will have to be employed. A survey shows that defense industrial activity in Saginaw will ultimately mean an influx of people conservatively estimated at 15,000 to 20,000, or a population increase of 20 to 25 percent. This will all impose a tremendous load on school facilities already overcrowded.

While local capital stands ready to provide the necessary housing facilities its real problem is one of inadequate sewerage facilities. The city is subject to the provisions of the 15-mill limitation act, and this act is an amendment to the State constitution and became operative December 8, 1932. By the act a tax limitation is imposed upon the city management. Furthermore, the net bonded indebtedness incurred for public purposes shall not at any one time exceed 10 percent of the assessed valuation

of taxable property of the city. This limit may be exceeded by one-fourth of 1 percent in case of fire, flood, or other calamity. This presents another difficulty the city cannot override. Accordingly, the defense program imposed by Federal action makes absolutely necessary the Federal financial assistance called for in meeting the additional facilities.

Mr. ALLEN of Illinois. Mr. Speaker, I yield the remaining time to the gentleman from Tennessee [Mr. JENNINGS].

Mr. RANKIN of Mississippi. Mr. Speaker, will the gentleman from Tennessee yield for a unanimous-consent request?

Mr. JENNINGS. I yield.

Mr. RANKIN of Mississippi. Mr. Speaker, I ask unanimous consent that the speech which I made may be printed in the Appendix of the Record.

The SPEAKER pro tempore (Mr. THOMASON). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. JENNINGS. Mr. Speaker, this bill is designed to take care of a condition and is in nowise to be considered as merely theoretical. The defense program has resulted in the expansion of manufacturing plants in all parts of the country and the building of other defense plants in sections of the country where heretofore they did not exist. The conditions brought about by this expansion of our industry producing munitions and articles of defense have resulted in an unprecedented influx of new people and a large increase of population in these various communities. For instance, at Alcoa, in Blount County, Tenn., where is located a plant of the Aluminum Co. of America, the increase of the school population is 3,452. The communities of Alcoa and Maryville, in Blount County, are wholly unable to meet that situation and afford adequate school facilities to this increased school population.

To deny this appropriation and the relief afforded by this bill would be to penalize the children of these defense workers. I was down there the other day, and since December 10, 1940, the Aluminum Co. of America has moved a hill, with an area of more than 55 acres and made a level plain of it, and now is in process of constructing buildings for the manufacture of aluminum. These buildings, when completed, will cover 55 acres of ground and will result in the employment of more than 8,000 additional men in that great plant. The same state of facts exists with reference to the work being done on Fort Loudon Dam, at Lenoir City, in Loudon County, where the increase in the school population is 1,240. There are, of course, other locations in Tennessee that are confronted with the same conditions. It is estimated by the school authorities that to take care of this increased school population alone will cost the communities affected, or the tax districts affected, the county, the State, and the municipalities, more than \$6,000,000. They are already taxed to their limit with respect to the maintenance of their schools, and for these

reasons I shall support this bill; and, Mr. Speaker, I ask permission at this time to insert in the RECORD as a part of these remarks a table showing the facts to which I have just alluded.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The table referred to follows:

This table shows the amount of additional money needed for buildings, equipment, operation, and teachers' salaries in areas affected by national-defense activities in Tennessee.

Area	Additional children	Buildings and equipment	Operation	Additional busses	Additional teachers	Teachers' salaries	Total
Aluminum Co. of America.....	3,452	\$501,319	\$15,250	\$18,000	113	\$99,200	\$633,769
Camp Forrest.....	1,925	1,289,880	13,725	10,800	64	76,125	1,390,530
Fort Oglethorpe.....	2,500	895,500		3,000	45	46,800	\$45,300
Tennessee Powder Co.....	1,150	290,500	8,000	12,000	37	44,000	264,500
Vultee Aircraft.....	3,750	874,500	27,500	36,600	109	131,375	1,069,975
Wolf Creek Ordnance.....	5,025	1,073,500	20,300	75,450	187	160,350	1,329,630
Cherokee Dam.....	625	481,000	3,000	6,400	11	10,400	500,800
Fort Loudon Dam.....	1,240	232,829	41,450	3,364	34	27,520	305,593
Watts Bar Dam.....	300	98,000	6,000	6,500	8	6,000	116,500
Total.....	19,967	5,647,028	135,255	172,114	608	602,200	6,556,597

Mr. PRIEST. Mr. Speaker, will the gentleman yield?

Mr. JENNINGS. I yield.

Mr. PRIEST. I would like to remind my good colleague from Tennessee in connection with that same thought that I was present in Nashville last Sunday for the dedication of the Vultee Aircraft plant there, and in Davidson County alone there will be required an expenditure of approximately one-half million dollars immediately to take care of the increase in the enrollment of the public schools because of this new development in that county. I appreciate what my colleague has said with reference to the situation in the eastern part of Tennessee and ask him if it is not also true with reference to Nashville and the Vultee plant there?

Mr. JENNINGS. The increase in school population as a result of the construction of that plant in Davidson County is 3,750, and to afford proper school facilities there it will cost \$1,000,000 instead of half a million dollars.

Mr. CASE of South Dakota. Mr. Speaker, will the gentleman yield?

Mr. JENNINGS. Yes.

Mr. CASE of South Dakota. Is the gentleman a member of the committee reporting the bill?

Mr. JENNINGS. No. I have read the report of the committee and I have read the bill, and I am impressed with the fact that the bill recites that—

As used in this title, the term "public work" means any facility useful or necessary for carrying on community life, but the activities authorized under this title shall be devoted primarily to schools, waterworks, works for the treatment and purification of water, sewers, sewage, garbage, and refuse disposal facilities, public sanitary facilities, hospitals and other places for the care of the sick, recreational facilities, and streets and access roads.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. JENNINGS. Yes.

Mr. BROOKS. In the case of an Army encampment, which is more or less permanent, and where the burden has been placed very heavily on the local educational facilities, will these funds be available for that purpose?

Mr. JENNINGS. It is my understanding that the bill so provides. It is within

the discretion of the President to allocate these funds where they are needed, and in my opinion the enactment of this bill is an absolute public necessity.

Mr. BROOKS. Where a new camp has been established in a small community, and there is a terrific build-up of prospective students in school, these funds are available, are they not?

Mr. JENNINGS. Yes; as I understand the language of the bill it cuts through all red tape and any legal impediment that may exist. The loss of a year in school to a child of school age is fatal to the education of that child.

Mr. FITZPATRICK. And the States will have full jurisdiction?

Mr. JENNINGS. The bill provides that no department or agency of the United States shall exercise any supervision or control of any school with respect to which any funds have been or may be expended pursuant to this title. The administration of the schools as established by this bill is left in the hands of the local school authorities. No bureaucrat or anyone else from the Federal Government has any right to interfere with the conduct and control of these schools. [Applause.]

EXTENSION OF REMARKS

Mr. COLMER. Mr. Speaker, I yield now to the gentleman from New Jersey [Mr. POWERS] for a unanimous consent request.

Mr. POWERS. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting a speech delivered by the distinguished gentleman from Massachusetts [Mr. MARTIN] at a luncheon given by the ladies of the New Jersey State Legislature a few days ago.

The SPEAKER pro tempore. Is there objection?

There was no objection.

ACQUISITION AND EQUIPMENT OF PUBLIC WORKS

Mr. COLMER. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr. SHAFER].

Mr. SHAFER of Michigan. Mr. Speaker, I thank the gentleman from Mississippi [Mr. COLMER] for the time he has granted me to urge the adoption of this rule. In all sincerity I maintain that

H. R. 4545 is urgently needed legislation and should be enacted without delay. It is designed to alleviate pressing community problems brought about by the expansion of defense industries and military establishments in the present emergency. The Federal Government is the responsible agency for these community problems, brought about by the defense expansion, and it is my opinion that the Congress should pass this legislation which will go a long way to assist local authorities to solve them.

The gentleman from Washington [Mr. MAGNUSON] has just spoken of the acute problems confronting the schools of his home city due to the increased number of students resulting from defense industry expansion. The situation there is identical with that in my home city of Battle Creek, Mich., where school authorities are now considering half-day sessions in order to accommodate the greatly increased enrollment due to the expansion of Fort Custer. It is estimated that at the beginning of the next school year, next September, schools of Battle Creek, Lakeview, Urbandale, Level Park, and Augusta will be called upon to accommodate an additional 4,500 pupils. This means that floor space must be added, more teachers must be employed and additional funds for school maintenance must be provided. Although the peak of the increase in school attendance has not yet been reached, already the schoolroom load has reached an oppressive figure and school authorities are greatly concerned as to how they are to cope with the situation.

Economy-minded Members of the House have indicated their opposition to this legislation. Their opposition is based on the meritorious argument that there should be a reduction in nondefense spending. In that I heartily agree, but I consider this legislation defense legislation and it should be so considered by every member. It has been brought about through necessity. Heavy burdens have been thrust upon local communities because of defense expansion. In most cases those communities are unable to finance the facilities needed. At least, that is the situation in my district.

I think this is a splendid bill. I compliment the Committee on Public Buildings and Grounds for having placed the supervision of the proposed appropriation under the direction of the Federal Works Agency. Mr. Carmody, Federal Works Administrator, has given every indication that he will cooperate in every way to see that the funds are properly administered. I further compliment the committee for having inserted the provision that no department or agency of the United States shall exercise any supervision or control over any school system as a result of this appropriation. In that provision the committee has eliminated any possibility of the federalizing of the school systems where this aid is to be given.

I reiterate, I believe this rule should be adopted and H. R. 4545 should be passed without delay and without opposition. [Applause.]

[Here the gavel fell.]

EXTENSION OF REMARKS

Mr. HOBBS. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include therein a poem by Mr. Carlisle, of Alabama.

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

There was no objection.

ACQUISITION AND EQUIPMENT OF PUBLIC WORKS

Mr. COLMER. Mr. Speaker, I yield to the gentleman from Illinois [Mr. SABATH] 10 minutes.

Mr. SABATH. Mr. Speaker, it is indeed gratifying and pleasing to hear the Republican Members speaking for the rule and approving this proposed legislation. The only exception is my genial colleague the gentleman from Illinois [Mr. ALLEN], who usually injects a little politics into such matters. He was calling attention to the President's promise of economy.

I wish to say to him that I and most everybody else knows the President has striven praiseworthy and intelligently to effect real economy in government. I wonder whether my colleague ever takes time to recall that under President Roosevelt's predecessor we had a deficit of \$8,000,000,000 during his term and that there was nothing constructive—but much that was destructive—done during that memorable term. We are now expending this money for really constructive work—work that will endure and be for national defense.

When the gentleman referred to economy he must have had in mind the "economy" that was practiced by the former Republican Governor of Illinois, Mr. Len Small, and the former Republican mayor of Chicago, Mr. Bill Thompson, when they both bankrupted the State and the city.

I hope that will not recur; but I presume the gentleman is fearful that such may happen under this administration. I want to say to him and to the gentleman from Pennsylvania [Mr. RICH], who asked a little while ago, as ever, where the money to take care of this \$150,000,000 and other appropriations is coming from, that I read only yesterday in a dependable newspaper that the income for the fiscal year 1941 will be more than \$2,000,000,000 greater than it was for the fiscal year 1940 and \$1,500,000,000 greater than it was for the fiscal year 1939.

I know that our good people will be able to stand such taxes as are necessary to properly prepare us for any national emergency.

Mr. TABER. Will the gentleman yield for a question?

Mr. SABATH. For a question.

Mr. TABER. Why was it that the gentleman failed to mention that the deficit would be over \$2,000,000,000 greater than ever before?

Mr. SABATH. Well, that is not necessary, because the gentleman from New York [Mr. TABER] and the gentleman from Pennsylvania [Mr. RICH] have called the attention of the House and the country to it very often, and I know it is not necessary for me to repeat that.

Mr. FITZPATRICK. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I gladly yield.

Mr. FITZPATRICK. I may also state that the day before yesterday it was reported in the newspaper that there are \$10,000,000,000 more on deposit now in the banks of the United States than before the crash in 1929.

Mr. SABATH. There is no question about that. Business is improving. People are making more money, and their incomes will increase. I hope that those who earn most and make the most will be called upon to pay commensurately instead of our trying to load this expense crushingly upon the lowest-paid wage earners.

Mr. HARE. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I gladly yield.

Mr. HARE. In view of the statement just made by the gentleman, why would it not be logical for the municipalities or districts where these projects are being located to defray their own expenses and enlarge their own school systems instead of taxing the Federal Government for it?

Mr. SABATH. I will come to that a little later.

Mr. HOFFMAN. Will the gentleman yield?

Mr. SABATH. I gladly yield to my precise friend, who so zealously guards against the most minuscule infraction of the rules of the House.

Mr. HOFFMAN. Speaking about this increased national income, do you not think the appropriation of that seven and a half billion dollars had something to do with it?

Mr. SABATH. I do not think that is hurting any; most all informed men concede that.

Mr. HOFFMAN. It is helping some.

Mr. SABATH. There is no question about it.

Mr. H. CARL ANDERSEN. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I wanted to answer the gentleman from South Carolina [Mr. HARE], but I will yield to the gentleman briefly.

Mr. H. CARL ANDERSEN. I heard the gentleman make some remark concerning the gentleman from Illinois [Mr. ALLEN], with reference to bringing in politics. I believe the gentleman raised some such question.

Mr. SABATH. I just answered him, or tried to do so.

Mr. H. CARL ANDERSEN. May I ask the gentleman from Chicago whether he has ever made a speech upon a rule without bringing in a more or less striking tirade against the Republican Party?

Mr. SABATH. I do not think that implication is accurate. I do not do it deliberately or willfully; and how can I say anything good about the party even if I should try? It is so hard to speak well of that party as a party, but I have given credit at all times to many Members on the left who have cooperated in an effort to effect economy and better government.

Mr. CASE of South Dakota. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I am sorry I cannot yield further.

Mr. Speaker, this bill is urgently requested by the President of the United States.

So that I may not be misunderstood, I am for the rule and, notwithstanding that there are some objectionable features in the bill, I am for its passage.

Unfortunately, I, myself, have many faults, but we cannot expect all to be perfect. I know that I am not perfect and have many faults, one of them being that I like to carefully examine provisions of important bills, which I have done in this instance, and find that the bill goes far afield. As the gentleman from South Carolina [Mr. HARE] has inquired: "Why should not the affected localities themselves take care of their own school and other needs?" I agree with him that they should. I know that all the old localities in the United States, in the large centers, have paid for their schools, have paid their teachers, have paid for the paving of their streets and sidewalks, have paid for their sanitary facilities and amusement places. I feel that these new localities we are developing all over the United States, the residents of which are earning more money than ever before in their lives, should do likewise. I believe that, in view of conditions, the committee that reported this bill and the administrators of the proposed legislation will see to it that the rentals to be charged in these localities will take into consideration the ability of these well-rewarded wage earners to pay.

Miss SUMNER of Illinois. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I am sorry that I cannot yield.

Mr. Speaker, many of the localities, especially small towns, I realize, are unable, perhaps, to provide the proper facilities to take care of this great influx of people, they have not the funds; but in many instances they have. On the other hand, a great deal of this money will go toward the establishment of communities in which new plants for the American Aluminum Co., for the Hercules Powder Co., for airplane manufacturers around Michigan and on the coasts are constructed; and this, mind you, at the expense of the whole people. There is sound argument that these corporations and localities that will benefit by this new development should provide, in part, these necessary facilities.

I realize that we need the products these plants will turn out, but why should the Federal Government, in addition to paying high prices for these products, also provide all these necessary facilities for the workers?

I appreciate, of course, the great interest the President has in properly housing the American wage-earners. That is his consuming passion; that is his dominant characteristic. That is his hobby, that is what he desires; that is what he pleads for; and I am with him in that aspiration; but that construction should not be at the expense of the whole country, when only the immediate new communities and the corporations affected really benefit therefrom.

Take the case of my own great city—due to the exodus of people from it to these new plants and factories, my city is suffering great loss in skilled manpower and in property considerations. We have more than 40,000 house vacancies in the city of Chicago today, due to

this migration; yet the owners of these vacant houses are required to pay taxes on them.

Once more I urge that these people who will occupy and own these new homes and the corporations affected be required to contribute a portion of this cost in proportion to benefits to be received, and that the Federal Government itself be not obliged to pay all the costs.

I dislike to criticize and I shall not do so because I feel that the committee has carefully investigated all relevant factors. The hearings show the different localities that will be benefited, localities we are going to improve by building construction for private industries in many instances; because this bill, in addition to granting aid from the Federal Government, also provides for the making of grants not only to governmental agencies but to private agencies also, as will be seen at page 4 of the bill.

There is a provision that all this proposed work shall be done under the Federal Works Administrator, in whom I have complete confidence. Mr. Carmody is a splendid, successful businessman, a hard-hitting businessman who thoroughly understands his onerous task.

For 5 years, however, we had W. P. A. doing a great deal of this work. W. P. A. still has on its lists thousands of individuals who may be used to do some of this work. I now ask and urge that Mr. Carmody utilize that agency to do a great deal of this work in order to minimize the cost and thereby relieve the National Treasury when many on W. P. A. rolls, on account of their age, are refused employment by private industry.

Mr. BEITER. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I gladly yield.

Mr. BEITER. I appreciate what the gentleman said about Mr. Carmody's splendid work, but the gentleman from Illinois realizes, I am sure, that W. P. A. has not the skilled labor to build these schoolhouses and various works, for the skilled labor has been drawn off and taken back into private industry.

Mr. SABATH. I fully appreciate that it requires skilled labor for certain phases of the program, but certainly not to build roads, level hills, and do work of such nature.

Unfortunately, nearly all of the skilled labor was idle under the Republican administration. The gentleman knows that.

Mr. BEITER. Oh, yes; I agree with the gentleman.

Mr. SABATH. Therefore, when the Democratic Party came into power we were obliged to take care of not only the unskilled but the skilled labor; some of it is still unemployed and can be used to advantage in this work.

In view of the fact the gentleman from New York [Mr. BEITER] also has thorough confidence in Mr. Carmody, as has the eminent chairman of the Committee on Buildings and Grounds, I hope that Mr. Carmody will utilize to the greatest practicable extent W. P. A. workers.

Mr. BEITER. I feel sure the Administrator will do that. But, with further reference to the schools that are built in these districts, the gentleman realizes that in many instances the school dis-

tricts by State statutes are prohibited from increasing their debt. They have a certain limitation which they cannot exceed.

Mr. SABATH. That may be true, but that does not mean that the Government should build all schools and other necessary facilities, such as waterworks, electric plants, gas plants, and even transportation, for these new developments.

Mr. Speaker, a great deal of this money could have been saved if better judgment had been exercised originally in selecting the sites that now require all these facilities, and hence these appropriations. There have been and are now available hundreds of places and sites adjacent to our large cities having water, transportation, power, school, hospital, and other facilities, and we would not be called upon today to provide appropriations for these improvements in newly created communities if the new projects had been located in places having these needed facilities.

I know many plants which have been idle in close proximity to the city of Chicago since 1930, and that could have been and should be utilized where all these facilities provided for in the bill were and are now available, and could have been utilized without construction cost to the Government. However, as there is to be a larger expansion and additional plants will be necessary, I hope and insist that due consideration be given to these localities, which are now suffering, and at the same time are subject to additional taxes for the development of these new communities.

Mr. Speaker, I, in all friendliness, give fair notice that I shall not vote and shall oppose any additional appropriation for any new plants until the appropriate plants now vacant in my city and other cities are utilized.

EXTENSION OF REMARKS

Mr. COX. Mr. Speaker, will the gentleman yield to permit me to submit a unanimous-consent request?

Mr. SABATH. I yield.

Mr. COX. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to insert therein an article appearing in the current issue of the Saturday Evening Post about our colleague, the gentleman from Texas [Mr. SUMNERS].

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

(Mr. MONRONEY asked and was given permission to revise and extend his own remarks in the RECORD.)

Mr. BUCK. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California [Mr. BUCK]?

There was no objection.

ACQUISITION AND EQUIPMENT OF PUBLIC WORKS

Mr. COLMER. Mr. Speaker, I move the previous question on agreeing to the resolution.

The previous question was ordered.

The resolution was agreed to.

Mr. LANHAM. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 4545) to provide for the acquisition and equipment of public works made necessary by the defense program.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 4545, with Mr. CASEY of Massachusetts in the chair.

The Clerk read the title of the bill.

The first reading of the bill was dispensed with.

Mr. LANHAM. Mr. Chairman, I yield myself such time as I may need.

Mr. Chairman, it is well known to all Members of this body and to the people of the country that in our program of national defense it has been necessary to expend very large sums of money. A considerable portion of the expenditure has been devoted to the establishment of camps for the training of men and factories for the production of material needed for the proper defense of the country. By reason of the great influx of population into some localities—and a number of them are very small isolated communities—large sums of money were appropriated and are being used for defense housing. Necessarily the action which has been taken has resulted and is resulting in congested areas which force upon the local communities problems they are unable to solve and involve amounts of money which they are unable to expend.

In many cases the bond limit of taxation has already been reached. Many of these towns and communities did not even ask for the facilities that were sent into their midst. They were sent there by those in authority because they were considered the best places for the particular purposes for which they were selected. This has cast a great burden upon many communities and upon many municipalities. Realizing this and having had it impressed upon me by many Members of this House from different sections of our country, I introduced on the 10th day of February, H. R. 3213, designed to give the necessary relief from the Government's angle in this situation.

On the 24th day of February the President of the United States sent a message to the Congress calling attention to this need and asking for an appropriation of \$150,000,000 to meet it. On the 26th day of February there came an additional message and an accompanying letter from the Director of the Bureau of the Budget approving the item of \$150,000,000 for these purposes. Those documents are set out in part in the report of the committee which gives a rather clear explanation of the purposes and provisions of this particular bill.

The committee held voluminous hearings on these measures, and gave very diligent consideration to them. People appeared from a great many sections of the country. We could not give specialized attention to many specific cases because the cases are entirely too numerous, though typical ones in various parts of

our land were brought very vividly before us.

Some things were recommended which did not meet with the approval of the committee. Some additional suggestions other than those contained in the two bills which had been introduced did meet with the approval of the committee. The committee had one particular thing in mind and that was that, in view of the fact that relief is necessary in many of these sections, from the Government angle the expenditures should be devoted to helping those communities and not to disrupting in any way the local operation of their own pursuits.

The committee after these hearings was not fully in accord with the provisions of either of the bills which had been introduced and appointed a subcommittee to draft a bill setting forth the views of the Committee on Public Buildings and Grounds. That bill is H. R. 4545, which is now before you for consideration.

It was impressed upon the committee by many witnesses who appeared before us, and I recall notably Mayor La Guardia of New York who appeared as the chairman of the Council of Mayors of the country, that there should be one central agency having supervision of this work because it was realized that the President is entirely too busy a man to have time or opportunity to give those who would come to present their needs the chance to see him in person.

The Federal Works Agency has been for a number of years the constructing agency of this Government. It has carried on since 1932 or 1933 the various kinds of operations that are set forth as being the primary purposes of this bill; consequently, the committee decided that the Federal Works Administrator would very naturally and logically be the one to superintend the operations under this measure.

In view of the fact that we have heretofore passed a Defense Housing Act and have added to the sums originally appropriated, many of the conditions which now have to be relieved have arisen because of that defense housing, which is, in large measure, responsible for many of these congested areas.

It occurred to us that under those circumstances, and in view of the fact that the Federal Works Agency is the division of governmental activity that has to do with all construction of this character, and inasmuch as the Federal Works Agency is in charge of constructing the defense housing, the Federal Works Agency is the logical one to whom this work should be assigned, with the Director of that Agency as the administrator. Consequently this bill has been drawn by way of amendment to that Defense Housing Act, setting forth in title II of the measure the particular matters that refer to the purposes of this bill in the establishment of certain public works by way of community facilities in these congested areas.

Under the Defense Housing Act the needs in the various localities are determined by the housing coordinator, Mr. C. F. Palmer, and his staff. When the

need for this defense housing is determined in any locality the matter of construction is turned over to the Federal Works Agency under the direction of the Administrator.

The need for these various community facilities is to be determined, naturally and necessarily, in a different way, by data with reference to those localities presented by the authorities of the localities, supplemented by the information in the possession of the various Federal agencies concerned that deal with the particular matters at issue.

Therefore, it is set forth in the report of the committee and it was discussed in the hearings that there should be administratively rather than legislatively a board composed of a representative from each of these various agencies to confer and consult with the Administrator and to present the needs along these various lines, but the Administrator should be given discretion in the matter of the extent to which the funds should be applied to each of these needs. The approval of these decisions by the President is required. We think that is a much more logical and practical way to handle this matter, in order that there may be general supervision and direction, rather than to have each agency take a certain amount of the money and spend it as it might see fit.

For this reason we have established this central agency and suggested this Board to which the people concerned in these various districts may go to present their problems. With reference to schools and many of the other facilities indicated in this bill, surveys have been made by these various agencies with the cooperation of those in the localities, and these will also be turned over for the information of the Administrator.

I call attention to another thing the committee proposes to do, and it is perfectly agreeable to the Administrator named in the bill. May I say in this connection that this bill was not drawn by any agency of the Government. This bill was drawn by the Committee on Public Buildings and Grounds, with the able assistance of our legislative counsel. We took the hearings and what the various agencies had presented to us and drafted a measure which we thought should be enacted into law. We did not call the Administrator before us until after we had reported the bill from the committee. We told him, as stated in the report of the committee, that it was our purpose to have a subcommittee of the Committee on Public Buildings and Grounds confer and consult with him concerning the administration of this measure in order that it might be carried out in accordance with the legislative intent.

It is not proposed in this measure, in what the committee has in mind, that there will be extravagances and frills and furbelows. I have even had a solicitation from my own district to intercede in order that a big technical high school might be built there, and other Members have had similar requests from their districts. The money will not be available, in the first place, and it is not the intention of this measure to be building these

magnificent structures over the country. The purpose is to look after an emergency need in the congested areas, and especially where the condition is to be temporary and to last but a few years, to put up something simple and as inexpensive as possible that will fill the need.

If it should become necessary to make an addition to some permanent structure, of course there could be a modification to meet the circumstances of the particular case, but the thing the committee has in mind—and under the funds herein authorized that will have to be reduced to the minimum—is to endeavor to take care of these various facilities where the communities themselves are unable to do so.

May I call your attention to one or two other things. Our distinguished friend and colleague, the gentleman from Illinois [Mr. ALLEN], in his comment on the rule said that you could put up beer halls and dance halls and this, that, and the other. Of course, that is not contemplated. The gentleman mentioned libraries. Well, libraries are very, very useful things, of course, but with reference to the purposes of this legislation, I do not see that large additions to libraries can come appropriately within the picture. Libraries are furnished in the camps themselves for the men in training, and outside of the camps I am sure that by either private subscription or contribution of books or money the necessary volumes can be furnished.

Insofar as textbooks for children are concerned, in many States they are furnished by the State, but there would certainly be no necessity for the construction of libraries or large additions to libraries from the standpoint of the children getting their necessary textbooks.

With reference to some of the estimates that have been made, may I say that they far exceed in the aggregate the amount authorized in this bill to be appropriated. However, the witnesses who appeared before us said very graciously that they thought the recommendations could be so reduced that this sum would prove sufficient.

For instance, there was a recommendation as an estimate, although it was not contemplated that that sum would be immediately necessary, of \$10,000,000 for the building of pasteurization plants in these areas. I at once took exception to that suggestion. You will find on page 38 and following of the hearings what was said in that regard.

In the first place, like the other members of the committee, I did not then think, nor do I now, that it is any function of the Federal Government to be interfering with private business and that the only circumstances under which such a suggestion could be pertinent would be if private business were unable to meet the demand. This suggestion was mentioned in the press over the country and immediately letters and telegrams began to pour in from the milk industry advising the committee that they were amply able to furnish the pasteurized milk that would be needed at these various locations. I shall not encumber the RECORD by asking to include those in the RECORD, but we of the

committee are convinced that there is no necessity for any part of this money to be devoted to that purpose.

Now, if, very briefly, because I do not want to consume too much time, I may just discuss what this bill does, although the report is a rather clear explanation of it, in the first part, with reference to defense housing we simply put the proper caption "Title I" and make the first three sections of the act refer to that title.

Title II deals with defense public works, and then title III, except for the restrictions of title II, makes the other provisions of the Defense Housing Act applicable to both title I and title II.

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. LANHAM. I yield to the gentleman.

Mr. RICH. With reference to title II in reference to schools, is the money that is to be used for the construction of these schools for public schools only?

Mr. LANHAM. I am coming to that in just a moment. I am trying to take the bill up in its order, and when I get to the schools I shall be pleased to be interrogated by the gentleman, but I should like to explain the bill in its order.

Mr. RICH. I thought the gentleman was on title II now.

Mr. LANHAM. No; I was explaining that title I deals with defense housing and includes the first three sections of the act and then the other sections of the Defense Housing Act, except for the restrictions in title II, are made applicable to both of the titles.

Mr. CASE of South Dakota. Mr. Chairman, will the gentleman yield for a question on that point?

Mr. LANHAM. I yield.

Mr. CASE of South Dakota. Will the gentleman state why he thinks it is necessary on work of this type to waive the provisions for advertising for bids and waive such statutes as 3709 of the Revised Statutes?

Mr. LANHAM. As a matter of fact, just a little further on I was coming to that directly. I am trying to take the bill up in order.

Mr. CASE of South Dakota. I thought that did apply to title II.

Mr. LANHAM. We have, under section 203, which I have not yet reached, this provision: "No contract on a cost plus a percentage of cost basis shall be made, but contracts may be made on a cost-plus-a-fixed-fee basis." And, of course, they may also be made on competitive bidding where there is ample time to get competitive bids.

Mr. CASE of South Dakota. In title II, subsections (a) and (b) of section 202, it is provided that the land may be acquired without regard to sections 1136 as amended and 3709, and subparagraph (b) provides that the construction or the demolition or the repair may be started by contract or otherwise without regard to section 1136, as amended, and section 3709 of the Revised Statutes, both on page 3, of the bill.

Mr. LANHAM. I was coming to those provisions in just a moment. I have not quite reached them.

Section 201 of title II declares the general policy of the measure. It does not set out every item of community facilities, because it is impossible to anticipate every item. Some might arise in certain communities that would not arise in others, but I think the general purpose or policy is clearly expressed in section 201.

In section 202 we provide that whenever the President finds that in any area or locality an acute shortage of public works or equipment for public works necessary to the health, safety, or welfare of persons engaged in national-defense activities exists, and so forth, then the Federal Works Administrator is authorized, with the approval of the President, to do certain things.

This section 202 is the statement of general authority, and section 203 imposes restrictions upon that general authority. So bear in mind that section 202 is one of general authority.

Mr. THOMASON. Mr. Chairman, will the gentleman yield?

Mr. LANHAM. I yield.

Mr. THOMASON. Will the gentleman be kind enough to tell us just what is meant by the language in lines 1 and 2, at the top of page 3, under section 202, which states—

when the President has found certain conditions to exist and that such public works or equipment cannot otherwise be provided when needed.

Just what does that mean?

Mr. LANHAM. The language of that is a little more restrictive than the broad purposes intended by the bill. The legislative intent, from the angle of the Committee on Public Buildings and Grounds, is that there is no disposition to impose restrictions upon one community greater than those that would be imposed upon another community, and, in my judgment, there are situations where a bond limit has been neared, reached, or exceeded, perhaps, with authorization to that effect, at the request of the defense authorities of the Government, where they have had unusual burdens and hardships placed upon them that can very well be relieved, and I think a sufficiently broad interpretation would be given to that provision to permit that.

Mr. THOMASON. Does that mean that the local community or municipality must have exhausted all of its tax resources before it would be able to qualify under this act? In other words, I know communities that were almost bankrupt during the depression, but perhaps have not quite reached their tax limit. Some of those communities have not yet recovered, and could not stand a tax raise or vote a bond issue. Does the gentleman mean to say that under that language they would not be eligible under this act until they had reached their maximum tax limit?

Mr. LANHAM. No; I do not mean to say that. I do not think that is the intention of the legislation. I think the act will be administered in a way to be equitable and just to the various communities, and so as not to impose hardships on any community which may not be imposed on another.

Mr. THOMASON. Does the gentleman believe that language is susceptible to

an interpretation by the administrator that if a city or county, whatever the political subdivision may be, has not exhausted its taxing strength, it cannot qualify under the act?

Mr. LANHAM. I think not, in view of what we are saying with reference to the purpose of this bill, because there are some communities that have, in a way, gone beyond what could have been reasonably expected of them, and to impose additional burdens and hardships, and say, therefore, they shall not be relieved under this act, would be quite inequitable.

Mr. THOMASON. Then, in order to get the legislative intent into the record here, do I understand that it is not the purpose of the committee reporting the bill to eliminate those communities that have not exhausted their full taxing power?

Mr. LANHAM. It is not—not for a narrow margin they may yet have and need for their own normal purposes. It is not to be assumed that the Government could come in and use that narrow margin to carry on a work which has been placed in the community by the Government, and often without any opportunity for the community to decide whether it wished or did not wish those facilities.

Mr. THOMASON. Suppose a local community had a maximum tax rate of, say, \$2, using that as an illustration, above which they could not go. Suppose they already have a tax debt or a limitation of \$1.75. Must that community first vote a 25-cent tax on itself before it would be eligible under this act?

Mr. LANHAM. Oh, that is not the intention of this measure, because that would be imposing upon the locality the obligation to devote what further funds it might have available for its own purposes to purposes the Government had imposed upon the locality.

Mr. THOMASON. Then why the necessity for the language? If their situation is so serious they cannot take care of the local schools or build sewer or water lines, why put that language in the bill? I am strong for the bill, but I want all deserving communities to have fair and just consideration, and I am sure that is what the gentleman also desires.

Mr. LANHAM. Oh, I may say that there are communities and communities, and the gentleman well knows that there are some of them that might come in sometimes and try to get the lion's share of the plum with the minimum of effort.

Mr. THOMASON. That may be true, but—

Mr. LANHAM. I think that with the interpretation that has been given, it is a salutary thing to have that language in the bill.

Mr. THOMASON. I want to make certain that all deserving communities that need assistance will be given consideration. Every application should be considered on its merit.

Mr. LANHAM. That is the purpose.

Mr. MCGREGOR. Mr. Chairman, will the gentleman yield?

Mr. LANHAM. Yes.

Mr. MCGREGOR. Was not that the reason that the committee designated the Department of Public Works along with this coordinator, so that those, with good intent, not having necessarily expended

all of their money, yet could look ahead and see they might reach that point, and might still come in and set up their needs, and it could then be determined whether to give help to that community.

Mr. LANHAM. That is correct; and it cannot be expected that a community is going to exhaust absolutely all it could do for its own purposes in the way of tax limits in order to provide these various things which have come into that community by reason of the Government's activity, and which may be transitory and fleeting, and gone after the emergency has passed.

Mr. SMITH of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. LANHAM. I yield.

Mr. SMITH of Connecticut. If I understand the gentleman correctly, the fact that a community, at the request of a defense department, has gone to the legislature and enabled itself to place unusual burdens upon itself in order to carry out a desperately needed development for defense needs, such as a water system, would not foreclose that community from assistance under this provision?

Mr. LANHAM. I have had the pleasure of conversing with the gentleman from Connecticut about that matter, and I think it certainly would not be excluded.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. LANHAM. I yield.

Mr. GREEN. I have read pages 3 and 4 of the bill and have conferred with the drafting counsel on it. The point I am particularly interested in is whether or not a municipality may be able to gain assistance under the provisions of this bill in a case where they have a municipally owned electric plant, which plant is overtaxed and strained beyond its capacity by national-defense projects within its immediate area. We have that problem in Jacksonville, Fla. Our municipally owned plant, through the activities of the Southeast Air Station, is being taxed beyond its capacity.

Mr. LANHAM. Of course, the very purpose of this measure is, where a shortage exists in those various community facilities, to relieve that very situation, where the shortage results from congestion by reason of the program of national defense.

Mr. GREEN. That is exactly what I am getting at. The drafting service felt that they did come under the provisions of the bill, and such is the interpretation of the chairman, is it?

Mr. LANHAM. That is correct.

Mr. BETTER. Mr. Chairman, will the gentleman yield?

Mr. LANHAM. I yield.

Mr. BETTER. Fire prevention is an important factor in the defense program. Many of the communities are undermanned at the present time. I wonder whether this bill will permit the construction of fire-fighting facilities in communities particularly outside of communities where those plants are located?

Mr. LANHAM. I think that would be included. Mayor LaGuardia spoke about that and asked that the term "equipment" be placed in the bill to take care

of situations of that kind in congested defense areas where necessity existed.

Mr. HENDRICKS. Mr. Chairman, will the gentleman yield?

Mr. LANHAM. I yield.

Mr. HENDRICKS. I wanted to ask this one question in order to satisfy some of the school superintendents in my district; that is, whether the Federal Government will have any control over the schools?

Mr. LANHAM. I am coming to that in just a moment. I have not reached that point yet.

Mr. THOM. Mr. Chairman, will the gentleman yield?

Mr. LANHAM. I yield.

Mr. THOM. I have in mind a community where the city council has been asked to appropriate \$2,000 to employ a representative in Washington, a lawyer, to obtain an award of funds under this act. It occurs to me that this act ought to have a specific prohibition against the payment of fees for any soliciting.

Mr. LANHAM. I may say from the knowledge and information before me with reference to how the administrator designated in this act carries on the work committed to his hands, that that certainly would be rather a bar than a help in meeting that particular need. I think it should be carried in the press of this country that any community is wasting its funds that employs anyone to come here in its behalf to consult with the administration, other than those who are naturally in charge of the facilities in question. [Applause.]

Mr. GREEN. Will the gentleman yield further?

Mr. LANHAM. I yield briefly.

Mr. GREEN. At Starke, Fla., and Green Cove Springs, adjacent to Camp Blanding, we have an acute school situation. This bill would relieve that situation, would it not?

Mr. LANHAM. School needs in congested defense areas are one of the primary purposes of this bill. Of course, I cannot take time to talk about all of these separate instances. If you could see a map of this country dotted over with these different defense areas of different characters you would know that in these individual instances it is impossible to give all the information.

Mr. RICH. Will the gentleman yield while he is on section 202?

Mr. LANHAM. As soon as I explain the purpose of it.

Mr. RICH. I mean 201.

Mr. LANHAM. Please be brief.

The CHAIRMAN. The gentleman has 25 minutes remaining.

Mr. RICH. We ought to get the first section ironed out. In line 15 it reads, "the activities authorized under this title shall be devoted primarily to schools." We have always been supporting public schools, and I am going to suggest that we change that language to "but the activities authorized under this act shall be devoted to public schools."

Mr. LANHAM. The matter of schools comes up a little later. If the gentleman will kindly let me proceed with my explanation, then I shall be glad to answer any questions that are pertinent. The matter of schools is mentioned in the statement of policy.

Now, on page 3, subsection (a), that relates to the acquisition of property which is exactly the same section as appears in the National Defense Housing Act. Section (b) relates to the contractual authority and is exactly the same as in the Housing Act except that there are certain things necessary with reference to facilities which are not necessary with reference to housing.

Mr. COLE of New York. Mr. Chairman, will the gentleman yield?

Mr. LANHAM. Yes; I yield.

Mr. COLE of New York. On that subject of authorizing contracts on a fixed-fee basis, does not the gentleman think it is advisable to limit the fixed fee to 6 percent on this class of contracts, the same as we have in all military contracts?

Mr. LANHAM. I think that is a matter that should be taken up through the administration, to keep it down to as low a figure as possible, because we want this appropriation to go as far as it possibly can in meeting needs rather than in paying for providing the services.

Mr. COLE of New York. The gentleman understands that all of the Army and Navy contracts are limited to 6 percent, and actually they are running around 3 and 4 percent. It does seem to me advisable that we put a maximum in the bill.

Mr. LANHAM. I know that the administrator named in this bill has carried on several public works at very much less than it was expected they would cost.

Proceeding now with the bill:

Subsection (c) on page 4:

To maintain and operate public works.

Remember, this is a general statement of authority. There are restrictions in the next section.

Mr. TABER. At that point if the gentleman will yield, Mr. Chairman, would the gentleman explain why the word "operate" should be in there?

Mr. LANHAM. I think perhaps I can do that a little better when I come to the section dealing with restrictions.

(d) To make loans or grants, or both, to public and private agencies for public works and equipment therefor.

And so forth.

There has been some discussion of the matter of private agencies, and as the Administrator has stated to the committee, it will be necessary to be very hard-boiled with reference to the application of that authority, and I think there should be that discretion given in the measure because there will be instances where private agencies can be used to carry on some of these purposes that will be decidedly in the interest of economy. For instance, it has been brought to our attention in one instance by a member of our own committee and in two other instances by other Members of the House where hospitals may be necessary and where there are hospitals that are practically completed and need but a little additional work to make them serviceable, and they are in congested defense areas. It is a much easier, and simpler, and more economic matter to do the little work that remains to be done rather than build new hospitals and leave the others still in the unfinished condition.

With reference to schools there is little likelihood that any but public schools would be necessarily considered in the administration of this act because most of these congested areas are in sections where, if there are any schools, they are in all likelihood public schools, and if there are no schools and they are established under this act they would be public schools under local administration.

The Administrator in appearing before the committee after this bill had been reported stated very frankly that, while he thought there would be instances where private agencies could be used to advantage and economically, he would have to be hard-boiled in the administration, and I appreciate that.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. LANHAM. I yield.

Mr. MURDOCK. Does this contemplate anything more than public buildings? Does it contemplate anything by way of equipment for schools, busses, or libraries?

Mr. LANHAM. Yes; under the provisions with reference to contributions, there are a number of these schools to be established in congested areas where it is impossible to supply all the teaching force necessary. The word "contribution" used here was intended by the committee to indicate not merely a contribution of money but a contribution of the little school building that might be necessary in this congested area, or the teachers to carry on.

Mr. COLE of Maryland. Mr. Chairman, will the gentleman yield?

Mr. LANHAM. I yield.

Mr. COLE of Maryland. I was not fortunate enough to be here during the early part of the statement being made by my distinguished colleague from Texas, but in my district I have two plants which employ 50,000 people at this minute. This naturally presents quite a problem of congestion of highways and schools, overtaxed water, sewer, and other public facilities. The county and State governments are working on these problems as rapidly as possible, but one of real concern at this time is that of highways, how to break the bottlenecks. They expected some help from road legislation, a lot of which has come to Congress. I am wondering whether under the language of this bill, section 201, "and access roads," contemplates the main highways leading to these plants?

Mr. LANHAM. That contemplates access roads, of whatever nature they may be, in order that these industrial workers may be able to get to the plants to perform their tasks. A large highway-construction bill would, in my opinion, emanate from the Committee on Roads, from the standpoint of general highway needs. The amount stated in this bill for these purposes would not be anything near adequate for general highway purposes; but we do think it is a part of the function of this bill to assure access roads. I have seen instances of this character in defense areas where men in defense housing projects have no reasonable way of getting to the plants where they are to work. So these access roads are necessary, and they will be

necessary perhaps as a part of the roads which must be used by workers living in cities or urban communities to get to their work.

Mr. COLE of Maryland. I take it from what the gentleman says that it is not intended the sum authorized in the bill before us shall be used for extensive highway development throughout the country. All of us hope there will be some additional legislation providing that.

Mr. LANHAM. Yes; and in my judgment such a bill should come from the Committee on Roads. We are seeking in this bill merely to provide access roads to enable the industrial workers to reach their places of employment.

Mr. MAGNUSON. If the gentleman will yield, I may say that I have done some investigating and checking myself, and find there is in process of preparation a bill providing funds to be expended by the Defense Commission to the amount of \$150,000,000 for access roads to these various defense plants and units. Of course, this would be for the urgent necessities right immediately.

Mr. COLE of Maryland. I have had figures given to me considerably higher than that.

Mr. MAGNUSON. I hope it is higher.

Mr. HAINES. Will the gentleman yield?

Mr. LANHAM. I yield to the gentleman from Pennsylvania.

Mr. HAINES. I dislike very much to interrupt the gentleman, but I am interested in one part of the bill which has to do with sewage disposal. That comes under this bill?

Mr. LANHAM. Yes, indeed. Whatever is necessary for the health of the people or their protection from a sanitary standpoint.

Mr. Chairman, in section 203 we provide for restrictions. We provide:

No contract on a cost-plus-a-percentage-of-cost basis shall be made, but contracts may be made on a cost-plus-a-fixed-fee basis.

That, of course, does not exclude competitive bidding when possible and advisable.

The next section reads:

Wherever practical, utilization shall be made of existing private and public facilities or such facilities shall be extended, enlarged, or equipped in lieu of constructing new facilities.

Which I think is in the interest of economy and speedy and successful operation.

Third, public works shall be maintained and operated by officers and employees of the United States only if and to the extent that local public and private agencies are, in the opinion of the Administrator, unable or unwilling to maintain or operate such public works adequately with their own personnel and under loans or grants authorized by this title.

In other words, it is not the purpose of the committee that these various facilities in local communities shall be operated by the Federal Government where they are able to run them themselves with such assistance as is afforded under this measure.

Subdivision (b) imposes very definite restrictions with reference to the opera-

tion of schools. It provides they shall be in all respects operated, controlled, and conducted by local laws and regulations, and not by the Federal Government.

Subdivision (c) refers in a similar way to hospitals, except those which are owned and operated by the United States itself; for instance, our veterans' hospitals.

Mr. RICH. Will the gentleman yield?

Mr. LANHAM. I yield to the gentleman from Pennsylvania.

Mr. RICH. On the question of public schools, the gentleman says he is going to put it in the hands of the States to operate them. We do not want to get anything into this bill in any sense that might be construed as being political if we are giving this money to the schools. We are all in favor of public schools and we are all in favor of aiding the States, but we do not want to get into any religious discussions of any kind, nor do we want to get in here anything that might lead us far afield insofar as the Government getting into anything but the public schools.

Mr. LANHAM. If the gentleman will just read subsection (b), he will observe that the word "State" is not mentioned. He will see that this is just as restrictive as he could make it, and certainly as restrictive as the legislative counsel could make it.

Mr. MCGREGOR. Will the gentleman yield?

Mr. LANHAM. I yield to the gentleman from Ohio.

Mr. MCGREGOR. Relative to the inquiry of the gentleman from Pennsylvania, on page 2, line 16, the words "primarily to schools" are used. Was it not contended in committee that there were special schools where special training was needed for mechanics, which were not open to the general term "public" because there had to be a certain classification for them to go in and become advanced in mechanics or a particular type of work, which is the reason the word "public" was left out of there?

Mr. LANHAM. The gentleman is correct. We also have certain vocational schools, and so forth. Of course, they are public in a sense, while perhaps in another sense they are not.

Mr. HENDRICKS. Will the gentleman yield?

Mr. LANHAM. I yield to the gentleman from Florida.

Mr. HENDRICKS. Will the administrator in giving this relief consult the local authorities as to the need?

Mr. LANHAM. Oh, to be sure. The local authorities will be the ones to present the need. There has already been in this country quite an exhaustive survey of these school needs made by the Office of Education. The data are available with reference to most of these needs and where the data are not supplied, why they can be brought to the attention of the administrator.

Mr. JONKMAN. Will the gentleman yield?

Mr. LANHAM. I yield to the gentleman from Michigan.

Mr. JONKMAN. Is it possible that the provision in section (b) might be over-

ridden by section 3 preceding it, in which it is provided that where local authorities do not operate the United States authorities shall take over? Would that give them the authority to insist upon cooperation or otherwise interfere with the administration?

Mr. LANHAM. No; I do not think so. That has reference to public works in general, and here is a specific provision with reference to schools.

Mr. JONKMAN. The administration of these projects and public works are two separate things?

Mr. LANHAM. Absolutely.

Section 204 is the authorization of the appropriation in the usual legislative language.

Mr. TABER. Will the gentleman yield?

Mr. LANHAM. I yield to the gentleman from New York.

Mr. TABER. I assume, from looking over the hearings, that the committee had before it very considerable detail as to the needs in the different localities throughout the country.

Mr. LANHAM. It did.

Mr. TABER. Why would it not be far better for the committee to specify what should be done, whether it should be a grant or should be Federal construction as to each particular item rather than delegate to any bureaucrat the right to exercise discretion on this proposition? We have had such bad experience with that matter and such terrific cost, and we are going to get into the same thing here if we do not do something of that character.

Mr. LANHAM. I may say to the gentleman from New York that the ramifications of this are extensive and there are so many of these defense activities of various kinds scattered all over the United States that if we endeavored to particularize, our work would be interminable. I think the Administrator, in whose hands the supervision is placed, is a gentleman who is interested in economy and who will try to be helpful in every possible way. Also, as I have stated, the committee intends to follow up the administration of the measure.

Mr. TABER. I am free to say to the gentleman that I cannot support anything of this type unless that is done.

Mr. MAGNUSON. Mr. Chairman, will the gentleman yield?

Mr. LANHAM. I yield to the gentleman from Washington.

Mr. MAGNUSON. I am just wondering in view of the discussion this afternoon about how much of this money will go for schools. I have read Mr. Studebaker's report. As the gentleman knows, in many of these areas the school needs are the primary needs. It seems to me that is going to take most of the money.

Mr. LANHAM. It is going to take a very considerable portion of it. Further, the urgency of this legislation is that, if these needs are going to be met, the construction of the schools in these isolated areas and in the congested defense areas generally must be begun very promptly, because the school sessions will begin in the fall.

Mr. MAGNUSON. How was the figure of \$150,000,000 arrived at? I believe there should be a little more added here.

Mr. LANHAM. That is the figure that was recommended by the President in his message and it is the figure that has the approval of the Bureau of the Budget; consequently, it is the figure we incorporated in the measure.

Mr. MAGNUSON. Therefore, the school needs under this bill would almost necessarily receive priority due to the urgency for the construction and the fact that the schools will again open in the fall?

Mr. LANHAM. I think in many instances they are quite entitled to priority.

Mr. MAGNUSON. I notice in this bill—and I have checked with the Housing Act—there is no time limit placed on the legislation. I am wondering if Congress realizes that if we do not place a time limit in this bill we are apt to have this legislation here for the next 20 years, and we will be furnishing all the school needs and sewer needs.

Mr. LANHAM. May I call the attention of the gentleman to the fact that title 303 makes the provisions of the Defense Housing Act after section 3 thereof applicable also to the second title?

Mr. MAGNUSON. Is there a time limit in the Defense Housing Act? I checked the Housing Act and I do not find one there.

Mr. LANHAM. There is the time limitation of the emergency, and also the requirement of an annual report at the beginning of each session of Congress from the Administrator to the Congress. I shall look into that a little more carefully and offer an amendment if necessary.

Mr. MAGNUSON. I know that none of us would want all our communities swarming down here from now on wanting schools and sewers and everything else.

Mr. SHAFER of Michigan. Mr. Chairman, will the gentleman yield?

Mr. LANHAM. I have only 5 minutes left, and I had promised that to the gentleman from Virginia; however, I yield briefly.

Mr. SHAFER of Michigan. Under Public, 849, provision was made for community facilities and for annual payments by the Government in lieu of taxes.

Mr. LANHAM. Yes.

Mr. SHAFER of Michigan. Those payments have been made in various communities?

Mr. LANHAM. Yes. They are also applicable to title II.

Mr. SHAFER of Michigan. They are applicable here?

Mr. LANHAM. Yes; through contributions of the kinds specified.

Mr. SHAFER of Michigan. They do not preclude the communities from collecting under this bill either?

Mr. LANHAM. They do not. I have taken that matter up specifically and have the opinion in writing that what they have received from the standpoint of the defense housing will not be a bar to what they will receive under community facilities. As a matter of fact, the

contributions for schools and other facilities under title II in many cases will necessarily be considerable.

Mr. SHAFER of Michigan. I thank the gentleman.

Mr. BLAND. I hope the gentleman will use the time reserved for me.

Mr. LANHAM. I should much prefer for the gentleman from Virginia to use that time.

Mr. HOLMES. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana [Mr. WILSON].

Mr. WILSON. Mr. Chairman, I am very much disappointed and disgusted with the attitude some have taken with regard to the public schools and their needs. I recall that just a few days ago we appropriated \$7,000,000,000 to give away, and, if my mathematics is correct, that bill called for about fifty times the amount of money this bill calls for, and this money is to be spent in our own country for our own public schools and defense training.

Further, having been a school administrator and having been trained in that profession, I am more and more as the days go by aware of the fact that the preservation of our democracy and our form of government is dependent upon education and not upon legislation.

Mr. HOFFMAN. Mr. Chairman, will the gentleman yield?

Mr. WILSON. I yield to the gentleman from Michigan.

Mr. HOFFMAN. The gentleman said he was disgusted with the attitude taken by some on this bill. I am not against this bill, but does not the gentleman realize that some of us, many of us, do not trust this administration to spend so much as a red cent? Our trouble is a lack of faith in the administration.

Mr. WILSON. I am in sympathy with the gentleman from Michigan. Of course, knowing him as I do, I know he is afraid that somebody is going to strike on one of these school jobs and it will not be finished in time for school next year.

Mr. HOFFMAN. If the gentleman will yield once more, may I say that I have an amendment now on the Clerk's desk to prevent that very thing, and I will show you where they have been striking against the operation of hospitals.

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. WILSON. I yield to the gentleman from Pennsylvania.

Mr. RICH. The gentleman is disgusted with the attitude some are taking on this bill. The gentleman recalls very distinctly that I opposed the \$7,000,000,000 bill and I certainly have a right to oppose this bill. The gentleman is not criticizing me, is he?

Mr. WILSON. That is all right, may I say to the gentleman from Pennsylvania. I hear the gentleman talk every day and I knew just about what he was going to say before he arose.

Mr. RICH. We do not do anything to practice economy. The gentleman is probably one of those fellows who are spending all the time. I believe in economy in government, in economy in home life, economy in business. It spells thrift.

Mr. WILSON. The facts substantiated by the record show that I have a perfect record of economy.

Mr. Chairman, the information offered is based on a survey conducted by a committee of school men, headed by Dr. W. W. Wright of Indiana University, in regard to the school needs at Charlestown, Ind., where at present is located the Indiana Ordnance Works. This plant will employ about 9,500 workmen, exclusive of Du Pont and Army administrative personnel. Of these workmen, 1,000 will be taken from the immediate township. Along with these 1,000 workers, there will be approximately 9,000 additional people in population. The population of the township at present is 6,700; living in 725 houses, plus a large number of trailers.

You might be interested in knowing how we arrived at the figure of 9,000 additional people and the 1,000 workers that are to be employed in the production of powder. From an index which has been established by the last census, I find that for each worker there is a family of about 3.8 or 4 people. In the case of new factories such as this, it is found that there is also an influx of people who are in business, rendering other services to these workers, which makes the total figure of 9,000 which I have given.

It is anticipated, from the most reliable statistics available on parent-pupils of school age in population. There will also be a minimum of 100 children of preschool age, which will probably have to be taken care of, or at least should be taken care of in nursery schools since the mothers are likely to be employed in the Goodyear bag-loading plant.

Further remarks on the last statement might clarify it somewhat. Due to the inadequate housing facilities in that area, it will be necessary to employ as many people from those who reside in that community as possible, otherwise our housing needs there will increase tremendously. Since the Goodyear bag-loading plant, known as the Hoosier Ordnance Works, which is starting to build there, is going to work women, largely; it will be a matter of economy, of course, to take women from those homes that are located in the immediate vicinity, and that will necessitate the care of their children.

There are 924 children of school age in population now, even though many have been left behind because of inadequate housing. It is known that many families living in trailers have left their children with folks back home.

The present building program anticipates the use of all the present school facilities, which facilities can accommodate a maximum of about 400 pupils. The survey recommends and anticipates the use of the present school buildings for the lower grades. It may be well to bear in mind that this minimum number of pupils of school age is based on the latest census showing community population. The figure is significant as a minimum, since these workers must be between the ages of 27 and 42; this means that the workers are all of the age whereby the family may be growing in size. Therefore, the number of pupils

may actually be greater than our minimum and probably will be. The minimum number of children in this survey, of course, was based upon statistics, and those statistics cover workers of all ages.

The Charlestown township trustee and advisory board have expressed their willingness to go the limit of the law to cooperate in financing this school. They also expect, within a period of 2 or 3 years, to assume all the operating expense. The operating cost for the school year of 1941-42 will be about \$102,000. The State and local governments can meet about \$70,000 of this obligation.

It so happens in Indiana that each school corporation gets State aid to the extent of \$700 per teaching unit. That means \$700 for each grade-school unit of 35 pupils and for each high-school unit of 25 pupils in average daily attendance. The local tax base plus State aid will raise about \$70,000 of this \$102,000 necessary to run the school, had they the school plant to accommodate these pupils. That leaves a need of about \$32,000 from the Federal Government for operating expense the first year. As the property and income of these workers is added to the tax base the help needed from the Federal Government for operating expense will decrease, and the Federal aid for the school year of 1942-43 will probably be about \$20,000. For the year 1943-44 it will probably be about \$10,000, after which time they expect to be able to assume the full operating load.

The big problem, of course, is in regard to capital outlay, which includes buildings and equipment. In Indiana we have a law allowing us to bond the school corporation for 2 percent, also the civil corporation for an additional 2 percent for school purposes. Since they have the same tax base, it gives us a bond limit of 4 percent on that base.

The minimum estimate to satisfy school needs and give minimum cooperation with public health and recreation is—when township part is taken out—about \$991,000. This includes plant site, buildings, and equipment.

The maximum to guarantee full cooperation would be considerably more, since our schools are now anticipating taking on the load of training for national defense; and added equipment which will be necessary for taking care of this training would add some \$500,000 to the amount needed, which would make about \$1,491,000 to take care of the complete school needs of that community, guaranteeing full cooperation to the Federal Government in providing these educational facilities.

The Goodyear bag-loading plant, known as the Hoosier Ordnance Works, is just in process of being built. This, it is believed, will increase the Jeffersonville High School enrollment by about 200 pupils. They are already entirely full and running extra hours in the day; in fact, they are running the noon hour and then one extra period at the end of the day in order to take care of the influx of high-school pupils. This means that they are probably disobeying the recommendation of the State department of education in pupil-teacher ratio. We

have an established ratio in Indiana, which means that each teacher can handle only so many pupils per day. In my opinion, they are going beyond that limit right now. Of course, in the Charlestown area one-half or two-thirds of the pupils are not in school at all, regardless of the fact that we have compulsory education laws in Indiana.

This approximated increase in Jeffersonville is due to the extra houses being built in and about the city. The building needs of Jeffersonville will be about \$200,000. Fortunately, they have the needed grounds in which to place the necessary buildings. Also they believe they can carry any added operating expense. [Applause.]

Mr. HOLMES. Mr. Chairman, I yield such time as he may desire to the gentleman from Indiana [Mr. GILLIE].

Mr. GILLIE. Mr. Chairman, the measure under consideration (H. R. 4545) has met with such widespread approval that it hardly is necessary for me to take the time of the House to voice my hearty support of its provisions.

The purpose of this measure, as stated in its title, is "to provide for the acquisition and equipment of public works made necessary by the defense program." It was reported favorably by the Committee on Public Buildings and Grounds, after extensive hearings, and it should receive the favorable action of this body as a proposal vital to our national defense.

My purpose in addressing the House is to point out briefly, as an argument for this bill, a defense problem in my district which could quickly be solved under the provisions of H. R. 4545. Many of you, no doubt, face similar problems in your home communities. It concerns a lack of proper school facilities for the families of officers and men soon to be stationed at a new Army Air Corps base near the city of Fort Wayne, in Wayne Township.

For an understanding of this problem let me quote from a letter I recently received from Walter F. Hayes, Wayne Township trustee:

At this time the Elmhurst High School Building (in Wayne Township) is housing 397 pupils, which brings about a very crowded and unhealthy condition. The Elmhurst School Building . . . was originally built to accommodate only 225 pupils.

Elmhurst High School is located approximately 1½ miles from the new Anthony Wayne Army Airport which will be completed within the near future.

I have been informed that approximately 3,300 officers and enlisted men will be stationed at this airport and camp. I have also been informed that this is to be a permanent Army airport and camp.

If the above information is correct, many families of these men will move into Wayne Township and also into Pleasant Township.

Pleasant Township does not have a high school and therefore many of their pupils will be transferred to Elmhurst High School, and under our present conditions it will be impossible for Elmhurst High School to accept them.

Therefore, since this school building lies within the said defense area, and since Wayne Township wishes to do everything in its power to promote the proper education of all the children of officers and enlisted men living within that area, I be-

sech you to do everything in your power to speed up . . . the allocation of funds for the construction of a new school building as an addition to the Elmhurst High School Building.

Mr. Chairman, what is the solution to this problem? Obviously, this school must be enlarged if proper facilities are to be provided for the education of the children of these Army families.

Unfortunately the Wayne School Township is badly handicapped for funds with which to finance a new addition made necessary by the national-defense program. This, therefore, becomes a problem for the Federal Government to cope with. The authority to do so is contained in H. R. 4545, which, in my opinion, should be passed without a moment's delay.

Mr. HOLMES. Mr. Chairman, I yield such time as he may desire to the gentleman from Michigan [Mr. MICHENER].

Mr. MICHENER. Mr. Chairman, sometimes we do things by choice. At other times we do things because of necessity. This legislation today comes within the latter category. There is no alternative.

A few weeks ago the Committee on Public Buildings and Grounds brought before the House a bill providing an additional \$150,000,000 to be used for necessary housing for national-defense workers. That bill was thoroughly considered in the Public Buildings and Grounds Committee and also in the Rules Committee. Those upon whom rests the responsibility of administering that law, and the law contemplated by this bill, were before the Rules Committee and testified at length. I am sure that that \$150,000,000 bill was pared to the bone, and that even more money will be necessary to provide housing where there is no housing for the men who are to be employed in preparing our national defense. When that housing bill was before the House I made some remarks, urging caution when this facilities bill came up for consideration. We are assured by the very able gentleman from Texas, Mr. LANHAM, the chairman of the committee, that this whole subject has been gone over with a fine-tooth comb by the committee. When the gentleman from Texas brings a bill before the House it is a fair assumption that it is a good bill. If it is not a good bill—and by good I mean sound, economical, and necessary—then the gentleman from Texas would not be sponsoring it. His clear and frank explanation of this bill inspires confidence, and I for one am pleased to go along with him.

I do not like to spend all this money. I do not like so much power centralized in Washington. I do not like the incidental interference with local regulation that inevitably must be inherent in all this type of Federal aid. Neither do I like the war to which we are very close, if not already in. I regret the necessity for this national-defense program, yet, again, it seems to me there is no choice. The job must be done and this bill is one of the necessary steps.

To illustrate, there is within the district which I have the honor to represent in Congress a city by the name of Ypsilanti, with a population of approximately

12,000. This is a beautiful college town. An \$18,000,000 national-defense project, for the purpose of manufacturing Army bombers, is under construction. The factory will employ 22,000 men when in full operation. This city did not ask for this industry. It came to the city unsolicited because the national-defense authorities felt that this was the proper place to get the quickest and best results. The local community is happy to cooperate and will endeavor in every way possible to assist the Government in carrying out this work. However, I am told that at least 3,500 family-housing units in addition to those now available, will be required to provide for the industrial workers employed on this project. The city is already bearing a large tax burden. It is properly equipped to care for its own under ordinary circumstances. It is utterly impossible for the city to assume the additional burden of caring for this influx of industrial national-defense workers, so far as schools, hospitals, and possibly some other facilities, are concerned. This is a case where the spirit, indeed, is willing, but the flesh is weak. Ypsilanti does not come to Washington holding out its hat asking for alms from the Federal Government. It does come with a clear case of necessity because of this defense project. I have been assured by those who will have to do with the administration of this law that every consideration will be granted to this community, and that if it is found that equity, justice, and necessity require, then needed help will be given. We ask no more. If this bill is administered according to the formula provided in the bill and as amplified by the committee report and Chairman LANHAM's explanation, then there will be no waste, and the best interest of our country will be served.

Much has been said here about frills and luxuries in national-defense expenditures. I am as much opposed to these extravagances as is the chairman of the committee. The expenditure of this money should not be used for dance halls, unreasonable recreational grounds and parlors, elaborate and costly school buildings. It is a good idea to have a subcommittee of the Lanham committee keep a watchful eye on the expenditure of this money. If the money is spent as it is intended, the taxpayer will have no cause for complaint. If the money must be spent in the interest of our national defense and if there will be no waste, why, then, should we hesitate?

Mr. John M. Carmody, Administrator of the Federal Works Agency, appeared before the Rules Committee on the housing bill, as did Mr. Palmer, representing the Office of Production Management as Federal Coordinator of Housing. These gentlemen understand thoroughly the attitude of Congress with reference to this national-defense housing and the facilities in connection therewith. They have promised that only the necessary facilities will be given consideration. As one member of the committee I was very much impressed with both of these gentlemen. I believe they have ability and are familiar with the work which they are to carry on. Before this hearing, I had some doubt as to the ability of an administrator of uplift projects like the

United States Housing Authority to administer a program where essentials only were required. I feared that these emergency national-defense projects would be tinged with the social uplift atmosphere to such an extent that the cost would be unbearable. Mr. Carmody's appearance and forthright statement dispelled this fear so far as he is concerned, and I am convinced that under his direction this program will be carried out as outlined.

Mr. HOLMES. Mr. Chairman, I yield 10 minutes to the gentleman from Ohio [Mr. MCGREGOR].

Mr. MCGREGOR. Mr. Chairman, I first want to pay my respects to the distinguished chairman of the Committee on Public Buildings and Grounds, the gentleman from Texas [Mr. LANHAM]. It is a privilege and a pleasure for me to serve on this committee with such a fair, patient, and distinguished chairman. [Applause.]

Mr. Chairman, this bill, H. R. 4545, as our chairman has explained to you, came as a result of two bills. One of them was H. R. 3570, but to show you how fair our chairman was, that bill had so many irregularities in it that, following the recommendations of the members of the committee made to the chairman, he immediately concurred in our request and appointed a subcommittee to draft a new piece of legislation and this bill, H. R. 4545, is the particular piece of legislation that was recommended.

This bill authorizes an expenditure of \$150,000,000—for what? To take care of those communities that have an influx of people caused by the defense program. Certain localities are not responsible for the problem that has been brought before them and because of the condition existing in their localities. They are financially and physically unable to take care of the people that have come to them. So as Members of Congress and as the Representatives of these people, we must come to their assistance. I will give you as a concrete example, Charlestown, Ind., which a few months ago had a thousand people. They now have approximately 15,000 workers. They had a school there with facilities to probably take care of 100 pupils, and they are going to have 1,000 pupils in September. Their tax imposition is up to the limit. They cannot be taxed any more, so you and I must take care of the situation for them.

You will note that this bill turns this money over to the Federal Works Administrator. You may wonder why that was done. If you will check the matter in the committee reports you will find where we called Mr. John Carmody before the committee and asked him if he were in charge how he would administer the bill. He informed us that he would call in the various bureau heads and go through the program, and his record has shown that he has carried out such work efficiently and economically, stating that he thought people should go to one department rather than having to go to half a dozen different bureaus to find out whether or not there should be any assistance given in our various local communities. For this reason and knowing his ability the matter was put into the hands of Mr. Carmody. This was not agreed to, in some respects, by some of the Department heads, but I

think time will show that the committee acted wisely in giving him complete control.

The question came up as to whether or not we would lose our rights of local self-government in order to participate in the expenditures of these Federal funds. The question was brought before the committee whether or not if, for instance, I was living in a particular locality and my schools needed assistance, we would have to change the rules and regulations and the curriculum of our respective schools in order to participate in these funds. This very question was asked of the various department heads, and especially of Mr. Carmody, and he informed us that we would not.

In this connection I would respectfully call your attention to section (b), at page 5, which states:

(b) No department or agency of the United States shall exercise any supervision or control over any school with respect to which any funds have been or may be expended pursuant to this title; nor shall any term or condition of any agreement under this title relating to, or any lease, grant, loan, or contribution made under this title to or on behalf of, any such school prescribe or affect its administration, personnel, curriculum, instruction, methods of instruction, or materials for instruction.

In other words, your committee, to the best of our knowledge and belief, has protected the rights of your local communities, which I am sure each and every Member of the Congress wants to do. Regardless of whether or not you participate in these funds, you are going to retain your local self-government, and your local school board will have authority over the expenditure of that money. I want to impress on the minds of Members that, first, before you are to receive any of the money, you have to show a definite need. This money, I hope, is not going to be scattered to the four winds of heaven. It has been mentioned here that this bill might prove to be a pork barrel.

Mr. Chairman, we pass day in and day out legislation that can be "pork barrel," but I think we all agree that you cannot legislate morality. We must give to some individual or department a certain power and trust that individual or department to exercise good, common sense, and to keep in mind that we all have to pay taxes. I do not consider this bill a "pork barrel," because we have to establish our need, and that need is submitted to the President. Then your local board has control over the amount of money received and the amount of money to be matched, if it is deemed advisable to match it, so that we are the Federal Government coming to the assistance of the local organizations and communities.

The same thing applies to hospitalization. It was called to my attention a few moments ago, why incorporate hospitals? We have the same conditions in respect to hospitals, though not to such a great extent as exists in schools. Take an influx of two or three or four hundred percent of population moving into a community where there are no hospitals, no sanitary and sewer systems, no recreational activities. The recreational ac-

tivities come to my mind because most of us do not believe in the procedure of some of the departments relative to recreation. Nevertheless, these soldier boys are in the camps 7 days a week, and on Saturday night—and I think I can talk from experience—they go to town; they want to get out of the camp; and unless we make the decent things attractive, the indecent things will take our soldier boys. So let us be fair-minded in this proposal and realize that the future of our youth and the future of our Nation is not only in the number of guns and airplanes but in the morale of our youth.

Mr. JENKINS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MCGREGOR. I yield to my distinguished colleague.

Mr. JENKINS of Ohio. Take, for instance, a camp exclusively for soldiers, where the land belongs to the Government, and all the cantonments, and the buildings belong to the Government. I assume in that case if there are any improvements there, of course, the title to those improvements will go to the Government when the camp is abandoned. Take the case like a big ammunition plant to be built at Ravenna, Ohio, between Canton and Cleveland, in a thickly populated section. I presume that will be a permanent institution, although it would not require very many acres of land, nothing like 40,000 acres of land, but only a few thousand. You will probably build a school there, and it is said that the curriculum and the management of that school will be under the local board of education. But suppose that plant becomes a ghost plant, then to whom will the title of the school buildings pass? Will the title rest in the local authorities and remain there? What is the understanding?

Mr. MCGREGOR. The title to the school buildings at all times, even while the plant is in operation, will be in the local school boards. The money will be there, an outright grant, or loan, depending upon the condition, and the title to the land will be in the school board. You must remember that this money is to be expended outside of the cantonment, outside of the federally owned property, because the cantonment proposals are carried in one of the former bills.

Mr. LANHAM. Mr. Chairman, will the gentleman yield?

Mr. MCGREGOR. Yes. I yield to my distinguished chairman.

Mr. LANHAM. In further response to the gentleman from Ohio [Mr. JENKINS] there is a provision in the law with reference to the disposition of this property. I think, however, it should be modified somewhat, but it was the thought of the committee that we had better postpone that a little bit later, to see what the circumstances are, and just what legislation should be passed in that regard.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. HOLMES. Mr. Chairman, I yield the gentleman 1 minute further.

Mr. LANHAM. For instance, it might be advisable at that time to turn some of these facilities over to the Army or the Navy, or both, from the standpoint

of our permanent-defense policy, so it was the thought of the committee that we should defer action on that until we could be a little better advised in carrying out the program.

Mrs. ROGERS of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. MCGREGOR. Yes. I yield to the gentleman from Massachusetts.

Mrs. ROGERS of Massachusetts. If I understand it, you will take over certain buildings in cities and towns for recreational purposes.

Mr. MCGREGOR. That is correct, providing it is requested by local authorities and with their cooperation.

Mrs. ROGERS of Massachusetts. In order that the men may have some place to go when they are on leave. Fort Devens is in my district, and thousands of men pass through the cities and towns in my district.

Mr. MCGREGOR. That is one portion of the bill, but the largest part of the bill is the schools and hospitals. However, it is possible, under the bill, to assist the recreational functions of the local communities. By that I mean that the Federal Government would have authority in cooperation with the Y. M. C. A., the K. of C., and so forth, to participate. [Here the gavel fell.]

Mr. HOLMES. Mr. Chairman, I yield 5 minutes to the gentleman from New York, Mr. EDWIN A. HALL.

Mr. EDWIN A. HALL. Mr. Chairman, first I wish to say that I expect to support this bill. I have heard a great deal of discussion pro and con, and I am frankly of the opinion that under the circumstances of the emergency facing our national defense, the passage of this measure is necessary to facilitate the various educational and hospitalization programs under way throughout the country.

I am going to describe briefly a certain community within my congressional district, namely, that of Sidney, N. Y., which is the home of a subsidiary division of the Bendix Corporation, called the Scintilla Co. This plant has expanded almost 33 1/3 percent since the defense program began. An influx of workers from all neighboring communities in my district, as well as from many distant sections, has taken place. Naturally it has created problem after problem to this small locality in which a limited number of people resided previously. I do not think I am guilty of overstatement by saying that the population has increased by almost the same amount, that is, nearly one-third, that the activity of the industry has increased. So for that reason it presents the problem not only of housing in that small community but also of educating the children whose parents have taken advantage of this new employment and caring for the sick.

There are numerous other villages and towns scattered about in the neighborhood. Of course, some housing facilities exist in those places, but even using the communities which are adjacent to Sidney, N. Y., which include Unadilla, Afton, Bainbridge, Norwich, and many other smaller centers, there is still a dearth of housing, schools, and hospitals that is of

a serious nature. It necessitates the commuting of workers and employees to the Scintilla Co. from points at uncomfortable distance from that locality.

Therefore, I feel that the passage of this bill will make available better schooling, and improve educational and health facilities in the locality of that great corporation.

I would be remiss in my duty to the people of local governments in my district were I not to point out some of the fallacies of the particular philosophy of government emphasized in this bill. After all, a true discussion of any question is only brought about by seeing both sides of the question. I am probably as guilty as other proponents of this measure when I support the general idea of aid and help from the Federal Government to the small communities and local subdivisions of government throughout the country. One cannot look at the present situation and the questionable road upon which we are traveling without deploring the tendencies which are made manifest in America today not only by the defense program, but today also by the general conduct of government. I, for one, Mr. Chairman, am very sorry to see the concentration of the power and prerogatives of government lodged here at Washington at the expense, in many cases, of local self-governing units. [Applause.]

[Here the gavel fell.]

Mr. HOLMES. Mr. Chairman, I yield 10 minutes to the gentleman from Michigan, Mr. DONDERO.

Mr. DONDERO. Mr. Chairman, this bill seeks as its sole objective the solution of some problems which the Federal Government has been compelled to create because of its national defense program. It has no other objective than that.

I have supported this measure since its very inception before the Committee on Public Buildings and Grounds and shall vote for it. It ought to have the unanimous support of this House and I hope there will be no opposition to it.

Two weeks ago I returned to my State and was present when the first 28-ton tank rolled off of the line of the new \$20,000,000 tank plant built with Federal funds, and situated adjacent to my congressional district just outside the city of Detroit. Nine months ago where that tank plant now stands was farm land. The plant is located in a semi-urban locality. It is almost entirely within the corporate limits of a village known as Center Line, Warren Township, Macomb County, Mich. It is a typical American community. It is in the district of my distinguished colleague from Michigan, Mr. WOLCOTT. The school board of that locality has been in Washington and appeared before this committee, presenting its needs on account of the problems created by the construction of that plant. A survey was made by the office of the superintendent of public instruction of Michigan as to what might be needed in Michigan by reason of the national defense program. Can you imagine a town of 3,000 or 4,000 people having a plant constructed within its area of this dimension—and it is a mighty plant, where they expect an in-

flux of nearly 6,000 children, which will require 160 additional school teachers? Can you imagine a school board of a little village of 3,000 or 4,000 people with ordinary school facilities, trying to solve the problems that have arisen by reason of conditions such as that? It simply cannot be done, and there is no other way it can be done except by the appropriation of public funds contemplated under this bill.

My interest in this matter, however, is directed to its possible effect on public education. It so happens that I am a member of the House Committee on Education.

Mr. LANHAM. Mr. Chairman, will the gentleman yield?

Mr. DONDERO. I yield.

Mr. LANHAM. I should like to say in deference to the distinguished gentleman from Michigan that he appeared before the committee and recommended an amendment with reference to this provision for education and that we were all in accord with his sentiments. I believe we have even strengthened the amendment he offered.

Mr. DONDERO. I thank the gentleman for his statement and I know that the recommendation has been written into this bill and is subdivision (b) of section 203 which provides that the Federal Government shall not walk inside the schoolhouse and regulate or control its administration or its operation. In my judgment all the Federal Government should do under the provisions of this bill—and I think that is the intent so ably explained by the chairman of this committee—is to provide the funds and to aid and assist in the construction of the buildings. Beyond that public education should remain under the jurisdiction of the local school boards and the school authorities of the several States of this Union. In other words, the hand of the Federal Government should not be laid upon the subject of public education in this country. It is one of the major activities of the American people not yet seriously invaded by the Federal Government either through the appropriation of money or by legislation.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. DONDERO. I yield.

Mr. MURDOCK. Before asking my question let me say I agree with the gentleman 100 percent in the statement he has just made. I rose to ask the gentleman whether in the State of Michigan there is a provision for aid by a unit larger than the community in the matter of the cost of providing teachers.

Mr. DONDERO. We have State aid to the extent of what is known as primary-school funds, which provide a certain per capita amount for every child of school age within the State. That is distributed throughout the State in a uniform manner.

Mr. MURDOCK. If 160 additional teachers will be needed who will pay for them? Will that be taxed on the local community or will the Government pay some part of it?

Mr. DONDERO. Under the report filed with the committee presenting this

bill not only is the operation and maintenance of the schools intended but the cost of the teachers also is included. In the community to which I have alluded, for example, it will cost nearly \$2,000,000 to provide school facilities to take care of approximately 6,000 additional children which are expected to come into that community by September of this year. The 160 school teachers needed will cost nearly \$200,000 annually in addition to the buildings, transportation, and maintenance of the school buildings. It is utterly impossible for the local school board to provide adequate school facilities of such magnitude without Federal aid.

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. DONDERO. Yes; I yield to the gentleman from Pennsylvania.

Mr. RICH. With regard to the matter of schools—and I may say I agree with what the gentleman has said, would the gentleman agree to an amendment being placed in the bill on page 2, line 16, where it reads "be devoted primarily to schools," an amendment to strike out the word "primarily" and insert the word "public," so it will read "devoted to public schools"?

Mr. DONDERO. I may say in answer to the gentleman from Pennsylvania that I discussed that question at some length with the chairman of the committee. The gentleman from Texas does not believe it is necessary to protect the question of public schools in this country.

Mr. RICH. The point is that if the Federal Government is going to assist only public schools we should make it specific and certain in the bill. Would the gentleman support such an amendment if it were offered?

Mr. DONDERO. If such an amendment were offered, I might support it.

Mr. MCGREGOR. Mr. Chairman, will the gentleman yield?

Mr. DONDERO. I yield to the gentleman from Ohio.

Mr. MCGREGOR. Is it not a pretty fine-spun question whether or not a vocational school is a public school?

Mr. DONDERO. The gentleman is getting into a question to which I have devoted no thought.

Mr. MCGREGOR. That was the reason the word "public" was left out. I am a member of the subcommittee and may say we discussed this at length. The question arose as to whether or not a vocational school was a public or private school, and to obviate any doubt we left out the word "public."

Mr. WILSON. Mr. Chairman, will the gentleman yield?

Mr. DONDERO. I yield.

Mr. WILSON. A vocational school can be a public school the same as any other school can be a public school. Many of our schools in Indiana are vocational schools. They are supported by public funds and are public schools. The factor that determines the nature of a school is whether or not it is supported by public funds, not the nature of the courses it teaches.

If the gentleman will yield further, I may say, in answer to the gentleman from Pennsylvania about limiting it to public

schools, that if we confine this bill to \$150,000,000 we certainly are not going to have much money to spread anywhere to take care of schools. So why do anything to develop class hatred in this country by these amendments?

Mr. DONDERO. I may say in connection with the statement of the gentleman from Indiana that the report filed by the Office of Education shows that out of this \$150,000,000 nearly \$100,000,000 might be very properly applied to the subject of public education to solve its problems created by our national-defense program.

Mr. MAGNUSON. Mr. Chairman, will the gentleman yield?

Mr. DONDERO. I yield.

Mr. MAGNUSON. I am glad the gentleman brought that out, because if the Members will look at the hearings, from page 100 to 109, they will find that the survey made by the Office of Education shows that over \$100,000,000 would be needed for schools in and about Federal reservations alone.

[Here the gavel fell.]

Mr. DONDERO. Mr. Chairman, I recognize the necessity of this bill and hope it will be agreed to and that there will be no opposition to it.

Mr. HOLMES. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota [Mr. ANDERSEN].

Mr. H. CARL ANDERSEN. Mr. Chairman, I ask unanimous consent to speak out of order.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota [Mr. H. CARL ANDERSEN].

There was no objection.

Mr. H. CARL ANDERSEN. Mr. Chairman, scrap iron, for years past, has been shipped in quantities of hundreds of thousands of tons to Japan against the protestations of those of us who felt this to be a very dangerous procedure.

These shipments have been forbidden by our Government lately and the unqualified approval of the average citizen throughout our Nation has been given this step, although far too late in being put into effect to please the most of us.

Now another sinister problem, closely allied to that of shipments of scrap iron to a possible unfriendly power, is being brought to the notice of Congress. Day after day, week after week, oil in huge quantities is being exported from the United States direct to Japan.

Our Nation has been committed by an act of Congress to "all-out material aid" to the British Empire and by the same act against any possible aid to aggressor nations who seek to dominate the world. That "material aid" is apt to shortly include "manpower," to judge from the recent speeches of those close to the administration, Cabinet members in particular.

It seems to me utterly foolish and dangerous to our Nation that the exportation to Japan of oil or its products is permitted at all today. Japan having signed up as a partner in the Axis, and having declared that it is honor bound to fight against us if we unfortunately are forced into the war.

I am not one of those who claim our only salvation is to go to war so as to prevent the possible destruction of the British Fleet. On the contrary, while

hoping that the British nation will be victorious over those seeking to destroy her as they have destroyed numerous small nations in Europe, I cannot agree that this is our war.

It seems strange to me, however, that our Government on the one hand actually gives away a portion—small as it may be—of our fleet, together with unlimited supplies of war to Britain, and on the other hand permits untold quantities of oil and gasoline to be shipped to Japan, and from there none of us knows where.

Surely we all know that the chances are at least 50-50 that our own fleet may be engaged in deadly combat with that of Japan. It may be fighting against ships constructed from our scrap iron imported from our Nation and whose engines feed on our oil. Shall our air force, which is a component part of the Navy, fight against planes powered with our gasoline?

We know what the answer of the American people would be on the question of whether we should or should not ship oil to Japan. The answer would be an overwhelming "no," even if Dr. Gallup might find otherwise with one of his customary leading questions. Everyone knows that and yet the oil still flows across the Pacific into Japanese reservoirs, thence into Japanese war vessels, and airplanes devoting their leisure hours to the destruction of Chinese lives.

The administration stopped, although years too late, the shipment of scrap iron to Japan. Surely it is time to forget the profits of oil companies and stop this supplying of the No. 1 war necessity, oil and its products, to a nation which has shown anything but a friendly attitude to our country of late. [Applause.]

Mr. Chairman, we must end this iniquitous practice of furnishing potential enemies with the wherewithal to perhaps later slaughter American boys. Why, in the name of everything dear to us, should our Nation let any war material, oil or otherwise, leave our shores at this time destined for a nation that has publicly proclaimed its enmity?

I shall follow this speech up by preparing a bill for introduction, if such a bill can be drawn up which will prevent this almost criminal action in permitting today the exportation of war material our Navy may have to fight against.

Mr. Chairman, in this connection I want to read an editorial which appeared in yesterday morning's Christian Science Monitor having to do with this very subject. The editorial reads as follows:

OIL FOR THE MOTORS OF JAPAN

Would you hand a man ammunition for a gun he was pointing at your head?

Just a few days ago Yosuke Matsuoka, Japanese Foreign Minister, reiterated to an American newspaperman what has been implicit in the Japanese-Axis tripartite agreement ever since last September—namely, that if the United States became involved in hostilities with Germany, Japan would feel bound to fight against the United States.

Yet under these pleasant neighborly circumstances the export of petroleum products—gasoline, fuel oil, and lubricating oil—from the United States to Japan increased from 1,279,000 barrels in February to 1,553,000 barrels in March. These are the figures of the Department of Commerce.

Much of this oil and motor fuel is sure to be used by the Japanese Navy, Army,

and air force in continuation of their bombing raids on civilians in China and in their penetration of Indochina.

At the same time comes news that British-American oil companies have renewed agreements under which last November they more than tripled the quota of oil furnished to Japan from the Netherlands East Indies. Admittedly the oil companies and the foreign offices are in a delicate business when they attempt to reduce supplies of petroleum products to Japan. The Japanese military government needs these so desperately that if it cannot buy them it is apt to try to take them by force.

But if force should come into play—against the American Navy, outposts, and trade routes in the far Pacific as it is already employed against the hapless Chinese—whose force would it be? Part of it would be the propulsive energy of American fuel oil and gasoline turning Japanese engines lubricated by American oil. Presumably the Japanese can provide their own explosives, though an important source of toluol, basis of TNT, is petroleum.

Does it make sense for America to go on fueling the implements of war which already are pointed in her direction?

[Here the gavel fell.]

Mr. HOLMES. Mr. Chairman, I yield such time as he may desire to the gentleman from Pennsylvania [Mr. RUTHERFORD].

Mr. RUTHERFORD. Mr. Chairman, there is little that I can add to the fine statements made by the distinguished chairman of our committee and to those of the other members of the committee who have preceded me, in reference to the need of this legislation. I believe that this legislation is necessary under the present existing conditions brought about by our national-defense program, and I propose to vote for this bill. Our committee not only held exhaustive hearings on all phases of this question, we also made a 3-day inspection of conditions existing in and about the Hampton Roads section of Virginia, which appeared to be typical of like conditions existing in other parts of the country. Our hearings revealed that many communities have real problems on their hands as a result of the sudden change of population. Problems arising from conditions not of their own choosing but from conditions thrust upon them and which under present conditions they are unable to handle properly. The school problem seemed to be one of the most urgent that had to be met. In many communities the school population has greatly increased far beyond the ability of the local municipality to handle it. New school buildings are needed. Money must be provided for the hiring of teachers. This cannot be done because most of the municipalities are up to their limit so far as bonded indebtedness is concerned and to place the additional cost of hiring teachers upon the already burdened taxpayers of the locality would hardly be fair. So it becomes necessary for someone to step in and assist these municipalities over these difficulties for the time being and under the circumstances I can see no one that can do it except the Federal Government. In time these new workers will become a part of the taxing scheme of the community, and the situation will be gradually taken care of. But in the meantime some help must be

given these communities, and this bill provides the method. What is true of schools is also true in regard to the needs of providing streets, additional water and sewer systems, and hospital facilities. It cannot be expected that the people who at present are old inhabitants of these municipalities should be expected to provide all of these present improvements to take care of the increased population. These localities may be simply boom towns for a year or so and then when this emergency is over the people will move back to their original homes leaving ghost towns behind them. If, however, this emergency should be prolonged beyond our present expectation, then the workers will become a part of the communities and will pay taxes, and in that way these facilities will carry themselves. The question of receiving money from the Federal Government for schools, and so forth, gave myself and a number of members of the committee some concern. We were fearful that such grants would also have some strings to them—that the bureaucrats would want to control the running of the school and other municipal affairs. In order to prevent that and to assure the people throughout the country that the funds granted by the measure were for their assistance and not for the purpose of control our committee specifically provided in this bill that such public works shall not be maintained and operated by officers and employees of the United States if the local and private agencies are able and willing to maintain and operate them adequately with their own personnel. We also provided in this bill that no department or agency of the United States shall exercise supervision or control of schools, hospitals, and so forth, and that the grants or loans made to them shall not affect their administration, personnel, or operation. It was the idea of the members of the committee to help and not injure these various agencies which, under these pressing circumstances, were called upon to ask help from the Federal Government. After considerable thought and discussion the members of the committee were of the opinion that the administration of this bill should be placed in the hands of the Federal Works Administrator who has well demonstrated his ability to handle matters of this nature. I trust that the measure will pass with a real majority. [Applause.]

Mr. HOLMES. Mr. Chairman, I yield such time as he may desire to the gentleman from Michigan [Mr. SHAFER].

Mr. SHAFER of Michigan. Mr. Chairman, the urgent need of this legislation is shown in a survey made recently by the Office of Education, copies of which I hold in my hand. This survey shows an imperative need in many localities for additional school facilities to accommodate all personnel connected with projects essential to the national-defense program. Most local school administration units at or near these defense areas cannot possibly during the current school year, and probably not for several school years, provide the required facilities for the additional children who have been added to their school enrollments.

No one can deny that the Federal Government has been responsible for the sudden removal of these children into communities and, therefore, must assume the responsibility in providing additional adequate school facilities for them, and this Congress should, without delay, authorize the use of funds to assist the school authorities of the affected communities in providing for their needs.

As I stated while discussing the rule, we must be realistic in this matter. Our national-defense effort has provided serious problems for school authorities throughout the country. New school sites, buildings, additions, and equipment are needed. Transportation equipment for pupils to and from existing public schools, not within walking distance, must be purchased. Cost of operation and maintenance of school plants, including salaries of teachers and other costs of instruction must be borne by the Federal Government in fairness to the communities, as well as in fairness to the children.

It has been proposed here this afternoon that the amount of \$150,000,000 carried in this legislation should be reduced to as low as \$25,000,000. In my opinion, \$150,000,000 will not be a sufficient amount adequately to take care of this problem.

Under the proposal of the committee that a board, composed of one or more representatives of each of the governmental agencies which operate with reference to the various features of public works concerned, shall confer with the administrator relative to the needs shown by information and surveys from affected communities, I believe that these funds will be properly administered and that in no sense of the imagination will anyone be able to label this fund "another pork barrel."

I repeat, I do not believe \$150,000,000 is sufficient. I would gladly support an amendment to increase the amount of the appropriation. A survey by the Office of Education shows that an estimated number of 204,265 additional children will attend schools in communities affected by defense expansion next September; 50,283 of these children will have to be transported to and from their homes. It is estimated that 6,710 additional teachers will be required to instruct these children. An estimated total of \$65,047,194 must be spent in the construction of new buildings, additions, equipment, and alterations. This also includes transportation equipment. The Office of Education further estimates, as a result of its survey, that a grand total of \$77,561,529 will be needed for operation and maintenance of school plants, operation and maintenance of transportation, and the salaries of teachers.

Although there are many communities in the United States more seriously affected than those in my congressional district, which lie adjacent to Fort Custer, the problem there is acute, and I believe should be detailed in this debate.

Fort Custer is located approximately 5 miles from the city of Battle Creek, a city of 44,000 population. The fort in the past year has been developed to a point where it will now accommodate

20,000 troops; 800 buildings have been completed on this site since last September 1, and the fort now accommodates 5 divisions, plus 3,000 colored troops, which were brought from Chicago. Approximately 800 commissioned officers with families have moved into the fort area, together with 1,400 noncommissioned officers with families, making a total of 2,200 families directly connected with the Military Establishment, not including many families of civilian employees. As near as can be estimated, 4,500 additional children must be accommodated by the school systems of the city of Battle Creek, Lakeview Township, Level Park, and the village of Augusta by September 1941. The gain in students so far this year has caused the school authorities to consider half-day sessions in order to accommodate the increased attendance. A constitutional 15-mill tax limitation has practically eliminated any building program in or near Battle Creek since 1932 and prohibits school authorities from consideration of new buildings at this time.

I should like to discuss the school problems in each of the communities adjacent to Fort Custer. Because of limited time, however, I am unable to do this. As an example, I desire to point out the difficulties faced by the village of Augusta, bordering on the fort reservation. Ross Township, in which the village of Augusta is located, has suffered a loss of one-third of its assessed valuation and a 100-percent increase in property taxes as a result of the establishment of the fort in that township. The school-tax rate has reached a point that is creating actual hardship. Due to the proximity of the fort and the influx of students from the fort, no doubt an addition to the present school of the village will be necessary. In Urbandale, Springfield Place, and Level Park classroom loads have almost doubled within the past few months and buildings are inadequate to accommodate these children.

This legislation is designed to relieve congested conditions in schools adjacent to defense industries. If such relief is to be accomplished before the beginning of the school year next September, there can be no delay in the passage of this bill. As I said in the beginning, the Government is responsible for the situation and the Congress should accept this responsibility today. [Applause.]

Mr. HOLMES. Mr. Chairman, I yield myself 15 minutes.

Mr. Chairman, our committee has given very serious consideration to this legislation. There is not a great deal I can add to what has been said in reference to this recommended legislation. I believe the chairman of the Committee on Public Buildings and Grounds has very ably presented the thoughts of the members of the committee in connection with its recommendation.

We have a serious problem, and there is no one who will dispute that. We are in an emergency, and while I realize that almost everything which comes on the floor of this House today is prefaced with the statement that it is in the interest of national defense, may I say that we have a situation in the communities throughout this country today that is

not of the communities' own choosing. Huge industrial plants have been built in small communities, in many cases, and adjacent to small communities and the influx of workers and their families and children have placed upon these communities a burden which it is difficult for them to bear because of the past years of depression; the years of unemployment and the heavy welfare burden which they have had to carry for the last 10 years.

Anyone who is familiar with municipal government, knows it is essential when you add to the population of a particular municipality to provide schools, hospitals, an adequate water supply and adequate facilities for the treatment of sewage, and to build larger water mains, extend those water mains and sewer mains. We know that type of construction is very expensive.

Mr. Chairman, our Government has created this condition. We have appropriated heretofore \$300,000,000 to erect homes for defense workers throughout the United States. Many of these homes are already occupied by defense workers. Many of them have not the advantages of the facilities that should go with the development of this housing program.

It is an emergency, and there is a great need at the present time for the Government to do its share in cooperating with the communities to extend these facilities. This legislation calls for the expenditure of \$150,000,000, and in the authorization we do not segregate the amount in any way, shape, or manner, because we have full confidence in the Administrator. None of these projects will be approved, as we understand it, before they are submitted to the Administrator by the communities themselves. In other words, the community itself has got to place before the Administrator evidence of the need of the community, as well as full plans and the estimated cost of these improvements.

Surely, if you have the community present its own problem and its own need, and they work that out in a cooperative way, I do not believe you are going to have much of this money wasted, and it will not develop into what some have termed "a pork barrel." Some of us have had experience in municipal life. We know the problem. I believe we are taking the proper course here to provide Federal money to help these communities make these facilities available.

Mr. CULKIN. Mr. Chairman, will the gentleman yield?

Mr. HOLMES. I yield to the gentleman from New York.

Mr. CULKIN. I have been told and understand that the General Staff of the service has made an investigation into that question. Do they not function at all in connection with this bill?

Mr. HOLMES. This has nothing to do with the military phase of our defense program.

Mr. CULKIN. But they have studied the thing, and I understood they were going to make some recommendations.

Mr. HOLMES. I do not know whether they have studied the needs of communities. They probably have studied the needs of their own cantonments, camps, forts, and so forth.

Mr. CULKIN. That is right.

Mr. HOLMES. This bill has no relation to that.

Mr. CULKIN. There must be an independent application by the locality?

Mr. HOLMES. That is true.

Mr. CULKIN. I believe the bill is an excellent one and very much needed.

Mr. HOLMES. I appreciate the comment of my colleague from New York.

There has been much criticism in the past because in some instances the defense housing authority has gone into communities and, without consulting the authorities in the communities, acquired land, and started to build houses. This criticism has justly been made. It was never the intent of the committee that recommended this legislation originally that we should give any authority to any public authority here in Washington, or any Federal authority, to ride roughshod over any community. It was our hope and thought that they would sit right down around the table with the authorities involved and work out a solution of the housing problem, also what public utilities are needed to be constructed in connection with the housing program.

It is certainly hoped that under this legislation there will be closer cooperation. I feel sure there will be, because here the Administrator of Public Works has full authority, and it is before him and his associates that these communities will have to come to lay their plans and work out a solution. It is a little different situation when it comes to a public facility than it was in connection with the acquiring of land and the building of houses.

I believe we have worded this legislation in such a way that we have absolutely protected the sovereign right of the community. We do not want any Federal authority, as far as we are concerned, to take an arrogant view and feel that because they are representatives of the Federal Government they can go into any community and in violation of all laws and ordinances do what they please. I hope we have solved that situation with the language in this bill.

I certainly hope this House will support this legislation, because there is great need for this work. Personally I have visited many communities. I spent several days in Hampton Roads, in the district of our colleague the gentleman from Virginia [Mr. BLAND]. I spent some time in New Jersey, Pennsylvania, Massachusetts, and Connecticut, studying personally the needs of the communities.

This legislation does not mean that the Federal Government is going to dump this money into a community without regard to reason. Many communities can contribute a great portion as a contribution to this work. There are many communities, as has been stated before on this floor, which are small and financially unable to meet the problem of this huge influx of employees and their families. So in many cases the communities will never ask the Government for one solitary penny and will take care of their own needs, while in other cases the community and the Federal Government will go 50-50, and in still other cases the Government will have to provide prac-

tically all the funds to create these facilities.

Mr. CURTIS. Mr. Chairman, will the gentleman yield?

Mr. HOLMES. I yield to the gentleman from Nebraska.

Mr. CURTIS. The gentleman is making a very fine statement. As I understand, this bill provides certain funds for school buildings?

Mr. HOLMES. Right.

Mr. CURTIS. Is any policy laid down by the committee as to whether these buildings shall be temporary in nature of construction or shall be permanent and expensive plants?

Mr. HOLMES. May I say to the gentleman that it all depends upon the location, and also the community itself, whether in the opinion of those in authority they can assume a permanent structure. In other words, many of these schoolhouses will be of a temporary character, but it would be foolish to put into a community a temporary school building that will eventually have to be torn down, when the need for it will continue.

Mr. CURTIS. In case they are permanent structures, does the Federal Government pay the entire bill?

Mr. HOLMES. As I stated a few moments ago, there are some cases where in all probability the Federal Government will have to pay the entire bill. There are other cases where it may be a 50-50 proposition.

Mr. CURTIS. Is there any limitation on the amount that can be spent for recreation halls, gymnasiums, and other nonessential structures?

Mr. HOLMES. As far as I am concerned, I do not know that a recreation facility or a library has yet become a public utility.

Mr. CURTIS. The bill specifies it, does it not?

Mr. HOLMES. It does provide the words "recreational facility" here, but I can assure the gentleman that with the demand for schools, hospital additions, waterworks and purification plants, extension of improvements, sidewalks, curbs, and streets, it is rather difficult to see where we could find any money to provide for buildings outside of the most essential.

Mr. CURTIS. It is the intent of the committee that this is to be confined to the essentials?

Mr. HOLMES. Positively, very strongly so.

Mr. LANHAM. Mr. Chairman, will the gentleman yield?

Mr. HOLMES. I yield.

Mr. LANHAM. Is it not true there will be representatives of these various agencies, for instance, of the Social Security Board, the Bureau of Public Health, the Office of Education, and a great many others that have made these surveys, and they will present the facts and circumstances of each particular case to the Administrator?

Mr. HOLMES. That is true.

Mr. LANHAM. And if a loan is the thing that will meet the situation, then it will be a loan.

Mr. HOLMES. That is true.

Mr. LANHAM. Circumstances alter cases, and there are so many different

classifications it is hard to get any other than broad language that will cover them all.

Mr. HOLMES. That is true.

Mr. THOMASON. Mr. Chairman, will the gentleman yield?

Mr. HOLMES. I yield.

Mr. THOMASON. Is it left to the sole discretion of the Administrator whether it shall be a loan or a grant or a loan and grant? In other words, are there any rules and regulations prescribed for a community to determine whether or not it is going to get a 100 percent grant or a loan, and how are you going to determine that?

Mr. HOLMES. That all depends on the financial condition of the community.

Mr. THOMASON. Who determines that?

Mr. HOLMES. The President is the final authority. The Administrator, together with the community, will work out the problem and then the recommendation is made for approval or rejection.

Mr. THOMASON. If the community cannot contribute anything to the project, but the project is absolutely necessary, the President, through the Administrator, can grant a 100 percent grant. This is very important legislation. I just want to make sure that we understand it and get it right. I have at least two communities that are vitally interested, and they are deserving of assistance.

Mr. HOLMES. Yes.

[Here the gavel fell.]

Mr. HOLMES. Mr. Chairman, I yield myself 3 more minutes.

Mr. DONDERO. Mr. Chairman, will the gentleman yield?

Mr. HOLMES. I yield.

Mr. DONDERO. In answer to the question of the gentleman from Texas as to whether or not it will be a 100-percent grant or an aid to a particular district, I think that should be determined upon the question of whether or not it is a permanent building or a temporary building from the very nature of the case, because when this defense program ends, the big munition plants may be moved away and the community again returned to normal conditions when there would be no further need for the building.

Mr. HOLMES. I will say to the gentleman that has been the view and the thought of the committee. These conditions have to be individually analyzed and decided.

Mr. DONDERO. And each case should be decided separately.

Mr. HOLMES. Absolutely.

Mr. OLIVER. Mr. Chairman, will the gentleman yield?

Mr. HOLMES. I will be glad to yield to the gentleman.

Mr. OLIVER. I notice in section 201, the policy section of this bill, the committee has declared the policy to be that certain types of projects shall be undertaken. I was wondering whether or not the committee felt that schools might occupy a priority position with respect to importance in these various types of projects.

Mr. HOLMES. Does the language in line 16 of page 2, "shall be devoted primarily to schools," lead to the question?

Mr. OLIVER. My purpose in asking the question is to determine whether or not the committee considered establishing any priorities with respect to certain types of projects.

Mr. HOLMES. No; we have not done that.

Mr. OLIVER. Does not the committee feel that schools occupy, perhaps, a much more important position than some of the other projects that are listed here?

Mr. HOLMES. I can answer the gentleman by referring to what I stated a few moments ago. There are 6,000 employees and their families brought into a community of about 3,000 people and the first essential, of course, in connection with housing is an adequate water supply, adequate sewage facilities for sanitation purposes, which is most important in a community of that kind, and it is essential that they get those things into operation so they can have an abundance of fresh water and proper sewage facilities. Then, of course, will come schools and then hospitals, but they are all to be treated more or less as one proposition.

Mr. OLIVER. Was not the committee in position to make allocations of this \$150,000,000 to certain types of projects?

Mr. HOLMES. Our committee did not feel that that was a proper function for the committee, and there were so many ramifications and so many projects that it would be difficult to say whether the school should have priority, or sanitation or some other conditions in the community. It all depends on the particular community.

Mr. OLIVER. But it was the feeling of the committee that the schools should occupy a very essential position?

Mr. HOLMES. Very much so.

Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. MOTT].

Mr. MOTT. Mr. Chairman, this bill will soon be read for amendment. If there is real objection to any of the provisions of the bill, I think those who object should offer amendments in an effort to remove the objection, and if there is any real fear that this money may not be spent in a proper way, those who think so should try to reach that matter by amendment also. But certainly, the purpose of this bill is sound and the objects which it seeks to accomplish are necessary, and the bill, therefore, ought to have the support of the general membership of the House.

I view this bill from a national angle, for the problem it deals with is national in scope, but I know of no better way of illustrating the national importance of it than to cite a local instance with which I am very familiar, and which, I am sure, has its counterpart in many other sections of the country. There is a situation at the mouth of the Columbia River in Oregon where important military and naval establishments are located. There are three military establishments there which, in peacetime, were manned by a company or probably a little more than a company of soldiers. These reservations, particularly the one at Fort Stevens, Oreg., are now garrisoned by many regiments. The little school district of Hammond, which is adjacent to Fort

Stevens, has been undertaking to educate the children of officers and enlisted men stationed on the Fort Stevens Reservation. They succeeded in doing this, by shouldering a huge tax burden, up until the time we began our Army expansion program. Now, however, it is absolutely impossible, physically and financially, for them to do so. This little school district has neither the money, the school facilities, nor the tax-raising ability to take care of these hundreds of additional school children.

The same situation will arise when the naval air station in that area is completed. There will be stationed at the Tongue Point Naval Air Base, adjacent to Astoria, 1,400 additional men and officers. It is impossible for the community without financial assistance to furnish the school facilities for these greatly expanded military and naval establishments.

What is true of the Oregon community I mention, I know is true of communities in almost all of the States of the Union. It would be impossible for the States to solve this question without Federal help. I believe this bill presents a sound, feasible, practical, honest method of solving that question. I have a great deal of confidence in the distinguished chairman of the committee which reported out the bill, and in every one of the members of that committee. They have presented to us a meritorious measure, and I certainly hope that the bill will receive the general support of Members on both sides of the House.

Mr. LANHAM. Mr. Chairman, I yield now to the gentleman from Arizona [Mr. MURDOCK].

Mr. MURDOCK. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD at this point.

The CHAIRMAN. Is there objection? There was no objection.

Mr. MURDOCK. Mr. Chairman, the explanation of this bill not only by the chairman but by members of the committee on both sides of the aisle, has been very clear and quite compelling. My original support of the idea contained in this legislation is greatly strengthened by what my colleagues have said concerning the purposes and objectives of this measure. I think it is timely for the Government to take these steps and quite necessary and proper that we do so in this emergency, for I can think of times past when the Government has been less thoughtful than it is at this moment in the provisions before us.

When the chairman answered my question earlier today he indicated that not only would public-school buildings be furnished under this enactment where they were most needed, but that the financial assistance would apply to other material equipment. That pleases me greatly, and I am also pleased with the statement made by the gentleman from Michigan [Mr. DONDERO], in answer to my query, concerning the additional teachers which would be needed in any given locality receiving such aid. I understand that the Federal Government will help with the additional teaching staff as well as with the material equipment. That, I think, is proper and right.

I recall certain communities in my State where the school population was greatly increased a few years ago in an emergency before our defense program started, but the Government in that instance did not furnish any of the extra teachers needed. Knowing of that extra load and hardship on such needy communities, I greatly favor those provisions in this bill.

It has been suggested that we ought not to provide recreational facilities here, but I cannot agree. In general, all of our schools have some recreational facilities, but I think, taking the country over, that our schools do not provide enough recreational facilities. Certainly, these improvised public schools in these newly enlarged communities ought to have the same recreational facilities as our public schools generally furnish.

There is considerable discussion about the control of these schools. I think the measure before us is right in leaving that control where it now is and belongs, and that is with the local public school authorities. As a school man, I have long favored more financial support and aid for public schools, leaving the control as it is now fixed in the State, county, and district authorities. America is so proud of its public-school system that we may safely depend upon it that funds furnished by the National Government and left in the control of the local authorities will be used to the best advantage, and should be subject only to proper accounting to see that the money is spent for the purposes for which it was appropriated.

While I would be inclined to give priority to schools, certainly, hospitals rank in the very forefront. In the case of hospitalization I feel that existing institutions ought to be used to the greatest degree possible without duplicating or furnishing new facilities. No doubt there are in all of these overcrowded communities where defense projects are being located good hospitals, probably privately owned and struggling along for a bare financial existence, and they could greatly increase service to the extent necessary if financially aided by the Government. For many years I have had the feeling that in thousands of communities more financial aid ought to be furnished these very necessary humanitarian institutions which we all shun but all approve of. However, only these communities are to be considered now and aided which are in need of Federal aid because of the defense program and the additional responsibilities which it brings.

Not to take up more of the time of the committee, I shall vote for this measure and hope that it may be enacted without opposition.

Mr. LANHAM. Mr. Chairman, I yield the remainder of the time to the gentleman from Virginia [Mr. BLAND].

Mr. BLAND. Mr. Chairman, congratulations have been extended to the chairman of the committee for the work in connection with the preparation of this bill. Congratulations have been extended to the members of the committee. However, I go further and extend congratulations to the people of the United States that they have as a part of the organization of this House, a committee as capable and industrious, as zealous

and as patriotic and as free from partisanship as this committee. I wish I had the time to discuss some of the reasons for that conclusion. I cite in support of my conclusion, the proposal made by the chairman that the administration of the measure will not be left to the Administrator, but that the committee is reserving to itself the responsibility of supervising the administration and seeing that the law will be efficiently administered. We may know that there will be no pork barrel under this bill administered and supervised as proposed here.

Something has been said about priorities under the measure. Mr. Chairman, you cannot work out priorities upon the floor of this House. Schools may have priority in one community, water in another, hospitalization in another. All of those questions have to be adjusted, and the diverse needs have to be coordinated in the different communities to the end that this money will be spent entirely in the best interest of the national defense of the country. After all, that is the basis of this legislation. Take my own section. There has been a 62-percent increase in population there in 7 months and the end is not yet. Why? Not because we desired to have that sudden influx, but because it is necessary. Personally, I should be very glad if we did not have the burden upon us that we are called to bear. One of the most serious problems there is an adequate supply of water. There is not a time that I pass the existing reservoir that I do not fear that we are facing a shortage. Suggestions have been made for a remedy, but money is needed. This bill will provide it. Priorities cannot be determined here.

What I say as to my community is but an illustration of the situation which exists in various communities throughout the country. I am willing to let Maine come before the officials with her needs, Wisconsin with hers, and all of the States similarly. All can present their claims, and they may be assured that the bill will be honestly administered under the rigid supervision of this, one of the greatest committees in this House.

The CHAIRMAN. The time of the gentleman from Virginia has expired. All time has expired and the Clerk will read.

Mr. LANHAM. Mr. Chairman, in the interest of expediting the consideration of the legislation, I ask unanimous consent that the bill may be considered as read and printed in the Record, and that amendments may be offered to any part of the bill.

The CHAIRMAN. Is there objection?

Miss SUMNER of Illinois. Mr. Chairman, I reserve the right to object. Will that permit me, for instance, to move to strike out the last word?

Mr. LANHAM. I feel sure the ruling of the Chair would be to that effect.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The bill is as follows:

Be it enacted, etc., That the act entitled "An act to expedite the provision of housing in connection with national defense, and for other purposes," approved October 14, 1940,

as amended, is amended by inserting before section 1 the following title heading:

"TITLE I

"DEFENSE HOUSING"

SEC. 2. Section 1 (b) and section 3 of such act are amended by striking out "this act" wherever occurring therein and inserting in lieu thereof "this title."

SEC. 3. Such act is amended by inserting after section 3 the following:

"TITLE II

"DEFENSE PUBLIC WORKS

"SEC. 201. It is hereby declared to be the policy of this title to provide means by which public works may be acquired, maintained, and operated in the areas described in section 202. As used in this title, the term 'public work' means any facility useful or necessary for carrying on community life, but the activities authorized under this title shall be devoted primarily to schools, waterworks, works for the treatment and purification of water, sewers, sewage, garbage, and refuse disposal facilities, public sanitary facilities, hospitals and other places for the care of the sick, recreational facilities, and streets and access roads.

"SEC. 202. Whenever the President finds that in any area or locality an acute shortage of public works or equipment for public works necessary to the health, safety, or welfare of persons engaged in national-defense activities exists or impends which would impede national-defense activities, and that such public works or equipment cannot otherwise be provided when needed, the Federal Works Administrator is authorized, with the approval of the President, in order to relieve such shortage—

"(a) To acquire prior to the approval of title by the Attorney General (without regard to sections 1136, as amended, and 3709 of the Revised Statutes) improved or unimproved lands or interests in lands by purchase, donation, exchange, lease (without regard to section 322 of the act of June 30, 1932 (47 Stat. 412)), as amended, the act of March 3, 1877 (19 Stat. 370), or any time limit on the availability of funds for the payment of rent), or condemnation (including proceedings under the acts of August 1, 1888 (25 Stat. 357), March 1, 1929 (45 Stat. 1415), and February 26, 1931 (46 Stat. 1421)), for such public works.

"(b) By contract or otherwise (without regard to sections 1136, as amended, and 3709 of the Revised Statutes, section 322 of the act of June 30, 1932 (47 Stat. 412)), or any Federal, State, or municipal laws, ordinances, rules, or regulations relating to plans and specifications or forms of contract, the approval thereof or the submission of estimates therefor) prior to the approval of title by the Attorney General to plan, design, construct, remodel, extend, repair, or lease public works, and to demolish structures, buildings, and improvements, on lands or interests in lands acquired under the provisions of subsection (a) hereof or on other lands of the United States which may be available (transfers of which for this purpose by the Federal agency having jurisdiction thereof are hereby authorized notwithstanding any other provisions of law), provide proper approaches thereto, utilities, and transportation facilities, and procure necessary materials, supplies, articles, equipment, and machinery, and do all things in connection therewith to carry out the purposes of this title.

"(c) To maintain and operate public works.

"(d) To make loans or grants, or both, to public and private agencies for public works and equipment therefor, and to make contributions to public or private agencies for the maintenance and operation of public works, upon such terms and in such amounts as the Administrator may consider to be in the public interest.

"SEC. 203. (a) In carrying out this title—

"(1) no contract on a cost plus a percentage of cost basis shall be made, but contracts may be made on a cost plus a fixed fee basis;

"(2) wherever practicable, utilization shall be made of existing private and public facilities or such facilities shall be extended, enlarged, or equipped in lieu of constructing new facilities;

"(3) public works shall be maintained and operated by officers and employees of the United States only if and to the extent that local public and private agencies are, in the opinion of the Administrator, unable or unwilling to maintain or operate such public works adequately with their own personnel and under loans or grants authorized by this title.

"(b) No department or agency of the United States shall exercise any supervision or control over any school with respect to which any funds have been or may be expended pursuant to this title, nor shall any term or condition of any agreement under this title relating to, or any lease, grant, loan, or contribution made under this title to or on behalf of, any such school, prescribe or affect its administration, personnel, curriculum, instruction, methods of instruction, or materials for instruction.

"(c) No department or agency of the United States shall exercise any supervision or control over any hospital or other place for the care of the sick (which is not owned and operated by the United States) with respect to which any funds have been or may be expended under this title, nor shall any term or condition of any agreement under this title relating to, or any lease, grant, loan, or contribution made under this title to, or on behalf of, any such hospital or place, prescribe or affect its administration, personnel, or operation.

"Sec. 204. The sum of \$150,000,000, to remain available until expended, is hereby authorized to be appropriated to carry out the purposes of this title and for administrative expenses in connection therewith, including personal services and rent in the District of Columbia and elsewhere, printing and binding, and purchase, repair, operation, and maintenance of motor-propelled passenger-carrying vehicles.

"TITLE III

"GENERAL PROVISIONS"

Sec. 4. Sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14 of such act are renumbered, respectively, as follows: "301," "302," "303," "304," "305," "306," "307," "308," "309," "310," and "311."

Sec. 5. The departments, agencies, or instrumentalities administering property acquired or constructed under section 201 of the Second Supplemental National Defense Appropriation Act, 1941, shall have the same powers and duties with respect to such property and with respect to the management, maintenance, operation, and administration thereof as are granted to the Federal Works Administrator with respect to property acquired or constructed under title I of such act of October 14, 1940, and with respect to the management, maintenance, operation, and administration of such property so acquired or constructed under such title.

With the following committee amendments:

Page 4, line 21, following the word "practicable," insert a comma.

Page 5, line 12, correct the spelling of the word "title."

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

Mr. LANHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LANHAM: Page 6, line 13, after the period, insert the follow-

ing new sentence: "Such section 4 relating to termination of powers of such act is amended by inserting after section 1 hereof the following: 'And the authority contained in section 202 hereof.'"

Mr. LANHAM. In other words, Mr. Chairman, that simply makes it conform with the provision in the law.

The CHAIRMAN. Without objection, the amendment will be agreed to.

There being no objection, the amendment was agreed to.

Mr. HARE. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I do not rise for the purpose of discussing the provisions of this bill, but to use the principle involved as a vehicle for discussing another bill now before the Congress.

As I understand, this bill provides an appropriation to assist in enlarging the school facilities in municipalities, districts, or communities where they have national defense projects and where there has been a substantial increase in population. The bill I desire to call attention to is one which has been pending in the House for several years. Its provisions carry with it a corresponding principle of policy of government, but to date it has not received very much consideration. We all know that heretofore it has been the policy of the Government to acquire lands for reforestation purposes. On those lands in many cases there have been high schools, consolidated schools, or schools of different types, and when the Government acquired title to the land surrounding or contiguous to these schools the lands were removed from taxation and therefore the source of revenue used to support these schools and pay the bonds issued to obtain funds for the erection of the buildings and to maintain the schools was removed. The result has been that in many sections of our country many of these schools have been abandoned. The children who were accustomed to attend them have been told to look elsewhere for their training. We are not doing that today. We are saying to the people who have gone to work at these defense projects "We will take care of the educational facilities for your children"; but heretofore we have been afraid to establish the principle of reimbursing those communities, those school districts, those townships or counties for the losses sustained as a result of the Government taking title to the property that was used for taxing purposes to support schools.

There has been a bill before the House for 2 or 3 years and there is one now, that would require the Government to compensate the counties or school districts to the extent that the taxable property for support of these schools has been removed by having title vested in the Government. Much of the land has been leased to tenants. There are few or no school facilities left for their children who will soon grow up to be citizens. They will eventually become a bulwark for national defense, but they will do so with no opportunity for education. Why? Because they have been deprived of their privileges by the action of our Government.

Heretofore when those of us interested have appealed to the Government to cor-

rect a wrong it has actually perpetrated on the unfortunate children in these districts, Uncle Sam hardened his heart and closed his ears to the cry and has said in effect that it would be the establishment of a new and unwarranted policy to inaugurate such a plan. He has allowed the parents of these children to stay on the land and help him restore the forests but has again said in effect, he is under no obligation to pay for the losses sustained by his action and is no way responsible for the closing of their schools and the loss opportunity for education. But in this day of spending his heart has melted and is now asking for \$150,000,000 for temporary use in providing additional facilities for some of his children. We are not opposing this action but only appealing that he be consistent in his interest in behalf of those deprived of an opportunity of education by his actions.

Of course, the Government assumes the responsibility for the establishment and location of a national-defense project and we can understand how the Government feels obligated to assist the community in providing ample school facilities where there has been a substantial increase in population incident to the establishment of such a project. The point I am emphasizing is that where the Federal Government has heretofore undertaken to acquire title to all or portion of the lands in a school district and use the lands for reforestation purposes, the Government is also under obligation to assist these school districts to the extent they have been deprived of the sources of taxation from which revenues were obtained to construct their school buildings and maintain the operation of their schools. The children of one citizen are deserving of as much consideration as another and in this bill you are establishing a policy of providing additional facilities for children of those who may be engaged in defense work, whereas the Government has heretofore not only deprived children who may be living in rural districts of an opportunity for education but it has actually failed and refused to aid in the way of compensating the school districts for losses sustained by its action. In other words, in the latter case the Government has said in effect to these children that they can look for educational facilities elsewhere or else they can remain on these Government-owned lands and grow up in ignorance.

Mr. Chairman, I said at the outset, I want to use the principle involved in this legislation as a vehicle for emphasizing the necessity of our Government paying more attention to other proposed legislation and to see if it is not possible to apply the same theory, the same policy, the same principle of government, and thereby discharge the Government's obligation to those school districts, townships, and counties by reimbursing them to the extent of taxes lost so that there may be a degree of opportunity for education corresponding to that we are providing for in this bill. [Applause.]

[Here the gavel fell.]

Mr. KILBURN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KILBURN: Page 2, lines 19 and 20, strike out the words "recreational facilities."

Mr. KILBURN. Mr. Chairman, under the very able leadership of our distinguished chairman, the gentleman from Texas [Mr. LANHAM], the Committee on Public Buildings and Grounds has worked hard to draw up a good bill to take care of community facilities in the areas that have become congested due to training camps and defense industries. I am sure that my chairman and myself are in complete agreement that this money should be spent only for things that are absolutely necessary to help our national-defense program. Where we may differ is on what we consider necessary.

My amendment eliminates recreational facilities because I do not believe these are absolutely necessary for national defense. The training camps themselves have recreational facilities already established in the camps. Please remember that the recreational facilities proposed in this bill can only be built off Government property.

I have talked to many of the soldiers in these camps and everyone that I have talked to is doubtful if they would use recreational facilities outside the camp when they already have them within the camp.

Most of the defense industries are situated in or near large towns or cities which already have recreational facilities, and do not forget nearly every city and town so affected did everything in their power to get these industries for their town.

There is no amount designated in this bill as to how much will be spent for recreational facilities, and while I believe Mr. Carmody, the man who will administer this bill after it becomes a law, is hard-headed, he might be succeeded by someone who would not think so much of the taxpayers' money and who might spend money on nonessentials.

I would like to remind the House that during the World War the Government did not spend a single dollar for the public works provided for in this bill.

However, I can see some merit to the bill, and I know of some locations where the Government has got to spend some money for new roads in congested areas and for some public works in large new communities that have sprung up out in the country around large defense plants.

I do believe, however, that we should stick to absolute essentials in appropriating money for national defense. We should not go in for frills; we cannot afford it. As soon as this bill becomes a law, the great tendency is for every community in the country, which has a camp near it or industries located in it, to come to the Government to get a hand-out. The pressure will be terrific to spend this money on nonessentials. I believe that recreational facilities are not absolutely necessary, and I hope my amendment will be adopted.

Mr. MCGREGOR. Mr. Chairman, will the gentleman yield?

Mr. KILBURN. Yes.

Mr. MCGREGOR. The gentleman is a member of the committee and has

always been attentive to the program before the committee. I am wondering if, in his opinion, the gentleman believes that of the \$150,000,000 there will be any money left for what he classified as "frills"?

Mr. KILBURN. I hope not. That is why I see no reason why it should not be eliminated.

Mr. DONDERO. Mr. Chairman, will the gentleman yield?

Mr. KILBURN. I yield.

Mr. DONDERO. I wonder if you mean that the amendment should go so far as to limit the recreational facilities in connection with any school that may be built in connection with this program? You could hardly do that.

Mr. KILBURN. I believe most of the schools that will be built under this bill will be temporary. I believe they should be and I think that will come in under the schools. The recreational facilities referred to in the hearings in the committee were recreational halls, swimming pools, and so forth.

Mr. DONDERO. I am in sympathy with the purpose of the gentleman's amendment, but I wonder if he ought to go quite so far.

Mr. KILBURN. I think they can get the necessary recreational facilities in connection with schools right within the school grounds.

Mr. DONDERO. I believe if the gentleman would modify his amendment to provide that it should not apply to recreational facilities provided in connection with public schools that it ought to have the endorsement of the House.

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. KILBURN. I yield.

Mr. RICH. Is it not the fact that public schools all over the land have recreational facilities within their own organizations?

Mr. KILBURN. That is entirely correct.

Mr. RICH. And the gentleman from New York, as I understand it, by this amendment would keep the administration from being hounded to death to get money to do things that are already being taken care of.

Mr. KILBURN. That is it, exactly.

Mr. WILSON. Mr. Chairman, will the gentleman yield?

Mr. KILBURN. I yield.

Mr. WILSON. Recreational facilities are a very definite and essential part of the educational system, and where we do have to build schools we must provide for recreation, or we are not going to comply with the demands of these communities for public education.

[Here the gavel fell.]

Mr. LANHAM. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, my good friend the gentleman from New York who has offered this amendment is a very valuable member of the Committee on Public Buildings and Grounds, but I am convinced that he is in error in his arguments with reference to the amendment he has offered. In the first place, if we strike recreational facilities from this bill, the natural implication will be that none of the money can be used for recreational facilities. Does that mean that in these congested areas

children could have no ground on which to play or no swings with which to play? Does it mean that there should be no open spaces in these congested areas that could be used for parks and to help out the sanitary features of the community? And I should like further to call attention to the fact that in the development of morale in these greatly congested areas there must be some opportunity for play, for all work and no play proverbially makes Jack a dull boy.

Mr. KILBURN. Mr. Chairman, will the gentleman yield?

Mr. LANHAM. I yield.

Mr. KILBURN. I may say to the gentleman from Texas that my amendment does not prevent any community from having its recreational facilities. All my amendment does is to prevent the Federal Government from paying all the cost.

Mr. LANHAM. Irrespective of that, this congestion in some instances has been forced upon communities and, in many instances, villages by the United States. They do not have the funds with which to provide these facilities. I should like to call attention, in addition to the testimony of Lt. Col. W. H. Thompson, Personnel Division, War Department General Staff, who appeared before our committee. He said it is true that in the camps they have all the recreational facilities they need, but that these men have certain leave, and it is necessary for them to have outside of these camps some facilities where they are not otherwise afforded where they are under the proper environment; that it is a very necessary matter from the standpoint of morale and the efficiency of the troops in these camps.

I call attention to the further fact that by public subscription a great deal of money is being raised from the standpoint of operating these recreational facilities after they are constructed, where it is necessary to construct them, and that there is great harmony among the various agencies that operated them in the World War. They are going to work together now. In large measure, they worked separately then. There must be some place for them to operate in many instances, and I believe that from the standpoint of these congested areas it is necessary as a matter of keeping up the morale of the soldiers that in the time they are off on leave, the time they do not stay in camp, they have some place to go. It should stay in the bill. Whatever is necessary to be done for these various purposes from the standpoint of efficiency and morale should be done. To strike it out of the bill would be to say thereby, "Don't you dare spend any of this money to see that any of these children shall have a playground, that they shall have any open parks, where they have innocent amusements; don't dare spend anything for that."

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. LANHAM. I yield.

Mr. RICH. Does the gentleman know of any school in any State in the Union that does not have a playground for the children?

Mr. LANHAM. What I am trying to do now is to see that there shall not be

any school in the United States that does not have a playground for children.

Mr. RICH. So am I; and if the Administrator carries out the instruction contained in section 203 (b) of the bill, there will not be any. I do not think there should be any doubt in the mind of anybody but what under that section it is intended that schools should have recreational facilities.

Mr. LANHAM. As I read section 203 (b), I cannot see that that is the section which deals with recreational facilities.

Mr. RICH. It is placed in the hands of the school authorities, and, naturally, they will not overlook the fact that recreational facilities are a part of a school. That is done in all the States now and will be done when this bill is law.

Mr. LANHAM. But we should also provide with reference to the schools built in congested areas by money furnished by the Federal Government that recreational facilities can be provided.

[Here the gavel fell.]

Mr. MCCORMACK. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I want to congratulate the Committee on Public Buildings and Grounds, and this applies to all members of that committee without regard to party, for the very profound manner in which the committee conducts hearings and the consideration it extends to bills pending before it, because the bills reported by that committee show a profound consideration by the fact there is very little difference of opinion among the members of the committee, and this includes both Democrats and Republicans. I attribute this to the very fine manner in which all the members of the committee approach consideration of bills pending before that committee under the able and the gentlemanly leadership of its great chairman, the gentleman from Texas [Mr. LANHAM]. [Applause.]

So far as this amendment is concerned, I think we might well follow his position. I know of no Member who is more strongly regarded by his colleagues than is the gentleman from Texas. He is fair, he is a deep student of legislation, and a man who is considerate in every respect. Therefore we might well follow the position he has taken in relation to this amendment, even though it is offered by one whom all of us respect, and who is a very constructive member of that committee, and of the House.

May I congratulate the committee also in putting into the bill paragraphs (b) and (c) of section 203. Those two provisions are very constructive. We recognize the necessity for this legislation. It grows out of the national-defense program, and the fact that new businesses are established in towns and cities, bringing thousands of persons temporarily into those communities, out of which arise local problems of education, hospitalization, sanitation, health, and so forth. It would be unfair to impose all of that obligation on local government; yet in connection with schools and hospitals I would not want to see the Federal Government build and operate them itself. It would be unwise, for instance, for the Federal Government to build a

school, say in Boston, or we will say in Quincy, Mass., or in any other community of the United States, and expect the Bureau of Education to conduct that school, and prescribe its curriculum, with a local school committee there. There would be a conflict. Furthermore, such action might strengthen the claim that a small percentage of this country have been making from time to time for the establishment of a department of education, which I vigorously oppose, and which I think at least 90 percent of the Members of this House also oppose.

Our school systems can be operated more effectively by the local authorities, and this also applies to the hospitals.

My purpose is to not only urge that the position taken by the chairman of the Committee on Public Buildings and Grounds be adopted, which I hope will be the case, but to compliment the committee itself before which I have appeared on several occasions. I admire the very fine manner in which it conducts all of its hearings. The members are temperate, tolerant, and considerate of their witnesses, and I congratulate them for the manner in which they consider and report legislation. As I said before, I particularly congratulate the committee for putting in the bill paragraphs (b) and (c) of section 203, which protects the local governments insofar as activities which have a direct relation to the people of a local community are concerned, to wit, whatever schools are constructed under the terms of this bill, and whatever hospitals are also constructed. [Applause.]

[Here the gavel fell.]

Mrs. ROGERS of Massachusetts. Mr. Chairman, I move to strike out the last two words.

Mr. Chairman, I earnestly hope this amendment will not be agreed to. The gentleman from New York stated that he had no requests from soldiers for these recreational facilities. Perhaps the reason the soldiers have not written to him is because they are in camps near their homes. On the contrary, I have had a great many requests from soldiers that they be allowed to have recreational facilities in cities surrounding the camps. The men who go to the fort in my district come from every section of the country. Many are very far away from their homes.

I live in Lowell, Mass., with a population of 101,000 people. It is overcrowded in many ways. Fort Devens is situated 18 miles from that city and through Lowell pass on the way to and from that camp thousands of soldiers. Some of them have had to stay overnight in Lowell on their way to camp. They did not have equipment for camping or sleeping out. In summer weather it is not so bad, but in winter it is very harsh—even dangerous.

A recreational facility at Lowell might even serve in an emergency as a barracks for the soldiers on their way to camp. May I remind the membership of the House that these men going to camp, and these men who are in camp today, are not serving perhaps for 1 year. I hope not, but they may be serving for several years. Providing these facilities seems little enough to do for the soldiers. The

Army considers keeping up the morale of the men so important they have a whole section of morale. I will remind the House these men are paid very little. It seems only fair to give them healthy surroundings.

I would also remind the membership that 42 percent of the men who were examined to be taken into the draft were not accepted because of physical disabilities. It seems to me we should do everything possible to see that our soldiers are strengthened and that their physical well-being is cared for.

The First Division is being trained in my district at Fort Devens, and this makes me particularly grateful to the chairman and the members of the committee for causing this legislation to be brought on the floor for consideration. You can imagine what it means in water and sewer facilities, school facilities, and in other facilities, and what it means to the people of these various communities to have the facilities given to them. Caring for thousands upon thousands of persons is a tremendous drain upon their resources.

Mr. Chairman, I earnestly hope the amendment will be defeated.

Mr. KILBURN. Will the gentlewoman yield?

Mrs. ROGERS of Massachusetts. I yield to the gentleman from New York.

Mr. KILBURN. There is nothing in this bill which prevents the city of Lowell from furnishing recreational facilities to soldiers.

Mrs. ROGERS of Massachusetts. I may say to the gentleman that Lowell today has many problems. Lowell is congested. The Lowell people have asked for this assistance in caring for the soldiers. They are delighted, of course, to do everything they can to make the soldiers happy and comfortable. Many requests have come to me from all over my district for these recreational facilities. Perhaps "recreational" may not be the right word to use. "Facilities for strengthening our soldiers and assisting the communities" is perhaps a better term.

I hope the amendment offered by the gentleman from New York [Mr. KILBURN], will not be adopted. I wonder if the gentleman from New York has considered this matter from some of the angles I have brought to his attention? [Applause.]

[Here the gavel fell.]

Mr. WILSON. Mr. Chairman, I move to strike out the last three words.

Mr. Chairman, if I am not mistaken, this coming Sunday is Mother's Day and I am thinking of these mothers all over the country who have their sons in camps and who have sons that expect to be taken to camp soon. I wonder how happy some of these boys are many miles away from home, undergoing severe training, not knowing just how many years they are going to be there.

I am also think of the many boys that were in camps not so many years ago, and I am thinking of the health of those boys when they came back. I am also thinking of the effect some of these speeches that have been made here, if they should get back to the Members' districts, would have on some of the mothers, knowing that just a few dollars

were being taken away from those things which would add the most to the health, the welfare, and the happiness of the boys in camp.

Mr. TABER. Mr. Chairman, will the gentleman yield?

Mr. WILSON. I refuse to yield at this time.

The amount of money under consideration, as I have said before, is only \$150,000,000. I say "only." I am thinking in terms of the money we have appropriated on this floor. I cannot conceive of anyone taking the lion's share of this money and putting it in useless recreational facilities at the expense of much needed money for education. Therefore, I hope this amendment will be defeated and that these boys will be given the opportunity needed to further their health through recreation.

Mr. KILBURN. Mr. Chairman, will the gentleman yield?

Mr. WILSON. I yield to the gentleman from New York.

Mr. KILBURN. The gentleman realizes, does he not, that the camps now have very adequate recreational facilities?

Mr. WILSON. I absolutely do not.

Mr. LANHAM. Mr. Chairman, will the gentleman yield?

Mr. WILSON. I yield to the gentleman from Texas.

Mr. LANHAM. Is not the principal purpose of this bill directed to the various congested areas of national defense, to many of which the soldiers go on leave from the camps? Though there are recreational facilities in the camps, these men must be looked after when they are on leave, and not only that but the people who live in these congested areas and who go in there to work at these various plants must be considered.

Mr. WILSON. That is quite right. I thank the gentleman for his statement.

I also believe the same people who are opposing recreation here for these boys are the same kind of people I have experienced in my school work who opposed the building of gymnasiums. Just last year I taught in a school that did not have a gymnasium and did not have a playground. The State highway department condemned the half acre we had and built a State road right through it, and the children had no facilities for recreation left. That is a very bad situation, as I can point out to you, personally any time you wish to review that case.

I have several other things to mention, not particularly pertinent to this amendment, that I did not get to mention before. In the Charlestown area, an area with a population originally of about 500, we now have 20,000 workers, and we are going to have more than 10,000 workers situated there permanently. When I say "permanently" I mean not just to the extent of the period of this emergency but the plant located there is supposed to be used for the manufacture of nylon or other products as soon as the manufacture of powder is over. I hope that will be soon, but, unfortunately, I cannot see a very near end for the manufacture of powder. We need a school there. We must have a school there. We have school facilities for 400 people and we have 1,380 school children coming soon.

They have not had proper education this year. They have been out of school regardless of the fact that the State laws demand that they go to school. They have to have help. The township has a bonded indebtedness possibility of \$30,000. We need about \$1,000,000 to build adequate school facilities to carry on the educational program as prescribed by the State of Indiana. [Applause.]

[Here the gavel fell.]

Mr. BELL. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, during the period I have been a member of this committee I, as well as every other member of the committee, have acquired a very high regard for the gentleman from New York who offered this amendment. I think that in my own mind I can understand pretty well the thoughts and the reasons which prompted him to offer the amendment. In many ways I believe not only I but every member of the committee is in sympathy with his desire to make this bill a very practical one in this time of national emergency; in other words, I think that in offering this amendment he had the purpose of cutting out any frills or unnecessary expenditures.

When the bill was under consideration, an Army officer appeared before the committee, and I questioned him at some little length, and rather sharply, about this matter of spending a lot of money on recreation. However, after I had finished questioning him and after he had finished testifying, I had a little different slant on this matter than I had had before.

In the last analysis, the purpose of this bill arises out of the desire of the American people to build an Army that is fit for the defense of this country. One of the most important things in the building of an army is morale. Every military man will tell you, as you who read the daily press, as it paints the gruesome picture of that conflict in Europe, know that morale in an army is just as important as guns. A young man who goes into the Army feeling proud of his country and feeling happy about his job, and with a high resolve to defend his country, is going to make a better soldier than the boy who is in a camp without recreational facilities and without opportunities to meet his father and his mother when they come to see him at that camp, without opportunity to meet his friends, and without opportunity to have the better influences of life about him. He will not make quite such a good soldier as the boy who is there under that training for a year or for longer under the highest and the best influences we can throw around him.

Mr. KILBURN. Mr. Chairman, will the gentleman yield?

Mr. BELL. I yield to the gentleman from New York.

Mr. KILBURN. May I remind the gentleman that there are recreational facilities in the camps. There is a place for them to meet their families. That is all provided for in the camps. This bill provides only for facilities off Government property.

Mr. BELL. Yes; that is true. The gentleman recalls that I questioned Colonel Thompson on that point. It seemed

to me that if we placed these facilities within the camps that ought to be sufficient, but you remember he said, "You know what young men are. You cannot tie them to a tent post. You cannot tie them within a camp." They want to go around to the nearby towns. And when your boy and my boy go into that nearby town they ought to have some established recreational center that will permit them to go to the best place they can go to. Let us not send our boys to places of questionable character and reputation if we can help it.

Mrs. ROGERS of Massachusetts. And is it not true that the soldier is paid very little, so that he does not have money as other people who have not been drafted into the service do?

Mr. BELL. He gets \$21 a month, and if he can have a center outside of the established lines of the military camp, where he can go and have a nice place to meet and do the right sort of thing, I think, perhaps, from the very practical standpoint of building a high morale in this Army, that we are building for the purpose of defending this country, it will be money very well and practically spent.

Mr. TABER. Mr. Chairman, I move to strike out the last 2 words. I think that the membership of the House should have a little picture of what has been done in the line of laying out money to take care of the recreational facilities for the boys in the camps. Enormous sums of money providing recreational facilities and centers for each section of the large camps that have been built in the last 12 months have been provided—recreational centers where they can seat a thousand and some as high as 1,500 people at one time. These things have been provided on a very liberal scale, many times more liberal than has ever been done in the regularly established Army posts—facilities where the men may play games and all that sort of thing. When that has been done and done on such a liberal scale as it has been done in this particular instance it does not seem to me there should be such a thing as the thought that we should elaborate upon it on the outside. If we have the things being managed and run by 4 or 5 or 6 or 7 different agencies, we are just destroying our own purpose. If we have 1 outfit, such as the Army, doing the whole job, it will be done much better. The gentleman from Indiana [Mr. Wilson] seemed inclined to intimate that some of us who criticize some things about this bill are opposing proper school facilities for the children of those who are in the Army or in camps in connection with defense industries. That is not the situation at all. Some of us believe there should be by the committee direct allocation of the places where these things should be done. We have had much better results with the Navy construction than we have had with the Army construction. That has been because the Naval Affairs Committee has insisted on providing specifically for each building and each project and the amount that it is to cost all the way down the line. That has resulted in greater things being done for the boys in the Navy. I appreciate that the Army is a bigger project. On the other hand, I am convinced that

the more we meet our own responsibilities, and the less we turn them over to the bureaucrats, the better off this country will be and the better service we are going to give the boys who have to go to the camps.

Mr. SOUTH. Mr. Chairman, I do not know a great deal about this particular amendment and, therefore, I shall go along with the chairman of the committee, the gentleman from Texas [Mr. LANHAM], in whose sound judgment I have full confidence. I have been in touch with him numerous times about this bill, and I think his committee has worked out a very good bill. I rise to suggest this: Unless the officers who administer this law really put first things first, and look over the entire country in respect to the various needs, I have a fear that some sections are going to be quite well taken care of in the matter of schools, hospital facilities, sewers, water mains, and recreational playgrounds, and so forth, and that when we get out into the more remote sections they will not have money enough to even take care of the schools. That is important. In my district of 27 counties we have at least 4 areas which are now literally congested to where the schools do not have the facilities for conducting the high character of work to which they have been accustomed. They must have more room provided, additional teachers, and so forth. Otherwise, not only will children of the families who have recently moved into these areas suffer from inadequate school accommodations, but the children who are members of families that have lived in these communities many years, have supported their schools, built their streets, and so forth, will suffer in a like manner.

It occurs to me that unless they take care of the schools before they go into the hospital, playground, and recreational business, somebody is going to suffer, because \$150,000,000 will certainly not supply all of the needed facilities to the various States and communities throughout the country. I am speaking in behalf of the smaller communities that sometimes are left out when Federal money is being passed around.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. SOUTH. I yield to my colleague from Texas.

Mr. MAHON. I want to be perfectly fair in regard to this legislation and I know the gentleman does, but I should not like to see this legislation result in permitting communities to shirk their local responsibility. When the Government goes into a town and spends millions and millions of dollars and establishes a big pay roll there, that certainly contributes to the business interests of that locality.

Mr. SOUTH. That is true, in a sense.

Mr. MAHON. I feel that every community ought to be willing to share every possible part of that responsibility in taking care of the schools and in taking care of the recreational facilities, and whatnot.

Mr. SOUTH. On that particular point the gentleman must realize that the local community gets much of its money for school purposes from taxation.

The many people who are moving in do not increase taxable values. State apportionments are not provided for their children, and they constitute an extra burden which the communities are unable to meet.

Mr. MAHON. But the pay roll in those towns has increased.

Mr. SOUTH. Such temporary pay rolls do not build schools and do not increase tax values—certainly not for a year or so.

Mr. BEITER. Will the gentleman yield?

Mr. SOUTH. I yield.

Mr. BEITER. In addition to that, the Government will step into a community and build a number of defense housing projects on Government property, which is nontaxable.

Mr. SOUTH. That is absolutely correct; thereby decreasing taxable values. I want to repeat: In the expenditure of the money provided under the terms of this bill, things of first importance should be taken care of first.

Mr. LANHAM. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 5 minutes.

The CHAIRMAN. Is there objection? There was no objection.

Mr. HOOK. Mr. Chairman, I think that some of the argument has gone a little far afield. If I view the purpose of this bill correctly, the very foundation of the bill is national defense. If we are going to have national defense at all we must have national morale. The national defense in this day and age is not all within the Army camps. I hope that we never go to war. I shall oppose to the utmost of my ability any of the steps leading toward war, but we know throughout the world that war today is total war. The civilian population is just as much a part of the national defense as the Army and the Navy.

I was impressed by the statement of the gentleman from Indiana with regard to a community of 400 that will be increased by about 20,000 people. Certainly, with the explosive plants around which that community of 20,000 people is built, we must have recreational facilities in which we will be able to keep up the morale of those people, so that in that community of 20,000, in that mushroom community, if you please, foreign agents who go in there and try to prey upon the feelings of those people, will not have a fertile field. War today is fought by foreign agents coming ahead of an army to break the morale and weaken the people so that the army is only the clean-up squad. In order to protect the people from becoming subjects of un-American activities we must have educational and recreational facilities available to them. We must have recreational facilities there to keep up the morale, especially of the people who are brought into those communities under this national-defense program.

Therefore I do not think we should take from this bill that part which will give to the administrator the right to set up recreational facilities that will properly meet the problem which he has to face, that is, in connection with everything else, to be able to keep the morale of the

people in pace with the national-defense program.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. KILBURN].

The question was taken; and on a division (demanded by Mr. KILBURN) there were ayes 21 and noes 62.

So the amendment was rejected.

Mr. RICH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RICH: Page 2, line 16, after the word "devoted" strike out "primarily to" and insert "to public."

Mr. RICH. Mr. Chairman, the bill now reads:

The activities authorized under this title shall be devoted primarily to schools, water works,

And so forth. If my amendment is adopted it will read:

The activities authorized under this title shall be devoted to public schools, water works,

And so forth. I take it that under this bill we are interested in trying to promote public schools in these congested areas, that we are not interested in private schools or religious schools. As we make our appropriations, therefore, they should relate to public schools. Let us eliminate the word "primarily" and insert the word "public." This will insure that we keep our schools free from denominationalism, keep them as they should be.

Mr. RUTHERFORD. Mr. Chairman, will the gentleman yield?

Mr. RICH. I yield.

Mr. RUTHERFORD. Why strike out the word "primarily"? Why not let the language read, "shall be devoted primarily to public schools"?

Mr. RICH. The word "primarily" could be left in the bill, but I cannot understand why the word "primarily" should be in that sentence. I know of no necessity for its being there.

Mr. RUTHERFORD. The word "primarily" means that the money to be spent is to be spent first for public schools, water works, and so on throughout the enumeration.

Mr. RICH. Elimination of the word "primarily" is not going to affect the purposes for which the money is spent, is it?

Mr. RUTHERFORD. To a certain extent it would.

Mr. RICH. I myself am interested in my district in a number of denominational schools but I do not come to the Government and ask them to support these schools for I do not believe it is the function of Government to do so. I think therefore we ought to limit it as strictly as we can to public schools.

Mr. HOLMES. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am sorry to disagree with my genial colleague from Pennsylvania and I certainly hope we shall not inject controversial subjects into this legislation at this stage of the proceedings.

This defense public works means what it says. We have here a voluminous report from the Office of Education which has contacted the commissioners of public education in the various States and

has also contacted educational groups that are organized and recognized in cities and towns throughout the country. The committee has been furnished a very comprehensive report of the school needs and requirements in connection with this whole program and we have studied it for many, many weeks.

We deal with public schools, of course; but primarily we want to see that proper school facilities are built in connection with this program. The bill also deals with public ownership of water supply and purification plants, also with the question of public hospitals. There are not many communities where the public and private schools could not be used in connection with the defense program, but there are many communities where there is no such thing as a publicly owned hospital. To put in the limitation suggested by the gentleman from Pennsylvania would be just as bad as to amend the bill to read that in the matter of hospitals this money could be spent only in connection with the building of public hospitals.

Mr. LANHAM. Mr. Chairman, will the gentleman yield?

Mr. HOLMES. I yield.

Mr. LANHAM. And I may call to the attention of my colleague from Massachusetts the fact that if the word "primarily" is stricken out of the bill, the enumeration which follows would make the bill apply exclusively to those matters whereas some other need of great urgency might arise which could not be dealt with in that case.

Mr. HOLMES. I agree with the gentleman from Texas. Some question might arise as to fire protection, or questions might arise concerning many other things. So many elements enter into it that I feel we should not strike out the word "primarily." Based on the experience and knowledge we have of this situation, I express the hope that the committee will vote down this amendment and let the legislation pass as the committee has recommended it, because we have given serious study to it and have no fear that this money will be squandered. We believe it will not be used for anything except public needs.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania.

The amendment was rejected.

Mr. MAGNUSON. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. MAGNUSON: Page 6, line 1, after "\$150,000,000" add "\$100,000,000 of which shall be expended solely for schools."

Mr. MAGNUSON. Mr. Chairman, I have no doubt that the committee has spent a lot of time in hearings and discussions on this bill, but I share the same fear that my colleague the gentleman from Texas [Mr. SOUTH] expresses—that this \$150,000,000 will not be spent as expected; that is, if it is to be used for all these purposes, the real reason for this bill being here will be lost sight of.

The school problem is the most acute of all. The gentleman from Massachu-

setts and the gentleman from Texas this afternoon saw a good example of all of us standing around here with our pet little projects, such as sewers, and so forth. If the gentlemen of this committee will read the report of the Bureau of Education, which it made last December when the need was not as great as it is now, they will see that that Bureau advocated then, or stated then, that it was essential that we spend \$100,000,000 for schools alone; and, mind you, that is in areas adjacent to Federal reservations.

My friend from Michigan talks about another problem. You add that to the problems we have in Indiana, in Charlestown, and other places and you will have nothing but absolute necessities and the absolute needs for the schools in those areas.

The gentlewoman from Massachusetts spoke about a recreational center in Lowell, Mass. If she will read the report of the Bureau of Education and the report of the committee she will find that they have not her district down for a school even, not alone a recreational facility. I believe the committee has to either limit this amount or provide a specific amount for schools, or else add to the appropriation. I am willing to support both. I think they are all needed.

Mr. LANHAM. Will the gentleman yield?

Mr. MAGNUSON. I yield to the gentleman from Texas.

Mr. LANHAM. Of course, if we begin to earmark this bill for the various items that are to be included in it, we must earmark all of the items, because there are certain places where there are needed some things more important than schools, and I know from the angle of our defense of such places. I think we better let this go as it is so that when the facts are all before the Administrator the proper allocation can be made. I agree that a larger part of the appropriation will likely be for schools, but I do not believe we ought to start in earmarking these items.

Mr. MAGNUSON. Would the gentleman object to two-thirds being earmarked?

Mr. SOUTH. Will the gentleman yield?

Mr. MAGNUSON. I yield to the gentleman from Texas.

Mr. SOUTH. I am inclined to think the gentleman from Washington is right. I would like to point out the fact that in the towns into which these people have moved, not only will the newcomers suffer as a result of the school facilities, but the taxpayers and the residents who have been there throughout the years, who have paid for the schools, are crowded out of a place to send their children and the whole work will be disrupted. I cannot conceive of anything that is more important than the public schools in the various communities.

Mr. MAGNUSON. There is not a Congressman sitting in this Chamber who has not received a letter from the city fathers at home who in anticipation of this bill have stated: "We want a sewer, a sidewalk, a playground," or something else. The contracts have to

be let for these things within 2 weeks. Mr. Carmody's office will be so crowded with lobbyists from every city wanting sewers, playgrounds, and play fields that I am afraid the schools—and the chairman of the committee states that is the primary purpose of this bill—will be forgotten.

In my district is Bremerton, and they will want sewers. They want everything, and they will be depending on me for it. What they need is schools and this should be used to take care of the school needs.

Mr. DONDERO. Will the gentleman yield?

Mr. MAGNUSON. I yield to the gentleman from Michigan.

Mr. DONDERO. I share the view of the gentleman from Washington in regard to schools, but when a large plant starts up, as has been cited here, you have other problems besides the school problem. You have the problems of fire protection, sewers, sidewalks, and other things.

Mr. MAGNUSON. My amendment only takes two-thirds.

Mr. DONDERO. I am afraid if you earmark this money you may not solve the problems that this bill seeks to solve.

Mr. MAGNUSON. Will the gentleman join with me in adding more to the bill? I am not against all these other things. I would like to add \$300,000,000 to the bill. We gave \$7,000,000,000 to England and I think we can afford to spend \$300,000,000 for these facilities.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington [Mr. MAGNUSON].

The amendment was rejected.

Mr. MCGREGOR. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. MCGREGOR: On page 4, line 20, after the semicolon, insert: "Provided, That the fixed fee does not exceed 6 percent of the estimated cost."

Mr. MCGREGOR. Mr. Chairman, I am sure we have this bill before us today for one purpose and that is to give assistance to the soldier boys and to the entire community rather than to one, two, or three groups of contractors. I do feel that we should limit the amount of fees and the profit that is to be made out of this program.

My amendment simply carries forward the same percentage that is being carried in the Army and Navy construction bills, which allow fees not to exceed 6 percent of the estimated cost of the facilities or building program.

I trust the committee will agree to the amendment.

Mr. LANHAM. Mr. Chairman, I have no objection to the amendment offered by the gentleman from Ohio [Mr. MCGREGOR]. I understand it is the same as the limitation placed in the Army and Navy contracts.

Mr. MCGREGOR. That is correct.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio.

The amendment was agreed to.
Mr. DIMOND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DIMOND: On page 6, line 13, before the period insert "and as used in such sections the term 'State' includes any Territory or possession of the United States."

Mr. LANHAM. Mr. Chairman, will the Delegate from Alaska yield?

Mr. DIMOND. I yield to the gentleman from Texas.

Mr. LANHAM. The gentleman and I have discussed this and the matter has been discussed with several members of the committee. That is clearly the intent of the law, and the committee would have no objection to the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the Delegate from Alaska.

The amendment was agreed to.

Mr. HOFFMAN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HOFFMAN. Just how does the Chair call these amendments, by the order in which they go up to the desk, or according to the section number?

The CHAIRMAN. It is in the discretion of the Chair.

Mr. KEEFE. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I do not believe the gentleman from Michigan needs to complain very much about the order in which the Chair gives recognition. I have been waiting here since 2 o'clock looking for an opportunity just to say a few words in connection with this bill. We will all be recognized in due time, and that is no fault of the Chair. It seems that we have a large number of very agile and vocal members of the committee who want recognition.

I wish to say simply this: I am very much in favor of this bill and I intend to vote for it because I believe it is in the public interest.

Let me call your attention to a matter which I believe will perhaps involve some rather startling information. We have been discussing on the floor of Congress and throughout the Nation the question of the effect on industry of the loss of manpower days and hours due to strikes in defense industries. The matter has become so acute in the minds of certain people throughout the Nation that legislation has been demanded to deal with the problem. I understand that legislation now rests upon the Speaker's table purporting to deal with that problem. I am not discussing that question in connection with these remarks except to say that if the loss of manpower hours in industry due to strikes is as important as contended, then, it seems to me, these facts ought to be called to your attention. The statistics furnished me by Dr. Lubin, of the Bureau of Labor Statistics, under date of April 22 disclose that in the year 1940, 2,450 strikes, involving 577,000 employees, caused a loss of 6,500,000 man-days.

Now, look at another side of the picture. That is why this bill is exceedingly necessary. The estimated number of man-days lost from disabling injuries in 1940 was 46,000,000. This number of days was lost by employees because of accidents in the year 1940 in nonagricultural industries. This estimate does not take into consideration the fact that, in addition to these accidents, there were 11,000 deaths and 116,000 accidents in industry resulting in permanent partial disability. Using the accepted conversion of deaths by accident into the economic loss of manpower days, and using the same method of measuring the economic loss of manpower days due to industrial accidents causing permanent partial disability, Dr. Lubin advises me that the total manpower days lost as a result of industrial accidents in the year 1940 was 235,700,000 manpower days. These figures do not include the 55,000,000 manpower days lost due to colds and influenza in the year 1940.

Does it not become apparent, therefore, that the loss of manpower days due to strikes is pitifully insignificant and small compared to the loss of manpower days due to negligence, improper working conditions, improper sanitary facilities, and disease that is rampant throughout this land?

Whenever there is an opportunity to extend the facilities that will provide for proper sanitation, medical and hospital services, research, proper recreation, proper factory inspection, and wider dissemination of information and advice on disease and safety, I intend to do what I can to extend such facilities.

[Here the gavel fell.]

Mr. KEEFE. Mr. Chairman, I ask unanimous consent to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. KEEFE. I want the Members of Congress to know that while I consider the loss of manpower hours due to industrial strikes extremely important, the loss of manpower hours in industry in these congested areas due to accident and disease is stupendous compared with the loss due merely to strikes.

When we are considering the problem involved in this bill of giving aid to communities to provide sanitation, to provide schools, to provide hospitalization, and to provide recreation, we are at least taking a small step in the direction of attempting to reduce this menace to our national welfare and this menace to our productive capacity which has resulted, as Dr. Lubin says, in 1940 in the loss 235,700,000 manpower days in industry. This is one place where we can begin to attack a real problem. Improved methods of factory inspection, of safe places to work, a decent system of extension of the Public Health Service, the extension of education throughout this land, and the furtherance of the things that are directed to the solution of the problem of public safety.

Mr. Chairman, I am pleased to include as part of these remarks the letter from Dr. Lubin, heretofore referred to. I also include a statement from the New York Times, of April 13, 1941, and a table from the Bureau of Labor statistics.

APRIL 22, 1941.

HON. FRANK B. KEEFE,
House of Representatives,
Washington, D. C.

DEAR CONGRESSMAN KEEFE: In reply to your telephone request of this morning to my office, I am happy to send you herewith the following information on man-days lost through strikes and accidents during the year 1940.

The number of man-days lost in strikes during 1940 is given in the table below:

1940—Number of—	
Strikes.....	2,450
Workers involved.....	577,000
Man-days idle.....	6,500,000

Estimated man-days lost from disabling injuries in 1940: Preliminary estimates of the Bureau of Labor Statistics indicate that 46,000,000 man-days were lost by employees because of accidents in the year 1940 in the nonagricultural industries. This estimate represents an understatement of the total loss because it deliberately excludes 11,000 deaths and 116,000 accidents that resulted in permanent disabilities. On the basis of the accepted conversion of a death by accident into an economic loss of 6,000 days and a permanent disability into an economic loss of 1,000 days, the total man-days lost as a result of accidents in the nonagricultural industries in the year 1940 aggregated 235,700,000 days.

You no doubt will also be interested in the attached article from the New York Times of April 13, 1941. It is evident from this article that a health program which was 10 percent successful in cutting down the time lost because of colds would result in an addition of close to 6,000,000 man-days to our productive output.

I thought you might also be interested in the attached table on man-days of idleness due to strikes in the defense industries. You will note from this table that the maximum loss due to strikes in any particular industry was sixty-eight one-hundredths of 1 percent of the total man-days worked.

Very truly yours,

ISADOR LUBIN.

[From the New York Times of April 13, 1941]
LOST WORKING DAYS FROM COLDS LISTED—59,000,000 WASTED LAST WINTER AS RESULT OF AILMENT, GALLUP SURVEY FINDS—SOUTH WAS HARDEST HIT—50,000,000 ADULTS AFFECTED BETWEEN OCTOBER AND MARCH, TEST SHOWS

Almost 59,000,000 working days were lost by Americans last winter due to colds and "flu," the American Institute of Public Opinion has estimated on the basis of surveys conducted nationally.

"For the first time in United States history it has been possible to chart the extent of America's No. 1 health problem—colds and 'flu,'" Dr. George Gallup, the institute's director, reports, "The evidence indicates that in the past winter more than 50,000,000 adults suffered from colds and twenty millions were affected by the 'flu.'"

"The results are convincing proof that the two ailments can be written down as the source of more lowered physical efficiency—and greater economic loss—than any other illnesses on the American medical calendar."

"For while health authorities have had impressive statistics on tuberculosis, pneumonia,

heart disease, and other major ills, they have heretofore been largely in the dark regarding the extent of colds and 'flu' in the total population.

"The reason, of course, is that most cases of 'flu'—and the overwhelming majority of colds—are simply never reported to doctors and health authorities."

Here are findings from the institute survey which will give medicos and health authorities some of the first evidence ever obtained on the incidence and cost of the two ailments throughout the 48 States:

"1. Between October and March nearly two adults in every three suffered from colds at one time or another.

"2. In raw figures this means that more than 50,000,000 adults suffered loss of vitality, efficiency, or working time because of colds in the last 6 months. And even this estimate is on the conservative side, since the survey does not include persons under 21 years of age. Assuming the same rate of incidence among those under 21, the results point to a total of about 84,000,000 who were affected.

"3. In addition, the survey indicates that more than 20,000,000 adults—or 1 in every 4—were victims of last winter's epidemic of flu and grippé.

"4. While the time lost on account of flu and colds combined was small in most individual cases—few being laid up more than 2 or 3 days—yet the accumulation of lost time, when spread over hundreds of United States cities and counties, comes to a staggering figure.

"ESTIMATE OF THE WASTAGE"

"To provide some estimate of how much economic wastage alone was involved as the result of colds and flu, the institute asked: 'Did you lose any time from work this winter because of a cold or the flu?' One person in four said he lost time from work of one kind or another, and the combined replies represented a total loss of approximately 59,000,000 working days—for employers and employees, laborers and white-collar workers.

"The number of persons reporting one or more colds in the survey are as follows:

	Percent	
	Yes	No
National total.....	64	36
Men.....	63	37
Women.....	65	35
Under \$1,000.....	67	33
\$1,000 to \$2,500.....	63	37
\$2,500 and over.....	61	39
Farmers.....	65	35
Towns and cities under 10,000.....	66	34
Cities 10,000 to 100,000.....	63	37
Cities 100,000 and over.....	61	39

"Of the more than 50,000,000 adults estimated to have had colds, an estimated 13,000,000 had 2 colds or more, and 7,000,000 3 or more. Persons in the lower-income group tended to have 2 and 3 colds more often than other groups.

"While the sectional results of the institute's flu study showed a comparatively large figure for the West, where the 1940-41 flu epidemic is believed to have originated, it appears that the Western States suffered less from colds during the same period than any other section of the country.

"Both flu and colds seem to have hit the South the hardest. Section by section the incidence of colds reported in the survey was:

	Percent	
	Yes	No
New England.....	64	36
Mid-Atlantic.....	63	37
East Central.....	64	36
West Central.....	72	28
South.....	58	42

TABLE B.—Man-days of idleness during strikes in 11 industries closely related to national defense, compared with man-days worked, 1940¹

Industry	Minimum number of man-days worked	Man-day: idle as a percent- age of man-day worked	Num- ber of man- days worked per man- day idle
		Percent	
Aircraft.....	21,624,000	0.17	594
Aluminum.....	6,792,000	.45	222
Automobiles.....	107,424,000	.10	1,031
Blast furnaces, steel mills, and rolling mills.....	116,088,000	.12	849
Electrical machinery.....	57,624,000	.68	146
Engine manufactur- ing.....	12,528,000	.06	1,685
Explosives.....	1,824,000	.16	601
Foundries and ma- chine shops.....	96,624,000	.27	375
Machine tools.....	15,840,000	.07	1,350
Sawmills, logging camps, and mill- work.....	110,352,000	.39	254
Shipbuilding.....	22,488,000	.21	406

¹ Days work estimated as average employment times 240 days per year.

² With allowance for independent logging camps which are included in the strike data but are excluded from the regularly published employment figures.

Source: U. S. Bureau of Labor Statistics.

I also call attention to the fact that these figures do not include further the loss of manpower-days caused as a result of some 36,000 deaths due to automobile accidents last year, and one-hundred-twenty-thousand-odd severely crippling accidents due to automobile accidents in the year 1940. If we are seeking by action of this Congress to keep men at work in industry and reduce the hazards of unemployment, let us attack this problem of safety, let us attack this problem of disease and let us get behind and support every effort and every appropriation that is necessary to wipe out this menace to our national safety. Such money will be well spent in the public interest.

The CHAIRMAN. The time of the gentleman from Wisconsin has again expired.

Mr. JENSEN. Mr. Chairman, I offer the following amendment which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. JENSEN: Page 4, line 20, after the word "basis" and preceding the amendment of the gentleman from Ohio [Mr. McGREGOR], insert: "For utility expansion, but all other contracts shall be let to the lowest responsible bidder."

Mr. JENSEN. Mr. Chairman, I have no fight with the purpose or principle of this legislation. In fact I am for it 100 percent. I think it is very necessary and important at this time. I am, however, concerned about giving some of these contractors, very, very reputable contractors in every district, something to do, something that they can do which they will feel gives them a part in this national-defense program, and also will give work to their men. This is one phase of the national-defense building program which the contractors in every district can do. These contracts are not so large. The contractors have the necessary equipment and the necessary men and

they can perform them expeditiously and well.

I have been associated with builders in certain sections of this country for quite some time and I know that in every district there are good contractors. The time element, of course, is always brought up in this defense building. It is contended, and rightly so, in a lot of respects, that it is much faster to let these contracts on a cost-plus-fixed-fee basis than it is by competitive bidding. In this particular instance these contracts are not going to be large. One hundred and fifty thousand dollars or two hundred thousand dollars possibly will be about the largest that we are going to have. I know that these contractors can bid quickly and they can figure these jobs quickly, and the contracts can be let quickly and those contractors are ready to go to work any time we give them a contract. I have contractors in my district who have been trying to get sub-contracts, but find it impossible, and I know that you gentlemen in your districts have a like situation.

Mr. HOLMES. Mr. Chairman, will the gentleman yield?

Mr. JENSEN. Yes.

Mr. HOLMES. Personally, I see no reason why the amendment can do any harm to the bill. I call attention to the fact that when a community does the work, it is not necessary to advertise. For instance, in my city we do our own work, water, building sewers, sidewalks, and so forth, sewer mains and all that. It is all done by the community itself.

Mr. JENSEN. That is all right.

Mr. HOLMES. It does not apply there, but it does to any advertised contract.

Mr. JENSEN. That is right. That is about all I have to say about the amendment I have offered. I hope the Members will recognize the importance of this amendment and support it.

Mr. LANHAM. Mr. Chairman, I rise in opposition to the amendment. I understand the good purpose which actuated the gentleman from Iowa [Mr. JENSEN] in introducing the amendment. One necessary feature of this work, however, if these schools are to be opened on time, is the necessity that the construction be completed as soon as possible and, therefore, the contracts will have to be entered into very shortly. We provide in this section that there shall be no contract on a cost plus a percentage-of-cost basis, but that contracts may be made on a cost plus a fixed-fee basis, and that the fee in no case shall exceed 6 percent of the estimated cost. This does not preclude competitive bidding, but there will be many instances in which competitive bidding will be impossible by reason of the necessary speed in doing this work.

We already have a restriction that there cannot be more than 6 percent of the cost paid to any contractor. When you have competitive bidding you must have advertisements in the newspapers; you must have specifications; you must get these bids in. You must go over them and determine who are responsible, and which one is the lowest in view of all that. That takes considerable time. When we have to get these schools ready

before fall starts, why should we require that all construction should be done on competitive bidding? Let it be done when it can be done to advantage. We have placed a restriction of 6 percent on the cost that can be paid to any contractor. I say it is not practical to apply this amendment to every individual case, and it will delay the whole program.

Mr. JENSEN. Will the gentleman yield?

Mr. LANHAM. I yield.

Mr. JENSEN. I am sure that the gentleman realizes that under the cost-plus-fixed-fee basis the contractor is permitted to buy a lot of machinery and put it in on the cost of the bill. I say that that just is not good business. I say that when you have contractors all over the country who have the equipment ready to do this job, that is the place where these jobs should be let. Another thing, you say we must have specifications. Of course we must have them. The Government has those specifications to turn over to the contractors who bid on these jobs, just as they have them to turn over to the other contractor on a cost-plus-fixed-fee basis. As to the time element, I venture that it will even be in favor of the letting of these contracts by competitive bidding.

Mr. LANHAM. May I say to my friend from Iowa that in those cases where competitive bidding can be resorted to without loss of necessary time, I believe thoroughly in the principle enunciated in the gentleman's amendment. But to say that all of these contracts shall be made by competitive bidding, advertising in newspapers, specifications furnished, a certain time by which the bids must be in, is not feasible because some of this work must be done more speedily than that. Competitive bidding can be had under the provisions of this bill, but to make it mandatory in all cases would operate against the efficiency of the program.

Mr. JENSEN. Under the emergency powers which Congress has given to the President I am sure he would have the power to go ahead and say that it was not necessary to advertise for bids.

Mr. LANHAM. I am not so sure about that. I think that is a matter of law as well as a matter of regulation that could not be so easily repealed. But at any rate, it is my hope and my belief that when it is possible to award these contracts by competitive bidding it will be done. But certainly there will be instances where it cannot be done. To say that they shall all be done that way would be to tie the hands of the Administration and we would not get this work done in time to carry out some of the purposes of the bill.

Mr. BEITER. Will the gentleman yield?

Mr. LANHAM. I yield.

Mr. BEITER. The gentleman is aware of the fact that the Administrator, in all the funds allocated to the Public Works Administration, has awarded less than 10 percent of these contracts on a cost-plus basis. The others have been on a competitive-contract basis. I have talked to the Administrator on this question on several occasions. He has al-

ways preferred to let the contracts under the contract system rather than on a cost-plus basis.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa [Mr. JENSEN].

The question was taken; and on a division (demanded by Mr. JENSEN) there were—ayes 21 and noes 44.

So the amendment was rejected.

Mr. HOFFMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOFFMAN: Page 5, line 25, insert "(d) No individual, agency, or organization shall interfere directly or indirectly, through pickets or otherwise, with the expenditure of the funds authorized or appropriated by or for the purposes of this bill, or with the operation of any facility created or operated hereunder."

Mr. LANHAM. Mr. Chairman, I reserve a point of order against the gentleman's amendment.

Mr. HOFFMAN. Mr. Chairman, I hope the gentleman will not make a point of order against this amendment. I think the amendment is germane, and I think it will help in carrying out the purposes of the bill.

I have assumed that all those who are supporting this bill really want to see this money used to the best advantage and used solely for the purpose stated. Now it is a matter of common knowledge and a matter of proof that even schools have been interfered with quite recently by men who are on picket duty, men who are armed and who by force prevented students from attending that school.

I cite as an illustration the school maintained by Henry Ford in Dearborn, where facilities are afforded to 1,000 young men who are taking training for the Navy and merchant marine. That is not a school supported by public funds. That is a school founded and supported and its activities carried on by an individual, Henry Ford, who is training young American citizens in our time of need to be of exceptional use and value to our Nation. Yet in this strike which began April 1, picket lines at Dearborn, by force, with pieces of hose 3 feet long, clubs, bricks, and stones, closed that school and prevented those young men from going to it.

I call your attention to the fact that this bill provides for hospital facilities. In that same strike a veteran of foreign wars, a man who had served his country overseas in a prior war, who was going to that veterans' hospital for treatment, was prevented by force from going there and from receiving treatment.

Why should we establish schools? Why should we establish hospitals in part with public funds unless they are permitted to operate without interference? They are charitable institutions, are they not? In a certain sense they are governmental agencies, and yet as a matter of fact armed men prevent the use of that charitable institution to take care of the soldiers who served their country in time of war; prevent young men in training for their country's service to attend that school.

Is there any reason why such an amendment as here offered should not be adopted? I have heard none.

I will go one step further. A week or two ago a picket line was thrown around a Pittsburgh hospital. A hospital which was in part supported by an appropriation of public funds from the Commonwealth of Pennsylvania. They have a labor law in Pennsylvania, and an anti-injunction law which thoroughly protects labor. In that State, nevertheless, armed men did beat employees who were going to the hospital. They did beat sit-down strikers who were in the hospital dormitory.

I understand it is difficult to get anyone to vote for any legislation which is not supported and approved by organized labor. It does not require a great deal of courage to stand here on the floor and advocate convoys, to advocate the sending of an expeditionary force across the sea; it does not require very much courage to stand on the floor of this House and say we should lick Hitler when we know we are not going to be sent across to do any part of the fighting and when all too many citizens of our own age and lack of physical fitness are not willing even to contribute the finances to sustain such a program. Has the House the courage and the inclination to face this situation of strikes which delay national defense? Now, Mr. Chairman, I ask the Members of the House in all fairness: We are appropriating money for charitable institutions, for hospitals to care for the injured, for schools to educate the young. In the name of common sense is there any reason why we should permit any organization to interfere with that program?

This amendment will make certain that the facilities here provided are constructed or obtained and operated without improper interference, and it is no answer to say that this is not the time or the place for legislation of this nature. The Vinson bill is no answer and no one knows when, if ever, that bill will become law. For weeks it has been held up—strikes continue; defense, aid to Britain are delayed; Communists encouraged, and the House fails to meet the issue.

[Here the gavel fell.]

Mr. LANHAM. Mr. Chairman, I withdraw the point of order but I should like to make an observation.

The CHAIRMAN. The point of order is withdrawn. The gentleman from Texas is recognized for 5 minutes.

Mr. LANHAM. Mr. Chairman, we have pending a measure dealing with this whole subject of strikes and interference with production. A rule has been granted on it and we understand it will very shortly come before this House for consideration. It will refer to whatever is done in the matter of all these national-defense projects. It seems to me it would be very inappropriate, in view of the fact we are to consider that very shortly with reference to all of this legislation, that an amendment, and an amendment which in the first place may not be in accordance with the provisions of the general law that may be enacted, should be placed upon one particular

bill, the one that is now being considered and in which we need all of the dispatch possible. I think that is a subject that should be considered in the general legislation soon to come before us, and which, as I have indicated, will apply to this bill as well as to all other measures we enact.

Mr. HOFFMAN. Mr. Chairman, will the gentleman yield?

Mr. LANHAM. I yield.

Mr. HOFFMAN. I appreciate the statement made by the gentleman from Texas. I assume the gentleman refers to the Vinson bill, but that bill is not broad enough to cover the situation I have called to the attention of the House.

Not only that, but I should like to call the attention of the gentleman, the chairman of the committee, and to the attention of the Members of this House—and it is a fact—that time and time again on appropriation bills we have had this very same proposition raised, and almost without exception this House has deliberately avoided the issue. All the polls show that from 75 to 85 percent of the people are against these strikes in defense industries.

Mr. LANHAM. May I say to my friend—

Mr. HOFFMAN. I beg the gentleman's pardon for making a speech in his time.

Mr. LANHAM. If the Vinson bill is not broad enough to cover what the gentleman has mentioned, then the gentleman's course would be to offer the amendment to the Vinson bill and not to this particular measure.

Mr. HOFFMAN. Pardon me, if I may add this: On this bill it will accomplish its purpose. We have ducked and dodged and yielded to the labor lobbyists for almost 9 months, and the war fever is growing and growing. Pretty quick we shall have the war and this interference with our defense right here at home. I know the procedure, but are we going to get right on it with our people?

Mr. LANHAM. I submit to my friend from Michigan and to my colleagues in the House that we are soon to discuss this general measure to which his amendment refers, applying to all legislation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan.

The question was taken, and the Chairman announced that the ayes appeared to have it.

Mr. HOFFMAN. Mr. Chairman, may I have a division to see just how many people there are who will support this kind of legislation?

The question was taken; and on a division (demanded by Mr. HOFFMAN) there were—ayes 1, noes 39.

So the amendment was rejected.

Mr. HOFFMAN. May the RECORD show, Mr. Chairman, there was but one vote in the affirmative and that I cast that vote?

Mr. MAHON. Mr. Chairman, I move to strike out the last word. I know the time is late, but I have not taken any time on this bill and I shall not now take all the time allotted to me under the rules of the House.

There are thousands of cities and towns in this Nation that for a period of some

months have been doing everything in their power to get some kind of national-defense project. They have spent tremendous sums of money making trips from various parts of the country to Washington and elsewhere trying to get national-defense projects, and, in every case I dare say, those making these applications have offered full cooperation with the Federal Government. They were willing to do anything to cooperate with the Government if the Government were willing to allot them a national-defense project.

Now, by this bill we tell those few places that have received national-defense projects, and they have been relatively few compared to the large number of cities and communities in the Nation, that we are going to authorize an appropriation of \$150,000,000 to supplement the many millions that we have already spent in their communities doing this, in order to take care of recreational facilities and educational facilities. I am going to vote for this bill, but I will do so with some reluctance. In the great majority of communities throughout the Nation educational and recreational facilities are inadequate. By this bill we are going to go into certain favored communities where we have already spent Federal money rather lavishly, and we are going to spend more Federal money in order to help the local communities with their recreational and school programs. Adjoining towns which have received no national-defense projects suffer the additional slight of receiving no money for community building, and the slighted towns may have inferior school and recreational facilities. Those who have received nothing get nothing; those who have received much get more. I think a lot of people are going to be resentful about this measure. I shall vote for it with the hope that the money will be used to alleviate the most acute conditions. He will be a wise administrator who can fairly administer this bill.

Mr. SOUTH. Will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Texas.

Mr. SOUTH. If the gentleman had the choice of spending money on recreational facilities or school facilities, the gentleman would prefer to spend money on the school facilities?

Mr. MAHON. I would, and I congratulate the gentleman in his efforts to try to get the schools taken care of. He has made a real contribution and I realize his interest in the problems of his own district. I do not know many towns in Texas that have adequate facilities and if we could give the necessary money to all of them I would be for it. By this bill we favor only the favored few. The local communities should do their part and I hope that those who administer this program will see to that.

Mr. PRIEST. Will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Tennessee.

Mr. PRIEST. I appreciate what the gentleman has said. May I say to the gentleman that in Davidson County, for example, where perhaps a million dollars

will be needed to take care of additional educational facilities in that county, it has already been agreed to raise the tax rate 10 cents and that a \$500,000 bond issue will be voted to take care of the county's part. I believe that may be true of many cases where communities are alive to their responsibility to meet their share. I just call this to the gentleman's attention and I appreciate his yielding.

Mr. MAHON. I am glad the gentleman has put that statement in the RECORD. I believe this money should go to those communities which are cooperating and where the need is the greatest. [Here the gavel fell.]

Miss SUMNER of Illinois. Mr. Chairman, I move to strike out the last two words.

Mr. Chairman, I do not doubt but that a case has been made out for this bill; yet I am suspicious that a large part of this money is going to be expended that would not have had to be expended at all if there had been proper judgment exercised by our various Government departments. Obviously, this committee has done a good job. We all have the utmost faith in the committee and in its chairman. The members of the committee have studied this matter thoroughly and they have turned over the administration of the bill to a department headed by a man with whom many of us, including myself, are acquainted. He impressed me as a zealous administrator.

But we have communities all over the United States, as the gentleman who just preceded me stated, coming to their Congressmen and the Administration, asking for defense industries, and all afternoon, in making out a case for this bill, the indications are that many of these industries have been placed in communities in which there were no facilities, whereas they might just as well have been placed in communities, such as in my district, where there were roads, where they had schools, and where there was plenty of skilled labor. It looks to me as if there has been something vitally wrong in the allocating of these defense industries, and I think right here and now we ought to get this information from the gentlemen of the committee who have talked with the witnesses.

Mr. MCGREGOR. Will the gentleman yield?

Miss SUMNER of Illinois. I yield to the gentleman from Ohio.

Mr. MCGREGOR. I concur in the statement of the gentleman on the feasibility and the advisability of certain locations of these cantonments and industrial centers. To my mind, the selection of these locations is a concrete example of either inability, inefficiency, or lack of care by certain department heads. It is another example of the inconsistency of certain departments that care nothing for the expenditure of the people's money. To my own knowledge, a large number of these industrial centers and cantonments should have been placed in centers where the additional money needed for facilities would be very small. It reminds me of the old days when we used to buy a Victrola. The first cost of the Victrola was very little in comparison with the cost of the rec-

ords. It seems to me those in charge went ahead and located these cantonments and industrial centers because the cost per acre was small, or possibly politics entered into it, whereas the big cost to the taxpayers of the Nation is going to be for the utilities, in order to get these cantonments and industrial centers to operate.

Miss SUMNER of Illinois. I know one case, and I expect the gentleman found worse examples, where they selected a site where they even had to dig up a cemetery. Men went from my district to work over there digging up bodies, when only a few miles away there was a community of 40,000 crying for a defense program, in which there was a surplus of 2,000 men, unemployed skilled labor, and with every kind of facility, that would have avoided such an expense.

[Here the gavel fell.]

Mr. POAGE. Mr. Chairman, I move to strike out the last three words.

Mr. Chairman, while my district is one of those that has not received any defense industries, I cannot join in the criticism of the Republican Members of the Cabinet, the Secretary of War and the Secretary of the Navy, for the selections they have made of sites. I feel that those gentlemen have been doing a patriotic work and have been selecting sites from the standpoint of what they consider is best for national defense. Down in central Texas we feel they have overlooked some fine sites but we do not question their motives. Of course, sometimes the sites selected require additional expenditures. This bill makes provision for such additional expenditures for the things that are necessary to make the camps and the industries function best in the defense of the Nation. That is the necessity for this bill, of course. It is for the reason that it will in substantial measure assist in the defense of the Nation that I shall support the bill, as I am sure the great majority of the Members of this committee will do.

Miss SUMNER of Illinois. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from Illinois.

Miss SUMNER of Illinois. I did not mean that I was not going to support this bill. I do not doubt the need for this bill. However, it seems to me that a little prevention ahead of time would have prevented much of the need for it.

Mr. POAGE. I understood the gentleman from Illinois was going to support the bill, but I did understand that Members of the minority party had criticized their own colleagues who occupy positions in the Cabinet on the selection of sites.

Mr. MCGREGOR. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from Ohio.

Mr. MCGREGOR. I retain the right to criticize anybody who is throwing money to the four winds of heaven, regardless of whether he is a Republican or a Democrat.

Mr. POAGE. The gentleman certainly has that right. I feel that these men have done good work. I am glad to commend anyone, whether he be a Democrat

or a Republican, for the good work he has done. I feel that these two men in the Cabinet have done splendid work and are going to continue doing so. They have emphasized the need for speed and correctly so. I hope that in the future they will be able to go further toward decentralization of industry.

This bill, in addition to doing a splendid, needed piece of work, is going to involve a whole lot of waste, and there is no getting around it. You are not going to spend \$150,000,000 for purposes such as these and in the haste in which you must spend it without having a lot of waste.

This afternoon we are going to support this bill. We are going to vote \$150,000,000 because we recognize that it is important to see that there is no slack in our defense anywhere. We know it is better to spend some money wastefully than to let things that need to be done in defense of the Nation go undone. Therefore, we are going to vote for this bill.

There is going to come before this House some time in the sweet bye-and-bye, whenever the conference committee gets around to bringing it in, which may be some time next fall, a conference report on the agricultural appropriations bill. I am hopeful that the report will contain enough money in the way of parity payments to give some small portion of the parity that has been promised to the American farmers for a long time, which will not be a large amount. It will not be an amount much larger than this bill, yet it will bring a living standard to millions of farm people over the United States, to one-third of the people of this Nation.

I am wondering if the Members of this House are going to be so solicitous about those weak links in our defense when that bill to provide some semblance of a fair living standard for the farmers of the Nation comes before the House. It is just as essential to feed and clothe the people who produce our food as it is to entertain those who produce our munitions. Too many times I have seen this House willing to accept anything in the name of defense, anything in the name of labor, but nothing for the farmer. [Applause.]

[Here the gavel fell.]

Mr. LANHAM. Mr. Chairman, I ask unanimous consent that all debate on the bill and all amendments thereto close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MUNDT. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I believe it is a wholesome sign that just before the passage of this bill we have had this discussion about some of the reasons why the bill has become important and necessary. I am among those who expect to vote for this bill, and I shall vote for it as the gentleman from Texas is going to vote for it, with reluctance, because it seems to me that wise planning in the distribution of our defense projects would have obviated the necessity of now coming

back and taking from our impoverished Treasury \$150,000,000 which might better be used for bombing planes or for battleships or tanks than for building schoolhouses and recreational centers in areas which are overcrowded. Since these areas are overcrowded, I believe we should follow the recommendation of this committee and make the facilities available, but how easy it would have been to have prevented much of that overcrowding in the first place if the Office of Production Management and the Procurement Divisions of the Army and the Navy, instead of putting these defense projects into areas which are overcrowded, had distributed them across the face of America, including that great area in the Middle West in which we have been losing population of late, in which we have an abundance of educational institutions, and in which we have a surplus of recreational facilities waiting for people to utilize them.

My only point in speaking at this late hour is simply that I hope the Office of Production Management, the Secretary of War, and the Secretary of the Navy, will not utilize the ease with which they have belatedly secured this \$150,000,000 to continue the policy of unwisely crowding defense projects into congested areas, but that they will in the future place them throughout the areas of this country which are able to absorb the population and take care of the people who would be put into the defense industries.

Mr. SOUTH. Mr. Chairman, will the gentleman yield?

Mr. MUNDT. I yield to the gentleman from Texas.

Mr. SOUTH. Mr. Chairman, I call the attention of the gentleman to the fact that these areas are crowded now, simply because of this influx, and if you put it in some other town, that other town would have been crowded also because in many instances more people have moved into a given area than already live there, thus doubling the population. It is inevitable.

Mr. MUNDT. To a certain extent that is correct, but to a certain extent it is not. When we take the map of the United States, as recently published in the United States News, and you find that nine Midwestern States have secured something less than 5 percent of the total defense projects, while they represent almost 25 percent of the area of this country, we recognize that they have proceeded upon the basis of the rich getting richer and the poor getting poorer, and of the larger cities growing larger and the more sparsely settled communities becoming more sparsely settled.

Mr. SPARKMAN. Mr. Chairman, will the gentleman yield?

Mr. MUNDT. Yes.

Mr. SPARKMAN. In line with the gentleman's statement, I noticed a statement the other day giving the amount of defense orders that have been given out, and I remember that several States were taken and the orders analyzed according to population. If I remember correctly the State of New Jersey, for instance, with 3 percent of the population obtained over 11 percent of

the defense orders. Does not that necessarily make that area a siphon to draw population from these other sections of the United States?

Mr. MUNDT. That is absolutely correct. It tends to further dislocate the population of this country. If the area of the State were to be enlarged in accordance with the amount of defense orders, it would make the State of New Jersey as large as the State of Texas. I have nothing against the State of New Jersey, but I think the time has come when those in charge of procurement work should recognize that there are 48 States of the Union, and work should be distributed from the standpoint of not overcrowding congested areas and new defense plants should be located so that population will not be so highly concentrated in big-city areas that the Federal Government will be requested to finance service projects at taxpayers' expense.

Mr. BUCK. Mr. Chairman, will the gentleman yield?

Mr. MUNDT. Yes.

Mr. BUCK. I admit that as far as the Government has existing facilities such as Norfolk, Va., or Mare Island Navy Yard, the Government should utilize those to the fullest extent, and expand them.

Mr. MUNDT. Surely.

Mr. BUCK. In the case of Norfolk the rate of expansion has been from 5,000 men employed to 17,000 men, and in the case of Mare Island from 5,000 to 18,000 men. Obviously there will be local readjustments which must be made, and which are dependent upon Government activity.

Mr. MUNDT. That is unquestionably true. And not all of this \$150,000,000 is now being spent because of short-sighted allocations of defense projects. In some instances population dislocations are inevitable. My protest is merely against a policy whereby big cities send delegations to Washington pleading for defense projects to further overcrowd their accommodations and then having secured the projects they return with an upturned palm begging for hospitals, schools, parks, et cetera, to take care of the people employed in defense industries. We in the Middle West are thus enduring a double discrimination. In the first place, we do not get anything resembling a pro rata portion of defense industry and in the second place we have to pay extra taxes to buy schools for cities enjoying the increased trade and better business produced by defense employment. I hope that in the future, Mr. Chairman, our defense industries will be more wisely distributed so that all of our States can share proportionately from expenditures which all of our States must proportionately pay. [Applause.]

The CHAIRMAN. The time of the gentleman from South Dakota has expired. All time has expired. Under the rule the Committee will rise.

Accordingly the Committee rose, and Mr. THOMASON having assumed the chair as Speaker pro tempore, Mr. CASEY of Massachusetts, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee had had under consid-

eration the bill H. R. 4545, and pursuant to House resolution 200, he reported bill back to the House with sundry amendments adopted in Committee of the Whole.

The SPEAKER pro tempore. Under the rule the previous question is ordered. Is a separate vote demanded on any amendment? If not the Chair will put them en gross. The question is on agreeing to the amendments.

The 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. BECKWORTH. Mr. Speaker, I ask unanimous consent to extend my remarks by including some information I received from the State Department.

The SPEAKER pro tempore. Is there objection?

There was no objection.

DELAYS IN DEFENSE INDUSTRY

Mr. BECKWORTH. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. BECKWORTH. Mr. Speaker, since last November I have been seeking to ascertain what power the authorities of the Federal Government now have to prevent delays in our national-defense program. I have recorded from time to time my findings in the CONGRESSIONAL RECORD. On April 19 I received the following letter from the President of the United States:

THE WHITE HOUSE,
Washington, April 19, 1941.

Hon. LINDLEY BECKWORTH,
House of Representatives,
Washington, D. C.

MY DEAR CONGRESSMAN BECKWORTH: I have your letter of April 9, 1941, inquiring as to the authority now possessed by the Federal Government to terminate delays resulting from industrial disputes in the event the Conciliation Service and the National Defense Mediation Board are unable to effect a settlement.

I have asked the Secretary of Labor to go into this question and to reply to your inquiry.

Sincerely,

FRANKLIN D. ROOSEVELT.

The Secretary of Labor wrote a letter to me April 23, in which she stated the letter I had written the President was referred by her to the Solicitor of Labor, Mr. Gerard D. Reilly. The reply of the Secretary of Labor follows:

DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, April 23, 1941.

Hon. LINDLEY BECKWORTH,
House of Representatives,
Washington, D. C.

MY DEAR CONGRESSMAN BECKWORTH: The President has referred to me for reply your letter dated April 9, inquiring as to the authority now possessed by the Federal Government to terminate delays resulting from industrial disputes which the Conciliation Service and the National Defense Mediation Board are unable to settle.

I have asked the Solicitor of Labor to go into this matter, and as soon as his investi-

gation is completed I shall be glad to communicate further with you.

Sincerely,

FRANCES PERKINS.

This morning I received another letter from the Secretary of Labor which accompanied the memorandum prepared by the Solicitor of Labor. The memorandum relates to the power which the Federal Government now has to prevent delays in our national-defense program. Paragraphs 2, 3, 4, and 5 are particularly significant in that they concern the power with which the President is now vested to prevent delays, according to the Solicitor of the Labor Department. A rather important and significant statement concludes the memorandum which I quote:

And, finally, for the occasional situation in which both prevention and impartial mediation are unsuccessful, the Government has authority to step in and act directly to assure resumption of production or an adequate alternative source of supply.

The letter I received from Madam Perkins this morning and the memorandum submitted by Mr. Gerard D. Reilly which accompanied the letter of the Secretary of Labor follow:

DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, May 8, 1941.

Hon. LINDLEY BECKWORTH,
House of Representatives,
Washington, D. C.

DEAR CONGRESSMAN BECKWORTH: In my letter to you of April 23, 1941, I indicated that I was requesting the Solicitor of Labor to make a study of the various devices available to the Federal Government to prevent delays resulting from industrial disputes. The Solicitor has prepared a memorandum on this subject and I am forwarding a copy of it herewith for your information.

Sincerely,

FRANCES PERKINS.

DEPARTMENT OF LABOR,
OFFICE OF THE SOLICITOR,
Washington, May 8, 1941.

MEMORANDUM FOR THE SECRETARY OF LABOR
You have asked me to make a study of the various possible types of authority available to the Federal Government to bring about termination of delays resulting from industrial disputes which are not settled by the Conciliation Service and the National Defense Mediation Board.

It will be readily apparent, of course, that the circumstances surrounding particular disputes will have great bearing upon the powers that may be invoked by the Federal Government. It should be noted, however, that the President in particular has broad authority to deal with industrial disputes which may arise in connection with national defense.

Under section 9 of the Selective Training and Service Act of 1940 (50 U. S. C. 309) the President has authority, through the appropriate branch of the Army or Navy, to take immediate possession of any plant or plants owned by any person or corporation or organized manufacturing industry which refuses to manufacture the kind, quantity, or quality of arms or other supplies ordered by the head of the War or Navy Departments.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. HOFFMAN. Mr. Speaker, I have a special order for 10 minutes. Would

it be permissible to yield 5 minutes of that time to the gentleman from Texas?

The SPEAKER pro tempore. If the gentleman asks for it.

Mr. BECKWORTH. I do, Mr. Speaker.

Mr. HOFFMAN. I yield 5 minutes to the gentleman.

The SPEAKER pro tempore. The gentleman from Texas is recognized for 5 additional minutes.

Mr. BECKWORTH. Mr. Speaker, I will read further from this letter written by the Solicitor:

This provision closely follows the language of section 120 of the National Defense Act of 1916 (Chap. 134, 39 Stat. 120). Insofar as it has been changed it is broader, for the earlier act limited the authority of the President to such action in a time of war or when war was imminent, and it was limited to obtaining equipment for the Army rather than for both the Services.

World War precedent indicates that section 9 of the Selective Training and Service Act is adequate authority for the Government to take possession of a plant in which the owner or management refuses to make a reasonable settlement of an industrial dispute which has resulted in a stoppage of production. During the World War, the workers of the Smith & Wesson Co. struck because of discrimination against members of the union and other types of antiunion activities. The case was considered by the War Labor Board. The company, however, refused to recognize the jurisdiction or authority of the War Labor Board to make an award and, on September 14, 1918, its facilities were commandeered under the provisions of section 120 of the National Defense Act. This section, as stated above, is almost identical with the provision of section 9 of the Selective Training and Service Act.

Under section 9 of the Selective Training and Service Act, a refusal to produce would not be excused on the grounds of impossibility if a contractor asserted that he could not come to terms with suppliers of essential raw materials. Similarly, a refusal to agree with employees on terms deemed fair and just by the National Defense Mediation Board would hardly seem to constitute justification for a refusal to produce necessary equipment or supplies for the Government.

Apart from the authority found in the Selective Training and Service Act, plenary power is vested in the Government under chapter 427 of the Laws of 1940, Public, No. 664, Seventy-sixth Congress, third session, to acquire plants by purchase and engage in the manufacture of strategic and critical materials. Thus, if an industrial dispute at a particular plant prevents production of vital defense materials, the Government presently has authority through the Reconstruction Finance Corporation to purchase the particular plant or another capable of producing the type of material involved.

Although, as indicated above, the Government may take over plants and operate them, such extreme action would seem inadvisable except as a last resort. The experience of the past demonstrates, moreover, that the force of public opinion is far more effective than the exercise of general Governmental compulsion.

In this connection it is worth recalling that the recurrent suggestion of prohibiting by law all strikes was never adopted by this country during the World War and that it has not been adopted even by the belligerents in the present conflict. In no democratic country has it proved possible to prevent strikes by legislation as is evidenced by experience under the Canadian Industrial Disputes Investigation Act of 1908, the Australian Compulsory Arbitration Statute of

1904, and the Munitions of War Act of July 1915 in Great Britain.

During the World War the War Labor Board, which had no greater coercive power than the present National Defense Mediation Board, was able to bring about settlement of every serious industrial dispute referred to it except three. Reference has already been made to one of these, the Smith & Wesson case.

A second situation involved the refusal of the Western Union Co. to abide by an award of the War Labor Board requiring it to cease discriminating against union employees. In this case, the company's refusal resulted in an order by the President, pursuant to an enabling joint resolution of Congress, taking over the operation of the company's properties.

The third case in which the award of the War Labor Board was not successful in bringing about a termination of a stoppage of production was the case of the Bridgeport munitions workers. In this case, some of the striking workmen refused to abide by the award of the Board, and the President ordered the workers to return to work under threat of withdrawal of draft deferment and deprivation of employment through the Federal Employment Service. (But see the comment of the Provost Marshal General in his report rendered December 20, 1918, at p. 76, and the first proviso in sec. 9 of the Selective Training and Service Act, title 50, sec. 309, U. S. C.)

When it is remembered that these instances are 3 out of almost 500 cases in which that Board made awards, it will be seen how potent is the force of a tribunal acting fairly and supported by the force of public opinion.

Even more effective than machinery for the termination of delays resulting from industrial disputes which have matured into actual stoppages of production are the possibilities for the establishment of machinery designed to prevent the occurrence of industrial disputes which produce stoppages in production. With the suspension of Revised Statutes, section 3709—the lowest-bidder statute—in its application to most of the defense purchasing, it is possible for the Government to utilize contractual machinery to bring about a further stabilization of industrial relations through provisions for the orderly and peaceful settlement of labor-management problems.

It was this general objective, of course, which prompted much of the recent discussion concerning the inclusion in Government contracts of provisions whereby contractors would agree to refrain from the type of practices which are forbidden by the National Labor Relations Act and other existing Federal legislation. Such legislation is designed to further industrial peace by prohibiting practices such as refusal to bargain collectively with employees, discrimination against employees on account of union membership, etc., which experience has demonstrated to be productive of industrial strife and consequent stoppages of production.

There are many possibilities for the utilization of the Government contractual machinery in the present defense program to bring about the type of stable and orderly industrial relations which is least likely to be productive of disputes and stoppages. These possibilities are as varied as are the different industrial situations which prevail throughout the country. Some possible examples may be suggested.

In the first place, the Government can conduct its purchasing program in such a way as to rely primarily on those firms and corporations whose experience in industrial relations gives a high degree of assurance that production will not be interrupted and delayed by stoppages resulting from strikes. Experience has demonstrated that stable industrial relations usually are found where

collective bargaining between employer and employees is the established practice. This fact is emphasized by recent strike statistics compiled by the Office of Production Management indicating that something like 83 percent of the man-days lost on defense production has been attributable to employee efforts to establish for the first time recognition of collective bargaining.

Further possibilities for avoiding delays through the wider use of contractual machinery can be envisaged. Thus, in many industries the collective-bargaining agreement between employer and employees contains a no-strike or lock-out provision. Such provisions are currently operative with respect to the great majority of employees covered by union agreements in many of the basic defense industries. Such clauses—i. e., no-strike and no lock-out provisions—might well be included in all agreements and the contractual machinery of the Government might encourage this practice.

By appropriate contract provisions between the Government and contractors a wider use of this device could be encouraged. Similarly, by the inclusion of appropriate contract provisions the Government could encourage defense contractors and employees to establish continuing relations and to establish permanent machinery for the arbitration or other peaceful settlement of disputed matters.

These examples of possible use of the Government contracting program to extend the use of machinery designed to prevent the occurrence of aggravated disputes which produce stoppages and for the peaceful settlement of disputes are in no sense exhaustive but will serve to indicate the possibilities inherent in this avenue of approach.

In summary, it may be said that the principal devices available to the Government for assuring uninterrupted production for national defense are the following: First, the use of its purchase program in such a way as to rely upon plants where employer-employee relations give highest assurance of their capacity to produce without stoppages resulting from industrial disputes; second, the use of the Government's purchasing program to encourage the establishment of the basic conditions of industrial peace and maximum production, i. e., the establishment of sound and continuing machinery for dealing with employer-employee problems; third, the use of governmental machinery, such as the Conciliation Service and the present National Defense Mediation Board, for dealing fairly and in the public interest with those disputes which reach such an aggravated stage as to delay production; and, finally, for the occasional situation in which both prevention and impartial mediation are unsuccessful, the Government has authority to step in and act directly to assure resumption of production or an adequate alternative source of supply.

GERARD D. REILLY,
Solicitor of Labor.

STATUE OF THE LATE HON. HUEY P. LONG

Mr. BROOKS. Mr. Speaker, I call up Senate Concurrent Resolution No. 9, providing for the acceptance of a statue of the late Hon. Huey P. Long, and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the Senate concurrent resolution.

The Clerk read as follows:

Senate Concurrent Resolution 9

Resolved by the Senate (the House of Representatives concurring), That the statue of Huey P. Long, presented by the State of Louisiana to be placed in Statuary Hall, is accepted in the name of the United States, and that the thanks of Congress be tendered the State for the contribution of the statue

of one of its most eminent and illustrious citizens; be it further

Resolved, That a copy of these resolutions, suitably engrossed and duly authenticated, be transmitted to the Governor of the State of Louisiana.

The SPEAKER pro tempore. The question is on the adoption of the resolution.

The Senate concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

EXTENSION OF REMARKS

Mr. SHEPPARD. Mr. Speaker, I ask unanimous consent to extend my remarks and include therein an address delivered by Hon. J. F. T. O'Connor.

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

There was no objection.

Mr. BEITER. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record and include the third of a series of articles concerning the St. Lawrence seaway.

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

There was no objection.

Mr. KEEFE. Mr. Speaker, I ask unanimous consent to revise and extend the remarks I made in Committee of the Whole this afternoon and to include as a part of those remarks the instruments referred to, namely, a letter under date of April 28 from Dr. Lubin, of the Bureau of Labor Statistics, and a copy of an article from the New York Times under date of April 13, 1941, and some statistical material entitled "Table B," furnished by the Bureau of Labor Statistics.

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

There was no objection.

Mr. DWORSHAK. Mr. Speaker, I ask unanimous consent to extend my own remarks in the Record and to include therein the prize-winning oration in the national high-school contest conducted by the American Legion.

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

There was no objection.

Mr. MUNDT. Mr. Speaker, I ask unanimous consent to extend and revise the remarks I made in the Committee of the Whole today and insert certain newspaper comments.

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

There was no objection.

Mr. H. CARL ANDERSEN. Mr. Speaker, I ask unanimous consent to extend and revise the remarks I made in the Committee of the Whole today and to insert an editorial from the Christian Science Monitor.

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

There was no objection.

Mr. MCGREGOR. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and to include a letter from two of my constituents to the President.

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

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. CANNON of Missouri. Mr. Speaker, I ask unanimous consent that on Monday next, after the disposition of the

legislative business for the day, I may address the House for 10 minutes.

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

There was no objection.

Mr. HOFFMAN. Mr. Speaker, I ask unanimous consent that on Tuesday next, after the disposition of the legislative business for the day, I may address the House for 10 minutes.

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

There was no objection.

SPECIAL ORDER

The SPEAKER pro tempore. Under the previous order of the House the gentleman from Michigan [Mr. HOFFMAN] is recognized for 5 minutes.

Mr. HOFFMAN. Mr. Speaker, the letter read by the gentleman from Texas [Mr. BECKWORTH] indicated that the President had authority to take care of these strikes, but he has not done it, and Congress cannot shirk its responsibility much longer.

I want to congratulate the House today on the smoothness—and I do not know the word—

Mr. JONES. Dispatch.

Mr. MCGREGOR. Adroitness.

Mr. HOFFMAN. Well, anyway, the way it avoided its responsibility when it had an opportunity to do something to end these strikes.

The SPEAKER pro tempore. Under a previous special order of the House the gentleman from Ohio [Mr. VORYS] is recognized for 20 minutes.

Mr. VORYS of Ohio. Mr. Speaker, amid the confusion, doubt, and debate as to whether we should go into this war, whether we are already in, whether we should use our Navy now to save the British Navy so that it can save us, whether by calling it something besides convoying or war we can fool our own people and fool Hitler, one thing is perfectly clear—we are not ready for a real American war offensive. We may send "token" expeditionary forces now of ships, planes, or men, we may take part in heroic evacuations, but we are not ready for a real American fighting offensive. If we abandon aid "short of war," we may find ourselves in war "short of aid."

On the other hand, the time is now ripe for an American peace offensive. While this may sound surprising, an analysis of our situation should make the most ardent interventionist agree with the most zealous isolationist that this should be our course now.

Of course, we have not been thinking about peace, and, therefore, many will say this is not the right time. They forget that once we are in war there never is a "right time" to discuss peace. Once we are in we must never talk peace if we are losing, for that would be defeatist; never talk peace if there is a stalemate, for that would look as if we were losing; never talk peace when we are winning, for that would concede the other side had a chance.

Gen. William Tecumseh Sherman, one of our greatest generals said: "War's legitimate object is more perfect peace." That object cannot be freely discussed during a war; sad experience shows us that it cannot be wisely determined in the flush of victory after a war.

The time for us to propose peace in Europe is before we start to fight. The best time to prepare and launch a peace offensive is now.

If Britain is losing and must sue for peace soon, we can open negotiations far better than she can, and an American peace offensive now could be our most effective aid to Britain.

If, as seems more likely, a stalemate lies ahead, we can propose peace better now than if we are in.

If Britain is winning, then for reasons which Mr. Clarence Streit has mentioned and in order to preserve what former Ambassador Bullitt calls our "moral authority," we had better obtain some commitments while we are needed by the British.

In any case, war is not inevitable, but peace is inevitable, and we can discuss peace better now before we have started to fight.

A PEACE OFFENSIVE NOW

Is there a chance for an American "peace offensive" at this time? Both Lindbergh, from one extreme, and Dorothy Thompson, from the other, have indicated we have such a chance. President Wilson conducted a successful peace offensive in the last war. We once settled the Russo-Japanese war. The question is now being discussed in Britain. For instance, the April memorandum of the Imperial Policy Group points out that there are two "vigorous" schools of thought as to whether "to offer tempting peace to the German people in order to induce them to throw off their present policies," and then suggests that if this policy is to be followed, "then we should propagate it with the utmost vigor in order to gain the maximum advantage."

THE CHANCES FOR PEACE NOW

There are many who say that peace talk with Germany now is impossible. Joseph Choate, when asked whether he could play the violin, said, "I don't know, I never tried." No one can say that real peace talk with Germany is impossible, because it has not been tried since the war began. So far Hitler has had all the psychological advantages that go with peace proposals. From such information as we can obtain, however, there would seem to be a good chance for an American peace offensive which is worth trying. We learn through many leaks in the censorship that the German people want peace. Germany has had enough aerial bombing, has lost enough men, to bring the "glories" of war home to the people. Among the German people are many who fear the dynamism of Hitler, who fear that each Nazi victory merely sets the stage for further fighting, further suffering. The German soldiers in the occupied countries are becoming restless. We hear on good authority that the possible entry of America into the war brings up ominous memories in Germany. We can start peace proposals better now than after we are in.

DEMOCRACY'S PEACE AIMS

What are our peace aims? The two great spokesmen for our side, President Roosevelt and Prime Minister Churchill, have been reticent and vague on this sub-

ject. President Roosevelt has promised everyone the four freedoms and self-determination. Mr. Churchill has said he favored a few "practical measures of reconstruction," but disliked all talk of a new order and wanted to preserve traditional England. Harold Laski and many others in Britain are discussing British peace aims and are insisting that a democratic new order be adopted in England now, not after the war.

The self-labeled 1941 committee commentary has suggested that Britain must "win the peace," as well as the war, and has suggested a program.

Mr. J. B. Priestley has gotten into difficulties as a radio commentator because of his impatience to discuss peace aims.

The Malvern Conference of the Church of England stated a peace program which proposed "a cooperative commonwealth as a new order for Europe." The Pope has presented to the world the peace aims of the great Catholic Church.

In this country Vice President WALLACE, making an unusual speech for a Vice President and doubtless with the approval of the administration, has publicly suggested a Pax Democratica with a bill of rights and a bill of duties.

While statesmen and politicians are vague and brief as to peace, while editors and columnists who are so helpful in predigesting ideas for us are for the most part silent as to peace talk, the church people are talking peace. A number of conferences are being held to attempt to formulate into a workable program the Christian ideal of peace on earth among men of good will. Dr. E. Stanley Jones, a great Methodist missionary and world statesman in the realm of the spirit, has said that America's role in this crisis should not be that of intervention or arbitration but of mediation, to produce a cooperative world centered around one idea—equality of opportunity. He suggests for discussion a seven-point program.

THE WAR AND THE REVOLUTION

Many Americans are struggling to formulate and state our peace aims. Their proposals are all vague and various, as they must be on a vital question that has had so little attention. They have one thing in common—none of them describes a world, an America, such as we now know. They also reflect what every real student of this war knows—that a world revolution is going on as a part of, and cause of, and result of this war. There is violent disagreement as to just what this revolution is. It is called a revolution against the west, against Roman law, Greek logic, Christian idealism, against democracy, against the "haves." The gentleman from Mississippi, Congressman JOHN RANKIN, a New Dealer who voted for the lend-lease bill, put it this way in the House debate: "There are at least two things in this world that have come to an end—domination of the world by floating navies, domination of the financial world by the gold standard." A revolution against gold and naval power! James Burnham calls it "the managerial revolution," a label approved by Stuart Chase as something different from capitalism or socialism. I can think of no better quick de-

scription than this—a revolution against free capitalism. It is going on in every country, going on in the United States. So far it is not our war, but it is our revolution. If we could only understand it, and in some way think it out instead of fighting it out, as we fought out the Protestant revolution, the French Revolution, the industrial revolution, we could make this a better country, a better world.

SUGGESTIONS FOR DISCUSSION

I have some suggestions for peace aims for America. Like the others, they are vague—a basis for discussion rather than a final set of demands:

First. We will preserve this country as a republic and work out the internal effects of this world-wide movement on our system by peaceful, intelligent evolution—not by violent, blind revolution.

Second. We will preserve our hemisphere intact against the military or political aggression of the world.

Third. We recognize the right of similar areas to preserve themselves intact against our military or political aggression.

Fourth. We believe that neighboring states must learn to live together peacefully in union, as we have. We will not approve of the domination of one race, or one nation, or one man. We are opposed to unions or axes based solely on color, language, race, or ideologies. We want a regime in Europe that is not a balance-of-power mosaic. We believe people who live near each other must unite in peace.

Fifth. We believe in equality of opportunity for all nations in markets, raw materials, acquiring land, and emigration to all undeveloped lands.

Sixth. We believe in reciprocity of opportunity as to markets, materials, land, and emigration as between developed lands.

Seventh. We will do our part in maintaining world peace, order, and justice based on these principles; we will not enter any arrangement that inevitably involves an immediate war.

Eighth. We will participate in progressive disarmament.

AMERICA SHOULD LAUNCH A PEACE OFFENSIVE

We should immediately formulate our peace aims. We should debate among ourselves in this country the definite proposals we shall make for peace, so that we will not be merely begging for a peace conference, but will be making a real peace offensive. We are neither appeasers nor defeatists. We would at the same time make it clear that we were not attempting to dictate but were offering the friendly services of mediation.

We could offer the promise of food, money, and materials, as an inducement to make peace and keep the peace. We could threaten the use of tariffs and embargoes against those who fail to keep the peace. Whether I approve of it or not, the possibility of our joining the war would be involved in the refusal to consider our proposal of mediation, under present circumstances.

We would not have to rely on Hitler's word for the keeping of such a peace. Terms could be arranged for impounding arms by both sides, joint or international

control of strategic positions, other conditions applicable to both sides that would involve no loss or injury to any nation intending to keep the peace, so that peace would depend upon more than Hitler's promise. If all the other terms were satisfactory, if both sides were subject to the same requirements for guaranteeing the peace, and if Hitler alone refused these guarantees and insisted upon continuing the war, we would have found a way to separate the German people from their leader. In order to make such a peace offensive effective, however, it must be made intelligently and in good faith. I do not know whether it would work. The time to try it, however, is before we go in. We will never have such a chance again.

But some will say this would only be a truce. I do not think so, but always before we have thought each war was the last war and at the end that we were entering perpetual peace. Perhaps it would be wise for us to know this time that war would come again unless we waged peace as bravely and wisely as we wage war.

Are we in danger of defeat in peace? Cannot we make our American system work better than any other? Have we no faith in persuasion versus propaganda, Yankee ingenuity versus slave labor, republican government versus any other kind, Christian love versus pagan hatred?

The final decision cannot long be postponed, but the decision is not confined to going into war or staying out. Our country has a third alternative. It can launch a definite, vigorous peace offensive.

Congress can aid in formulating such a policy, the people can urge it, but the President alone can launch it and carry it to a successful conclusion. It is the President who must make the decision that now confronts the Nation, for power has been gathered into his hands.

If the decision is for war the responsibility is the President's. Congress will not be held responsible, for the President asked for the powers granted in the lend-lease bill on the guaranty that it would keep us out of war. His Cabinet is pressing for war, but the President's Cabinet are his appointees under his control, and the President cannot transfer his responsibility to them. Nor will war blame rest upon the people, for they have never had a chance to vote on war.

Not the Congress, not the Cabinet, not the people, but the President will be responsible if there is war.

On the other hand, if the President's decision is for an all-out effort to bring the war to an end the glory of that decision will be his, for he will make that decision under the heaviest pressure from his intimate advisers and from foreign governments that any Executive has ever endured. We cannot share this responsibility but the peace-minded people of this Congress and of this country should give the President their unceasing encouragement to stand fast in this crisis.

My countrymen, America has not led the world in war. I feel certain we could, but before we risk everything in trying it, let us risk nothing by trying to lead the world in peace—something in which we know we can lead the whole world.

We have our faults and our frailties, but after all, in cold blood, the Nazis are not the greatest nation on earth, Britain is not the greatest nation on earth—we are the greatest nation on earth. We owe it to thousands abroad who are otherwise sure to die this year to give them the chance to live in peace, before we send our thousands to die with them.

The SPEAKER pro tempore. Under a previous special order of the House the gentleman from Ohio [Mr. JONES] is recognized for 10 minutes.

Mr. JONES. Mr. Speaker, I am advised by a constituent of mine that the Lima office of the N. Y. A. has received orders to requisition mobile radio equipment to be installed in two staff cars. They also have been instructed to requisition a short-wave transmitter and to requisition a sound truck.

Similar equipment, my informant states, is to be installed in N. Y. A. offices and in official cars all over the State and presumably all over the entire country, so that upon a moment's notice, orders or instructions can be transmitted to offices throughout the country and to officials riding in automobiles. The system will be similar, but more effective, than the usual police or State police mobile radio equipment.

The significant thing about this is that the Government frequencies in the region of 26,000 kilocycles are being assigned. This frequency band is an excellent one for long- and short-distance communication with low-powered mobile equipment. Coast to coast communication is often possible in this band.

Coming closely on the heels of the action of the F. C. C. in ordering N. B. C. to dispose of one of their networks, this procedure of handing to the N. Y. A. a vital part of our radio communications system, plus sound-truck propaganda wagons, causes me more concern about what the purpose of this kind of action and the purchase of radio equipment is for. I wonder why a civilian organization such as the N. Y. A. should be in need of that kind of equipment in normal times? What is the need for it?

I wish some Member of the House would explain the necessity for it at a time when we are thinking of all-out defense efforts for the preservation of our country and why it is necessary to spend money on a civilian organization for this type of equipment? I think if there ever was a time when we must stop the foolhardy expenditure of money, now is the time. If somebody can give a valid reason for this sort of action, I would like to hear about it.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. ROMJUE, indefinitely, on account of illness.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 774. An act to authorize the Pennsylvania Railroad Co., by means of an underpass, to cross New York Avenue NE., to extend, construct, maintain, and operate certain industrial sidetracks, and for other purposes; to the Committee on the District of Columbia.

SENATE ENROLLED BILLS SIGNED

The Speaker announced his signature to enrolled bills of the Senate of the following titles:

S. 392. An act for the relief of Anna Dolak, mother and sole surviving parent of Gene Dolak, deceased, and

S. 941. An act for the relief of Ralph C. Hardy, William W. Addis, C. H. Seaman, J. T. Polk, and E. F. Goudelock.

ADJOURNMENT

Mr. LANHAM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 25 minutes p. m.), under its previous order, the House adjourned until Monday, May 12, 1941, at 12 o'clock noon.

COMMITTEE HEARINGS

COMMITTEE ON FLOOD CONTROL

The Committee on Flood Control will continue hearings on the following days:

1. Monday, May 12: Proponents and representatives of the Corps of Engineers for other projects in other regions and in other parts of the United States.
2. Tuesday, May 13: Representatives of the Department of Agriculture and other governmental agencies.
3. Wednesday, May 14: Senators and Members of Congress.

COMMITTEE ON INVALID PENSIONS

The Committee on Invalid Pensions will hold public hearings on H. R. 2855, entitled "A bill to provide for restoration of pension to certain dependent parents upon termination of remarriage, and for other purposes," by Mr. WEAVER of North Carolina; and H. R. 1099, entitled "A bill to remove discriminations against disabled retired enlisted men of the Army, Navy, Marine Corps, and Coast Guard who served in war," by Mr. LESINSKI, of Michigan. The hearings will be held Tuesday, May 13, 1941, at 10:30 a. m. in room 247, House Office Building.

COMMITTEE ON THE JUDICIARY

The Committee on the Judiciary will hold public hearings on H. R. 4017, a bill permitting exemption from certain restrictions on political activity in municipal affairs, on Wednesday, May 14, 1941, at 10 a. m., in room 346, House Office Building, before Subcommittee No. 1.

COMMITTEE ON THE MERCHANT MARINE AND FISHERIES

The Committee on the Merchant Marine and Fisheries will hold public hearings on Wednesday, May 14, 1941, at 10 a. m., on H. R. 3361, to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

529. A letter from the Secretary of Commerce and chairman, United States Golden Gate International Exposition Commission, transmitting a detailed report on Federal participation in the Golden Gate International Exposition, San Francisco, Calif., 1939-40, together with a financial statement

as of December 31, 1940; to the Committee on Foreign Affairs.

530. A letter from the chairman, the Textile Foundation, transmitting the Annual Report of the Textile Foundation for the fiscal year ending December 31, 1940; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BLAND: Committee on the Merchant Marine and Fisheries. H. R. 4632. A bill authorizing vessels of Canadian and British registry to transport iron ore on the Great Lakes during 1941; with amendment (Rept. No. 515). Referred to the Committee of the Whole House on the state of the Union.

Mr. HESS: Committee on Naval Affairs. H. R. 4305. A bill to authorize the attendance of the Marine Band at the diamond anniversary convention of the Grand Army of the Republic to be held at Columbus, Ohio, September 14 to 19, inclusive, 1941; without amendment (Rept. No. 516). Referred to the Committee of the Whole House on the state of the Union.

Mr. STEAGALL: Committee on Banking and Currency. H. R. 4693. A bill to amend the National Housing Act, and for other purposes; without amendment (Rept. No. 517). Referred to the Committee of the Whole House on the state of the Union.

Mr. MAAS: Committee on Naval Affairs. H. R. 3149. A bill providing for the pay and allowances of retired officers of the Navy and Marine Corps on active duty; with amendment (Rept. No. 518). Referred to the Committee of the Whole House on the state of the Union.

Mr. FLAHERTY: Committee on Naval Affairs. H. R. 3537. A bill to authorize the Secretary of the Navy to proceed with the construction of certain public works, and for other purposes; with amendment (Rept. No. 519). Referred to the Committee of the Whole House on the state of the Union.

Mr. IZAC: Committee on Naval Affairs. H. R. 3782. A bill establishing an Office of Budget and Reports in the Navy Department, and for other purposes; with amendment (Rept. No. 520). Referred to the Committee of the Whole House on the state of the Union.

Mr. BRADLEY of Pennsylvania: Committee on Naval Affairs. H. R. 4671. A bill to authorize a plant-protection force for naval shore establishments, and for other purposes; with amendment (Rept. No. 521). Referred to the Committee of the Whole House on the state of the Union.

Mr. MOTT: Committee on Naval Affairs. H. R. 3783. A bill authorizing the acquisition or construction of certain auxiliary vessels for the United States Navy, and for other purposes; with amendment (Rept. No. 522). Referred to the Committee of the Whole House on the state of the Union.

Mr. ROGERS of Oklahoma: Committee on Indian Affairs. H. R. 4533. A bill to provide for the disposition of trust or restricted estates of Indians dying intestate without heirs; without amendment (Rept. No. 523). Referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS AND RESOLUTIONS

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

By Mr. BLAND:

H. R. 4700. A bill to provide for priorities in transportation by merchant vessels in the

interests of national defense, and for other purposes; to the Committee on the Merchant Marine and Fisheries.

H. R. 4701. A bill to amend section 4471 of the Revised Statutes, as amended; to the Committee on the Merchant Marine and Fisheries.

By Mr. STEAGALL:

H. R. 4702. A bill to extend the period during which direct obligations of the United States may be used as collateral security for Federal Reserve notes; to the Committee on Banking and Currency.

By Mr. SECRET:

H. R. 4703. A bill to amend sections 12 and 13 of the Copyright Act of March 4, 1909, to secure the prompt deposit of copyrightable material into the Library of Congress and prompt registration of claims of copyright in the Copyright Office, and for other purposes; to the Committee on Patents.

By Mr. MARCANTONIO:

H. R. 4704. A bill to provide for security against unemployment; to the Committee on Labor.

By Mr. HARE:

H. R. 4705. A bill to revise the method of determining the annual payments to be made by the United States to the several States in which conservation lands subject to the jurisdiction of the Department of Agriculture are situated, to repeal existing acts inconsistent herewith, and for other purposes; to the Committee on Agriculture.

By Mr. MAY:

H. J. Res. 183. Joint resolution extending the application of section 6 of the act entitled "An act to expedite the strengthening of the national defense," approved July 2, 1940 (54 Stat. 714), to all Territories, dependencies, and possessions of the United States, including the Philippine Islands, the Canal Zone, and the District of Columbia; to the Committee on Military Affairs.

By Mr. BRADLEY of Pennsylvania:

H. Res. 202. Resolution for the consideration of H. R. 4671; to the Committee on Rules.

By Mr. FLAHERTY:

H. Res. 203. Resolution for the consideration of H. R. 3537; to the Committee on Rules.

By Mr. IZAC:

H. Res. 204. Resolution for the consideration of H. R. 3782; to the Committee on Rules.

By Mr. MOTT:

H. Res. 205. Resolution for the consideration of H. R. 3783; to the Committee on Rules.

By Mr. MAAS:

H. Res. 206. Resolution for the consideration of H. R. 3149; to the Committee on Rules.

MEMORIALS

Under clause 3 of rule XXII, memorials were presented and referred as follows:

By the SPEAKER: Memorial of the Legislature of the Territory of Puerto Rico memorializing the President and the Congress of the United States to consider their Concurrent Resolution No. 15, with reference to freight rates; to the Committee on the Merchant Marine and Fisheries.

Also, memorial of the Legislature of the Territory of Puerto Rico memorializing the President and the Congress of the United States to consider their Concurrent Resolution No. 11 with reference to Social Security Act; to the Committee on Ways and Means.

Also, memorial of the Legislature of the Territory of Puerto Rico memorializing the President and the Congress of the United States to consider their Concurrent Resolution No. 10, with reference to the official language for teaching in Puerto Rico; to the Committee on Insular Affairs.

Also, memorial of the Legislature of the Territory of Puerto Rico memorializing the President and the Congress of the United States to consider their Concurrent Resolution No. 4, with reference to levy taxes on branch national banks; to the Committee on Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. ARENDS:

H. R. 4706. A bill granting an increase of pension to Bertha M. Knapp; to the Committee on Invalid Pensions.

By Mr. BEITER:

H. R. 4707. A bill to correct the military record of Edward Reidell; to the Committee on the Merchant Marine and Fisheries.

By Mr. DIMOND:

H. R. 4708. A bill for the relief of Mrs. P. A. Anderson; to the Committee on Claims.

By Mr. HENDRICKS:

H. R. 4709. A bill granting a pension to Annie Mae Hughett; to the Committee on Invalid Pensions.

By Mr. TENEROWICZ:

H. R. 4710. A bill granting a pension to Mrs. Bertha Schulz; to the Committee on Invalid Pensions.

By Mr. HENDRICKS:

H. R. 4711. A bill granting a pension to Emma E. Raymond; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1, of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

1020. By Mr. CROWTHER: Petition of sundry residents of Schenectady, N. Y., urging passage of House bill 4000; to the Committee on Military Affairs.

1021. By Mr. FLAHERTY: Petition of the Western Massachusetts Association of Mayors, Selectmen, and County Commissioners, commending the administration of the National Youth program in Massachusetts, and urging expansion of this worth-while program; to the Committee on Appropriations.

1022. Also, petition of the Western Massachusetts Association of Mayors, Selectmen, and County Commissioners, urging continuance of the Work Projects Administration in its present form for the fiscal year 1942 and that emphasis be placed in the elasticity of operations with particular reference to national-defense projects; to the Committee on Appropriations.

1023. By Mr. MARTIN of Massachusetts: Memorial of the General Court of Massachusetts, urging enactment of the Townsend recovery plan of old-age pensions; to the Committee on Ways and Means.

1024. By Miss RANKIN of Montana: Petition of the Silver Bow Trades and Labor Council, Butte, Mont., signed by Thomas J. Kennedy, secretary, opposing propaganda campaign against the wage earner and organized labor and urging an investigation of money spent by the National Association of Manufacturers on antilabor propaganda, etc.; to the Committee on the Judiciary.

1025. Also, petition signed by George T. Beech and 12 others of Butte, Mont., urging passage of House bill 4000, to prohibit sale of all alcoholic beverages inside Army and Naval camps; to the Committee on Military Affairs.

1026. By Mrs. ROGERS of Massachusetts: Petition of sundry residents of the Fifth Massachusetts Congressional District, protesting against the enactment of House bill 3852; to the Committee on the District of Columbia.

1027. By the SPEAKER: Petition of the United Shoe Workers of America, Local No. 141, Congress of Industrial Organizations, Binghamton, N. Y., petitioning consideration of their resolution with reference to House bill 4139, known as the Vinson bill; to the Committee on Naval Affairs.

1028. Also, petition of the Southern Cotton Shippers Association, Memphis, Tenn., petitioning consideration of their resolution with reference to House bills 3753 and 3754, concerning the cotton trade; to the Committee on Agriculture.

SENATE

MONDAY, MAY 12, 1941

(Legislative day of Thursday, May 8, 1941)

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

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

O Thou, from whom the good and wise receive their secret counsels, by whom the eyes of men are enlightened, and the hearts of the weak are strengthened: We thank Thee for the gift of speech by means of which the cares of mind may be eased as friend communes with friend in words of loving sympathy.

We thank Thee for whispered words of wisdom, for the music of them that sing, especially the tones of the mother with her child, and we beseech Thee to grant us ears to hear, grace to take heed as we hear, and the will and strength to do what comes to us with the divine authority of truth. Let not our lips, however feeble, be barren of kind words this day, but grant that whatsoever we speak or meditate in our hearts may be acceptable in Thy sight, O Lord our Strength and our Redeemer. We ask it in the name of Him who is the Eternal Word, Jesus Christ, Thy Son, our Lord. Amen.

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day of Friday, May 9, 1941, 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. Megill, one of its clerks, announced that the House had passed a bill (H. R. 4545) to provide for the acquisition and equipment of public works made necessary by the defense program, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the concurrent resolution (S. Con. Res. 9) accepting the statue of Huey P. Long, placed in Statuary Hall by the State of Louisiana.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to