Mr. SCHWABE of Missouri asked and as given permission to extend his remarks in the RECORD.

Mr. BULWINKLE (at the request of Mr. SPARKMAN) was given permission to extend his remarks in the RECORD and include an address by General Devers.

Mr. SPARKMAN asked and was given permission to extend his remarks in the RECORD and include a statement before the House Committee on Ways and Means by Mrs. Loula Dunn, president of the American Public Welfare Association.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted, as follows:

To Mr. LECOMPTE (at the request of Mr. GWYNNE of Iowa), for 1 week, on account of death in the family.

To Mr. FERNANDEZ, for a period beginning May 20 and ending June 5, on account of official business.

To Mr. CLASON (at the request of Mr. MARTIN of Massachusetts), for 1 week, on account of illness in his family.

ADJOURNMENT

Mr. SPARKMAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 55 minutes p. m.), pursuant to its previous order, the House adjourned until Monday, May 20, 1946, at 12 o'clock noon.

COMMITTEE HEARINGS

COMMITTEE ON THE JUDICIARY

The Special Subcommittee on Bankruptcy and Reorganization of the Committee on the Judiciary has scheduled a public hearing on the bill (H. R. 4307) to amend sections 81, 82, 83, and 84 of chapter IX of the act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, as amended. The hearing will be held in the Judiciary Committee room, 346 House Office Building, and will begin at 10 a. m. on Friday, May 24, 1946.

COMMITTEE ON PATENTS

The Committee on Patents will begin hearings Tuesday, June 4, 1946, at 10 a. m., in the Patents Committee room, 416 House Office Building, on the following bills:

H. R. 3694 (Hartley): A bill to declare the national policy regarding the test for determining invention.

H. R. 5842 (Boykin): A bill fixing the date of the termination of World War II, for special purposes.

H. R. 5940 (Lanham): A bill to make Government-owned patents freely available for use by citizens of the United States, its Territories, and possessions.

These hearings will be continued on succeeding days until concluded or until this notice is superseded.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1310. A letter from the Attorney General, transmitting a draft of a proposed bill to amend the act providing for the appointment of court reporters; to the Committee on the Judiciary.

1311. A letter from the Secretary of War, transmitting a letter from the Chief of Engineers, United States Army, dated April 8, 1946, submitting a report, together with accompanying papers and an illustration, on a review of reports on the Mississippi River with a view to determining if additional improvement, including a small-boat harbor, is advisable at Hastings, Minn., requested by a resolution of the Committee on Rivers and Harbors of the House of Representatives, adopted on January 3, 1945 (H. Doc. No. 599); to the Committee on Rivers and Harbors and ordered to be printed, with one illustration.

1312. A letter from the Attorney General, transmitting a draft of a proposed bill to amend the act to provide for the issuance of devices in recognition of the services of merchant sailors; to the Committee on the Merchant Marine and Fisheries.

1313. A communication from the President of the United States, transmitting an estimate of appropriation for the fiscal year 1946 in the amount of $92,500,000, for the War Department, for cemeterial expenses (H. Doc. No. 597); to the Committee on Appropriations and ordered to be printed.

1314. A communication from the President of the United States, transmitting a supplemental estimate of appropriation for the fiscal year 1947 in the amount of $45,400 and a proposed provision pertaining to an existing appropriation for the Treasury Department (H. Doc. No. 598); to the Committee on Appropriations and ordered to be printed.

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. BOYKIN: Committee on Accounts. House Resolution 624. Resolution providing additional funds for the Committee on Un-American Activities; without amendment (Rept. No. 2073). Referred to the House Calendar.

Mr. FLANNAGAN: Committee on Agriculture. H. R. 6459. A bill to extend the period within which the Secretary of Agriculture may carry out the purposes of the Soil Conservation and Domestic Allotment Act by making payments to agricultural producers; without amendment (Rept. No. 2074). 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. FLANNAGAN:

H. R. 6477. A bill to amend section 32 of the Emergency Farm Mortgage Act of 1933, as amended, and section 3 of the Federal Farm Mortgage Corporation Act, as amended, and for other purposes; to the Committee on Agriculture.

By Mr. CAMPBELL:

H. R. 6478. A bill to protect the people from interference with the movement of the mails and interstate commerce; to the Committee on the Judiciary.

By Mr. CANNON of Florida:

H. R. 6479. A bill to incorporate the Military Pilots Association; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BALDWIN of New York:

H. R. 6480. A bill for the relief of Nicholas Malitch; to the Committee on Immigration and Naturalization.

H. R. 6481. A bill for the relief of Markoto Iwamatsu; to the Committee on Immigration and Naturalization.

By Mr. DWORSHAK:

H. R. 6482. A bill for the relief of Ralph A. Parker and Mrs. Hilda J. Parker; to the Committee on Claims.

By Mr. McDONOUGH:

H. R. 6483. A bill for the relief of Bernice Green; to the Committee on Claims.

By Mr. TALBOT:

H. R. 6484. A bill for the relief of Helen M. Crowley; to the Committee on Claims.

PETITIONS, ETC.

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

1892. By Mr. LUTHER A. JOHNSON: Petition of C. W. Brown, manager, Ennis Motor Co., Ennis, Tex., opposing exemption of co-ops from taxation; to the Committee on Ways and Means.

1893. By Mr. SMITH of Wisconsin: Petition of members of the Winnebago Association of Congregational Churches, which met at Clintonville, Wis., on April 30, 1946, regarding their position on the present food situation and wide starvation existing in Europe and Asia; to the Committee on Foreign Affairs.

1894. Also, petition of members of the Winnebago Association of Congregational Churches, which met at Clintonville, Wis., on April 30, 1946, regarding their position on release of men and women with 18 months or more of service in the armed services; to the Committee on Military Affairs.

1895. By the SPEAKER: Petition of the Pontiac City Commission, petitioning consideration of their resolution with reference to endorsement of Senate bill 1592; to the Committee on Banking and Currency.

1896. Also, petition of various Townsend Clubs in Ohio, petitioning consideration of their resolution with reference to endorsing House bills 2229 and 2230; to the Committee on Ways and Means.

SENATE

MONDAY, MAY 20, 1946

(Legislative day of Tuesday, March 5, 1946)

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

Rev. Norman L. Trott, minister, First Methodist Church, Brunswick, Md., offered the following prayer:

Our Father who art in Heaven, we, Thy children of the earth, bow before Thee this morning.

As we bow our heads, may our hearts be bowed in gratitude for all Thy gifts and our wills be bent in submission to the wisdom of Thy way.

Be with our Nation, O God, in these days of testing.

Help us to know Thy will and to do it, that we may share in Thy plan for the

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world's redemption in this day of its great need. Give us a sense of our mission to share in the world's hunger for bread and make us mindful of the hidden hungers of the heart, for "man shall not live by bread alone."

Grant unto management and labor alike the desire to act in justice and to live by the Golden Rule; and guide us in our world relationships to walk the way of the Prince of Peace.

To this end, be with those in positions of authority, and we pray that they may, in turn, be responsive to Thy will. Especially do we pray this for these Thy servants, to whom in large measure has been committed the destiny of this Nation. Uphold them by faith and spirit and direct them in all their ways. Through 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 Friday, May 18, 1946, was dispensed with, and the Journal was approved.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Miller, one of his secretaries, and he announced that on May 18, 1946, the President had approved and signed the act (S. 1955) to authorize the Commissioners of the District of Columbia to provide necessary utilities for veterans' housing furnished and erected by the National Housing Administrator.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

H. R. 6429. An act making appropriations for the legislative branch for the fiscal year ending June 30, 1947, and for other purposes; and

H. J. Res. 353. Joint resolution extending the time for the release of powers of appointment for the purposes of certain provisions of the Internal Revenue Code.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the bill (S. 1415) to increase the rates of compensation of officers and employees of the Federal Government, and for other purposes, and it was signed by the Acting President pro tempore.

LEAVE OF ABSENCE

Mr. MAYBANK. Mr. President, I ask unanimous consent to be absent from the Senate for the remainder of the week because of illness in the family.

I might say in this connection that I voted to bring the pending legislation before the Senate; I would vote for it if I were here, and I trust that the able secretary to the majority will be able to get a pair for me in favor of the pending bill.

The ACTING PRESIDENT pro tempore (Mr. GEORGE). Without objection, leave is granted the Senator from South Carolina.

CALL OF THE ROLL

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

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

Aiken	Hatch	Overton
Andrews	Hawkes	Pepper
Austin	Hayden	Radcliffe
Ball	Hickenlooper	Reed
Bankhead	Hill	Revercomb
Barkley	Hoey	Robertson
Briggs	Huffman	Saltonstall
Brooks	Johnson, Colo.	Smith
Buck	Johnston, S. C.	Stanfill
Bushfield	Kilgore	Stewart
Byrd	Knowland	Taft
Capehart	La Follette	Taylor
Capper	Langer	Thomas, Okla.
Connally	Lucas	Thomas, Utah
Cordon	McCarran	Tunnell
Donnell	McClellan	Tydings
Downey	McFarland	Vandenberg
Eastland	McMahon	Wagner
Ellender	Magnuson	Walsh
Ferguson	Maybank	Wheeler
Fulbright	Millikin	Wherry
George	Moore	White
Gerry	Murdock	Wiley
Green	Murray	Wilson
Gurney	Myers	Young
Hart	O'Mahoney	

Mr. HILL. I announce that the Senator from North Carolina [Mr. BAILEY] and the Senator from Virginia [Mr. GLASS] are absent because of illness.

The Senator from Mississippi [Mr. BILBO], the Senator from Nevada [Mr. CARVILLE], and the Senator from Idaho [Mr. GOSSETT] are absent by leave of the Senate.

The Senator from Tennessee [Mr. MCKELLAR] and the Senator from Georgia [Mr. RUSSELL] are necessarily absent.

The Senator from New York [Mr. MEAD] is absent because of a death in his family.

The Senator from New Mexico [Mr. CHAVEZ], the Senator from Pennsylvania [Mr. GUFFEY], the Senator from Washington [Mr. MITCHELL], and the Senator from Texas [Mr. O'DANIEL] are detained on public business.

Mr. WHERRY. The Senator from Nebraska [Mr. BUTLER] and the Senator from Minnesota [Mr. SHIPSTEAD] are absent by leave of the Senate.

The Senator from New Hampshire [Mr. TOBEY] is absent on official business.

The Senator from Maine [Mr. BREWSTER], the Senator from New Hampshire [Mr. BRIDGES], the Senator from Oregon [Mr. MORSE], and the Senator from Indiana [Mr. WILLIS] are necessarily absent.

The ACTING PRESIDENT pro tempore. Seventy-seven Senators having answered to their names, a quorum is present.

REPORT OF GOVERNOR OF THE PANAMA CANAL

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying report, referred to the Committee on Interoceanic Canals:

(For President's message, see today's proceedings of the House of Representatives on p. 5282.)

RELIEF FOR WORLD WAR II FILIPINO VETERANS AND THEIR DEPENDENTS

The ACTING PRESIDENT pro tempore laid before the Senate the following communication from the President of the United States, which was read, and, with the accompanying papers, referred to the Committee on Finance:

THE WHITE HOUSE,
Washington, May 18, 1946.

The PRESIDENT OF THE SENATE PRO TEMPORE.

SIR: I am transmitting, with request for its early introduction and consideration, a bill to provide for the Philippine veterans:

First. Hospitalization, including medical care, for service-connected disability;

Second. Pensions for service-connected disability and death, on a peso-for-dollar basis; and

Third. Appropriate burial and funeral allowance.

The bill also contains general administrative and penal provisions, as well as a provision authorizing hospital care and medical treatment in the Philippine Islands for American veterans residing there.

Under the legislation proposed, the Philippine veteran would have restored to him some of the veterans' benefits which were taken from him by the First Supplemental Surplus Appropriation Rescission Act, 1946, due, doubtless, in part at least, to the impracticability from an administrative viewpoint of applying to Philippine veterans the Servicemen's Readjustment Act and the need for adapting to Philippine conditions the benefits provided by that act.

The standing Philippine Army was made a part of the armed forces of the United States by the President's order of July 26, 1941. Certain guerrillas, who so courageously carried on the war against the enemy after the fall of the Philippines, were recognized as members of the Philippine Army, hence a part of the Army of the United States.

The record of the Philippine soldiers for bravery and loyalty is second to none. Their assignment was as bloody and difficult as any in which our American soldiers engaged. Under desperate circumstances they acquitted themselves nobly.

There can be no question but that the Philippine veteran is entitled to benefits bearing a reasonable relation to those received by the American veteran, with whom he fought side by side. From a practical point of view, however, it must be acknowledged that certain benefits granted by the GI bill of rights cannot be applied in the case of the Philippine veteran. The agencies which prepared the proposed bill have recognized this fact and have dealt with the legislation on a practical basis, including only that which is susceptible of proper administration. While its enactment will not

cure in toto the present discrimination against the Philippine veteran, the proposed legislation constitutes all that is practicable at the present time, and it will clearly indicate to the Filipinos that it is the purpose of the United States Government to do justice to their veterans. More important, it will provide the help so direly needed by many Filipinos who served our cause with unwavering devotion in the face of bitter hardship and wanton cruelty.

I am directing the Veterans' Administration, the War Department, and the High Commissioner to the Philippines to give consideration to a practicable method of providing some educational opportunity for the Philippine veteran and of assuring, so far as possible, employment for him. If these additional benefits can be put into effect, it is my view, as well as the view of those interested, that substantial justice will have been done the Philippine veteran and the existing discrimination against him removed.

The proposed legislation has the full endorsement of the Veterans' Administration, the War Department, and the High Commissioner to the Philippines. I urge upon you its early enactment.

I am also writing to the Speaker of the House, forwarding another copy of the proposed bill.

Very sincerely yours,

HARRY S. TRUMAN.

EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

FEBRUARY 1946 REPORT OF RECONSTRUCTION FINANCE CORPORATION

A letter from the Chairman of the Reconstruction Finance Corporation, transmitting, pursuant to law, a report of the activities and expenditures of the Corporation for the month of February 1946 (with an accompanying report); to the Committee on Banking and Currency.

SMALL BUSINESS ACTIVITIES—REPORT OF RECONSTRUCTION FINANCE CORPORATION AND SMALLER WAR PLANTS CORPORATION

A letter from the Chairman of the Reconstruction Finance Corporation, transmitting, pursuant to Executive Order 9665, dated December 27, 1945, and to section 5 of Public Law 603, Seventy-seventh Congress, the first bimonthly report of the Reconstruction Finance Corporation small business activities during the period February 1 to March 31, 1946, including report of certain lending functions exercised until January 28, 1946, by the Smaller War Plants Corporation, and covering small business activities of the two corporations for the interim period January 28 to January 31, 1946, inclusive (with accompanying papers); to the Committee on Banking and Currency.

LAWS PASSED BY THE LEGISLATIVE ASSEMBLY OF THE VIRGIN ISLANDS

A letter from the Acting Secretary of the Interior, transmitting, pursuant to law, copies of legislation passed by the Legislative Assembly of the Virgin Islands (with accompanying papers); to the Committee on Territories and Insular Affairs.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the ACTING PRESIDENT pro tempore:

A resolution adopted by the board of directors of the National Reclamation Association, in meeting at Salt Lake City, Utah, protesting against appropriating $23,323,000 for the Department of the Interior for the purpose of continuing the Southwestern Power Administration; to the Committee on Appropriations.

Petitions of sundry citizens of Davenport and Betterdorf, Iowa, and Cranford, N. J., praying for the continuation of the Office of Price Administration; to the Committee on Banking and Currency.

A petition signed by sundry members of the Long Island Chapter, Union for Democratic Action, New York, praying for the continuation of the Office of Price Administration without crippling amendments; to the Committee on Banking and Currency.

A letter in the nature of a petition from the Moorish Science Temple, Brooklyn, N. Y., signed by Richard Scott-Bey, D. M. and Rep., relating to the renationalization of the people of African descent; to the Committee on Foreign Relations.

A resolution adopted by the American Academy of Arts and Sciences, Boston, Mass., favoring an increase in the amount of wheat, milk, and fats for shipment to the starving people in Europe and Asia; to the Committee on Foreign Relations.

A resolution adopted by the general assembly of the Universalist Church of America held in Akron, Ohio, relating to the atomic bomb; to the Special Committee on Atomic Energy.

A resolution adopted by the American Whig-Cliosophic Society, Princeton University, New Jersey, expressing appreciation to the Senate for the passage of the joint resolution (S. J. Res. 148) to authorize suitable participation by the United States in the observance of the two hundredth anniversary of the founding of Princeton University; ordered to lie on the table.

The memorial from Mrs. Lester Denton, of Pueblo, Colo., remonstrating against the enactment of legislation to continue the draft; ordered to lie on the table.

Petitions of several citizens of New York, N. Y., praying for the prompt enactment of legislation to provide settlement of labor disputes; ordered to lie on the table.

A telegram in the nature of a petition from the New York State Waterways Association, Inc., signed by J. Frank Belford, president, New York, N. Y., praying for the enactment of legislation to curb strikes; ordered to lie on the table.

By Mr. McCLELLAN:

A petition signed by L. M. Keeling, pastor, and sundry members of the First Baptist Church, of Judsonia, Ark., praying for the enactment of legislation to guarantee religious liberty on the radio; to the Committee on Interstate Commerce.

OFFICE OF PRICE ADMINISTRATION—PETITION AND MEMORIAL

Mr. WALSH. Mr. President, a delegation of citizens of Springfield, Mass., headed by Prof. Dallas Lore Sharp, Jr., and including Michael Fiorento, John Jekot, Joseph Spellman, and Edwin Moffat, presented to me a petition containing approximately 25,000 names praying for the continuation of the OPA without crippling amendments and a memorial with 35 names in opposition to the continuation of the OPA. This delegation informed me that for 3 days in the heart of the city of Springfield a booth was set up inviting people to express themselves, and petitions of pro and con were available for signatures. The committee who arranged for obtaining these signatures was composed of representatives of civic, labor, fraternal, religious, and veterans' organizations—in fact, it was a cross-current of the population of the city of Springfield.

I ask unanimous consent to present the petition and memorial and that they be referred to the Committee on Banking and Currency.

The ACTING PRESIDENT pro tempore. Without objection, the petition and memorial will be received and referred to the Committee on Banking and Currency, as requested by the Senator from Massachusetts.

REPORT OF COMMITTEE ON EDUCATION AND LABOR

Mr. MURRAY, from the Committee on Education and Labor, to which was referred the bill (H. R. 5796) to amend title II of 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, to permit the making of contributions, during the fiscal year ending June 30, 1947, for the maintenance and operation of certain school facilities, and for other purposes, reported it without amendment, and submitted a report (No. 1364) thereon.

NATIONAL INSTITUTE OF DENTAL RESEARCH—REPORT OF COMMITTEE ON EDUCATION AND LABOR

Mr. MURRAY. Mr. President, from the Committee on Education and Labor, I have the honor to ask unanimous consent to report favorably, with an amendment, Senate bill 190, to provide for, foster, and aid in coordinating research relating to dental diseases and conditions, to establish the National Institute on Dental Research; and for other purposes, and I submit a report (No. 1363) thereon.

The ACTING PRESIDENT pro tempore. Without objection, the report will be received, and the bill will be placed on the calendar.

Mr. MURRAY. Mr. President, I read from the report:

Hearings were held on the bill on June 26, 27, and 28. All individuals and organizations who wished to be heard on the proposal were given an opportunity to testify. The subcommittee heard testimony by the Surgeon General of the United States Public Health Service, officers of the American Dental Association, many outstanding authorities in the dental-health field, the National Congress of Parents and Teachers and representatives of many consumer and labor organizations. Moreover, statements were solicited and received from a large number of individuals and groups with special knowledge or interest in the subject. Sentiment was virtually unanimous in favor of the bill.

There is no reliable estimate of the amount of funds devoted to dental research, but in comparison to the magnitude of the problem the amounts spent are negligible. The largest expenditure for this purpose is made by the National Institute of Health of the

United States Public Health Service, and this is only about $50,000 a year.

Outstanding dental scientists testified at the hearings that dental research, if adequately financed, might reasonably be expected to find means of combating dental decay, and thus reducing substantially the ravages of this almost universal disease. Indeed, the only hope of successful attack upon the problem, given the present lack of dental personnel, lies in finding the cause of dental caries. Once the cause is found, means of preventing the disease can be devised.

BILLS INTRODUCED

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

By Mr. HOEY:

S. 2218. A bill to amend the District of Columbia Alley Dwelling Act, approved June 12, 1934, as amended; and

S. 2219. A bill to extend for the period of 1 year the provisions of the District of Columbia Emergency Rent Act, approved December 2, 1941, as amended; to the Committee on the District of Columbia.

ORJA L. SUTLIFF

Mr. ANDREWS submitted the following resolution (S. Res. 270), which, with the accompanying papers, was referred to the Committee To Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay from the contingent fund of the Senate to Orja L. Sutliff for services rendered in the office of Senator CHARLES O. ANDREWS while on terminal military leave from September 10 to October 31, 1945, in accordance with the provisions of Public Law No. 226, Seventy-ninth Congress, approved November 21, 1945, $840.34.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were severally read twice by their titles and referred as indicated:

H. R. 5560. An act to fix the rate of postage on domestic air mail, and for other purposes; to the Committee on Post Offices and Post Roads.

H. R. 6429. An act making appropriations for the legislative branch for the fiscal year ending June 30, 1947, and for other purposes; to the Committee on Appropriations.

H. J. Res. 353. Joint resolution extending the time for the release of powers of appointment for the purposes of certain provisions of the Internal Revenue Code; to the Committee on Finance.

CRISIS IN BEEF—EDITORIAL FROM THE NEW YORK TIMES

Mr. HICKENLOOPER. Mr. President, this morning there appeared in the New York Times a very interesting editorial clearly recognizing the fact that about 75 percent of the Nation's beef at retail levels has now gone into the black market and is contracted through the black market. I ask unanimous consent that this editorial be printed at this point as a part of my remarks. Otherwise, I shall be glad to read it to the Senate.

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

CRISIS IN BEEF

With about 75 percent of the Nation's beef at retail levels having passed to the control of black marketers, the time is at hand when definite steps should be taken to restore that essential product to legitimate channels of trade if one of the world's finest food distributing systems is not to be damaged irreparably. To supply the country with adequate supplies of fresh beef a vast and complicated system has evolved. It includes the range where the cattle are bred, the feed-lot operator who produces about two-thirds of the meat sold by the retail butcher, and the packer with his fleet of refrigerator cars and numerous branches through which the beef is distributed to retail outlets.

Now under the impact of rulings by the Office of Price Administration this system is being shattered. The range still is operating at capacity. But the feed-lot operator cannot operate profitably at the ceiling price. He is either out of business or selling the cattle he feeds above the ceiling in the black market. The old-line packer is able to buy only a fraction of the cattle needed at the ceiling and is processing only about 25 percent of the former quantity of beef. This 25 percent is the only beef over which OPA now has any control.

When controls were first being considered, the meat industry was fearful of just such developments. There was no shortage at that time. In fact, an artificial shortage through legitimate channels was created by the initial restrictive measures that OPA put into effect. Moreover, immediately OPA assumed control over meat, the black market started to function. Since then it has expanded steadily. Today OPA has control of no more than 25 percent of the beef reaching retail outlets.

It is improbable that OPA ever will be able to recover the control it has already lost. From past experience with prohibition, it is doubtful if control could be recovered even with the establishment of a huge policing force costing millions of dollars. It is problematical, in fact, with black marketers now so well entrenched, whether OPA will be able to retain even the slight hold it now has. Meanwhile the Nation's health is being imperiled by the increasing quantities of insanitary beef from black markets.

This is why many of those who have studied the meat problem now believe that the only solution lies in eliminating meat controls so that free competitive forces can again assert themselves. In that way, they argue, the makeshift operators soon would be eliminated and meat returned to normal distributing channels. Since operations through legitimate channels would be more efficient, they believe that prices would adjust themselves at lower levels than those now being paid for the greater part of the meat that is available.

POSTHUMOUS AWARD TO THE LATE PRESIDENT ROOSEVELT FOR CONTRIBUTION TO AMERICAN-SOVIET FRIENDSHIP—ADDRESS BY SENATOR PEPPER

[Mr. PEPPER asked and obtained leave to have printed in the RECORD an address delivered by him at a dinner of the American-Russian Institute at which was bestowed an award posthumously upon the late President Franklin D. Roosevelt for his contribution to American-Soviet friendship, which appears in the Appendix.]

THE WASHINGTON SCENE, 1946—ADDRESS BY SENATOR WILEY

[Mr. WILEY asked and obtained leave to have printed in the RECORD an address delivered by him on the subject The Washington Scene, 1946, on May 19, 1946, before the Wisconsin Bakers' Association, Inc., at the Milwaukee Auditorium, Milwaukee, Wis., which appears in the Appendix.]

WORLD FOOD ORGANIZATION—ADDRESS BY HERBERT HOOVER

[Mr. CAPPER asked and obtained leave to have printed in the RECORD an address on the subject of a new world food organization needed, delivered by Hon. Herbert Hoover, before the Food and Agricultural Organization of the United Nations, May 20, 1946, which appears in the Appendix.]

ADDRESS TO ILLINOIS AMVET CONVENTION BY NATIONAL COMMANDER JACK W. HARDY

[Mr. KNOWLAND asked and obtained leave to have printed in the RECORD an address delivered by Jack W. Hardy, of Los Angeles, national commander of Amvets, of the American Veterans of World War II, at the second annual State convention of the Illinois State department, in Chicago, Ill., May 4, 1946, which appears in the Appendix.]

THE COAL STRIKE—EDITORIAL COMMENT

[Mr. BYRD asked and obtained leave to have printed in the RECORD three editorials relating to the coal strike, one from the News-Leader of Richmond, Va., of May 15, 1946; one from the News of Lynchburg, Va., of May 15, 1946; and one from the News of Washington, D. C., of May 16, 1946, which appear in the Appendix.]

SAFE WORKING CONDITIONS IN INDUSTRY

Mr. JOHNSTON of South Carolina. Mr. President, I ask the support of the Senate for the industrial safety bill, sponsored by the Senator from Minnesota [Mr. BALL] and myself, which is Senate bill 1271, to provide for cooperation with State agencies administering labor laws in establishing and maintaining safe and proper working conditions in industry. There is greater need for this measure today than when first we introduced it.

This Nation did not produce the mightiest flood of guns and tanks and ships the world has ever seen without cost. The price in blood and lives and suffering was in excess of 8,000,000 job casualties, each of which kept the injured worker off the job for longer than the day or shift when the injury occurred. Sixty-three thousand workers died and more than 360,000 were permanently disabled on the production front. That is a staggering toll, and the tragedy is that nearly every one of those accidents could have been prevented. We know how to prevent job accidents, Mr. President, and it is time for us to use that knowledge to put a stop to the prodigal waste which they cause in that most precious gift of all, our labor resources.

The waste has not ceased with the war. Only the battle casualties have ceased. Job casualties continue to increase. The Bureau of Labor Statistics finds that for the last 3 months, 1945—after VJ-day—there was a 6-percent increase compared to the same period in 1944.

The National Safety Council, operating in connection with 6,000 of the largest and most safety-conscious firms in the country, reported that they had 11 percent more accidents in 1945 than in 1944. If that be true of the most-safely operated plants in the country, what can we expect from the 170,000 other plants who employ far fewer workers, and whose managers, harassed with production problems, are lacking in training and financial resources for sound safety work?

Word of what is happening in these smaller plants comes from the industrial States. Illinois had in excess of 5,900

job accidents in January of this year—more than in any month since it started to keep records, save one. The Wisconsin Industrial Commission reports an average of 117 job injuries a day for 1945, but for the first 3 months of 1946, such injuries have average more than 125 a day.

The safety experts predicted this and it is happening. The job accident rate is rising. Why? Because with the end of the war and the shutting off of war production the strong incentive to conserve manpower is gone. While war production was at its height the War and Navy Departments, the Maritime Commission, the War Production Board, and the Office of Civilian Defense had safety organizations concerned with working conditions in war industry. We had Nation-wide safety programs, supported by congressional appropriations and directed by the Department of Labor, with hundreds of volunteer safety engineers, loaned by industry, to inspect war plants and help management cut down the accident rate.

The Labor Department and the Office of Education had safety-training programs in engineering colleges, to teach safety to foremen and supervisors, and programs for training workers right on the job. But all these emergency safety programs have now been liquidated. So the major burden of the job now rests on the State labor departments, and they are inadequately staffed to do the job.

I cannot believe that Senators want the Government of the United States, which boasts to all the world of its productive genius and efficiency and the value it sets on individual lives, to close its eyes to this needless waste. For what do these rising accident tolls mean? They mean that veterans spared from the jaws of death on the battle fronts come home to face death and mutilation on the production lines of peace.

Industry today is more hazardous than war. This condition is intolerable because it can be prevented.

The industrial safety bill which is before the Senate offers a modest recognition of the Government's responsibility to assist State labor departments in combating these rising injury tolls, in safeguarding the lives and health and happiness of workers and their families, and in saving industry and the Nation the costs and social waste which come from allowing industrial hazards to continue.

The bill provides $5,000,000 a year to supplement the funds of those States which ask assistance, to be expended by them to enforce their State safety laws and regulations, to eliminate dangerous, unhealthful working conditions and to promote observance of safety precautions by employers and employees in industry. It provides this money on the basis of a formula specified in the bill, based on the number of workers in each State and the per capita income of the State. Funds will be made available to the States through the Secretary of Labor.

The bill comes before the Senate with bipartisan support. It represents the considered judgment of the Committee on Education and Labor after public hearings and prolonged deliberation. It does not set up a new Federal agency or create a bureau. It operates through the experienced channels of State labor departments charged by the laws of their States with the protection of life and limb in places where work is performed.

In order to pool the best experience of all safety agencies, the bill provides for cooperation with nongovernmental organizations in this field. It provides for education in the maintenance of safe conditions and practices—something that all modern experience in safety shows to be necessary, and something that limited budgets in the States have virtually prevented them from undertaking.

The bill has the support of the various Federal agencies concerned, of the American Federation of Labor and the Congress of Industrial Organizations and of the majority of State labor departments. Most of the State labor commissioners want this help. The labor commissioner of my State is begging me all the time to help provide for him the assistance he would receive under this bill so he can go to work to prevent these needless accidents.

Speaking personally of my own section of the country, I know we need this help. Many new industries started to operate there during the war. We need inspectors, we need training, we need the technical knowledge necessary to detect and control plant and machine hazards, and the hazards from dusts, gasses, and fumes. We need experienced people to help management and labor train workers in safe work practices.

We are doing all we can to bring about an increase in our own State appropriations for this work. But we maintain that the Federal Government has just as much stake in safeguarding manpower as the States have. It is up to the Congress of the United States to see to it that the Federal Government does its share. It does not make sense for us to regard the lives and the health of working people as less precious in peacetime than they are in war.

We are not worried about the Federal Government giving us this money. We do not think that Federal aid violates States' rights. We are used to getting money from the Federal Government to help us do all kinds of jobs that we and the Federal Government both have an interest in getting done. We have Federal money for help to crippled children, for vocational rehabilitation to the physically disabled, for maternal and infant care, for road building, for education in agriculture and home economics, for public health.

This bill will help us to do another job of the same kind, and we think we can do a good one if we get this little extra help from Washington. So can the other States. Many State labor commissioners will make the same statement.

The State labor commissioners do not see why the Federal Government should be interested in safeguarding practically every other national resource except industrial manpower. It spends millions every year to protect the Nation's crops against Mexican fruitflies, gypsy moths, boll weevils, and all the other crop hazards. It spends a million dollars a year for the restoration of wildlife. It spends other millions for vocational education, public health, and social security.

It has recognized its responsibility for the rehabilitation of the physically handicapped, including victims of industrial injury. It is spending more than $8,000,000 this year for that purpose. Would it not be better business if, instead of only trying to repair the damage after the injury has happened, we also invested some money in a program of preventing the injury?

That is what this bill would do. It would belatedly recognize the Federal Government's responsibility to help the States prevent job injuries. It would help management and labor reduce the tremendous direct and indirect cost of job accidents, which now amounts to $2,000,000,000 a year. It would put to use all the knowledge and technical skill in safety devices and practices that we had to acquire when there was a premium on conservation of manpower for war production and that really did reduce accidents during the last 2 years of war. It would save us the awful indictment of bringing our boys safely back from the war only to kill and injure them needlessly on their jobs at home. It would save lives and health. It would keep family breadwinners at work, producing for the Nation and bringing up their families in comfort and in health. It would help these men and their children, our labor force of tomorrow, to build the better land of peace and prosperity and happiness for which we fought and sacrificed during 4 long years of war.

Although the bill would appropriate only $5,000,000, it is estimated that it would save hundreds of millions of dollars annually.

I now ask permission, Mr. President, that the conclusion of the committee report and the administrative table showing the approximate distribution of this $4,750,000 appropriation among the various States be printed in the RECORD at this point as a part of my remarks.

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

V. CONCLUSION

Evidence before the committee testifies to the wide support which S. 1271 commands. The Secretary of Labor and the Federal Security Administrator favor the bill. The Bureau of the Budget has testified to its administrative soundness. Twenty-six labor commissioners representing the following jurisdictions strongly urge its enactment: Arkansas, Connecticut, Kentucky, Louisiana, Maryland, Massachusetts, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Washington, West Virginia, Wyoming, District of Columbia, Puerto Rico.

The bill has the vigorous support of the American Federation of Labor and the Congress of Industrial Organizations, as well as of John Roach, representing the executive secretary of the National Safety Council, of Philip Drinker, professor of industrial hygiene, Harvard School of Public Health, and an industry consultant on industrial

hygiene, and of the American Standards Association.

S. 1271 will not eliminate all industrial hazards. The committee, however, believes it recognizes the responsibility of the Federal Government to safeguard the working conditions of its industrial population. It will materially augment present State efforts to reduce the social and economic waste of preventable occupational injuries. It will permit the wider application of a generation of safety experience by industry and State governments. It will tend to implant permanently prevention techniques developed by Federal agencies under stress of wartime productive needs. It will take modest steps toward conserving for future peacetime production that precious national resource, the labor force. It will ease to a considerable degree the social and economic burden imposed upon American wage earners by the heavy toll of industrial accidents and diseases.

Administrative table showing approximate distribution of $4,750,000 appropriation among various States as determined by sec. 4 (a) of S. 1271

State	Nonagricultural employment ratio[1]	Civilian per capita income ratio (1944)[2]	Unadjusted distribution ratio	State allotment	
				Unadjusted	Adjusted
Alabama	0.0141	1.8182	0.026	$123,500	$120,000
Arkansas	.0069	2.0408	.014	66,500	64,000
Arizona	.0029	1.3158	.004	19,000	18,000
California	.0050	.7246	.047	223,250	216,000
Colorado	.0078	1.1494	.009	42,750	41,000
Connecticut	.0180	.7299	.013	61,750	60,000
Delaware	.0025	.7813	.002	15,000	15,000
District of Columbia	.0133	.8696	.012	57,000	55,000
Florida	.0136	1.2195	.017	80,750	78,000
Georgia	.0177	1.0667	.030	142,500	138,000
Idaho	.0029	1.1494	.003	15,000	15,000
Illinois	.0749	.8475	.064	304,000	294,000
Indiana	.0262	.9804	.026	123,500	120,000
Iowa	.0128	1.1364	.015	71,250	69,000
Kansas	.0098	1.0526	.010	47,500	46,000
Kentucky	.0124	1.0949	.021	99,750	97,000
Louisiana	.0134	1.5152	.020	95,000	92,000
Maine	.0067	1.0527	.007	33,250	32,000
Maryland	.0174	.8929	.016	76,000	74,000
Massachusetts	.0443	.8621	.038	180,500	175,000
Michigan	.0407	.8475	.034	161,500	156,000
Minnesota	.0184	1.1905	.022	104,500	101,000
Mississippi	.0069	2.3809	.016	76,000	74,000
Missouri	.0257	1.1364	.029	137,750	133,000
Montana	.0033	1.0204	.003	15,000	15,000
Nebraska	.0072	1.1236	.008	38,000	37,000
New Hampshire	.0040	1.2987	.005	23,750	23,000
New Jersey	.0385	.7937	.031	147,250	143,000
New Mexico	.0025	1.6129	.004	19,000	18,000
Nevada	.0012	.8333	.001	15,000	15,000
New York	.1269	.7299	.093	441,750	427,000
North Carolina	.0205	1.6949	.035	166,250	161,000
North Dakota	.0023	1.1765	.003	15,000	15,000
Ohio	.0625	.8621	.054	256,500	248,000
Oklahoma	.0100	1.3699	.014	66,500	64,000
Oregon	.0086	.8547	.007	33,250	32,000
Pennsylvania	.0882	.9615	.085	403,750	391,000
Rhode Island	.0073	.8621	.006	28,500	28,000
South Carolina	.0108	1.9231	.021	99,750	97,000
South Dakota	.0024	1.3158	.003	15,000	15,000
Tennessee	.0151	1.5385	.023	109,250	106,000
Texas	.0395	1.2821	.051	242,250	234,000
Utah	.0040	1.1364	.005	23,750	23,000
Vermont	.0025	1.1494	.003	15,000	15,000
Virginia	.0186	1.2987	.024	114,000	110,000
Washington	.0154	.7299	.011	52,250	51,000
West Virginia	.0119	1.4706	.018	85,500	83,000
Wisconsin	.0219	1.0204	.022	104,500	101,000
Wyoming	.0021	1.0989	.002	15,000	15,000
Total				4,903,250	4,750,000

[1] Nonagricultural employment ratio=ratio of the number of nonagricultural employees in each State to the number in the United States, December 1945.

[2] Civilian per capita income ratio=ratio of civilian per capita income in the United States to civilian per capita income in each State (based on Bureau of Foreign and Domestic Commerce figures, 1944).

Source: U. S. Department of Labor, Bureau of Labor Statistics, Apr. 12, 1946.

Mr. JOHNSTON of South Carolina. This table clearly shows approximately what each State will receive.

For the further information of the Senate, I may state that the bill was reported unanimously by a subcommittee of the Committee on Education and Labor, and was later unanimously reported to the Senate from the Committee on Education and Labor. When it is reached on the calendar I hope that favorable consideration may be given to the bill.

MEDIATION OF LABOR DISPUTES

The Senate resumed consideration of the bill (H. R. 4908) to provide additional facilities for the mediation of labor disputes, and for other purposes.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Virginia [Mr. BYRD], as modified, as a substitute for section 8 of the committee amendment on page 28.

Mr. MURRAY. Mr. President, the amendments being proposed to this legislation indicate pretty strongly that there is a desire on the part of some to emasculate the entire American labor movement and either drive it out of existence or hamstring it so as to be ineffective. Those proposing the legislation are seeking to meet an existing problem which may well be of a transient character. In doing so, however, they are undermining the democratic movement whose roots are deeply imbedded in American tradition and in the establishment and development of our economic and political democracy. Few of us realize that the American labor movement did not spring up overnight. Its history is a history of slow development, tortuous struggle for the attainment of basic rights, frequently serious defeats, only to be reborn and strengthened by new generations who sought equality of opportunity and economic security and freedom. The development of the American labor movement has been largely conditioned by the development of the American economy. The industrialization of our country, the factory system, and the integration and mechanization of production have led to specific problems, and workers have attempted to meet them through organization.

I think it would be well for the Senate to review in brief the history of the American labor movement and its struggle to achieve status in our society.

HISTORY OF AMERICAN LABOR UNIONS

American labor unions are as old as the Nation itself. Although temporary organizations of workers existed prior to the founding of the Constitution, the first unions to maintain a continuous existence were the shoemakers of Philadelphia, organized in 1792 and the printers of New York City, organized in 1794.

During the period immediately before and after the turn of the nineteenth century shipbuilders, printers, cordwainers, and tailors formed unions and went on strike for wage increases. The early organizations of labor unions were paralleled by the formation of employers' associations which attempted to obtain nonunion labor, and frequently resorted to the courts under the aegis of the criminal conspiracy doctrine.

The attitude of the courts was hostile to the organization and activities of the newly formed labor unions. Between 1806 and 1815, of six recorded cases charging criminal conspiracy against the shoemakers, four were decided in favor of the employers. Under the criminal-conspiracy concept, both the act of forming a union and the end sought, that is, raising of wages, were considered unlawful. In its charge to the jury during the trial of shoemakers in Philadelphia in 1806, the court stated:

> A combination of workmen to raise their wages may be considered in a twofold point of view: One is to benefit themselves * * * the other is to injure those who do not join their society. The rule of law condemns both.

This doctrine remained unchallenged until, in 1842, the highest court of the State of Massachusetts, in the case of Commonwealth against Hunt, declared that a strike of workers for better conditions was lawful and not a criminal conspiracy.

Union activities suffered a decline with the panic of 1817, which ushered in periodic business depressions and times of prosperity similar to those of recent years. When business conditions improved trade-union activity increased. In 1825 Boston carpenters struck to secure the 10-hour day, and were met by the objections of the employers that a shorter workday would lead to idleness and vice, that the strike was run by outside agitators, and that the employers would suspend operations rather than give in to the union.

During the 1820's and early 1830's labor unions were active in pressing for legislation in the various States which would abolish imprisonment for debt, establish free universal public education, mechanics' lien laws, and fair division of the public lands. Thus, at an early stage in the country's history trade-unions were seeking to better the lot of the common man by securing for him the promised blessings of the New World.

The years 1833–37 witnessed the development of labor unions among hitherto unorganized workers, such as weavers, plasterers, cigarmakers, seamstresses, and milliners, and in newly settled cities like Pittsburgh, Cincinnati, and St. Louis. The first Nation-wide body of trade unions was formed in 1834. It consisted of the city central trades' councils, and it had as its principal objective securing the 10-hour day. However, this movement, known as the National Trades' Union, failed to survive the panic of 1837.

The growth of the railroads and the widening of the competitive market beyond the limits of a single city or State, together with the development of American industry in the 1850's and the Civil War, favored the organization of continued existence of the national union in the various crafts of the day. The

printers formed the National Typographical Union in 1850; the stonecutters' local formed a national union in 1853, the hat finishers in 1854, and the molders, machinists, and puddlers in 1859. Particular impetus to union organization was given by the rapid rise in retail prices during the Civil War in the face of lagging wages. In the years 1861 to 1872, 26 new national unions were formed.

Impressed by the increased output of commodities made possible by the use of machinery, trade unions began to give more attention to the problem of securing the 8-hour day in order that the workers might be able to enjoy the benefits of a higher standard of living. The National Labor Union, established in 1866, pressed for an 8-hour day for Federal employees in the hope that such a law would make it easier to obtain an 8-hour day elsewhere. The Congress enacted an 8-hour day law for Federal employees in 1868, and in 1872, President Grant prohibited by proclamation any wage decreases in putting the law into effect. However, the 8-hour day for workers in industry remained to be achieved at a later period.

The Knights of Labor represent the first large-scale labor organization in America whose membership at the peak exceeded 700,000 workers. The early history of the Knights of Labor reflects an interest in social reform, rather than in immediate gains in wages and hours. However, the organization was soon compelled to give attention to the striking railway men employed on the Gould-owned lines, and in 1885, the Knights were successful in their efforts to restore a wage cut and to secure the reinstatement of locked-out employees. In structure, the Knights of Labor had as its foundation the local assembly, in which skilled and unskilled, male and female, white and colored, and even farmers could and did find membership. By seeking to include all American workers in a single organization, the Knights of Labor antagonized many trade unions. This factor, together with the rivalry between the local assemblies and the general assemblies, the conflict between long-run objectives and immediate wage-and-hour demands, and the emergence of the American Federation of Labor, brought about the decline of the Knights of Labor to the point where, in 1893, the membership had dropped to 75,000.

In the depression years of the 1870's there was much unemployment and destitution among the anthracite coal miners of Pennsylvania. The strike of 1874 and 1875 against a wage cut ended in defeat and the dissolution of the mine workers' union, the Workingmen's Benevolent Association. A number of miners refused to go back to work and resorted to violence against mine owners in answer to wage reductions and discharges for union activity. The employers hired a Pinkerton spy to obtain information as to the activities of the Molly Maguires, as the workers' group was known. Eventually 24 Molly Maguires were convicted and 10 were executed for murder. The episode indicates the extremes to which workers have been driven in the past in order to resist injustice.

The great railroad strikes of 1877 were brought on by continued wage reductions in the midst of depression conditions. State and Federal troops were called out to suppress the strikes, which extended from Pennsylvania to San Francisco. A permanent consequence of those strikes was the enactment of conspiracy laws, the hostility of the courts to labor, the demand for additional armories, and the reorganization of the militia, the latter arising out of the fact that, in many instances, the militia could not be relied upon to fire upon the strikers.

With the revival of business in 1879 the national unions, such as the molders, the locomotive engineers, the bricklayers and masons, and the railway conductors, looked toward the formation of a federation of trade unions which would concern itself with "pure" trade unionism based on wage-and-hour consciousness. Its primary objective would be the furtherance of trade-union agreements designed to obtain immediate economic benefits for the membership. Its methods would be those of collective bargaining, and where they failed the methods would be the strike, boycott, and picket line. The far-flung activities of the Knights of Labor were regarded as detrimental to the interests of the craft-conscious worker. In order to achieve these objectives the American Federation of Labor was organized in 1886 and the national unions were made the basic units in the new organization.

In the 1880's the drive for the 8-hour day was resumed by the predecessor of the American Federation of Labor, that is, the Federation of Organized Trades and Labor Unions, by the Knights of Labor, and later by the American Federation of Labor itself. By the 1890's the 8-hour day became prevalent in the building trades, but it was not until the decade of the World War that the 8 hours became the standard for a large proportion of the American workers.

In 1892 a number of strikes took place in the steel industry, including the strike at Homestead, Pa., which developed into a pitched battle between strikers and Pinkerton detectives hired by the Carnegie Steel Co. Most of those strikes were unsuccessful, and they virtually eliminated unionization in the plants of the larger steel companies.

The railroads were once more the scene of a major strike when, in 1894, the American Railway Union led the workers of the Pullman Co. in protest against wage cuts and the discharge of union members. The company refused to submit the issues to arbitration as requested by the workers. The strike was soon supported by railroad employees throughout the country.

The Federal Government, in cooperation with the General Managers' Association of the railroads, instituted proceedings under the law prohibiting obstructions to the mail and invoking the new Sherman Antitrust Act which had been enacted for the purpose of outlawing combinations in restraint of trade. The Attorney General obtained a sweeping injunction prohibiting all persons from interfering with the business of the railroads entering Chicago. The Attorney General then proceeded to obtain indictments against the officers of the union, charging them with interfering with the mail and hindering interstate commerce. The leaders of the strike were eventually sent to jail for contempt of court, and the strike was brought to an unsuccessful conclusion. The Sherman Antitrust Act had been perverted to serve the cause of the big business which it had been intended to restrain.

The persistent refusal of most employers to recognize the legitimate existence of trade unions continued to bring about major strikes with resulting loss of lives and property. In 1902, the anthracite coal strike followed refusal of the operators to discuss the wage-and-hour issues with the United Mine Workers Union. The strike was terminated by the appointment of an arbitration commission satisfactory to both sides. It marked the first time in our history when a President of the United States played an active part in securing the settlement of a strike. Though the union was not recognized by the operators, the award of the Presidential commission provided for a wage increase and a grievance procedure.

In 1905 a rival union was organized in opposition to the American Federation of Labor. The Industrial Workers of the World advocated opposition to capitalism by means of aggressive strikes. Its leadership consisted, in part, of officials of the Western Federation of Miners who had been exposed to the violence employed by mine operators in opposing unionism. Consequently, the new union did not have to go far to copy the ready example of employer violence. The IWW also capitalized on the failure of the A. F. of L. effectively to interest itself in the plight of agricultural labor, textile workers, lumber workers, and other badly exploited sections of the working population. Although the IWW gained public attention by the use of spectacular methods, as in the Lawrence textile strike of 1912, and in the free speech fight of 1909 to 1912, at no time did its membership exceed 100,000 workers. Lacking the stable base afforded by a policy of collective bargaining, and insistent upon a revolutionary goal, the IWW became unimportant in the American labor scene after 1918.

The years 1909 and 1910 saw strikes in the garment industry arising out of unsanitary sweatshops, extremely low wages, and job insecurity. The settlement of those strikes laid the foundation for a system of grievance and arbitration machinery which has since become a model for orderly, peaceful adjustment of disputes arising out of collective-bargaining agreements.

The Sherman Antitrust Act received further application at the hands of the courts in the case of *Loewe* v. *Lawlor* (208 U. S. 274, 1908), the famous Danbury Hatters' case. The Supreme Court declared that the acts of labor unions, if

they involved restraint of commerce among the States, were covered by the Sherman Act. It held further that Congress clearly intended that the Sherman Act should be applicable to combinations of labor as well as those of capital. The final judgment against the officers and members of the union amounted to $252,000, and only the fact that the trade unions raised funds to pay the judgment saved the members of the union the loss of their homes and other property.

This decision stirred labor to secure exemption from the operation of the Sherman Act, and Samuel Gompers hailed the Clayton Antitrust Act as the answer to the problem. However, the courts were to continue to place interpretations upon the lawful and peaceful activities of unions which left them with the same legal disabilities and restraints that had existed prior to the passage of the act.

In the latter part of the nineteenth century employers began to use the yellow-dog contract as a condition of employment by which a worker promised not to join a trade union so long as he remained an employee of the concern. In *Coppage* v. *Kansas* (236 U. S. 1, 1915) and *Hitchman* v. *Mitchell* (245 U. S. 229, 1917), the Supreme Court ruled that yellow-dog contracts were consistent with the fourteenth amendment and that any law or attempt by unions to abolish them would be depriving persons of their property without due process of law. The use of yellow-dog contracts became common in an increasing number of American industries and in such districts as West Virginia and Kentucky the courts became the principal aids of antiunion coal operators in their fight against organization. The injunctive process was used to prevent attempts, however peaceful, to organize workers who had been compelled by economic circumstances to agree not to belong to a union.

The period of the First World War was of considerable significance for American labor unions. Membership almost doubled in the period 1915–20, to reach a high of more than 5,000,000 workers; important labor legislation was enacted; organized labor was represented on Government war agencies; and there was a vigorous effort made to organize mass-production industries.

In 1916 the railroad unions threatened to strike for the 8-hour day. Upon the intervention of President Wilson the strike was averted and the Congress passed the Adamson Act which provided for the establishment of the 8-hour day for workers engaged in operating trains in interstate commerce. However, it took the threat of a major war and the continued intervention of the President to bring the railroad managers to accept the provisions of the law in the form of a signed agreement with the railroad brotherhoods. When in 1917 the Federal Government took over the operation of the railroads, a railroad wage commission was appointed to investigate wage disputes. This body functioned effectively in preventing strikes during the war years.

In March 1918, the National War Labor Board was created with tripartite representation. No strikes or lock-outs were to take place during the war. The right of workers to organize into trade unions and to bargain collectively was affirmed and was not to be interfered with by employers in any manner. The right of employers to organize in order to bargain collectively was also affirmed. The union shop and union standards were to be continued where they existed. These principles were in one respect regarded as unsatisfactory to union workers, for unions were not to attempt to bring about a union shop where the open shop was in existence.

In applying its policies, the War Labor Board sought to prevent both employers and unions from engaging in activities which would disturb production in essential war industries. In the Western Union and Postal Telegraph case, the Government took over the telegraph and telephone systems in order to show its determination to carry out its policies, even in the face of the opposition of the great corporations. The Smith and Wesson case indicated that the Government would not permit aggressive antiunion activities to be carried on in war industries. In the case of the Bridgeport machinists it displayed no hesitation about bringing pressure to bear upon employees who struck against an award by which they had agreed to abide.

Unions held considerable representation on Government boards during the war. In addition to the National War Labor Board, union representatives were to be found on the Emergency Construction Board, the Fuel Administration Board, the Food Administration Board, and the War Industries Board. This favorable attitude of Government toward labor, together with the labor shortage induced by the war and the rapid rise in prices, stimulated the tremendous growth in organization during the war years.

In 1918 the AFL began an organization drive in the steel industry in an effort to aid the workers to raise their low wages and to wipe out the 12-hour day. The companies affected embarked upon aggressive antiunion activities, discharging union men, and prohibiting union meetings in the company-controlled towns. The United States Steel Corp., through Judge Gary, announced its intention to refuse to deal with unions. The strike which ensued involved 300,000 or more workers and affected steel production in every region of the country. Direct clashes between strikers and private guards were frequent, especially when attempts were made to suppress meetings. Throughout the strike the press gave much space to the employer's position and pursued a studied policy of alienating public sympathy away from the strikers. The strike ended in failure in the early part of 1920, and the steel industry remained an open shop until the advent of the Congress of Industrial Organizations in 1937.

The miners had suffered a continuous decrease in real wages during the war years. When they attempted, in 1919, to use their only effective weapon—the strike—to raise their wage standards, they were met by the combined forces of the employers, the Federal Government, and the courts. The Attorney General of the United States obtained an injunction in the Federal District Court of Indiana on the plea that the armistice did not end the wartime emergency and that until the treaty of peace was concluded, the Lever Act providing for Federal control of fuel was in force and that, in effect, the strike was one against the Government.

Henry David, in his chapters on the American Labor Movement—Labor Problems in America, Farrar & Rinehart, New York, 1940—well describes the American plan of the twenties:

> At the close of the war the antiunion campaign which began in 1920 was disguised as a drive for the American plan. Its objective was the open shop, but it made its plea in terms of American principles and the inalienable right of every worker to enter any trade and to accept employment under conditions satisfactory to himself without the intercession of a union. Conservative farmers' organizations and the American Bankers' Association came to the aid of the employers promoting the American plan for the abolition of the un-American closed shop. In New York State alone there were at least 50 active open-shop associations, and Massachusetts had 18 such organizations in 8 cities. The State manufacturers' associations were extremely active in the campaign, which include employers' associations in various industries and local chambers of commerce, to put the open shop into effect. In Illinois, where there were 46 open-shop associations, the Manufacturers' Association in October 1920 offered aid to any employer fighting for the open shop.
>
> In January 1921, 22 State manufacturers' associations meeting in conference in Chicago officially adopted the name American Plan. For a number of years thereafter the employers carried on an aggressive struggle against unionism, which resulted in the defeat of many strikes and destroyed many trade-unions. The campaign was aided by the turn in business conditions which occurred in 1920, and which, by 1921, had resulted in widespread unemployment in industrial centers. The growth of militant employers' associations, the principal purpose of which was to fight the closed shop, helped to make the campaign for the American Plan a success. The most strenuous opposition to the employers' efforts were encountered in the building trades. Here the well-organized unions succeeded in numerous instances in resisting the employers' attack. In many cities of the country, however, strikes to maintain union conditions were defeated, and building operations were resumed under open-shop conditions.

Under constant pressure from the open-shop drive following the end of the First World War, organized labor in the United States did not make much headway during the so-called prosperous era of the twenties, and it suffered the ravages of the prolonged depression and the mass unemployment that followed the stock-market debacle in 1929. By 1932 the total membership of the American Federation of Labor stood at approximately 2,500,000, as contrasted with the high mark of slightly over 4,000,000 in 1920. It declined further to about 2,100,000 in 1933.

It was not until after the enactment of the National Industrial Recovery Act

in the spring of 1933, including section 7 (a) which guaranteed the right of employees to organize into unions of their own choosing and to bargain collectively with employers, that trade unionism in the United States began to revive. With it came a tremendous influx of new members into the ranks of unions.

The rapidity and the nature of the organizing activities during the NRA period led to the formation of a large number of Federal labor unions chartered directly by the American Federation of Labor. From June 1933 to October 1934, the American Federation of Labor organized and chartered 106 Federal labor unions in the automobile industry, 75 in rubber, 30 in the cement industry, and 20 in aluminum. The total number of affiliated trade and Federal labor unions increased from 673 in 1933 to 1,788 in 1934.

The gains made during the early days of the NRA were halted only temporarily by the invalidation of the National Industrial Recovery Act by the Supreme Court in May 1935, by the rapid spread of employee representation plans established primarily for the purpose of combating the spread of unionism, and by the hostility of employers to the newly enacted National Labor Relations Act. Labor took new heart in April 1937 when the United States Supreme Court validated the National Labor Relations Act.

The vitality and strength developed by the American labor movement in 1937 can be attributed to three principal factors. Favorable labor legislation, particularly the National Labor Relations Act, laid the foundation for the right of workers to organize into unions of their own choice. The Committee for Industrial Organization made tremendous strides in organizing the hitherto unorganized mass-production industries, and the American Federation of Labor expanded its organizing activities and extended its membership among both craft and industrial workers.

Despite the rivalry and bitterness created, the organization and activities of the Congress of Industrial Organizations exerted a profound influence on the extent and character of unionization in the last 5 years. By 1941 organized labor in the United States registered substantial gains in union membership, in the number of collective-bargaining agreements negotiated, and in the number of workers in industries covered by these agreements. By the end of the year total union membership had reached to approximately 11,000,000, the largest number on record in the history of the labor movement in the United States. The total number of union members represented approximately one-third of all the wage earners and salaried employees in the country.

By the end of the war, VJ-day, unions affiliated with the AFL represented a dues-paying membership of almost 7,000,000. As of August 31, 1945, Secretary-Treasurer Meany reported total dues-paying membership of 6,938,125, and in April 1946 the AFL secretary-treasurer report claimed membership of 6,931,221. The CIO claimed approximately 6,000,000 members at the end of 1944. Independent unions claimed over 1,000,000 members, bringing the estimated total trade-union membership to between 14,000,000 and 15,000,000.

PART II. CASE STUDIES

Mr. President, thus far I have addressed myself to a broad and very brief picture of the development of the American labor movement. I have sketched and outlined broadly the organizational efforts of labor in the United States. I should like now to confine my discussion to a more detailed examination of some of the specific instances and periods in American labor history which will give a more realistic approach and understanding of the problems which workers have faced and met during this period. These case studies have been chosen from many of similar instances, but they are sufficiently illustrative of the point I wish to make, namely, that labor's efforts have not been easy of achievement that they are not of recent origin, and that we should not take any action on this floor which would necessitate a recurrence of those periods in our labor history.

I wish first to address myself to the Homestead strike of 1892, then the Ludlow incident, then the textile organizing strike in Gastonia, and, if time permits, the open-shop drive of the 1920's, the formation of company unions and employer associations, the Chicago massacre of 1937, and the now famous Mohawk Valley formula, which is one of the outstanding techniques of strike-breaking conceived by American industry.

HOMESTEAD

We now turn our attention to a dramatic and grievous incident in the struggle of the American working people for improvement of their conditions and recognition of their just grievances, the Homestead lock-out, the struggle between the organized skilled steel workers and the rising colossus of the Carnegie Steel Co. Here for the first time the American labor movement met a new type of foe, a large corporation with widespread economic ramifications and seemingly limitless resources for a war against labor unions. Labor also met a new ruthlessness, a new reliance on brute force, on the power of organized physical violence which money can buy. It was organized labor's first serious experience with the large modern industrial corporation which was later to so dominate and typify American industry.

This was the period of the early nineties in which the new methods of fighting labor were forged—methods quite different from the employer tactics used in the struggles of the seventies and eighties. Here that infamous antilabor use of the court injunction was fashioned, a tool destined to become the effective cause of increased industrial unrest and the instigating force to violence.

In 1890 the resurgence of the labor movement had first become evident. The carpenters were able to establish that long-sought goal, the 8-hour-working day, in approximately 100 towns and cities. Workers in other industries were anxious to achieve the same, but were not yet sufficiently strong.

In steel, the strongest union in American history to that date—a craft union of skilled steel workers of the period, the Amalgamated Association of Iron and Steel Workers—had successfully organized 2,500 members. Up to 1889 their relations with the Carnegie Co. had been friendly. In that year the first dispute occurred between the company and the union, and this dispute coincided with the assumption of the direction of the company by a Mr. H. C. Frick, who, as owner of the largest coke manufacturing plant, had acquired the reputation of being a bitter enemy of labor organization. During the 1889 negotiations for renewal of the agreement Frick had demanded the dissolution of the unions. In fact, the agreement was finally renewed for a 3-year period, but the seeds of distrust and enmity had been sown.

The new agreement called for a sliding scale for wages, which were to rise or fall with the market price of a specified standard steel billet. The agreement, however, set a minimum of $25 per ton on these billets, which put the wage floor at the rate corresponding to the $25 market price.

Under Frick the Carnegie Co. resented the necessity of dealing with the Amalgamated Association. Among its rivals the Carnegie had developed to a position of dictatorial power, controlling at that time the major portion of the American steel market. In the earlier period the union demand for and maintenance of uniform wage rates for the same job operation had been a factor helpful to the company in standardizing its labor costs and giving it an advantage over competitors with unrationalized wage scales. But after this advantage had helped it win out over its competitors, the company turned against the union.

In the earlier period Carnegie himself was known for his professions of sympathy toward labor, as Yellen recounts in his book:

> Before the appointment of Frick the men had believed somewhat in the friendship of Andrew Carnegie, poor immigrant boy from Dunfermline, donator of libraries and hospitals and music halls, patron of the workingman and democracy and peace. He had written frequently concerning the relations of capital and labor; he had advocated trade-unionism and the peaceful arbitration of differences, and had deplored absentee capitalism and the violence of dispute. In an article of the Forum for April 1886 he had stated:
>
> "The right of the workingmen to combine and to form trade-unions is no less sacred than the right of the manufacturer to enter into associations and conferences with his fellows, and it must be sooner or later conceded. Indeed, it gives one but a poor opinion of the American workman if he permits himself to be deprived of a right which his fellow in England has conquered for himself long since. My experience has been that trade-unions upon the whole are beneficial both to labor and to capital."
>
> And 4 months later in the same magazine:
>
> "While public sentiment has rightly and unmistakably condemned violence, even in the form for which there is the most excuse, I would have the public give due consideration to the terrible temptation to which the workingman on a strike is sometimes subjected. To expect that one dependent upon his daily wage for the necessaries of life will

stand by peaceably and see a new man employed in his stead is to expect much. This poor man may have a wife and children dependent upon his labor. Whether medicine for a sick child, or even nourishing food for a delicate wife, is procurable, depends upon his steady employment. In all but a very few departments of labor it is unnecessary, and, I think, improper, to subject men to such an ordeal. * * * There is an unwritten law among the best workmen: 'Thou shalt not take thy neighbor's job.'"

When, therefore, during the disturbances at Homestead, contradictions between Carnegie's public humanitarian utterances and his private business practices were unveiled, the men felt as if they had been betrayed.

From Frick the workmen expected open hostility. But how to account for Carnegie's actions? Why had he declared himself so often in print for a liberal labor policy motivated by generosity and enlightenment? And after he had so done, then why did he let Frick, the notorious and unyielding enemy of trade-unions, assume full authority for the firm, and then himself hurry away to his castles and shooting boxes in Scotland? (Source: American Labor Struggles, Samuel Yellen, Harcourt, Brace & Co., New York, 1936, pp. 74–75.)

These disturbances arose as the date for contract negotiations approached. That even Carnegie himself was preparing to challenge the union's right to an agreement was later revealed by publication of a draft of a notice, suppressed at the time, to the effect that henceforth the company would be nonunion and would not negotiate a new agreement.

Negotiations had begun several months before the contract expiration date of June 30. In reply to union demands for a new scale the company presented its proposals: First, for reduction in the minimum market price of the sliding scale from $25 to $22 per ton of standard billets; second, for a change in the expiration date of the contract to December 31; and third, a reduction in tonnage rates at mills where improvements had been made and new machinery installed.

No accord was reached between the parties. Suddenly on May 30 the company sent the union an ultimatum that it would have to accept the scale before June 24 or recognition would be withdrawn. Indications that he hoped to be able to eliminate the union are contained in the letter Frick wrote to his mill superintendent on the day of the ultimatum:

You can say to the committee that these scales are in all respects the most liberal that can be offered. We do not care whether a man belongs to a union or not, nor do we wish to interfere. He may belong to as many unions or organizations as he chooses, but we think our employees at Homestead Steel Works would fare much better working under the system [i. e., nonunion] in vogue at Edgar Thompson and Duquesne. (Source: U. S. House of Representatives, Employment of Pinkerton Detectives, 52d Cong., 2d sess., Rept. No. 2447 (Washington, Government Printing Office, 1893), p. 23.)

Meanwhile the company openly conducted itself as if for a siege. A solid board fence topped with barbed wire and perforated at intervals, as if for rifles, was built around the mill grounds. The atmosphere could hardly be other than tense, with such obvious preparations for open struggle. A final conference held on June 23, just before the ultimatum was to expire, ended in dismal failure. Of this conference Yellen writes:

Throughout the conferences the men had been offended by the cold, uncompromising attitude of the company, and particularly by the fortifications thrown around the works even before the negotiations were at an end. Now they were angered by the obvious aggressiveness of the company, and understood fully that behind all the differences had been the single question of the preservation of their union. The company attitude rankled all the more because the men prided themselves on their Americanism and on the conservative policy and reasonable spirit of the Amalgamated. In this feeling the congressional investigating committee later concurred with the men. It found that the workmen at Homestead were very intelligent and highly skilled, that their work was of such a nature as to impair their eyesight rapidly and shorten their lives, and that, therefore, a reduction of 18 percent to 26 percent in their pay warranted close scrutiny. Yet, at the investigation, Frick refused outright to state either the total cost or the labor cost of a ton of steel billets, on the grounds that he could not disclose such a trade secret to competitors. (Source: American Labor Struggles, Samuel Yellen; Harcourt Brace & Co., New York, 1936, pp. 80–81.)

Two days later the company issued a statement that the proposed company scale would stand regardless of the workers' attitude. A peaceful outcome was foredoomed, as the later congressional committee readily pointed out:

We conclude from all the surroundings that he, who is not the only manufacturer thus affected, is opposed to the Amalgamated Association and its methods, and hence had no anxiety to contract with his laborers through that organization, and that this is the true reason why he appeared to them as autocratic and uncompromising in his demands. If, as he claimed, the business of his company, on account of fall in the market price of the products of the works, required a reduction of the wages of the employees, he should have appealed to their reason and shown them the true state of the company's affairs. We are persuaded that if he had done so, an agreement would have been reached between him and the workmen, and all the trouble which followed would thus have been avoided. (Source: U. S. House of Representatives, Employment of Pinkerton Detectives, 52d Cong., 2d sess., Rept. No. 2447 (1893), p. xi.)

When strained relations ensued, the company took the action of locking out its entire working force 2 days before the agreement was to expire. This action united the nearly 3,000 mechanics and common laborers behind the fight of the 800 skilled union men, resulting quickly in the formation of an advisory committee for directing the common activities of all levels of locked-out employees.

The committee prepared a watch for strikebreakers and soon took over full charge of running the town of Homestead. Who were these men who were thus raised to a position of control? Yellen tells us:

The committee was anxious to preserve order and decency. It wanted no excuse to exist for newspaper slander. They were no ignorant immigrants, no lawless vandals, no violent anarchists; they were good Americans, fellow citizens, with Frick and Carnegie, of a democracy; respectable men who were defending their moderate standards of living for their families. (Source: American Labor Struggles, Samuel Yellen; Harcourt, Brace & Co., New York, 1936, p. 82.)

When the workmen showed their determination to protect their jobs from being taken by scabs, Frick called upon the Allegheny County sheriff for 100 deputies to protect the mill property. The union immediately told the sheriff that nobody was trespassing on the mill property but that it would be willing to have 500 men specially deputized to watch the property. Although the sheriff refused this, he could not round up any of the citizenry of the county to act as deputies and had to send 12 of his own office force. These men were met at the station by a crowd of 2,000 men who showed them that the mill property was untouched but would not let them stay. By this time the atmosphere had become more tense because of rumors that the company was recruiting scabs in certain large cities nearby.

Actually it was later disclosed that Frick had formulated plans for bringing in armed Pinkerton detectives as early as June 20—considerably before he had asked for protection from the authorities and even before the break-off of negotiations with the union. As the congressional committee reported:

There was nothing in the laws of Pennsylvania to prevent Mr. Frick from employing Pinkerton men as watchmen in the works at Homestead, yet we do not think, under the circumstances, he should have done so. He made no direct appeal to the county and State authorities for protection in the first instance, but began to negotiate for the employment of Pinkerton forces before the negotiations for the reemployment of the workmen of the Amalgamated Association were broken off. (Source: U. S. House of Representatives, Employment of Pinkerton Detectives (52d Cong., 2d sess., Rept. No. 2447 Washington, Government Printing Office, 1893), p. XI.)

By June 25 Frick had already given detailed instructions to the Pinkerton Agency for the transportation and arming of 300 private detectives. They were brought in stealthily by barges up the river toward Homestead. Workmen sentries, however, sighted the barges below the town so that when the boatloads of armed Pinkerton men arrived they were met by an outpouring of townspeople who warned the detectives to stay away. When the Pinkertons actually started down the barge gangplanks, however, a shot rang out. No one has discovered which side fired the shot—but it was the spark which set off the explosion.

The ensuing battle lasted from 4 a. m. to the following 5 p. m. It was stopped by the arrival of the union president and ultimately resulted in the surrender and disarming of the Pinkertons, who were then taken into custody and finally shipped back home. The union members had great difficulty, however, in protecting the Pinkertons from the wrath of the townswomen who had been worked up to fever pitch by the invasion attempt.

The steel company had failed in this attempt to bring in strikebreakers, but its attempt had resulted in a tragedy that left its imprint on the labor movement and on the memory of the Nation for many years.

The public reaction throughout the country was one of horror. Unions from all sides sent in resolutions of sympathy and support to the locked-out workers. In Pittsburgh one union petitioned the city council to return Carnegie's million-dollar gift for a free library because it represented workingmen's blood. Repercussions were felt throughout the States, even though many people failed to see how inevitably bloodshed could be the only result of the labor policy pursued by this powerful company. Yellen clearly points out the dilemma in which the locked-out worker was placed:

E. L. Godkin's Nation disapproved of the workmen for attempting to deprive rich men of their property and poor men of their right to labor. The Honorable William C. Oates, chairman of the congressional investigating committee, objected to the moral suasion employed by union men to prevent nonunion men from scabbing, and wrote: "The right of any man to labor, upon whatever terms he and his employer agree, whether he belong to a labor organization or not, and the right of a person or corporation (which in law is also a person) to employ anyone to labor in a lawful business is secured by the laws of the land." Neither the Nation nor Congressman Oates seemed aware of the dilemma of the workman; if he did not picket he was reduced to looking on while his job was given to a scab; if he did picket he transgressed the laws and ideals of the land. (Source: American Labor Struggles, Samuel Yellen; Harcourt, Brace & Co., New York, 1936, pp. 88–89.)

While the county was aroused, the people of Homestead settled down to care for their wounded, still maintaining vigilance for further invasions of Pinkertons. Even though all remained quiet, the sheriff began calling upon Governor Pattison to send the militia. Pattison replied at the time that the sheriff had "neglected his duty" and that in his opinion if the sheriff had accepted the idea of letting the locked-out men guard the mills "there would not have been a drop of blood shed." A local committee reported to the Governor that the militia were not needed and that the town was orderly and peaceful. Just when the town felt the militia would not be sent in, however, the Governor reversed his stand and ordered 8,000 of the Pennsylvania National Guard to move into Homestead.

At first astounded by this reversal, the Homestead workers welcomed the troops and prepared to cooperate with them on a friendly basis. The officers, however, refused to reciprocate this friendship and maintained a hostile attitude. Slowly the militia opened the way for the introduction of nonunion workers and the reopening of the mill. The company, still refusing to meet the union, started eviction proceedings against families living in company-owned houses.

The struggle continued, however, because of the inability of the company to obtain a sufficient number of skilled employees to run the mill. The workmen were still united. Consequently, to finally smash this unity the company began "filing informations" for the arrest of many of the union leaders, on charges of murder, conspiracy, and aggravated riot. Although the workers retaliated by lodging informations against company officials, they could not readily meet all the required bail for their own members, set at $10,000 each.

Amidst the legal tangles which ensued the workmen were soon confused and their unity weakened. Actually the company and the State failed to obtain the convictions of any of the union men. Yet the company had won its point. The court victories had been costly to the union and ultimately left the union without resources for relief of its locked-out members. On November 20, the resistance collapsed, many of the union members having migrated from the area. As a result unionism had been destroyed in the major steel mills of the Pittsburgh area.

Final defeat for the Homestead workers found many of them routed from their homes, many blacklisted from work in their lifetime trade, many unemployed, their jobs taken by outsiders brought in by the company, and many others reabsorbed by the mill but resentful, demoralized, with a feeling of helplessness and hopelessness in the absence of any protection by any organization of their own choosing.

Frick had won the day. He had broken the union by brute force and the overwhelming resources of the corporation relative to those of the union.

Lives, money, and time were the costs. The State itself spent $600,000 to maintain the militia, over and above all the expenses for the court trials and payments to the deputy sheriffs. Workmen lost over $800,000 in wages and as much again in their own savings and union relief funds.

And what about the working and living conditions of the Homestead families, for maintaining which they had been struggling in vain? Was it true, as Frick later declared, that his nonunion mill was operating "with the greatest satisfaction to ourselves and to the unquestioned advantage of our employeees"? Was it true, in his words, that, "the best evidence that their wages are satisfactory is shown in the fact that we have never had a strike there since they began working under our system of management"?

Had the workmen and citizenry of Homestead been deluded that there was something to struggle for, that they could slowly lift themselves from their misery by organizing in their own interests? Had Frick's nonunion shop, which he had won with armed gunmen, strikebreakers, and unlimited money resources, actually brought the better day for his employees?

The Homestead workmen could not speak out, but they knew this was false. Let a careful student of this situation, Samuel Yellen, tell the story of what actually happened:

From this time forward the men had no voice in determining their hours and wages, the conditions of work, and the share they were to have in improved processes of production. They had no effective protest against any debasement of their standards of living, and as a result the standards were constantly forced lower. When Margaret F. Byington, some 15 years ago, conducted for the Pittsburgh Survey an investigation into Homestead, she found conditions that made life and happiness nigh impossible. The men toiled long hours, nearly all working a 12-hour day, with a 24-hour stretch every 2 weeks when they exchanged day and night shifts. There was no leisure, little family life, and little civic spirit; there were only hard work, poor food, and wearied sleep. Wages had fallen very low, especially for the fresh immigrant labor, with the usual consequences. (Source: American Labor Struggles, Samuel Yellen; Harcourt, Brace & Co., New York, 1936, p. 99.)

What were these consequences 15 years after the lock-out? Miss Byington in her study, gives us a good description:

The analysis of expenditures indicates that the man who earns $9.90 a week, as do a majority of such laborers, and who has a family of normal size to support, can provide for them only a two-room tenement in a crowded court, with no sanitary conveniences; a supply of food below the minimum sufficient for mere physical well-being; insurance that makes provision which is utterly inadequate for the family left without a breadwinner; a meager expenditure for clothes and furniture, and an almost negligible margin for recreation, education, and savings. Many can, to be sure, add to their earnings by working 7 days a week instead of 6; by working 12 hours a day instead of 10; but after all we are talking of standards of life and labor for an American industry, and common sense will scarcely sanction such a week of work. Many, too, as we have seen, take in lodgers, but do it at the cost of decency and health. (Source: Byington, M. F. Homestead: The Households of a Mill Town (1910), p. 180.)

Concretely, Frick's victory meant that by 1907 unorganized common laborers in steel mills received only $1.65 for a 10-hour day and $1.98 for a 12-hour day, although not far away in the bituminous coal mines the common laborers, organized into their own union, were receiving $2.36 for an 8-hour day. And as the workmen sank into a state virtually of slavery, this Carnegie Steel Co. was rapidly transforming itself into that vast monopoly now known as the United States Steel Corp., strategically situated at the heart of modern American industry.

GASTONIA

A great deal of attention is being paid to the evils resulting from the National Labor Relations Act. What must be remembered is that the act has corrected evils of a far more urgent nature. A review of practices that were of common occurrence before the right of workers to organize and to bargain collectively was recognized can most lucidly be illustrated from concrete examples of industrial disputes before the act was passed. Any curtailment or abridgement of labor's right to organize and to bargain collectively may well mean the return to an America of industrial warfare, as is illustrated, for example, in the textile workers strike in Gastonia in 1929, and a return to far greater evils than the proposals now before the Senate attempt to remedy.

The history of events in the Gastonia strike can be understood only against the background of labor conditions existing at the time—labor conditions that were directly attributable to lack of organization. In spite of many protestations to the contrary, the desire for organization

among southern workers to better their working conditions was in ample evidence; but the employers were able to mobilize the police and citizen committees to suppress strikes and organizing activities, with resulting mass suffering and bloodshed. Thus, early attempts at unionizing the southern textile mills in 1900 and again in 1919 failed, not because southern labor was docile but because the employers were able to take advantage of the legally defenseless workers.

GRIEVANCES OF THE SOUTHERN TEXTILE WORKERS

In spite of the failure of previous efforts, in 1929, several textile unions—including the United Textile Workers, A. F. of L., and the National Union of Textile Workers—revived the attempt to organize the South, particularly because of the widespread dissatisfaction with the "stretch out" under which the number of looms under the care of 1 weaver was increased from 20 to as many as 100, in some cases, with no increase in pay—Perlman and Taft, History of Labor in the United States, 1896–1932, volume IV, the Macmillan Co., New York, 1935, page 604.

Another source of discontent, of course, was the low rates of pay. Wages were so low that children of 14 had to go to the mill as a matter of course. Mothers of young children had to work at night. Typical of the treatment received by the employees at the Loray mill is this statement by one of the women workers—

When I was goin' to have a baby and got so I couldn't work, they's fire my husband. Lots of mills won't have you unless there's two hands in the family working. (Mary Heaton Vorse, Gastonia, Harpers, November 1929, p. 705.)

In the colorful language of the mountain men who were the principal source of labor supply for the textile mills:

The boss-men say in the papers that the average wages is $18.60 a week. This is damn lie. Maybe if you take all the money all the bosses git and average it up, then it may be about right. But as fer as the mill hands is concerned, they git an average of about $12 or $13. That's fer 11 or 12 hours work daily fer a week. * * *

When you go to git yore pay envelope you never know what yore agoin' to git. They used to give you a statement showin' what was due, but that give us a chance to kick. They paymaster never get thru tryin' to straighten our complaints. There ain't no way now of checkin' up to see if you git what's a-comin' to you. (William F. Dunne, Gastonia, Workers Library Publishers, New York, 1929, p. 56–57.)

FIRST STRIKE IS SPONTANEOUS

As a result of such conditions, the first large-scale dispute of this period was a spontaneous strike by the employees of the Glanzstoff Rayon Co. at Elizabethton, Tenn., which occurred in March 1929. Later, the strike spread to the Bemberg plant, under the same management, so that a total of 5,500 employees were involved in the walk-out—Ernest J. Eberling, the Strikes Among Textile Workers in the Southern States, Current History, June 1929, page 451. Alfred Hoffman, representing the United Textile Workers of America, soon arrived to take charge, while the National Guard of Tennessee were called out to protect the rayon plants—Nashville Tennesseean, March 19, 1929. Peace was restored when Federal mediators brought about a settlement providing for no discrimination in rehiring and a promise of wage increases.—Ernest J. Eberling, op. cit., page 452.

The agreement was short-lived, for in the night of April 4, Edward McGrady of the American Federation of Labor, and later First Assistant Secretary of Labor, and Albert Hoffman were carried out of town by a mob, and ordered not to return under penalty of death—Nashville Tennesseean, April 6, 1929. Ten days later, discharge of the union grievance committee resulted in a second walk-out—Nashville Tennesseean, April 16, 1929. Two companies of National Guardsmen returned; and the district court enjoined picketing, with the result that over 600 strikers were arrested—Raleigh News and Observer, May 15, 25, 1929. By such tactics was the union eventually broken.

STRIKE AT GASTONIA RESULTS IN BLOODSHED

I read a statement by Mr. Yellen:

In the meantime, on April 1 another strike broke out under widely different circumstances near Gastonia, N. C. Here at the Loray mill, owned by the Manville Jenckes Co., of Pawtucket, R. I., Fred E. Beal, of the National Textile Workers' Union, had secretly organized the workers. As soon as the management discovered this union, it discharged five of its members. More than half of the force of 2,200 walked out in protest. A strikers' committee called upon Superintendent J. A. Baugh with a list of demands, including recognition of the union, a 40-hour week, minimum weekly wage of $20, and the abolition of the stretch-out; but he replied by roping off the street leading to the mill and by keeping the looms going with a small force. A scuffle between pickets and deputies on April 2 brought out five companies of the National Guard. (Samuel Yellen, American Labor Struggles, Harcourt, Brace & Co., New York, 1936, p. 303.)

I now read two statements by Mrs. Vorse:

During the first days of the strike, there were large and orderly picket lines despite the presence of five companies of State troops, but later these picket lines were broken up with increasing severity. Workers were beaten after their arrest, and all of the leaders were arrested at one time or another. (Mary Heaton Vorse, op. cit., p. 701.)

One worker stated, "I was leading the picket line and I was trying to get through a mob of deputies. They said, 'What do you think you're doing?' I said, 'Leading a picket line if I can get through,' and I walked through. They jumped on me and hit me with clubs over the head and in the belly so I was spitting blood and hemorrhaging all night. It was 2 weeks ago, and I ain't well yet. I was all mashed up inside." (Mary Heaton Vorse, op. cit., pp. 705–706.)

Nor were women spared. One stated that she had been going to the store for supper on Monday, April 22. Policemen came down the street—

chasing the strikers before them like rats. He cut my dress and he cut me, too. They had been a drinkin' an' they must'a been a drinkin' to chase women and little kids with baynits. They chased 'em in and out the relief store like dogs huntin' rats. * * * An' then the policemen came up an' hit me between the eye with his fist. He hit me more'n 20 times, I reckon. I was all swelled up an' black an' blue. (Ibid., pp. 706–707.)

Regarding the mass violence of the 18th and 22d of April, as reported above, Mrs. Vorse states:

The National Textile Workers' Union had rented a small shack on the main street of West Gastonia, which it used as strike headquarters. An empty store near by had been hired as a relief depot, and to it the strikers went daily to get their food supplies. This relief store was supported by the Workers' International Relief, an organization which collects money from labor unions for workers on strike. * * * On the night of April 18 a mob of between 150 and 200 masked men descended upon the headquarters and with axes and other instruments almost literally chopped it down. They broke into the relief store, smashed the windows, and threw the supplies of food intended for women and children out into the road and destroyed them. The nine boys who, unarmed, were guarding the headquarters and store were arrested by National Guard men. None of the raiders were arrested.

The militia was dismissed at the end of that week. A large number of extra deputies were then sworn in and armed with bayonets. On Monday, April 22, they charged the picket line with bayonets and blackjacks. A reporter was beaten unconscious. Women were beaten. Men and women, their clothing torn, were scattered with bayonets. Large numbers were arrested. The events of that Monday afternoon were a premeditated attempt to terrorize the workers from holding the picket line.

This was the general state of affairs when I arrived. A grand jury had already been called to investigate the mob outrage, which was very badly looked upon throughout the State. It failed to bring indictments or to throw any light on who was responsible for the trouble. Two of the nine guards made affidavits that they recognized members of the mill police among their assailants. (Ibid., pp. 701–702.)

Commenting on this outrage, the Raleigh News and Observer of April 23, said editorially:

Last week, a mob of men in the nighttime, armed with their own guns, under masks of their own making, invaded and wrecked the headquarters and relief store of the striking cotton-mill workers of the Loray Mills in Gaston County.

Last night, a mob of other men in the nighttime, armed with guns and bayonets which were the property of the State, under cover of badges as deputy sheriffs of the county of Gaston, invaded a peaceable meeting of strikers, scattered the assembly with bayonets, rifle butts, and blackjacks, and seriously wounded a newspaper reporter going about his own business.

We might as well face the facts. The textile interests of North Carolina need not feel called upon to make common cause with the Loray mills in this situation. That situation was created by stupidity, hysteria, and prejudice heated white. That Gaston strike and all its complications of lawlessness on the part of law. Indifference to the rights of citizens on the part of the law, partisanship in an industrial dispute on the part of the law ought to be isolated and treated with desperate treatment as a cancerous growth on the industrial life of the State.

Mrs. Vorse also states:

A few days after this, the mill company began mass evictions. The 50 people evicted that first day lived in houses distributed through the different sections of the mill village. * * * The work of eviction continued relentlessly day after day. The mill

village became a gypsy encampment. People set up stoves and beds in the lots. The dwellers of 200 homes were evicted. Over a thousand people must have been homeless. (Op. cit., pp. 707-708.)

On May 7, the Washington (D. C.) Post carried the following dispatch under a Gastonia date line:

"Striking members of the National Textile Workers Union were facing a new and pressing problem tonight as police deputies began carrying out eviction orders issued today against 62 families formerly employed by the Manville Jenckes Co.

"The deputies began their dreary task at 2 o'clock this afternoon. As the chill of nightfall crept over the town they had entered 13 of the mill shacks, dragging the humble furnishings and cherished possessions out into the street. * * *

"For two families the eviction was a grave matter. Illness failed to stay the hands of the officers."

Undaunted, the workers set forth about erecting a tent colony and a new union headquarters with the aid of the Workers' International Relief. In response to the frequent threats that the new headquarters would be destroyed as the old one had been, the boundaries of the colony were patroled at night by an armed guard. On the evening of June 7 police officers, led by Chief of Police Aderholt, attempted to enter the colony. The striker guards demanded a search warrant. Another policeman tried to disarm a guard. In the scuffle a gun went off and the shooting began. Each side claims the other fired first. In the next few days 70 persons were arrested. Sixteen people, including three women, were held for first-degree murder, and seven others were held for conspiracy. (Mary Marvin Vorse, op. cit., pp. 708-709.)

At the subsequent trial, the State could not connect any of the defendants with the shooting of the chief of police. At this point one of the jurors conveniently went insane, and the case was declared a mistrial. The released jurors told the press that they were for acquittal on the basis of the evidence they had heard. (Ibid., p. 709.) A second trial was held at which nine of the defendants, for the most part local people and women, were dismissed. The other seven were found guilty of second-degree murder with sentences ranging from 5 to 15 years.

During the second trial increased disorders occurred. A mob went to a house in Gastonia where union organizers lived.

A hundred men crowded into the house and kidnaped Ben Wells, an Englishman, and C. D. Saylor and C. M. Lell, local men. They were driven to a wood in a neighboring county where Wells was stripped and flogged. Two opossum hunters heard his cries. The night riders heard the hunters approaching and thought it was the law and fled, leaving Wells unconscious, to be rescued by his companions. * * *

The culmination to mob violence came on September 14. A truckload of union members were going to an attempted union meeting. The meeting was never held, armed mobs turning away all union members. The truck turned back to Bessemer City, whence it had come, and was followed by a number of cars containing members of the mob. A car swerved in front of the truck apparently to stop it. The truck crashed it, and the car was upset. Immediately rifle fire was opened on the unarmed workers. A woman was shot through the chest and died instantly. She is a widow and leaves five young children. (Ibid., pp. 709-710.)

FURTHER VIOLENCE AT MARION

Violence and bloodshed were by no means limited to the strike in Gastonia. On July 11, 1929, employees of the Marion Manufacturing Co., at Marion, N. C., under the leadership of the United Textile Workers, A. F. of L., walked out. The company had refused to grant a workday of 10 hours with no reduction in pay. A month later the employees of the Clinchfield Manufacturing Co., at Marion, struck in protest against discrimination against union men, and for a reduction of hours. The workday had been 12 hours and 20 minutes. Disregarding a temporary injunction against picketing, the strikers finally agreed that old employees wishing to return to work could do so on condition that the companies imported no outside strikebreakers. Finally both plants agreed to rehire the strikers and to adopt the 55-hour working week at the old wages, the question of the hours to be voted on by the employees 6 months after the settlement. Less than a month later, the mill workers walked out to protest discrimination against members of the union.

A picket line was formed around the Marion mills, as the day shift left their jobs, to apprise the night shift of the new strike. The sheriff rushed to the scene, and ordered his deputies to fire at the unarmed pickets. Three were killed, and 21 wounded, 2 of whom died later. The majority of the dead and wounded were shot in the back while fleeing. Perlman and Taft, op. cit., p. 607.)

As a result of this massacre, the sheriff, 10 deputies, the superintendent of the Marion Manufacturing Co., and 3 of his employees were charged with murder. Thirty-two strikers were arrested—Raleigh News and Observer, October 4, 1929. Four of the strike leaders were eventually tried and convicted of rioting and resisting an officer. The leader of the Marion strike, Alfred Hoffman, who had figured also in Elizabethton, was sentenced to serve 30 days and was fined $1,000. The three other defendants were sentenced to 6 months in jail. The sheriff and deputies indicted for murder were acquitted by the jury on the ground of self-defense against the unarmed pickets.

1920'S—DRIVE FOR THE OPEN SHOP

The decade preceding the inauguration of President Roosevelt and the adoption of a national system of labor legislation was marked by an almost uninterrupted decline in union membership. There are several reasons accounting for this development, but one of the most important was the aggressive antilabor policy employed by a significant number of large firms in major industries.

This policy consisted of establishing clear-cut barriers to unionization of employees, as well as the adoption of a variety of programs designed to stress the community of interest of employers and employees. In addition, important industries, such as cotton textiles and clothing, made a conscious effort to avoid union organization by moving large mills to nonunionized areas, such as parts of the South.

The decade of the 1920's, which witnessed this fight against labor unionization by means of "welfare" activities by employers, has been called the period of the "personnel administration offensive."

By the end of 1920 a network of open-shop organizations covered the country. In New York State alone at least 50 open-shop associations were active. In 8 Massachusetts cities 18 open-shop associations were active. Cohesive antiunion fronts were organized in New Jersey, Connecticut, Rhode Island, Maryland, West Virginia, and Pennsylvania. Activities of employer associations in the Middle West areas matched the open-shop fervor evident in the East. Southern organizations joined as enthusiastic fighters The Far West—Idaho, Montana, Washington, and California—all had active open-shop associations. Early in 1921, 22 State manufacturers' associations met in Chicago, adopted the name "American Plan," and mobilized for the battle against the closed shop—John R. Commons and Philip Taft, History of Labor in the United States, 1896 to 1932, New York, 1932, page 491 and following.

Strategy was concentrated on the front of "ideals and sentiments." Propaganda emphasized "industrial democracy" of the employee-representation-plan variety.

A special report of the Senate Committee on Education and Labor, submitted in 1939, states:

In order to carry out its program the National Association of Manufacturers, together with other associations, organized in 1916 the Chamber of Commerce of the United States and the National Industrial Conference Board, the latter to provide factual data for the association's "educational" campaign. * * * Whereas, before 1920 this propaganda campaign was conducted on the slogans of patriotism and freedom, after 1920 it became what it always had been, a candid open-shop drive which was the spearhead for the antiunion movement then sweeping the country.

* * * * *

In this period * * * the association's representatives maintained their unyielding attitude on social legislation, just as they had done prior to 1913. They continued opposition to modification of the antitrust laws to exempt labor unions from the application of the law, legislation restricting the issuing of injunctions by Federal courts against labor unions in industrial disputes, regulation of child labor, regulation of the hours of work on Government contracts, the establishment of collective bargaining in employment relations among interstate carriers, and many other legislative proposals designed to correct some of the basic dislocations which gave rise to social unrest. (Digest of Report of the Committee on Education and Labor pursuant to S. Res. 266; Labor Policies of Employers' Associations, Part 3; the National Association of Manufacturers, U. S. Government Printing Office, Washington, 1939, pp. 8-9.)

Other methods of fighting unionization were not ignored. The yellow-dog contract was used as an effective weapon in checking the organizational efforts of trade unions and forestalling the introduction of the closed shop.

In accordance with the Hitchman doctrine, established by Supreme Court decision in the Hitchman case—for summary of case see Harry Millis and Royal Montgomery, Organized Labor, New York, 1945, pages 513 and following—yellow-dog contracts were held to be entitled to protection by injunction. The Court had held that a union's efforts to organize workers employed under oral contract not to join a labor union was

equivalent to inducing breach of contract and that an injunction to prevent such action was appropriate.

Use of the yellow-dog contract thus proved to be a highly effective device to break unions and to forestall closed-shop developments.

The drive against the open shop was extended, beyond the scope of recognition, into questions of trade-union wage-and-hour programs. In the fall of 1920, the open-shop book and job printers' associations began a campaign against the 44-hour week. In 1921, the National Forty-eight Hour League of Employers was formed by delegates from 39 States, representing 5,034 plants, and employing 150,760 printing workers. The typographical and printing pressmen's unions fought this campaign to revise the workweek schedules, particularly since only a few months previous the Joint Conference Council, which included the United Typothetae of America, the Printers League of America, and the International Association of Employing Stereotypers and Electrotypers, had agreed to adopt the 44-hour week. In fact the chairman of the closed-shop division of the United Typothetae admitted that the unions had a perfect moral case but nevertheless he was fighting the 44-hour week.

This is merely one example of the union-busting pattern set by employers during this period. In March 1921 the Big Five meat-packing companies declared their intention of abrogating their agreement with the union. The packers were determined that the union—the Amalgamated Meat Cutters and Butcher Workmen—had to go, and they resorted to a company union, coercing their employees to join the new organization. The Amalgamated, in protest against several wage cuts in violation of their agreement, finally was forced to call a strike. Although the number of workers on strike was estimated at 45,000 in 13 cities, and despite large picketing demonstrations, summoning of companies of National Guard men, and injunction suits by packers in a number of cities, the companies actually denied the existence of a strike, and they continued operations as far as possible.

The union's resources were too meager for a strike of such proportions, with such adamant, unyielding opposition. The strike was finally called off in February 1922; and the packing industry was back to the open shop.

In the men's clothing industry, in 1920, the clothing manufacturers of greater New York demanded that the Amalgamated Clothing Workers virtually relinquish any union control over jobs. Hostilities began with a lock-out of 16,000 in several of the larger shops, followed by a strike in the remainder of the industry, involving 65,000 workers. The union was willing to arbitrate, but the employers remained firm in their original demands. They also turned to attacks on the legal front, by filing damage suits against the union for the sum of $1,300,000 in addition to suits for injunctions and even for dissolution of the union.

The contest lasted 6 months before the employers finally accepted peace on union terms, which included a wage cut not to exceed 15 percent and standards of production under union control.

Even the railroad brotherhoods suffered from the strong antiunion wave. In 1920 the railroads were returned to their private owners, and soon thereafter there was a sharp reduction in railroad personnel, plus a concerted move to deflate railroad wages. In addition, the railroad authorities were extending the practice of contracting out work to outside shops in order to escape regulations established by the Railroad Labor Board. These regulations had granted shop employees a wage increase and, pending further consideration, had ordered no changes in wage or working conditions except by agreement between the carriers and their employees.

The contracting-of-work method quickly assumed menacing proportions. Not only was work given to outside shops, but through subterfuge on some lines the railways' own shops became formed into contract shops. This made possible the substitution of piecework rates for authorized methods of wage remuneration. In 1922 the Board ruled that this farming-out practice was in violation of the Transportation Act, but the carriers' association formally refused to accept the Board's decision.

In fact, the Pennsylvania Railroad went so far as to challenge the very right of the unions to speak for its employees, and agreed to negotiate only with persons selected as representatives under a company-sponsored employee representation plan. During the time which elapsed while the Board investigated the situation and the company thereupon secured an injunction prohibiting the Board from publishing its decision, the company gained the opportunity to consolidate and extend its company union. The final result of this, plus further attempts to decrease wages, was an industry-wide strike which began in July 1922 and was not finally settled until the following October, with agreement that complaints and disputes would be settled by a special joint commission.

An open-shop drive occurred in the maritime industry. In January 1921 the International Seamen's Union and the Marine Engineers' Beneficial Association were approached by the American Shipowners' Association and the United States Shipping Board with a proposal that a new agreement should allow a 25-percent reduction in wages and no overtime pay. Negotiations dragged on, and 11 days before the expiration of the old agreement new demands were made—including abolition of the privilege of union representatives to enter docks or board vessels, and withdrawal of preference to union men in hiring.

The result was that on May 1, 1921, when the old agreement expired, all American shipping from New York to Texas was tied up by a strike. At the end of the second week of the strike, 300 pickets were under arrest in Gulf and Atlantic ports on charges of vagrancy.

The strike was weakened by the acceptance by the Marine Engineers' Beneficial Association of reductions in overtime pay. Return of the engineers made victory by the unions impossible. Finally, after 52 days, the strike was ended with a return to work without an agreement.

The impact of this defeat dealt a devastating blow to the seamen's union. Its membership dropped 50 percent within a year, and by 1923 it was barely 20 percent of what it had been at the evening of the strike. The defeat meant blacklisting and discrimination against union men.

This was generally the case in every union which waged an unsuccessful battle against the open-shop drive, and this postwar drive to liquidate labor's wartime achievements appeared on the entire industrial front. In the highly organized trades, wage deflation and weakening union control were management's twin objectives. In poorly organized industries, the attack was mainly on wages and hours.

Mr. President, I have dwelt for some time on this discussion of the labor-management situation after the last war, because there are important lessons which we must learn from the bitter experiences of that period.

During the First World War, significant strides had been made in the field of important labor legislation and in the over-all recognition of trade unions in the political and economic scene. Unionism was represented by Mr. Samuel Gompers on the advisory council of the Council of National Defense. The President's Mediation Commission, established in 1917, also included a labor representative. That board was charged with the responsibility of settling labor-management controversies in industries essential to the war effort, and thus it had to establish certain standards and to develop basic labor-relations policies. Underlying those principles was recognition by the board of the right of workers to bargain collectively through representatives of their own choosing, and recognition that workers were not to be discharged for trade-union membership, nor were they in any way to be subject to discrimination because of such membership. Union rates were to be paid where they had been customary in the past, and the living-wage principle was to be made applicable to all workers.

In the period immediately following the war, however, withdrawal of Government protection of labor's right to organize, management's disposition to reassert its prewar prerogatives, the lag of money wage-rates behind the rising cost of living, and the tendency of employers to withdraw the recognition accorded unions during the war, served to accentuate industrial unrest.

A National Industrial Conference, attended by public, labor, and management representatives, convened at the invitation of President Wilson in 1919 to plan labor-relations programs in the postwar era. The conference failed, owing to inability of the delegates to agree that collective bargaining should mean bargaining between employer and union representatives indipendent of any employer influence and control. Labor's representatives had insisted upon recognition of the right of workers to be represented by delegates of their own choosing; employer representatives insisted that no employer should be obligated to meet for

purposes of collective bargaining with other than his own employees, and that collective bargaining be so defined as to include negotiations with shop committees and employee-representation organizations as an alternative to trade unions.

One of the crucial points which are clearly highlighted by this review is that the policy of the Government toward labor organization exerts a profound effect on the status of industrial relations. Following a period of relative quiescence in labor-management relationships, in a period calling for drastic changes in our living pattern—we call it reconversion—serious disagreement, even some strife, is inevitable. But there are clear indications that during the twenties labor-management disputes were seriously aggravated by the sharp change in the Government's labor policies. Its "hands off" attitude on such basic issues as labor's right to organize and bargain collectively—at a time when some clear-cut statement guaranteeing those economic rights to workers was needed—contributed to a relatively chaotic condition in the area of labor relations.

The long-run economic and social loss suffered in this country by allowing the antiunion open-shop drive to run rampant is immeasurable. Who knows what effect a labor policy such as is now embodied in the National Labor Relations Act might have had on the economic history of the United States?

An important point to be remembered is that we must not permit any repetition of the tragic developments of the twenties by allowing the emasculation of any part of the NLRA or by approving any antilabor legislation which would in effect turn back the clock of our labor-relations history.

COMPANY UNIONS

In this discussion I have referred to the establishment by employers of company unions which were organized as a tool with which to fight bona fide trade-unions. Let us examine the organization of these so-called unions, and their full implication in terms of the development of trade-union movement.

A company union is an organization confined to workers of a particular company or plant, which has for its apparent purpose the consideration of conditions of employment.

When this method of handling labor matters was carried on by informal committees, the whole arrangement was commonly referred to as an employee-representation plan * * * however, in cases where more formal procedure was developed, such as written constitutions, elections, membership meetings * * * and dues.

The term "union" might more appropriately be applied.

In 1935 the Bureau of Labor Statistics of the United States Department of Labor made a study of 126 company unions in order to determine how effective they were as agencies representing interests of the workers, how self-supporting and free from employer domination they were, and to evaluate their general effectiveness in collective-bargaining procedures.

I quote from a Bureau of Labor Statistics report based on this study:

Examination of a representative group of 126 company unions indicates that their establishment was frequently due to the pressure of trade-union activity, either in the form of organization drives or strikes in the trade or vicinity.

At the time of this study the great majority of company unions had been set up entirely by management. The management usually conceived the idea, developed the plan, and initiated the organization. In a number of cases one or more employees played a part in initiating the company union, but in some of these employee initiative was more apparent than real. In others, the company accepted an employee's suggestion for such an agency, and then created the organization, but company unions were almost never established without some assistance from management.

Frequently, management applied varying degrees of pressure, including in some cases discharge of trade-union members and threats to close down the plant unless the company union was established.

I continue reading:

The existence of a company union was almost never the result of a choice by the employees in a secret election in which both a trade union and a company union appeared on the ballot. In one-third of the plans studied by the Bureau of Labor Statistics the employees were offered a chance to vote in a secret election in which expression of opinion was limited to a vote for or against the company union. In some of these cases the company union was formed even when the vote was in the negative. In another third the company unions were installed without any expression of choice by the workers, while in about an equal number of cases their choice was registered by signature to a membership roll or petition or by open vote at a public meeting.

All but a few of the company-union constitutions either specifically or by implication made the management a party to the functioning of the employees' organization. The management could veto amendments to the company-union constitution in a substantial number of instances and could even abolish the company union in a few cases.

Most of the company unions studied relied entirely upon the management for their finances. Many others received more or less important financial assistance from the employer. Such financial dependence generally meant that proposed expenditures by the company union had to be approved by the management. Less than 10 percent of all the company unions appeared to be financially self-supporting. The rate of dues was in most cases considerably below trade-union levels, and few of the company unions had substantial treasuries.

Just as the company union was confined to employees of the company, so its officers and representatives almost invariably had to be employees. A few of the company unions had full-time salaried officials. Some of these were paid by the company, and all were former employees of the company.

A majority of the company unions required that the employee representative must personally attempt to adjust a grievance before it could be taken up by the more formal company-union machinery. The effect of such an arrangement was to relate the prosecution of grievance cases to the energy and courage of an employee who must face his superiors without the backing of an organization free from the employer's control.

In view of the emphasis placed upon the company union as an agency for adjusting individual grievances, it is significant that one-third of the company unions handled no such matters. According to persons interviewed regarding company unions which did take up individual grievances, approximately one-third of this group did so effectively, another third with limited effectiveness, and the remainder ineffectively.

Company unions were less effective in handling general questions of wages and hours than in handling other matters. In nearly half of the cases no general wage increases were requested or negotiated by the company union between January 1933 and July 1935. This does not mean that there were no wage increases in these plants. Since it was a period of rising prices and business improvement, some of these companies gave increases but the company unions played no part in securing these increases.

Such wage adjustments as did take place, following requests by company unions, were in most cases not a result of any process which might be termed negotiation or collective bargaining. In some instances, it appeared that the wage increase which management had decided to make was announced through the company union in order to increase the prestige of the company union. Many requests for increases were refused by the management without any negotiation, and with a simple statement that conditions did not warrant any increase or that wages were above those in other plants.

In negotiations concerning wages and hours of work, company unions were handicapped by a number of factors. Important among these was their lack of knowledge of the financial condition of the company and of comparative wage scales in the industry. They lacked, in practically all cases, any regular contacts with company unions outside their own plants. Most of them had to rely entirely upon the statement of the situation as presented by the management. Practically none of the company unions had hired outside experts for assistance in negotiations with the management. Most of the organizations were not considered as having the right to hire such assistance, while few of those which had the right possessed the necessary funds.

More fundamental was the company union's inability to bring any pressure upon the employer. In most cases aggressiveness could take the form only of reiterated requests for consideration of the petition of the company union. Practically all of the organizations specifically or by inference disavowed the use of the strike and only a negligible number had funds sufficient to carry on a strike for any length of time.

Most important of all, perhaps, the company unions were hampered by their inability to influence wage conditions in more than one plant. Although prevailing wages were specifically recognized as a determinant in wage negotiations in many cases, the company unions had no machinery for affecting conditions in competing plants.

Company unions generally lacked adequate means for ascertaining the wishes and problems of the employees. Two-thirds had no provision for regular meetings of employees; some of the others met only once a year. General membership meetings are vital to any organization which seeks to keep in intimate touch with the desires and aims of its members. Where regular and frequent employee meetings were not held, no chance was given to employees as a body to discuss general problems and policies which were of interest to them. Furthermore, except in those few cases in which employee representatives were allowed time off to see their constituents, employees had no regular machinery for conveying their individual views and interests to their representative.

The company unions studied evinced little interest in matters of social or labor legislation and were even less active in presenting the views of employees on such matters. There was little discussion in their meetings regarding matters of labor legislation or national policy affecting their interests. When such matters were discussed, the company-union spokesmen were likely to present information and statements which had been given them by the management.

In the summary this report evaluates the company unions studied as follows:

At one extreme were a large number of company unions—more than half—which performed none of the functions usually embraced under the term "collective bargaining." Some of these were merely agencies for discussion. Others had become essentially paper organizations after their primary function, the defeat of a trade-union, was performed. About one-tenth of the company unions studied, although claiming broader functions, were in reality concerned only with benefit and welfare matters. While their activities along these lines may be important, it is misleading to represent them as agencies for collective bargaining. It does not necessarily follow that this type of organization violated the wishes of the majority of the employees concerned; it is possible that the employees may have been averse or at least indifferent to any other kind of organization.

Another group of company unions, about one-third, were undertaking only a few of the activities in which trade-unions normally engage. These company unions concerned themselves with individual grievances and certain matters relating to working conditions; but broad questions of wages and hours, if they were discussed at all, had not been submitted to a process of negotiation and bargaining. Where these company unions had been successful in the limited area of grievance adjustment, a liberal, intelligent attitude on the part of the management had been an important factor. With careful cooperation by the management about half of the company unions in this group had become effective avenues for the adjustment of individual grievances.

The degree of isolation in practice was even greater than that inherent in the structure of a union limited to the employees of a single company. Thus, few interested themselves in any proposed legislation or governmental action affecting workers. They did not hire persons outside the plant to assist in negotiations with their employers. Neither did they seek arbitration by impartial outsiders of requests refused by the employer. So rarely was strike action even considered that the threat of withholding their labor played virtually no part in negotiations with their employers. Finally, the most vigorous of these organizations had no means for marshaling the support of large bodies of workers to influence the terms of the labor contract beyond the confines of a single company.

Viewed broadly, company unions, which are generally viewed as being "tainted" independent unions, have been a product of the open-shop struggle, reaction by business to Government laws, and the so-called welfare capitalism.

One of the earliest employee representation plans in the United States was introduced in the Filene Store in Boston in 1898 as the Filene Cooperation Association. By 1926 according to a study of the National Industrial Conference Board, there were 432 companies with 913 plans, the plans covering 1,369,078 workers. From 1919 to 1932 "membership" in company unions, according to this report, had increased 213 percent, while during the same period per capita taxpaying membership in AFL trade unions had decreased 22 percent. In other words, while in 1919 coverage of company unions was approximately one-tenth as large as the trade-union membership, in 1932 it was four-tenths as large.

In September 1920 the United States Chamber of Commerce published the results of a referendum vote of its members, showing that a large majority of them endorsed open-shop dealings with shop committees. We have seen evidence of the results of this pro-open-shop sentiment in the review of the anti-trade union drive during the decade of the 20's.

During the period of the early thirties, marked by the great depression and the comparatively ineffective and discouraged trade union movement, the company union movement, despite a relative decline, continued to hold its own in such important industries as oil refining, electrical manufacture, public utilities, telegraph and telephone, meat packing, farm machinery, and some branches of the metal trade. More than ever, they found their place in plants operated by very large companies. For example, plants employing 1,000 or more workers accounted for almost 98 percent of employees covered by company union plants, according to the National Industrial Conference Board report mentioned above.

In 1935 the National Labor Relations Act was passed, making it an unfair labor practice for an employer "to dominate or interfere with the formation or administration of any labor organization (including company unions)." The Board has established a set of standards in accordance with which it determines whether or not an employer is guilty of domination or interference with a labor organization, that is, whether or not such organization is a company union. From 1935 to 1943 charges alleging unfair practices by employers regarding company unionism constituted 15 percent of total charges of unfair labor practices received by the Board, although the Board found violations in only about one-third of the cases in which charges had been filed.

Since the favorable Supreme Court decisions of April 1937 regarding the NLRA as interpreted and applied by the Board, there has been a marked change in the extent of company unionism. Dissolution orders have been carried out in a significant number of cases, and, in many other cases, old company unions have been reorganized as bona fide independent labor organizations.

In 1936 Mr. David Saposs summarized the effect of the NLRA on company unionism as follows:

A combination of factors since the advent of the New Deal is responsible for a tendency to readapt company unions. The new legislation, guaranteeing the right of workers to self-organized, self-directed, and self-financed labor organizations for the purpose of collective bargaining, is materially affecting the nature and character of employee representation plans. The ruling by most of the labor boards intrusted with the enforcement of this legislation that labor organization is the sole concern of the workers has been an additional stimulus to the readaptation of company unions. The simultaneous assertiveness of the trade movement, with its spread of union activity to important industries in which it had been previously quiescent, and the general public sentiment that workers should have a right to organize for collective bargaining have accentuated this tendency. (Saposs, David J., "Organizational and Procedural Changes in Employee Representation Plans, Journal of Political Economy, vol. 44, 1936, pp. 803ff.)

STRIKEBREAKING

Further study of antiunion practices serves to emphasize the importance of sound labor legislation which prohibits flagrant attempts to destroy trade-unionism—and to emphasize the danger of antilabor legislation which would weaken the strength and bargaining position which has been attained by organized labor.

A review of violent strikebreaking practices by employers during periods of trade-union organization presents a bloody picture of the history of industrial relations developments in this country.

Probably the best summary account of antiunion practices, particularly since 1933, is found in the now famous hearings and reports of the Senate Committee on Education and Labor, which investigated "violations of the rights of free speech and assembly and undue interference with the right of labor to organize and bargain collectively." The Senate investigation revealed the shocking facts of how labor spies and pseudo police agencies had been loosed upon labor. The revitalization of the labor movement which began to occur in 1933 brought prosperity to the labor-detective agency, the strikebreaker, and the purveyor of gas and machine guns to industry.

The following excerpts from hearings and reports of the committee tell in simple, direct fashion the dramatic and terrible story of antilabor practices employed against union members in an attempt to break organization attempts, destroy unions, and terrorize employees who evidenced sympathy with labor-union activities.

Mr. President, the following excerpts are from hearings and reports of the Senate Committee on Education and Labor:

The committee has learned that there has existed an established business of supplying weapons especially adapted for use in industrial disputes. The weapons furnished for such use were principally the various forms of tear and sickening gases, with equipment such as grenades, shells, and guns for discharging them. Submachine guns are also supplied for such use, though to a lesser extent. Because such weapons are designed and adapted for use by public authority in the exercise of police power in conditions of civil disorder, their purchase and possession by private employers raises problems of far-reaching significance. The committee found that gas weapons are widely purchased by employers and frequently used by them in industrial disputes, and that submachine guns have, to a lesser extent, been so purchased and so used.

A study of the purchase of such weapons by employers revealed that both machine and submachine guns and gas weapons are bought most frequently either in anticipation of, or during, labor disputes. A study of

the records of selected employers, concerning the purchase of revolvers, rifles, and shotguns, indicates that purchases of such weapons in quantities above the necessary minimum required to equip plant watchmen and to guard valuables, was inspired by the fear of strikes, or labor disputes.

The committee's investigation disclosed not only that industrial munitions were purchased by employers at critical periods in the course of their relations with their employees, but also that such purchases bore marked correlation to the labor policies of such employers. Almost invariably those employers who have assumed an attitude of hostility to bargaining with so-called outside unions have been discovered to be largest purchasers of industrial munitions. Conversely, the establishment of cordial relations based on the principles of collective bargaining seems to appease the appetite for arms, and terminate the purchases of such weapons.

A large proportion of the strikes suffered by such employers involved the issue of recognition. In many cases such employers resorted to labor espionage, or employed strikebreaking agencies to use the weapons they had acquired.

Resort to arms by workmen is a rare occurrence, whereas the practice of industrial munitioning on the part of employers is widespread and commonplace.

The fact that munitions companies, in their sales efforts, lay consistent and primary emphasis on employers and corporations, both as purchasers of munitions themselves, and as influential in inducing law-enforcement agencies to make purchases, is indicative of the purpose and character of industrial munitions.

The munitions companies do not sell to labor organization. While sales to employers comprise roughly more than one-half of the total business of these munitions firms, there is no record, that the committee has been able to discover in its whole comprehensive investigation, that any of these companies sold any gas or gas equipment to any labor organization or the members thereof. John W. Young, president of Federal Laboratories, Inc., testified before the Special Senate Committee Investigating the Munitions Industry that he had not made any sales to labor organizations and, furthermore, that he had never been requested to do so. The Lake Erie Chemical Co. followed the same policy.

In describing the kinds of munitions used in industrial disputes, the committee reported:

The firearms include pistols and revolvers of all calibers from .22 target pistols to heavy police and Army-type service revolvers, rifles, shotguns, machine, and submachine guns. Among the rifles are stands of Springfield Army models as well as varieties of carbines and arms of lighter calibers. The shotguns are of automatic, pump, repeating, and single-action type, both long barreled and sawed off. Most deadly of the arms found in the possession of employers are machine guns, machine rifles, and submachine guns. A hint of the warlike, as distinguished from policing, character of some of industry's arms is given in the inventory of one company which included 5 tripods and 2 gun carriages for its 8 Army-type machine guns. Large quantities of ammunition were found on hand for all these weapons.

The committee found evidence of innumerable kinds of clubs which were purchased, manufactured, or stored as part of industry's arsenals. Baseball bats, ax handles, "coronation sticks," blackjacks, billies, metal pipes, steel bars—all appear in the record. In some cases these were manufactured in plants immediately prior to or during strikes. During one strike the company guards were armed with pieces of steel reinforcing material with taped handles. During another strike, great ingenuity was used by employees in the plant in constructing weapons with which pickets were bombarded from the plant. Compressed-air guns, used to operate chipping hammers for the chipping of steel billets, were rigged up to shoot slugs of steel with great force at the picket posts near the plant gates.

The improvisation of weapons was on one occasion carried to the extreme, according to the testimony of a professional strikebreaker, of stringing high-tension electric wires around a plant and arranging hoses for turning live steam upon strike pickets.

In its investigation of the correlation between the purchase of gas and the labor-relations situation in plants of the purchasers, the committee found:

Out of $490,598.93 worth of gas purchased by the 80 largest private purchasers of gas between January 1933 and June 1937, $401,127.75 worth was bought during strikes or when strikes were threatened in the plants of the respective purchasers. Thus, over 80 percent of these purchases were made during or in anticipation of labor trouble. Even more striking is the conclusion that can be drawn from the tabulation of the causes of the disputes before or during which the gas was purchased. The demand for union recognition recurs constantly, either alone or in conjunction with other issues, such as wages and hours. In all, $364,507.14 worth of gas was purchased before or during strikes or strike threats in which union recognition was the exclusive or contributing factor. In other words, the largest purchasers of tear gas have bought more gas when confronted by demands for recognition than under any other circumstances.

The report continues:

The Little Steel strike of 1937 provided the largest demand for gas munitions ever created in the United States. In preparation for and during the strike the Republic Steel Corp. purchased $53,804.97 worth of tear and sickening gas and gas equipment; the Bethlehem Steel Corp. purchased $32,735.64 worth; and the Youngstown Sheet & Tube Co., $16,513.50. The total for these three companies during the months of May and June 1937 is $103,054.11. Additional purchases of other types of arms were made by Republic Steel Corp. and Inland Steel Co. during this strike and Republic purchased 240 assorted baseball bats and hickory and oak clubs at its Monroe, Mich., works. Inland Steel Co., of Indiana Harbor, Ind., purchased $518 worth of rifles from the American Munitions Co., of Chicago, Ill., on May 26, 1937, the first day of the strike.

In the Republic Steel strike in Canton, Ohio, in 1935, the munitions used and the purpose were described by one of the guards using them—a Republic policeman. I quote verbatim from the testimony presented:

Senator LA FOLLETTE. What did you do in the Berger strike, if anything? What were your duties?

Mr. MOORE. Our bunch broke the picket line.

Senator LA FOLLETTE. How did they break the picket line?

Mr. MOORE. With gas bombs and gas guns and clubs.

Senator LA FOLLETTE. How did they go about doing that?

Mr. MOORE. They rode us up in an armored truck and drove us out in the street about two blocks, and we unloaded and came back after them.

* * * * *

Senator LA FOLLETTE. What did you do, if anything, so far as the pickets were concerned?

Mr. MOORE. Well, as soon as we got out of the automobile we started to open up with these guns—gas guns, long-range guns—and threw gas bombs and used revolvers, gas guns, short revolver gas guns, and steel pipe.

* * * * *

Senator LA FOLLETTE. Was there any comment made by anybody connected with the officials on the activity of these 40 guards who went out with you in this armored truck?

Mr. MOORE. Chief Williams.

Senator LA FOLLETTE. What did he say?

Mr. MOORE. Good job.

In further consideration of anti-labor tactics employed by employers, the Senate committee reported:

Private police systems are created to meet the economic needs and desires of private interests. They are paid from private funds and act as the agents and servitors of their employers, who occupy their positions by virtue of their ownership of property or as appointed agents of stockholders or owners. There is no final accountability and corrective for antisocial actions of private police except criminal proceedings in the courts or statutory limitations on their activities. Private police systems, therefore, cannot be viewed as agencies of law and order.

When the armed forces of the employer are injected into the delicate relations of labor and management, the consequences seriously threaten the civil rights of citizens and the peace and safety of whole communities. Private police systems, whenever used as an instrument of labor-relations policy, constitute a menace to public peace, whether they are invested with the police power of the State as deputies, whether they operate in a company town, or whether they act as agents of large corporations in duly incorporated, self-governing communities.

The use of private police systems to infringe upon the civil liberties of workers has a long and often bloodstained history. The methods used by private armed guards have been violent. The purposes have usually been to prevent the exercise of civil rights in the self-organization of employees into unions or to break strikes called either to enforce collective bargaining or to obtain better working conditions for union members.

In the past, company-owned and controlled towns, implemented by systems of company-paid armed guards, have created conditions approximating industrial peonage. Governmental bodies, from time to time, have investigated such situations and have condemned unsparingly, not only the economic coercion exercised by employers in such towns but also the more direct physical coercion effected under such conditions by the police forces of employers. Early investigations reveal that the private company police system is a traditional element in the pattern of employer domination in the company town.

The United States Coal Commission, created by an act of Congress approved September 22, 1922, investigated conditions in the coal industry. Its report submitted in 1925 shows abuses of police power and the suppression of civil liberties:

In Logan County the sheriff has nine regular deputies and many others who are stationed at the mines. Many of these are stable bosses, paymasters, and office guards, sanitary officers, etc. One of their special duties is to keep a sharp lookout for union organizers, and to devise ways and means to discourage them from remaining longer than the next train. The steep mountainsides converge at the banks of the Guyan River

and a railroad bed has been cut out of the side of the mountain. There is here and there an impassable road, but, generally speaking, all the ground except the bed of the creek is privately owned, and a union organizer can scarcely move off the station grounds without becoming, technically, at least, a trespasser. Once his business is discovered, it is the duty of the deputy sheriffs to prevent his activity by ejecting him from privately owned property. Actually, without the consent of the operators, a union organizer can do little more than ride on a train and look out of the windows. The operators' associations do not deny that it is their determination to keep out organizers, or "agitators," as they call them. They assert that their right to exclude objectionable persons from their mine property is as clear as the right of a manufacturer in Chicago or a home owner in Washington to exclude undesirable persons from their premises. Whatever may be the legal phase, it is undoubtedly a fact that under present conditions Logan County, as well as Mingo and McDowell Counties, W. Va., is now closed to representatives of the miners' union, especially if they engage in union activities."

The Senate committee reports indicate that strike services provided by private detective agencies apparently have been very profitable. The Burns agency, for example, sent a letter to its office managers in 1933 which read in part as follows:

A great many strikes are taking place and many more are contemplated, and in addition to undercover work there is a great field for furnishing guards to those organizations which are having labor disturbances. This work is very profitable inasmuch as it does not entail any substantial overhead expense.

The Bergoff Industrial Service, Inc., of New York advertised a "propaganda department" to prevent strikes, composed of men of "unusual persuasive powers." The list of references included a number of important corporations all over the United States.

I read:

The Saile Pierson Detective Service of Philadelphia, Pa., advertised both guards and strikebreakers. Its list of wares is imposing.

Strike prevention department: This department is composed of men possessing natural leadership qualifications. Men of intelligence, courage, and great persuasive powers, to counteract the evil influence of strike agitators and the radical element.

Undercover department: Our undercover department is composed of carefully selected male and female mechanics and workpeople. They furnish accurate information of the movements and contemplated actions of their fellow employees; "Forewarned is forearmed."

Open-shop labor department: This department is composed of an organization equipped to supply all classes of competent mechanics and workpeople to keep the wheels of industry moving during a strike.

Protection department: This department is composed of big, disciplined men with military or police experience, for the protection of life and property.

Investigation department: Our investigation department is international in scope and embraces all branches. The personnel is composed of male and female operatives of the highest caliber.

In 1937 the Senator from Wisconsin [Mr. LA FOLLETTE], in a preliminary report of the committee, stated:

When the employer's hostility (to trade-unions) is forced into the open the detective agency * * * furnishes guards, ostensibly for plant protection, but actually for breaking strikes or provoking disorder. * * * Drawn from the underworld, a large number of these men have criminal records. * * * Creating violence once they have arrived on the scene is a corollary of their employment. * * *

The employers and (detective) agencies have two separate interests vested in violence. The agency's interest in violence and, by the same token, that of the strikebreakers, is that it will prolong and embitter the fight so that a stronger guard will be called out and more money expended through the agency. The employer's interest in violence is that it shall, by being attributed to the workers, bring discredit to them, thus alienating public sympathy for their cause.

The use of strikebreakers has been a familiar practice among antilabor employers.

In 1892 both the House of Representatives and the Senate authorized an investigation of the use of imported armed guards by the Carnegie Steel Co. during the strike of the members of the Amalgamated Association of Iron, Steel, and Tin Workers at its plants in Homestead, Pa. The investigating committee discovered that:

H. C. Frick, manager of the Carnegie Steel Co., had engaged 300 Pinkerton guards, who entrained in Chicago, New York City, and Philadelphia, proceeded to Pittsburgh, where they were armed with Winchesters, loaded onto a barge, and sent to Homestead. Their attempts to land provoked a bloody struggle with the strikers, which shocked the entire country. The committee found that the Pinkertons—as private citizens acting under the direction of such of their own men as were in command * * * fired upon the people of Homestead, killing and wounding a number.

The Senate Committee on Education and Labor reported:

The use of the strike guard has been justified on the basis of the necessity of providing adequate police protection for the strikebreakers or the plant property. The investigations and reports, however, reveal that the presence of the guards, far from providing order or protection, usually resulted in disorder and violence. The record piles up incident after incident of unwonted aggression and brutality on the part of these men, so that their role appears to be the deliberate exercise of intimidation and terror.

For example, in the copper miners' strike in the Michigan Peninsula in 1913 the Waddell-Mahon Corp. supplied 112 guards who, in company with 150 guards sent by the Ascher Detective Agency, of New York City, took over the functions of law-enforcement officers. The guards of both these agencies were involved in violence and shootings, culminating in an unwarranted attack on a miners' boarding house. The Waddell men emptied their revolvers into the house, which contained men, women, and children, riddling it with bullets, wounding four men who were at dinner and killing two others.

Brazenly, the Waddell-Mahon Corp. advertised its services in this strike as proof of its effectiveness in the breaking of strikes. One of its brochures, distributed to employers in 1913, reads, in part, as follows:

"As an evidence of our ability as strikebreakers, we invite your attention to the labor difficulties now ensuing along the copper range of the Upper Peninsula of Michigan between the Calumet & Hecla Copper Co., the Commonwealth Copper Co., the Quincy Copper Co. et al., and the Western Federation of Miners. * * * We ask you to watch the progress of the present strike, because we know it will be a triumph for law and order, a triumph for the mine owners, and will furnish still another evidence of the success we have always met with in breaking strikes. We ask you to judge us by results."

The report continues with the following account of activities of an employers' association:

The National Metal Trades Association, with a membership of 952 manufacturers of metal trades products with plants located in Northern States east of the Mississippi was examined by the committee. Companies having union agreements were not admitted to membership in this association. The by-laws provided that in case of disagreement with his employees, the member must communicate with the association. Upon approval by the governing body of the association, it, the association, assumed complete control and direction of the strike situation.

The resources of the whole association could be thrown into the strike. It stood ready to assist in procuring workers to replace the strikers to the extent of seven-tenths of the number of striking employees. The association paid the cost of recruiting and transporting the strikebreakers as well as the cost of housing and feeding them in the plant, if that were necessary. Their wages were to be paid by the employer, but the association apparently paid bonuses or extra compensation. The association also recruited, transported, and supervised guards in such numbers as it deemed necessary, paying all their expenses and wages. It maintained a card file of available guards. Strikebreakers were recruited through the branch offices of the association.

The strikebreaking expenses of the association were paid out of its defense fund, established to defray its undercover and strikebreaking work and the salaries of its officials engaged on such work. This fund was sustained by dues from members, assessed on the basis of the number of metal-working employees hired by each member. At the end of 1936 this fund contained a surplus of $214,028.53.

Study of a strike in the rubber industry revealed the following situation:

The Ohio Rubber Co., of Willoughby, Ohio, joined the Associated Industries of Cleveland on August 11, 1933. A strike of its employees occurring in February of 1935, which was marked by violence and intense bitterness, was the culmination of a labor-relations policy based upon a refusal either to enter into a written agreement with the union of its employees or to recognize that union as exclusive bargaining agent for its employees.

As soon as the strike began the company secured 10 additional strike guards from the Associated Industries of Cleveland, making a total of 15, in addition to the regular plant police. In addition the company applied to the sheriff and county prosecutor for guards. Fifty men were hired by the county and city from the McGrath Detective Agency in Cleveland. All these hired guards, as well as 31 citizens of Willoughby, were deputized, thus providing a force of 133 men.

Tear gas and gas equipment purchased from the Lake Erie Chemical Co. constituted the principal armament of the guards. A complete arsenal of jumper-repeater tear-gas candles, three long-range field guns, and a large supply of shells was shipped to the Ohio Rubber Co. on February 19 and 21. The total cost of this armament (including sales tax) was $2,473.02. In addition, the company had the use of a demonstration long-range gun loaned by a Lake Erie salesman, and of a repeating gas gun purchased from the Manville Manufacturing Corp. On February 25 additional gas supplies were secured which cost the company $867.67. The gas equipment of the guards supplied by the county was also secured from the Lake Erie Chemical Co.

The strike was only partially effective. Picket lines were established shortly after

the strike was declared. Detailed instructions were given to the pickets to "conduct themselves in an orderly manner, but to be able to protect themselves in the event that guards came out of the plant and attacked them."

Violence characterized the strike, however, from its beginning. The company had created an explosive situation. The course of its activities preceding the strike can justly be construed as incendiary.

One of the worst strikebreaking cases on record was that of the Remington Rand Corp., where the famous Mohawk Valley formula was introduced. In essence the scheme of the formula involved:

Conducting of a strike ballot by an employer, with misrepresentation of the issues involved and the strength of the union; (2) labeling the union leaders 'agitators' and 'radicals'; (3) economic pressure on the community, through threats to move the plant, in order to stimulate the formation of a citizens' committee by means of which public opinion could be crystallized against the strikers; (4) the amassing of a large police force to preserve 'law and order' and intimidate the strikers; (5) emphasis on the violent aspects of the strike to hide the employment of strikebreakers; (6) the organization of a back-to-work movement accompanied by extensive advertising; (7) a theatrical opening of the struck plant; (8) the combined show of police force and pressure by the citizens' committee; (9) the complete cessation of publicity once the plant was operating at near capacity.

This case marked the first prosecution under the Byrnes Act and was the subject of hearings before the NLRB. The Board found the company guilty of violating section 8, subsections 1 and 5, and also of interfering with, coercing, and restraining its employees in the exercise of the rights guaranteed under section 7 of that act.

The decision and findings of the Board give a detailed and exhaustive picture not only of the Remington Rand strike but of the important role played in it by various strikebreaking and detective agencies and the procedure undoubtedly followed in other strike cases involving antilabor activities by the employer.

Mr. President, the Committee on Education and Labor has reported to the Senate a bill which represents the results of exhaustive hearings. It is a bill designed to meet the problems of industrial disturbances such as are today tormenting the country. It is not the result of hasty, prejudiced action. It is the result of a long and careful study of many points of view—employers, labor leaders, representatives of church groups, and experts in the field of labor relations.

We had before the committee such men as William H. Davis, former Chairman of the National War Labor Board; and William M. Leiserson, former National Labor Relations Board member and Chairman of the National Mediation Board which administers the Railway Labor Act. The committee considered all manner of proposals for legislative action ranging all the way from stringent prohibitions against union activities to proposals for the strengthening of the existing United States Conciliation Service.

It would have been easy for the members of the committee to take the lines of least resistance. We could have taken the easy course and joined in recommending restrictions on labor in the narrow spirit of the Case bill. This would have been the popular course with many people in the country who fail to understand the seriousness of the situation. This course would have required no independent thinking. It would have recognized the clamor and excitement of the moment, and would have won the approval of all who think there is an easy and short-cut road to industrial peace. Such a course would be a fatal obstacle to peace and cooperation in American industry—if our American way of life is to continue.

The spirit of democracy has come slowly into our industrial system in the wake of bitter suffering and protracted struggles. Let us not see it destroyed by oppressive and ill-considered legislation at this time, which will destroy all hopes of ushering in a period of cooperation and prosperity in our country.

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

The PRESIDING OFFICER (Mr. MCCLELLAN in the chair). The clerk will call the roll.

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

Aiken	Hatch	Overton
Andrews	Hawkes	Pepper
Austin	Hayden	Radcliffe
Ball	Hickenlooper	Reed
Bankhead	Hill	Revercomb
Barkley	Hoey	Robertson
Briggs	Huffman	Saltonstall
Brooks	Johnson, Colo.	Smith
Buck	Johnston, S. C.	Stanfill
Bushfield	Kilgore	Stewart
Byrd	Knowland	Taft
Capehart	La Follette	Taylor
Capper	Langer	Thomas, Okla.
Connally	Lucas	Thomas, Utah
Cordon	McCarran	Tunnell
Donnell	McClellan	Tydings
Downey	McFarland	Vandenberg
Eastland	McMahon	Wagner
Ellender	Magnuson	Walsh
Ferguson	Maybank	Wheeler
Fulbright	Millikin	Wherry
George	Moore	White
Gerry	Murdock	Wiley
Green	Murray	Wilson
Gurney	Myers	Young
Hart	O'Mahoney	

The PRESIDING OFFICER. Seventy-seven Senators having answered to their names, a quorum is present.

The question is on agreeing to the amendment of the Senator from Virginia [Mr. BYRD], as modified, as a substitute for section 8 of the committee amendment on page 28.

Mr. PEPPER. Mr. President, on behalf of myself, the Senator from Montana [Mr. MURRAY], and the Senator from Oregon [Mr. MORSE], I send to the desk the amendment which we offer as a substitute for the pending amendment, as modified, by the able junior Senator from Virginia [Mr. BYRD]. I ask to have the amendment stated.

The PRESIDING OFFICER. (Mr. HUFFMAN in the chair). The amendment will be stated.

The Chief Clerk. In lieu of the amendment offered by Mr. BYRD, it is proposed to insert the following:

SEC. —. (a) It is hereby declared to be the policy of Congress to encourage and facilitate the establishment and maintenance of approved plans within industry for providing hospital, medical, and home-nursing care and services, insurance, vocational rehabilitation, and other benefits for employees in activities affecting commerce and for their families and dependents, and to encourage the support of such plans by employers, whether such plans are administered by employers and employees jointly or solely by employers or solely by employees or otherwise. No provision of this or any other act shall be deemed to prohibit such plans or to prohibit employers from contributing to the support of such plans, except in any case where such support constitutes an unfair labor practice under the National Labor Relations Act. The failure or refusal of an employer in an activity affecting commerce to bargain collectively concerning the establishment or maintenance of such a plan shall be deemed to be an unfair labor practice for the purposes of the National Labor Relations Act.

(b) As used in this section, the term "approved plan" means a plan which has been approved, or which is to take effect only upon its approval, by the Surgeon General of the United States insofar as such plan provides for hospital, medical, and home-nursing care and services and by the Secretary of Labor insofar as such plan provides other benefits. The Surgeon General and the Secretary of Labor shall approve any plan submitted to them for the purposes of this section if they find that such plan is a bona fide plan for providing benefits for employees and that a fair and equitable method of administering such plan is provided.

Mr. PEPPER. Mr. President, all of us are aware that there is disturbance and strife in the industrial world today which is disconcerting to the public, and all of us lament the differences of opinion between the employers and the employees which have led to certain stoppages of work and threaten further interruption of work. All of us are deeply sorry that the contending parties have not been able to reconcile their differences and to permit the steady and uninterrupted production of coal and the continued and uninterrupted operation of the railroads. We are all aware of how vitally these matters affect the public interest. We are aware of the fact that the public does have concern over the outcome of these controversies, and all of us wish there were some immediate and effective disposition of these difficulties which would permit the mines uninterruptedly to produce coal and the railroads to continue their important service of furnishing transportation. We know the grievous dislocation in the economy of the country which ensues from the shortage of coal and the interruption of rail service.

But, Mr. President, in my behalf, and in behalf of the chairman of the Committee on Education and Labor, and of members of the committee who are opposing the stringent amendments to the committee bill, and on behalf of other Members of the Senate opposing these severe amendments going outside the scope of the committee bill, I want to disclaim any responsibility for the situation which now exists. On the contrary, we believe that we have pointed out in the Senate that today a method exists which would to a large degree solve both these controversies, if the President were to exercise the full authority which he has under existing law.

Mr. President, I am aware of the fact that the public has not heard about what we have said on the subject here, because it has not been reported in the major part of the press. In fact, if one

reads most of the newspapers he would not know at all that anyone has made such a suggestion as that. One can read most of the newspapers and be led to believe that those who are opposing these severe amendments have no purpose at all except to filibuster. Even when the other day half a dozen veterans, some of whom were amputees, had come voluntarily to the Capitol and brought from the veterans of Walter Reed Hospital and the England General Hospital at Atlantic City a petition signed by some 40 or 50 veterans, a major part of them amputees, stating that they did not approve the antilabor legislation which was being considered in Congress, in the opinion of a majority of the press that was not news, because I never saw anything in any of the newspapers about it. Yet, if one has something to say against the unions, if one has something to say against labor, he can get it on the front page of nearly every newspaper in the country. One able Senator did not make his speech, but it was read by someone else; yet, since it was construed as being constrictive upon the labor unions, it received three-quarters of a column. But anything we have said here on the Senate floor has received slight mention, if any mention at all.

Mr. President, I make mention of that not because of any personal slight, because if that were to happen, it would not be a new thing so far as I am concerned. I presume I can continue to live as well in the future as I have been able to live in the past with treatment of that sort from a great many people and newspapers.

But, Mr. President, if the public has not learned any more of the debate on this floor than can be gotten from the newspapers, I can well understand why the public has a distorted idea, perhaps, of the issues involved in this labor controversy in the coal fields and amongst the railroads of the Nation. I, myself, did not know, until within the last 3 or 4 days, when I heard some railroad men talking on the train, what the men's grievances were. I did not know it until I heard a waiter tell a person being served how many hours a month he had to work under his contract; I did not know it until I heard a steward in a dining car say how many hours a month he had to work under his contract; I did not know it until I heard a man who was a member of the trainmen's association tell how many hours he had to work, 12 hours a day, for which he received pay for only eight; until then I did not know what was involved in the rail controversy, because I had not read in the newspapers how many hours a day the men had to work. I did not know that the men had to work 12 hours and be paid for only 8. I had not read what their wage scale was, or how inadequate it was, or how their wage increases compared with cost of living increases. No; the newspapers ordinarily do not tell that part of the story. But if the labor unions do anything, if the workers do anything that can be played up to their prejudice, we will read that on the front page of the newspaper.

I am of the opinion that the press is largely responsible for making a devil out of John L. Lewis. I assume there are a good many fundamental characteristics in John L. Lewis that justify it, but I am beginning to wonder whether he is as much of a devil as he has been made out to be. I have not read, except in a few feature articles, very much written about the pitiable plight of the miners. The purpose of the amendment for which I have offered a substitute today is to keep the unions from having the right to administer a health fund which was conceived of as for their own benefit. Yet I do not hear Senators on the other side lamenting the working conditions of the miners of this country, or of the railroad workers, or of any other group of labor in the land.

Mr. President, I hope I shall be able to live to see the time when the American people can hear with their own ears every word that is said on the floor of the Senate or of the House Representatives. I intend shortly, in company with other Senators, to introduce a bill to that effect. Then if a newspaper has no space in which to print what is said on the floor of the Senate, or if its representatives hear with prejudiced ears, or read with colored lenses, the people can determine whether they see and hear it that way or not. I hope to see established a short-wave radio station owned by the United States Government, with microphones over our heads in the Senate, so that they will be out of the way. There will be someone to regulate the volume so that it will go out in an even flow to the listening public.

Our Committee on the Reorganization of Congress has made a study of this procedure. The experts tell us that it is technically feasible. They tell us that such a system can be installed without any disturbance of the routine of the Senate, and without any inconvenience to Senators. They tell us that by setting up one short-wave broadcasting station on the east coast and one on the west coast, so as not to interfere with standard broadcast programs, the people who have sets which will receive short-wave broadcasts will be able to hear the proceedings of Congress. I understand that approximately 15 percent of the radio sets in use today are equipped with short-wave receiving facilities. The new ones which are coming on the market usually have such equipment. I feel that in the near future the majority of the population will have radio sets capable of receiving short-wage impulses.

For many years the proceedings of the House of Commons in New Zealand have been broadcast. The Prime Minister of New Zealand, who was here a few months ago, told me of the satisfactory experience that his people have had with broadcasting the proceedings of the House of Commons in his country. I see no reason why the people of the United States who have radios and who wish to listen to what is said in their Congress, in the governing body of their Nation, should not have the same right to do so as those who frequent the galleries of the Senate and the House. They sit here and see and hear for themselves. They do not need to read the newspapers to know what is going on in Congress. They hear everything that is said. They construe and interpret it according to their own senses. They are not handicapped by the limitations of space in newspapers, or by the point of view which some newspaper may happen to have. I believe that if the American people could hear the debates in Congress there would be a much better public understanding of public issues. I am hopeful that Senators will look with favor upon such an installation when the bill to provide for it is finally presented to us for consideration.

Mr. President, we have been trying to say something with the best quality that our feeble intellects were able to give it. We are not filibustering against the pending bill. So far as we are concerned, in a reasonably short time the Senate can begin to vote on the several amendments which are pending and will be pending to this proposed legislation. However, I say this with a certain degree of reluctance, because the very Senators who are proposing these restrictive and curbing amendments upon labor are the Senators who would not even permit an anti-poll-tax bill to be brought before the Senate for consideration.

The able Senator from Virginia [Mr. BYRD] is chairman of the Committee on Rules of the Senate. If a rule were proposed to do away with the power of the filibuster, I doubt if many Senators believe that such a proposed change in the Senate rules would receive favorable consideration from the committee of the able Senator from Virginia.

I very reluctantly surrender the power of debate which could be employed in the Senate upon this effort to hamstring the working men and women of this country. We are accused of filibustering when, by and large, the various Senators who are proposing such amendments are the Senators who have been mostly guilty of filibustering in the Senate.

Mr. President, I have not participated in a filibuster in the Senate since 1937, I believe, the first year of my service in this honorable body. I do not propose individually to break the precedent now. However, I believe that the time has come when not only the pending legislation but all legislation on the calendar is at least entitled to receive a vote by the Senate; and yet I know perfectly well that if, when this bill were out of the way, a Senator were to move that the anti-poll-tax bill be made the unfinished business, the Senator from Virginia would be one of those to join in a filibuster against it ever being voted upon, or becoming the unfinished business, or being subject to the rule of cloture in the Senate. I very much dislike to have such a meritorious cause as human rights crucified when we cannot even invoke cloture under our rules against a violation of human rights; and yet at the same time see a sentiment of haste, anger, and prejudice take away from the workmen of this Nation the gains which they have made over a decade of the administration of Franklin Delano Roosevelt.

As I say, I do not yield the power of debate with any feeling of great satisfaction, because I know that certain Senators deserve to get some of their own medicine. I know how many bills there

are on the calendar which could not even be taken up for consideration before this Congress adjourns, because a minority of Senators would not permit us to consider such measures. Yet we who are opposing these amendments did not filibuster when the motion was made to take up this bill, as we could have done. If one were to read certain newspapers he would think that all we were doing was filibustering. Mr. President, if we ever make up our minds to filibuster against this bill, there will be no doubt about it. If there were a disposition to filibuster, there are a sufficient number of Senators who feel as I do to carry on an effective filibuster.

I believe that under the rules the amendment which I have offered will be the first amendment to be voted upon. So far as I am concerned, the Senate may vote this afternoon, after I shall have finished speaking in a little while, or tomorrow, although several Senators who had hoped to be present are absent because of primary elections and for other reasons.

If we can get the press to tell the American public, I want the public to know that we believe that the restrictive legislation now being proposed is intended for the purpose of cutting the heart out of collective bargaining. If it is enacted into law it will mean that labor will be pushed back nearly a decade, down the dismal ladder of incompetence and subserviency. I had thought that the time when management exercised its untrammeled tyranny over the working people of this country had passed. I had thought that the days of feudalism were gone forever. Yet time after time, like the frog trying to jump out of the well, human progress has been retarded. But be assured that it will go forward again.

In the first place, the proposed legislation would not have the effect of stopping strikes. The people will find that out, as they have learned that the Smith-Connally Act did not have any effect in stopping strikes. Today the Smith-Connally Act is on the statute books, in full force and effect. That was the legislation which was held out to us as being the hope of curbing labor stoppages or stopping strikes. We were told, "If you will pass the Smith-Connally bill, we shall have no further trouble with labor unions. In the first place, it will force upon them a cooling-off period of 30 days. In the second place, they will have to take a strike vote, and the election will have to be fair; and certain other requirements will have to be met. So if you will just pass the Smith-Connally bill, it will practically do away with the vicious strike."

We passed the Smith-Connally bill, and now we have two of the greatest and most detrimental strikes we have ever had in the history of the country, one in progress and the other in prospect.

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

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

Mr. PEPPER. I yield.

Mr. TUNNELL. Does not the Senator believe that the Smith-Connally Act itself is responsible for a great deal of labor unrest, and particularly strikes?

Mr. PEPPER. I have no doubt of it.

Mr. TUNNELL. Does not the Senator believe that it streamlines strikes? It tells labor just how to strike, when to give notice, and how much notice to give. Labor is then placed in the position of having started something, and it goes through with a strike.

Mr. PEPPER. That is correct.

Mr. TUNNELL. So the result is that the bill which was advanced by employers throughout the country as the means of stopping strikes has become the means of foisting strikes on the American people.

Mr. PEPPER. The Senator is absolutely correct. It has been stated time after time by the heads of the large labor organizations, as they stated to us before we enacted the Smith-Connally Act, that if we passed it it would cause more strikes; it would weaken their power to keep their pledge of no strikes. Their predictions and prophecies have come sadly true. Yes, Mr. President; they told us it would cause more strikes. And it did.

The other side told us it would stop strikes. But it has not. Yet if we propose to take the advice of the labor leaders, those on the other side say we are prejudiced and that we cannot see anything but labor's side. Mr. President, it has not been a week since Senators on this floor were telling us that if we had applicable to all industries, legislation like the Railway Labor Disputes Act, we would not have any strikes. That statute has been on the statute books for many years. It provides an elaborate procedure by which management and labor are supposed to reconcile their differences and disputes. It provides for a mediation board, an emergency mediation board, and a national mediation board; it also provides a 30-day waiting period which must be observed; and it requires a strike vote. There are many other conditions and requirements under that act. It is a lengthy piece of legislation, as you will see as I hold it in my hand. We were told that if all the other industries, for example, the coal mines, were regulated by legislation similar to that which regulates the railroad industry, we would not have any strikes. But now what do we have, Mr. President? We have the railroad strike which temporarily went into practical effect, and is in prospect again after Thursday of this week, in spite of the fact that we have on the statute books of the land, first, the Smith-Connally Act, and, second, the Railway Labor Disputes Act. Yet why are not they stopping strikes, if legislation will stop strikes?

Mr. President, the obvious reason is that legislation will not stop strikes. That is the reason. Legislation cannot act as the scorpion whip upon the back of the laborer, to make him labor for another man against his will—not in America. Americans do not happen to be constituted that way. No law can be enacted in the United States, even a law providing severe penalties which will make the working men and women of this country give up what they believe to be their essential rights as citizens. If a workingman feels abused, if he feels that he is being imposed upon, if he feels that he is being denied justice, he will fight as a citizen against his employer, as his forebears fought against the tyranny of George III of England. He will fight against his employer, as his forebears have fought every form of tyranny from the beginning of the history of this country.

Yes, Mr. President; he will stop work, even though it means he will not have a livelihood, if he thinks he is not getting a square economic deal from his employer—at least, after he feels that the employer has had a fair opportunity to redress his remonstrance and to hear his petition.

So, Mr. President, again I lay it down as a premise that the amendments which are being proposed and pushed so fervidly by Members of the Senate whose record, generally speaking, has not been friendly to labor, are amendments—every one of them, and all of them put together—which will not stop a single strike. I predict that they will cause more strikes. If the Senate, as it now seems disposed to do, blindly adopts these prejudicial amendments against labor, put that prophecy down on the books and remember it as time goes on, to see whether it is the kind of prophecy which, like the prophecy of the labor leaders, will unhappily come true.

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

Mr. PEPPER. I yield.

Mr. TUNNELL. I ask the Senator if he would like at this point in his address to have the attention of the listeners and readers called to a provision of the bill as it came from the House of Representatives. I read from page 10:

> No order of the Chairman or process of any court under this act shall require an individual employee to render labor or services without his consent nor shall any provision of such order or process be construed to make the refusal to work of an individual employee a violation of such order or process or otherwise an illegal act.

I call this to the attention of the Senator for the reason that I am receiving a great deal of mail from people who think that the purpose of the Case bill is to stop strikes, although the Case bill itself, speciifically states that it cannot be so used.

On page 13 of the same bill we find the following language:

> Provided, said courts shall not issue an injunction against the right to strike, peaceful assembly, or peaceful picketing.

Within the last few days I received a letter from a very responsible businessman in my State. He discussed picketing, and he feels that it is wrong; and he wishes the Case bill to be passed. Let me point out that the Case bill specifically states that the courts shall not issue an injunction against the right to strike or peaceful picketing. I read further:

> Any individual who violates any of the provisions of this section shall on and after such violation cease to have, and cease to be entitled to, the status of an employee for

the purposes of section 7, 8, and 9 of the National Labor Relations Act, or the status of a representative for the purposes of such act.

I simply wish to call attention to the fact that the Case bill does not even pretend to be a bill to prevent strikes.

Mr. PEPPER. I thank the able Senator very much.

Yet, Mr. President, today there are millions of people in the United States who think that we in the Senate are holding up the enactment of legislation which, if on the statute books, would immediately stop the strike. As the Senator from Delaware has pointed out, if we were to pass the Case bill as it came to us from the House of Representatives, without changing an "i" or a "t," it would not by compulsion stop a single strike or put a single man back to work.

I say to the gentlemen of the press: Tell the people that they have the wrong impression of this measure, or that at least some of the Senators on the floor of the Senate think they have, and state that they have, and that they are entitled at least to know from the press what Senators have said. If the representatives of the press are going to be honest reporters of what happens in the Senate, they can editorialize, of course, but it is their duty, when a Senator in seriousness presents a reason, to give it at least a carriage to the people of this country, if they purport to be fair in reporting this debate. If they do not, let some of them put up a placard reading, "Prejudiced, as usual," and then the people will know how to read what they write.

No, Mr. President; every time a labor controversy arises, it is always the laborer who is damned. Yet, the lily-white employers are never touched. They can be however stubborn, they can be however prejudiced, they can insist upon a gross and an avaricious profit, and can force men to the extremity of a strike, and yet public odium attaches to the worker who will not work unless he gets a fair wage, rather than to his tyrannical employer who has denied him what the Bible says he is due—the laborer's hire.

Mr. President, I think it is time that the people of this country know what is substantially involved in this controversy, and I wish to state the case for the opposition. I think it is entitled to be heard.

The first point is that these amendments will cause more strikes, and will stop none. I can establish that by the nature of the amendments. In the first place, not one word of them purports to send one miner back into the mines. Not one word of any of these restrictive amendments even on its face purports to send one railway worker back to his job on the railroads. Then, how are they going either to stop or cure the strike in either the coal mines or the railroad industry?

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

Mr. PEPPER. I yield.

Mr. MAGNUSON. I do not know how true it is in other States, but in my own State there are also State laws. In my State, labor for many years worked for the liberal laws which now are on the statute books, including the anti-injunction law. The Congress could act from now until doomsday on some of these vicious amendments, and still in my State labor would have those rights. I think the same situation is true in many other States of the Union.

Mr. PEPPER. It is, Mr. President. The Senator is absolutely correct.

In the second place, Mr. President, these amendments are merely provocative of labor. Enacted in anger, they will provoke anger from labor, for action begets reaction and like begets like, in the physical world; and what is done against another man in anger and with prejudice will ordinarily provoke a response similar in character from him. If the men and women of this country who work feel that the Congress is so blind by reason of prejudice or is so ignorant of the issues that it will take occasion by means of such legislation to try to deprive them of their rights, the Congress will simply make them resentful, and sullen, and stubborn, and less agreeable and more recalcitrant than they were before the Congress ever enacted such legislation, if it does enact it at all.

Take, for example, the Byrd amendment which we have been debating. What would it do? The whole intent and purpose of it is to make it illegal for John L. Lewis or for any other labor leader—for John L. Lewis is not named, of course—or for any representative of labor to insist that the employer shall pay into a fund a sum of money for a health and welfare fund to be administered by the employees themselves.

Mr. President, is that such a bad proposal that the Congress of the United States should wish to enact a prohibition against it? The Senator from Virginia stated on this floor—I note that he is not now present—that he had been in touch with mine owners and mine operators. Evidently they had told him their side of the case. The Senator from Virginia, either before or after his conference with the operators, offered an amendment to the pending bill which would make it unlawful for a labor leader to make such a proposal as that to which reference has been made. The proposal which John L. Lewis made was that the miners were to be recipients of a fund consisting of 7 percent of the gross pay rolls of the employees, and that such fund was to be used for the purpose of providing health and welfare benefits for the employees. It was also contended by the employees that inasmuch as the fund was to be used for the benefit of employees, the employees should administer it. Yet the Senator from Virginia would make that a penitentiary offense. That is what is involved in the Byrd amendment. The Senator from Virginia is saying that what has already been done by hundreds of thousands of men and women in this country as a result of voluntary agreements, is to be made illegal in the future.

Mr. President, why do I say that? I have in my hand Bulletin 841 of the United States Bureau of Labor Statistics, issued by the Secretary of Labor.

The health-benefit plans described in the following pages cover more than 600,000 workers employed under agreements negotiated by unions in various industries.

Here are the plans by which the funds are administered for the benefit of approximately 600,000 workers of this country.

A little more than one-third of the employees covered by health-benefit plans included in this report are under plans which are jointly administered by the union and employer. Another third are covered by programs for which insurance companies assume the measure administrative responsibility, and somewhat less than a third are under those administered solely by the union.

So, Mr. President, approximately 200,000 working men and women of this country are today, by voluntary agreement, doing what the Senator from Virginia says should be made a penitentiary offense. I do not blame labor for believing that if the Senate should pass such legislation as is being proposed, it would be moved not by good motives, but by blind prejudice. What business is it of ours if the employees want to negotiate with the employers for a health and welfare fund, and have it administered by the workers? I have pointed out before that the money would not be taken out of dividends proclaimed by management, or out of the pockets of management. It would not be taken out of the company treasury. The money would generally come from an increased price which the public would have to pay for coal. So the management would not own the money. It would merely act as a collector of it. If the money is to be collected by management and paid by the public, what is wrong with it being administered by those for whose benefit it is collected?

Of course, Senators may disagree, and some of them may believe that the plan is not the best one which could be devised. But are we willing to pass a bill making it unlawful to do what the employees wish to have done, which would enable the requirement being put into force which has been advocated by the Senator from Virginia, and would make it unlawful for management and labor voluntarily to enter into an agreement as to how the fund shall be administered. The Senator from Virginia would require that management and labor have an equal share in the administration of the fund. After all, management is not being doctored in the hospitals; management is not being treated by the doctors.

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

Mr. PEPPER. Management is not the recipient of the home nursing care which is contemplated by the plan. It is the bodies of the miners or of the railroad workers, if the plan were applicable to their industry; it is the workers themselves who receive the medical care and who at least might reasonably suggest that, it being for their benefit and for their primary aid, they should have the primary responsibility of its administration. Yet the Senator from Virginia would outlaw such administration of the plan which has been suggested.

I yield to the Senator from Illinois.

Mr. LUCAS. Does not the Senator agree with me that any welfare fund of

this character would be for the benefit of the miners and employees only?

Mr. PEPPER. Yes; the Senator's statement is essentially correct.

Mr. LUCAS. Does not the Senator further agree with me that if a fund of this kind and character were agreed upon between employer and employee, it should be administered in such a way that those who administered it would be required to account for its proper administration?

Mr. PEPPER. I would have no objection to that. If the Senator from Virginia or the Senator from Illinois were to require that any benefit fund of this character should receive a public audit, or some inspection of that kind, I do not believe anyone would object to it.

Mr. LUCAS. That is what the Senator from Illinois has been interested in. In other words, whatever amount in the way of a pay-roll tax for the purpose of establishing a health and welfare fund could be agreed upon between employer and employee it seems to me that the fund itself should be limited to those for whose benefit it is collected and that some method should be provided whereby those who administer the fund in behalf of the miners make a proper accounting of the money so that the public may know it is being administered solely for the benefit of the beneficiaries of the fund.

Mr. PEPPER. I thoroughly agree with the Senator from Illinois. I would not voice a word of objection if the Senator from Virginia were to modify his amendment so as to provide that the health and welfare fund is to be established for the benefit of employees, and that whoever administers it shall file with any person or group of persons whom the Senator wishes to name an accounting and a report of the administration of the fund. I would have no objection to that being done, but the Senator from Virginia does not even want to allow the employer and the employee to arrive at an agreement by which the employees may primarily administer the fund, even if they arrive at such an agreement voluntarily. He would forbid them from entering into such an agreement of their own free will and accord.

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

Mr. PEPPER. I yield.

Mr. BANKHEAD. Would any fund raised under the proposed amendment, especially that part of it which would be paid by the coal operators, be passed on in the form of an increase in the cost of coal to the consumers?

Mr. PEPPER. My opinion is that it would be. I believe that most pay-roll taxes, by and large, are passed on to the consumer. In our Federal social-security system, where the management has to pay, for example, an amount equal to what is paid by the employee, and, in other cases, where the employer puts up all the money, in most instances I dare say that the employer passes the expense on to the public. I do not believe he takes the money out of the company's treasury or diminishes the company's profits. Here is a fund which would essentially come out of the pockets of the public. It would be provided for the benefit of the miners. In case of more than 200,000 working men and women of this country today, as a result of voluntary agreement and collective bargaining, similar funds are being administered by the employees. Yet the Senator from Virginia would outlaw such practice. Not only that, but the Senator from Virginia wants to make it unlawful in the future for an employer and an employee even voluntarily to arrive at that kind of agreement. Why? Because he wants to strike at John L. Lewis. We are saying to the able Senator, and to those who are supporting his amendment, that they do not name Mr. John L. Lewis, and they do not limit their amendment to him. The 200,000 persons to whom I have referred have not done anything to the Senator. They have not joined with Mr. John L. Lewis. Many other hundreds of thousands or perhaps millions of persons, who will, by collective bargaining, obtain such provisions in the future, have not done anything to the Senator from Virginia or to the public. Why fire a blunderbuss at John L. Lewis when, in so doing, we hit 200,000 workers who are innocent of any wrongdoing? That is the character of the legislation which is being proposed in the Senate. Yet, when any of us stand up against it and endeavor to point out its flaws, we are charged with doing nothing but trying to protect the ranks of labor or filibustering.

Senators may make up their own minds as to whether or not there is any merit in the argument which I am trying to make. They will adopt the amendment, I suppose, and they will be just as regretful when they have passed it as many of them are regretful of the Smith-Connally Act, which was passed in a similar attitude 2 or 3 years ago.

Mr. LUCAS. Mr. President——

The PRESIDING OFFICER (Mr. MAGNUSON in the chair). Does the Senator from Florida yield to the Senator from Illinois?

Mr. PEPPER. I yield.

Mr. LUCAS. As I understand, Mr. Lewis is demanding a 7-percent pay roll tax for his miners. Assuming that they will later bargain for wages and get the standard increased wage set throughout the country, it would mean 7 cents more on the dollar they would have to collect from the operators than what they would be getting if they were bargaining for wages alone.

Mr. PEPPER. The fund is in addition to the wage increase they are insisting upon.

Mr. LUCAS. In other words, if finally through collective bargaining they reach the standard that has been set, of 18½ cents an hour, then the 7-percent pay roll tax they are now seeking would add another 7 cents to the 18½ cents an hour to the minimum wage of $1 an hour.

Mr. PEPPER. That is correct.

Mr. LUCAS. Which would in reality give to the miner drawing $1 an hour an additional 25½ cents an hour.

Mr. PEPPER. Exactly, except that the Senator must realize that one of the sums would be for consumption, for expenditures for ordinary purchases, whereas the 7 percent would be to set up hospitals, provide for private doctors, for nursing services, and medicine, to establish an insurance fund in cases of disability, and all that sort of thing.

Mr. LUCAS. I appreciate all that, but the miner would be getting 25½ cents an hour, we will say, and would be taking 7 cents of that and putting it into the health, hospital, and accident insurance funds.

Mr. PEPPER. That is substantially true, it would be going into the fund. The Senator is correct.

Mr. LUCAS. Assuming that what is asked should be agreed to, it would set the pattern for all America, for all other organizations to come forward and ask for the same thing, and I take it the others would be entitled to it if what is now asked is granted.

Mr. PEPPER. I would hope so, because the health of the people of this country is the most precious asset we have. It is more precious than any thing else. We cannot wrongfully spend any money that is devoted to saving the lives and preserving the health of the men and women of this country, and their dependents.

Mr. LUCAS. I agree with the Senator that the health of the people is probably as important as any other thing, from the standpoint of the future success and happiness of this Nation. The conditions under which the miners live have been described time and time again, although I know in my own State in the last 20 years great reforms have been made in the mines but reforms are still needed everywhere. But when we are talking about adverse housing and health conditions, I can take the Senator four blocks from the Capitol and show him, as he knows, people living under health conditions to which the worst treated miners of the country would seriously object, and it is only four blocks from the Capitol, in the very city of Washington.

Mr. PEPPER. Knowing the humane interest of the Senator, I know he would say that all of us should be ashamed of the fact that such conditions exist.

Mr. LUCAS. But they do.

Mr. PEPPER. And that if the Congress of the United States is so backward in its obligation to provide for the health and the welfare of the people by general law, then it is perfectly proper that the employees band themselves together and make the employers, either out of their own profits or through increased prices to the public, provide funds by which the lives and health of the miners can be cared for; and that is all that is now demanded.

Mr. LUCAS. That is correct. Then let me ask the Senator this question: Can the Senator tell me why this proposal has never been presented before in the controversies and collective bargaining on wages and hours previously conducted? Why at this particular crisis of the Nation is this sort of agreement presented?

Mr. PEPPER. The able Senator is remiss in his assumption that this matter has not been brought up before. As I pointed out in reading from Bulletin 841,

the title of which is "Health Benefit Programs Established Through Collective Bargaining, 1945," various unions already have plans in effect like the one now demanded. So it is not new.

Mr. LUCAS. I know it is not new so far as those organizations are concerned, and, frankly, I could not support the Byrd amendment unless some sort of exemption were made of such organizations.

I am talking about the miners. If the Senator has any other information as to when John L. Lewis has been so concerned heretofore about the welfare of the miners, I should like to know about it. Lewis has been one of their leaders for a great number of years.

Mr. PEPPER. I read from Mr. Lewis' statement last week in which he said that he did bring the proposal up in 1945, but he did not press it at the time. This time he has made it a condition to the consideration of the other points in dispute between the miners and the operators.

Mr. LUCAS. The only point I make is that John L. Lewis knew better than any other man in America the condition of the miners, yet on the eve of a great potential economic crisis he insists, before he will do anything about wages and hours, this welfare fund be settled. I seriously contend that there is no welfare fund so vital to the miners or any other group of laboring men in this country as to justify them in threatening to paralyze and eventually laying prostrate the economy of the whole Nation, because, in the final analysis, it is not only the miners who will suffer, but all America if the strike continues, and John Lewis knows that as well as anyone knows it. More than a million workers were thrown out of employment as the result of the coal strike, and millions upon millions more will be thrown out of employment in a short time, with factories closing down, with stores in small towns and large cities unable to get the necessities of life if reason and tolerance are not soon exhibited and if such should happen we will see real suffering in America as a result of the dilatory tactics of John L. Lewis and his failure to initiate days ago the real spirit of collective bargaining.

My contention is that, notwithstanding the merits of his proposal, there is something of greater value, and that is a stable America. And again it seems more than strange that he has made such a proposal only once in all his previous days as a labor leader. Why does he select an hour of economic peril to press his demand? There should be some compromise of some kind to the end that we may get back on our economic feet and move along on the road of progress. The reforms will come, and they have been coming, for years, and the Senator from Illinois has voted for those reforms from time to time, but when my Nation is imperiled, as I believe it is at this moment, I must stand firm.

Whether it is John L. Lewis, or any other leader of labor, business, management, agriculture, or what not, I shall stand up and fight for what I honestly believe is the constructive thing to do for my country.

I make that statement just as sincerely as I have ever said anything. I do not believe I am exaggerating when I express my alarm at what will come to this country unless the railroad strike and the coal strike shall be settled. If we do not settle these two strikes, if these men do not return to work, the health, the safety, the security of the Nation and her people are seriously threatened.

Mr. President, I read in a newspaper a statement to the effect that some local miners' organization said they did not care whether they went back to work or not, that they had plenty of money. Money is not going to be worth very much in a few months from now if we do not get the coal out of the ground. If the railroads and the mines are closed down, and we cannot get the wheat, the meat, the corn and the other necessities of life to the markets of the country, we will have nothing but economic chaos.

Mr. PEPPER. Of course, the Senator does not like the stoppage of work in the mines, of course he does not like the stoppage of the railroad systems, but what he overlooks is whether the workers have a right to say they will not work unless there is a health fund provided for their care, and in assuming that the employees are primarily responsible for the stoppage of work. On the other hand, the management of the mines stated in a public statement which I read on the floor of the Senate a few days ago that this proposal of Lewis was a precedent, that they would not countenance it, that they would not listen to it, and that they would not budge an inch from the position they have taken.

Very well. Mr. Lewis says that he insists that there must be a health fund for his workers. Call him extreme if you like, Mr. President. The management says they will not put up a dime for a health fund. Are they not equally extreme? Have they bargained collectively and conscientiously with Mr. Lewis? Yet the Senator from Illinois, I am afraid, is falling into the erroneous assumption that the whole blame for the stoppage of work and for the conditions which he so well describes must be ascribed to the stubbornness of the worker, without putting sufficient emphasis upon the stubbornness of the employers.

I would say to the able Senator that it has been my observation that every increase in wage, every health fund, every betterment and benefit labor has wrung from management in the United States, was wrung by force. It has been wrung by the exercise of economic power and strength. As a general rule, I have not found management voluntarily giving any increases in wages or providing social-welfare funds for employees. As a matter of fact, whenever the Congress undertakes to do something for the underprivileged, management-minded people fight the legislation for all they are worth.

Ask this group representing management, who in their public statement said that any health fund should be set up by general legislation, if they are in favor of the Wagner-Murray-Dingell bill. Ask them if they are in favor of a National Health Act which will provide funds for the care of the people of this country through national insurance to which employee and employer would make a joint contribution equal in amount, and see whether they will say that they favor such an act. No, Mr. President; they will have some other objection to it. All they want to think about is the continued piling up of their profit, the continued untrammeled exercise of their power, and in 99 cases out of 100 they are going to give the workers only what they are obliged to give them.

Mr. LUCAS. Mr. President——

The PRESIDING OFFICER (Mr. DOWNEY in the chair). Does the Senator from Florida yield to the Senator from Illinois?

Mr. PEPPER. I yield.

Mr. LUCAS. Will my able friend, the Senator from Florida, tell me who is going to win in this crisis if there is no settlement of the strike?

Mr. PEPPER. I will say to the Senator that, like most other conflicts which are uncompromising in their nature, everyone loses. But whether Congress shall step in and say to labor, "You cannot make such a request," is another thing. If someone can propose legislation which will say to management, "You cannot withhold that which you ought to allow to your worker," perhaps it would be a good proposal. But I do not know how to write such a proposal.

I fear that Senators have fallen into the error of believing that because a strike is a bad thing, the way to deal with it is to make it unlawful for the worker to strike, or to impose upon him a penalty if he does strike, regardless of the provocation for his striking. That is what I am trying to hammer home, and that is what is almost impossible to get over in dealing with these controversial management-labor disputes.

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

Mr. PEPPER. I yield.

Mr. LUCAS. Does the Senator see any danger of the stability of our economy being affected in the future as the result of the coal strike and the railroad strike? And a failure to settle them properly?

Mr. PEPPER. I will say that we will have a better citizenry, and in the long run we will mine more coal, and in the long run we will do a better job of running the railroads and other industries of the country, if we will provide health and welfare funds for the workers. If the Senator will indulge me I will tell him why I make that statement. I gave certain figures on the floor of the Senate the other day. They deal with a comparison of the man-days lost from strikes with man-days lost from accidents and illness in the United States of America.

In the year 1940, 6,700,000 man-days were lost from strikes. In the same year, 41,900,000 man-days were lost from accidents. The actual time lost, plus permanent impairment and death, accounted for 234,000,000 man-days. In other words strikes were responsible for what would equal only 15.9 per cent of all the man-days lost from accidents in the year 1940.

Let us now consider the year 1943. I believe that is the year when John L. Lewis called a strike the last time, and

when we passed the Smith-Connally bill. That was the year when we were all clamoring about the strike. Let me give the figures for that year, when the newspapers were filled with denunciation of Lewis and the strikers, and, from reading the newspapers, one would have thought that the country was going to the dogs because of the strikers; that we could not even win the war because of the strikers. In 1943 the number of man-days lost from strikes was 13,500,000. The number of actual man-days lost from accidents in 1943 was 56,800,000. The number of actual man-days lost from accidents and permanent impairment in the health of people and death was 274,000,000.

In other words, even in the year 1943 the equivalent of only 23.8 percent of the man-days lost from accidents was lost directly from strikes.

Last year only 20 percent of the man-days lost by workers were lost from strikes. The rest of the categories I am describing came from illness, permanently impaired health, and premature death.

So, Mr. President, I say to my able friend, the Senator from Illinois, that if John L. Lewis and every other leader of labor in this country, organized and unorganized, were to succeed in obtaining the establishment of a health and welfare fund which would provide medical, hospital, dental, home nursing service, and clinical examinations, and in addition to that would provide an insurance fund to take care of total and permanent disability such as that resulting from a man having his back broken, of becoming paralyzed, of being unable to work any more, of being ill for a long time—if the leaders of labor, organized and unorganized, could secure that kind of a fund from the employers of this country, there would be a tremendous increase in the number of man-working days in our economy for the public benefit and welfare.

Mr. President, let me point out a few figures which a committee, of which I had the honor to be chairman, discovered concerning the health conditions of the people of the United States. This is only the most meager kind of summary. More than 40 percent of the Nation's selectees were found unfit for military duty. At least one-sixth of them had defects which were remedial. Many more had preventable defects. But we lost nearly 40 percent of servicemen in selective service examinations because of the failure to provide an adequate medical system.

Many a father, Mr. President, died on a foreign battlefield or went to a cold grave in a strange sea because some single man back here at home had not had his health cared for in an earlier day or in his youth, and was not able to serve in combat for his country. In fact more than 23,000,000 persons in this country have some chronic disease or physical impairment. Think of that, Mr. President; 23,000,000 persons in this country out of a population of 132,000,000 have some chronic disease or physical impairment.

On any one day at least 7,000,000 people in the United States are incapacitated by sickness or other disability, half of them for 6 months or more. Think of that, Mr. President; 7,000,000 incapacitated every day.

I will interpolate at that point to say that one out of every seven of us now living will die from cancer. Yet we have never been able to secure adequate research funds to combat cancer. Some of the very persons who oppose these health and welfare funds shout to high heaven against the extravagance of the appropriations which would provide the health care which the people of this country should have.

Illness and accidents cause the average industrial worker to lose from productive activity about 12 days a year. It may be asked: What has that to do with the production of the mines? I wonder if Senators know that the mines do not now observe Federal mine-inspection standards? They operate only by the standards provided by the States. Yet the Federal Government has a great Bureau of Mines which employs many competent investigators. They investigate the mines and lay down safety standards, but the mines do not observe the Federal safety standards. No doubt such failure accounts for a part of the loss of about 12 days per average industrial worker a year. It is not only to the miners that the danger is great. The industrial worker loses about 12 days a year from production. Let me give the figures of how many man-days that is every year. Six hundred million man-days every year. Six hundred million man-days are lost through illness.

I pointed out a little while ago that in no year did the number of man-days lost from strikes exceed 23,000,000, and that was in the year 1941. The next highest number was 13,500,000 man-days lost in 1943. The next highest was 8,700,000 man-days lost in 1944. The next highest was 6,700,000 man-days lost in 1940. The next highest was 4,100,000 man-days lost in 1942. Yet have we ever heard the Senator from Virginia propose a health bill in the Senate? Do Senators believe the Senator from Virginia would fight as hard for a health bill which would protect the health of the American people as he is fighting to make it illegal for those who have already obtained health protection to keep it, or to make it illegal for the labor leaders of organized or unorganized workers to ask for a fund to take care of the health of their workers? That is the point of view of those who are opposing the committee bill, whereas the Senator from Montana [Mr. MURRAY], chairman of the Committee on Education and Labor, who is coauthor of the Wagner-Murray-Dingell health bill, and the Senator from New York [Mr. WAGNER], who is coauthor of the Wagner-Murray-Dingell bill, have been fighting for this legislation now for 10 years or thereabouts. Yet it is men such as those who are trying to put these restrictive amendments on the committee bill which is now before the Senate, who would not permit us to enact such legislation as the Wagner-Murray-Dingell bill.

Now they want to make it illegal for labor even to ask it in collective bargaining if the fund is to be administered by the employees themselves, in spite of the fact that it is for their benefit. That is the kind of social justice in which some Senators believe. I have the opinion that there is a liaison or understanding between the mine operators and certain Senators supporting these restrictive amendments. The Senator from Virginia states that he has been in consultation with mine operators. It is entirely possible that he has advised them not to yield to John L. Lewis until he and his colleagues can pass these restrictive amendments. It may not be so, Mr. President, but many of us believe it.

Yet the public does not know all that. The public believes that a group of Senators are filibustering against a bill which would stop labor strikes. The public does not want to be inconvenienced. It does not wish to be kept from riding on the trains, and it does not wish to be forced to do without coal. Naturally the public becomes angry with anyone who causes it to do without certain services or commodities. But when the public learns that these amendments are intended to deprive labor of one of its weapons of collective bargaining, when it learns that such amendments would cause more strikes instead of fewer strikes, when it learns that the purpose is to try to keep the workingmen of this country from compelling management to provide for their bodies so that they may continue to work, those who are fair will have a little different impression than exists at the present time as to the controversy which is going on.

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

The PRESIDING OFFICER (Mr. MCMAHON in the chair). Does the Senator from Florida yield to the Senator from Illinois?

Mr. PEPPER. I yield.

Mr. LUCAS. Am I to understand the able Senator from Florida to say that he would not object to legislation which would permit any money to be paid into a trust fund or organization fund to furnish health, welfare, hospitalization, and other benefits to employees and their families and dependents, limited to those things found in the Byrd amendment? There are a number of Senators who do not feel that $70,000,000, we will say—assuming that that is the amount which would come from a payroll tax in a year—should be turned over to one man, or to a union, for any purpose for which it wishes to use the money. I am sure the Senator would agree to that proposition.

Mr. PEPPER. Mr. Lewis made it plain in the statement which I read to the Senate that not a dime of it was to go for any purpose except the health and welfare objectives which are set forth in his statement. I would welcome the adoption of an amendment which would require any group of employees, whoever they may be, who are to administer the health and welfare fund to make periodic accounting to the Federal Security Agency of the United States Government, and submit their books and all the details of their administration to the inspection of the Federal Security Administrator of the United States. If the Senator can think of a Government official better qualified than the Federal Security Administrator, I

will accept that modification. I have no objection to it, but the Senator from Virginia is not asking us to do that.

Mr. LUCAS. I understand that he is not; but there may be some amendments to the Byrd amendment before we finish.

Mr. PEPPER. I hope there will be.

Mr. LUCAS. The only thing the Senator from Illinois is trying to do is to find out whether or not there could be a meeting of the minds between the Senator from Florida and the Senator from Illinois upon two fundamental propositions with respect to the welfare fund. One is that certain limitations be placed on the purposes for which the money may be spent. The second is a proper accounting to someone with respect to the trust fund.

Mr. PEPPER. I have no objection whatever to such a provision. I think it would be perfectly reasonable to impose such a requirement. But I do not feel that we should go further and say that if we agree to the fund being administered by the workers, it shall be made unlawful to seek such a fund in collective bargaining. The question of accounting is something else. I favor that.

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

Mr. PEPPER. I yield.

Mr. TYDINGS. I am seeking information. The Senator from Florida is a member of the Committee on Education and Labor. I am not. How would the $70,000,000 be raised, assuming that that is the figure agreed upon? I do not mean to imply that the Senator would be unalterably opposed to an amendment. I am assuming, for the sake of argument, that there is a definite procedure. Does the Senator have in mind how the $70,000,000 under discussion is to be raised?

Mr. PEPPER. In the first place, my position is that we ought not to interfere with the right of these parties to bargain with respect to this matter. I believe that this is a proper subject of negotiation. Congress ought not to step in and say, "You may not negotiate on this subject in the ordinary way."

Mr. Lewis' proposal is that there be a 7-percent levy on the gross pay rolls in the mining industry, and that that sum be set aside for the health and welfare fund which he has described, to be administered by the workers themselves.

Mr. TYDINGS. Seven percent?

Mr. PEPPER. Seven percent 's the figure stated by Mr. Lewis. He stated that he was willing to negotiate the matter.

Mr. TYDINGS. Let us call the 7 percent a pay-roll tax—not in any spirit of derision, but in order to give it some nomenclature. If the 7-percent pay-roll tax were agreed upon, how much would it amount to by way of increase in the wages of the miners, assuming that they were to receive it in pay rather than in hospital fund?

Mr. PEPPER. I presume I am correct in the arithmetical assumption that it would be the equivalent of 7 percent on the gross pay roll of all the workers.

Mr. TYDINGS. How much would that be an hour?

Mr. PEPPER. I do not know. I have seen no figure relating to hourly wages.

Mr. TYDINGS. I wonder if the Senator would be good enough, at his leisure, to ascertain what that would mean in terms of an hourly increase in pay, assuming that it were all given to the miners rather than being placed in a welfare fund. Then I would appreciate it if the Senator would show us how that would be reflected in the increased cost of coal. I repeat that I am asking these questions in no sense of derision or criticism. I am asking them in order that I may understand the elements entering into the question now under discussion. Has the Senator the answers to my questions?

Mr. PEPPER. I do not have them here. I have some information with respect to the wage structure in the bituminous coal industry, and perhaps we could relate it to that information. Let me give one or two figures. The gross weekly earnings average as low as $40.63 for inside trimmers, and as high as $80.48 for inside maintenance mechanics. So I judge that the weekly wage scale varies between $40.63 and $80.48 a week.

Mr. TYDINGS. I agree with the Senator that this question, in its present state, at least, ought to be basically the subject of collective bargaining between the miners and the mine owners; but in the event we are to formulate a national policy, I am interested in knowing the ingredients as definitely as I can determine them.

The third question I should like to ask is this: Does the Senator know why there is objection to having the mine owners represented on the Board of Management in the expenditure of this fund?

Mr. PEPPER. I do not know. However, the gist of Mr. Lewis' statement is that the fund is primarily for the benefit of the workers, and he feels that the workers should use the fund in the way which will be most beneficial to the workers. He feels that the workers are better , idges of their own needs than are the employers. However, the Senator knows, from the pamphlet from which I read the other day, that in the case of the programs which are already in effect, approximately a third of them are administered by the union; approximately a third by the employees and employers together; and about a third by private insurance companies which cover the insured persons. So there is no definite pattern. All three patterns are employed in connection with existing plans.

Mr. TYDINGS. As I stated the other day, I believe that miners are engaged in one of the most hazardous undertakings of any group of working men in the country. From what little I know, I do not believe that the working conditions of miners have improved to as great an extent as those of workers in other industries in many respects, considering the safeguards which have been thrown around other workers. But I am in no sense depreciating the general objective which is sought. I feel that we must reflect very seriously upon the fact that if a pattern is established, in time that pattern must translate itself to the whole country. Therefore it is important that the first pattern be the right pattern; otherwise, we shall have what we have already had. One strike has followed another over the country as the leveling off process has proceeded in the wake of the first settlement. We do not wish to prolong the series of strikes. We ought to establish some kind of pattern which, if followed, would be wholesome for the whole country.

Mr. PEPPER. I will say to the able Senator that in his statement Mr. Lewis points out that one of the unions which already has a plan of this character is Sidney Hillman's union, the Amalgamated Clothing Workers Union. He points out that in that instance the pay-roll tax, arrived at by voluntary agreement with the employer, is either 3 or 3½ percent of the gross pay roll. That is an existing plan. Mr. Lewis says that if that amount is fair in a sedentary industry like the garment workers' industry, 7 percent, or twice that much, certainly should not be considered extreme in so hazardous an occupation as coal mining. That may or may not be true.

Mr. TYDINGS. From the standpoint of accidents, I believe that the mining industry would be by far the more hazardous of the two. But from the standpoint of health, aside from accident, even though the miner is exposed to darkness and all sorts of hazards, he probably is not suffering in health to the same extent as are those who sometimes do not get enough air, and who are subjected to other unfavorable conditions, which at least used to exist. The point is that if the 7-percent pay-roll tax is to prevail I am interested in knowing what its equivalent would be in the form of an increase in wages, and whether or not, if it is adopted, it is to be followed by the 18½-cent pattern which has more or less swept the entire country.

Those of us in the Senate who are dealing with this question deal with it reluctantly. I am sorry there is a strike. We have provided machinery, by collective bargaining, to prevent strikes. I should be very happy, as I believe all my colleagues would be, if we knew that all these strikes would be settled, so that we could have a long pull down the roadway of peace and complete the reconversion job. But so long as we must discuss the question I should like more specific information and less general information as to what is involved. I should like to know, in dollars and cents, what it means, what its effect on the country is to be, and what its ramifications are to be, before committing myself too specifically either in approval or disapproval of the particular provisions of the bill and of the pending amendment. If the Senator will obtain the information which I have requested, and either give it to me privately or give it to the Senate, I think he will contribute toward informing us all and hasten the solution of this problem.

Mr. PEPPER. I thank the Senator very much for his very fair and fine inquiry. However, I think I should submit this observation: The Senator from Florida is not the one who is asking his colleagues to adopt the particular amendment which we were discussing before I offered the amendment which I

proposed. It was the Senator from Virginia [Mr. BYRD] who offered that particular amendment. It was he who thought that there was such a great public wrong in prospect that there should be a statutory prohibition against its occurrence. In my judgment it is the obligation of the able Senator from Virginia to satisfy us that the amendment which he proposes is justified. It would reach into the bargaining chamber and place the hand of restraint upon the employees, and say, "Thou shalt not ask for a health fund to be administered by the union." I think it is up to the Senator from Virginia to tell us why we should adopt an amendment which would invalidate a health-and-welfare fund already in existence for over 200,000 workers in this country, and which was arrived at by collective bargaining. I think the Senator realizes the spirit in which I make that statement, and I am glad to try to obtain information from him. But the Senator from Virginia offered his amendment and then said very little about it, evidently because he felt that the Senate was in such a mood that it would adopt practically any kind of restrictive amendment which was offered in regard to labor.

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

Mr. PEPPER. I yield.

Mr. TYDINGS. Assuming for the sake of argument that the proposal to which the Senator from Florida is now addressing himself were adopted in reasonably satisfactory terms, either through the medium of collective bargaining or by means of legislative approval, is it the thought of the Senator from Florida that thereafter there would not be a need for the national health insurance law known as the Murray-Dingell proposal?

Mr. PEPPER. I am glad the Senator has asked that question.

Mr. TYDINGS. I mean that if that idea spread, would it cure the situation which the Senator from Montana [Mr. MURRAY], together with his colleague in the House, have attempted to cure by means of a measure of Nation-wide operation?

Mr. PEPPER. I say to the Senator that it would make great progress, in my opinion, toward the solution of that problem. But the Wagner-Murray-Dingell bill itself has in it a provision by means of which plans of this character can be fitted into that legislation, if it ever is enacted by the Congress. I say it would go a long way in the right direction. One reason why I look with considerable sympathy on the subject is that we do not now have a comprehensive bill for the national health, like the bill introduced in the Senate by the Senator from Montana [Mr. MURRAY] and the Senator from New York [Mr. WAGNER], and in the House of Representatives by Representative DINGELL. But until Congress is ready to enact such a measure, the health and welfare funds to which I have been referring are fundamentally all that exist to take care of the workers in the United States.

Mr. TYDINGS. Mr. President, I do not wish to dispute what the Senator has said, but let me point out that all of us are getting into a rather contradictory position. On the one hand, we are asking that collective bargaining, as the Senator has correctly argued, should be carried on with a minimum of interference by Government. On the other hand, we are trying to write collective bargaining into law.

The Wagner Act was placed on the statute books in order to provide labor and capital with an opportunity to sit down and bargain together without interference from anyone; and if men did not want work, they had a right to go on strike; and if those who owned factories did not want to operate them, they had a right to close them. That was the happy theoretical philosophy.

Now we find that just so soon as some strikes occur, there is a desire to throw the whole machinery overboard, and to destroy the gains which political orators talked about and said that labor had made—the sacred right of collective bargaining and other rights of the workingmen

As I see the situation, both sides are attempting to enlarge the field of collective bargaining. That attempt is made by both those who have upheld it as a wonderful benefit and those who have attacked it.

Mr. PEPPER. I understand that situation. But I am sure the Senator would wish to exculpate the Senator from Montana and myself who are opposing the proposed restrictions on collective bargaining. If we favor the Wagner-Murray-Dingell bill, it is because we feel that the self-employed, as well as those who are employed by employers and people generally throughout the country, should be covered by the plan.

Mr. TYDINGS. Of course. But all the people would have a right to quit work tomorrow morning if they did not have the kind of betterment they wanted.

Mr. PEPPER. That is true.

Mr. TYDINGS. If we are going to work out the matter under the act, I think we should set up the terms of collective bargaining. But if we set up the terms of collective bargaining, I think we should be specific both in regard to what is collective bargaining and what is not. It should not be both fish and fowl. I say that without any attempt to criticize, but in order to state the obvious.

Mr. PEPPER. Mr. President, I am not sure I understand the full import of what the able Senator from Maryland has said.

As the situation is today, collective bargaining is broad and open, as between employer and employee. They can agree on a 3½ percent pay-roll tax, the money to be administered by the employer and the employees jointly, or by a private insurance company, or by the employees themselves, or they can agree upon some other plan. At the present time, there is no law to tell them what they may do.

Mr. TYDINGS. That is correct.

Mr. PEPPER. The Senator from Virginia proposes to change that freedom. He proposes to limit their freedom of action, with the result that they will not be able, even by means of voluntary agreement, to raise a fund for that purpose. Apparently the Senator from Virginia is not objecting to the raising of the fund by the employer altogether, or even to having it passed on to the public. He is saying that such a fund cannot be raised in any way if majority representation in its administration is to go to the employees.

That is a hamstringing of the freedom of the employer and the employees to work out a mutually agreeable compromise.

The Wagner-Murray-Dingell bill is an entirely different thing. It is simply a measure which levies a tax—or it will, when all of its parts are put together—upon those who work for employers. The tax will be in a certain amount. The employer will be required to pay the same amount, and there will be certain Federal appropriations, and perhaps some State appropriations in the long run, one way or another, to make up the total sum of money which will make possible the providing of all the care that is contemplated.

Mr. TYDINGS. I do not believe that if that measure were on the statute books today, it would satisfy the miners who feel that they are engaged in an extra hazardous occupation and that they should have something in addition to the benefits provided by that measure.

Mr. PEPPER. It might be that they would ask for more.

Mr. TYDINGS. And they might do so understandably, we might say, if that is to be the principle.

Mr. PEPPER. That is correct.

Mr. TYDINGS. Therefore, even though the Murray-Dingell bill were enacted and were on the statute books, we probably would be faced with the situation that, no sooner were it written on the statute books, than the workers in many lines of activity—such as mining—would feel that they needed something more than that, something to supplement it, if it were to be worth the value which its authors evidently have in mind.

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

Mr. PEPPER. I yield.

Mr. MURRAY. It seems to me that the provisions of the Wagner-Murray-Dingell bill are so broad that they would give complete coverage to everyone who came within its protection. They would give coverage for hospital medical care, for medical care at home, for medical care in the office. Everything would be covered by it, so as to give complete, modern medical care to everyone who came under the operation of the act.

If every union in the United States had a welfare fund such as the one which is contemplated in connection with the coal miners' union case, only a very small percentage of the American people would be covered, and the cost of operating such funds would be more expensive than the cost of operating a Nation-wide plan of health insurance.

Mr. TYDINGS. A Nation-wide plan would cover everyone.

Mr. MURRAY. Yes, it would, and it would reduce the costs. That is one of the strong arguments in favor of a Nation-wide compulsory plan, as against voluntary systems.

Mr. TYDINGS. Of course, Mr. President, both the Senator from Florida and the Senator from Montana know that if the program goes through, regardless of its merits—and I am not saying it has no merits—the ultimate cost will be passed on to the consumers. Mr. Lewis admits that.

Mr. MURRAY. Certainly. It seems to me that if employment in a given industry is very dangerous to the health of the workers who are engaged in it the industry should itself provide such a program rather than throw the burden on the entire population of the United States.

Mr. TYDINGS. Mr. President, I was just thinking that perhaps that would be a preferable way to approach the whole question of the welfare fund, namely, by the medium of a national law.

Mr. MURRAY. Mr. President, my understanding is that organized labor in the United States is in favor of a national health program, and would gladly contribute their proportion to its support.

Mr. TYDINGS. I thank the Senator. If he will allow me to ask the Senator from Florida one more question, I should like to draw the issue as between the proposal set forth in the Byrd amendment and the position taken by the Senator from Florida. Whether the Byrd amendment were adopted or rejected, the ultimate cost would be the same, and the control of the fund would be all that would be at stake. Does the Senator agree with me on that statement?

Mr. PEPPER. I believe the Senator might assume that to be true.

Mr. TYDINGS. So whether the Byrd amendment were adopted or rejected, the probabilities are that the fund itself would be the same, whether raised jointly by the miners and the operators, or raised in larger proportion by the operators than by the miners. So we are not concerned here with the cost to the ultimate consumer. Does the Senator agree with that statement?

Mr. PEPPER. That is correct.

Mr. TYDINGS. Under the Byrd amendment the miners would not have exclusive control of the fund. Am I correct in that statement?

Mr. PEPPER. The Senator is correct.

Mr. TYDINGS. Under the Byrd amendment the operators, the miners, and the public would have joint control of the fund. Is that statement correct?

Mr. PEPPER. As I understand, there is nothing said in the Byrd amendment about the public.

Mr. TYDINGS. I assume that the Senator from Virginia would be agreeable to incorporating in his amendment a provision including the public. What would be the objection to having the miners, the operators, and the public all represented in the expenditure or disbursement of the fund?

Mr. PEPPER. I do not have the slightest objection to that being done, provided that it is agreed to between the employer and the employee. However, I do not believe that Congress should write a law and tell the employer and the employee exactly how a fund collected by them should be administered.

Mr. TYDINGS. That is an understandable viewpoint, and I think there is a great deal in the philosophy of our Labor Relations Act to support it. But, what I am trying to get at is what the doctors call isolating the germ. I wish to reduce the controversy to what is involved in the dispute. All that is involved in the dispute is, who shall control the fund.

Mr. PEPPER. In respect to that part of the Byrd amendment, yes.

Mr. TYDINGS. That is what I mean.

Mr. PEPPER. Yes.

Mr. TYDINGS. The other question is whether the miners are to control it and report to the Securities and Exchange Commission, or whether the operators and miners are to control it and report to nobody or report to the SEC or whether the miners, operators, and public are to control it and report to nobody or to the SEC.

Mr. PEPPER. That is a substantially correct statement in respect to the Byrd amendment.

Mr. TYDINGS. So the ultimate cost to the consumer will be the same, and the size of the welfare fund will be the same, no matter how it is raised. So far as this particular part of the amendment is concerned, we have now gotten down to the question of, Who is to have control of the expenditure of the money? That seems to be the only issue remaining.

Mr. PEPPER. That is correct. The Senator will also recognize that the amendment will not only tell employers that they cannot in the future enter into such contracts, but it will invalidate contracts which approximately 200,000 employees have already made with their employers, and will prevent those employees from administering the fund which they already have.

Mr. TYDINGS. I do not believe the amendment would invalidate contracts which already had been entered into because, obviously, they were entered into before there was any law making them invalid. But, when those contracts are renewed they would have to be renewed under conditions which Congress had prescribed. I think the word "invalidate," while not altogether ill-advised, is not so accurate as are words which the Senator usually employs.

Mr. PEPPER. Mr. President, I am not at all sure that when parties enter into a contract the contract is not always amenable to a possible change in the law. I am not at all sure that the amendment would not make it impossible for any employee to receive in the future, any of the funds, even under the existing contracts.

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

Mr. PEPPER. I yield.

Mr. DOWNEY. I should like to invite the Senator's attention to the present old-age pension system of the United States. That unfortunate system gives only an average of about $24 a month to the retired worker at age 65. An increasing number of large corporations are volunteering, or perhaps as a result of collective bargaining, to set up pension systems. In many such systems the amount of the retirement payment to be made available to the worker runs 50 percent and upward, or several times the amount of the old-age insurance pension. In practically all those systems provision is made that the employer shall be given credit in his payment to the worker for the amount which he has paid under the old-age insurance system. As a matter of fact, in certain States which have made provision for the safeguarding of the systems of private corporations, provision is made that the private corporation shall be entitled to deduct from its payments to the worker an amount equal to the amount which has been paid under old-age insurance. As the Senator has already stated, the proposed Murray-Dingell-Wagner bill does make provision for incorporating such an arrangement.

Mr. PEPPER. Mr. President, I am glad that the Senator has emphasized that. It will be seen that if this proposal were established as a precedent, it would be in the direction of what I believe all of us have been expecting to be done, namely, in some way provide adequate funds to aid in taking care of the health of the American people.

Mr. MURRAY. If the Byrd amendment were adopted it would either invalidate the existing contracts now in force, or it would prevent them from being renewed.

Mr. PEPPER. The Senator is correct.

Mr. MURRAY. In many of those instances the employers have voluntarily and freely entered into the contracts because they did not want to have the burden of administering the fund. They thought that it would be more efficiently administered if the workers were to take over the administrative work. So the pending amendment would prevent management from voluntarily placing in the hands of the workers the administration of the fund.

Mr. PEPPER. The able Senator is absolutely correct.

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

Mr. PEPPER. I yield.

Mr. LUCAS. The able Senator from Maryland discussed a point which I have previously discussed on the floor of the Senate. I should like to ask the Senator from Florida whether he has any facts disclosing the minimum wages of miners at the present time. My understanding is that approximately $1 an hour is the minimum wage.

Mr. PEPPER. I believe the Senator to be justified in that assumption. I read a little while ago that the wage varied from $40.63 a week, that is gross weekly earnings, for inside trimmers, to as high as $80.48 a week for inside maintenance mechanics. I am having a check made on those figures. For the 18,000 workers employed in strip mines the national straight-time averages ranged from 97 cents an hour for ground men and slate pickets, to $1.64 for power-shovel operators.

Mr. LUCAS. The minimum wage in the mines being $1 an hour, I believe I am correct in saying that if the 7-percent pay-roll tax were added, the labor cost would be raised to $1.07.

Mr. PEPPER. Yes.

Mr. LUCAS. So if 18½ cents were added with respect to the wages which will ultimately be bargained for, the increase would be to $1.25½. The increase would move up in line with the wage being paid to individuals in the mines. So it might go as high, in some instances, as 15 cents or 20 cents.

Mr. PEPPER. Mr. President, I do not want to be placed in the position of saying that there should be a gross pay-roll tax of 7 percent. I do not know what it should be. I believe, however, that if Mr. Lewis had insisted on 7 percent, and management had said that 7 percent was too much, but "we are willing to offer you 3½ percent" and the negotiators had considered the matter seriously, they could perhaps have found a figure upon which they could have agreed through collective bargaining.

Again I say, I do not want to exculpate Mr. Lewis from any degree of fault he may deserve to be assessed with and I think the manner in which he has handled the situation is certainly culpable, because he has not put as much emphasis on the needs of his workers as he appeared to put on the exercise of arbitrary power. But again it may be that the whole story has not been told by the press. I do not know, because I have not sat in on the negotiations, I have not talked with anyone, directly or indirectly, on either side of the controversy. I am merely saying that we here in the Senate should not step in and pass a law which would prescribe who had to administer the fund and how much the fund had to be. I think that there is a legitimate sphere for collective bargaining and that the Senator from Virginia has not made out a case which would justify us in interfering with the free right of collective bargaining by those engaged in the controversy.

Mr. TYDINGS. Mr. President——

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

Mr. PEPPER. I yield.

Mr. TYDINGS. Assuming for the sake of the argument that the wage is a dollar an hour—and not whether it is a fair wage, but assuming that for the purposes of this discussion—and there were a 7-percent tax on that, that would be 7 cents, and it would still be 11½ cents under the 18½ cents an hour which has pretty well been the general pattern followed throughout the country. As I understand the problem, I think Mr. Lewis' one demand up to now has been for the welfare fund.

Mr. PEPPER. I understood him to make that a condition.

Mr. TYDINGS. I understand from the press—I do not know whether I am reliably informed or not—that before he will discuss wages, he wants to get the welfare fund question settled.

Mr. PEPPER. That is what I understand.

Mr. TYDINGS. Assuming that the welfare fund were settled at 7 percent or 7 cents an hour, to use just a haphazard yardstick, I wonder if then the amount Mr. Lewis would want added to that 7 cents an hour for a welfare fund would be the difference between 18½ cents and 7, or whether the 18½ cents would be superimposed on the 7 cents.

My reason for asking the question is that regardless of the merits—and it may be very just that the whole 18½ cents be superimposed on the 7—labor competition being what it is, I wonder whether or not we would not start off a new train of strikes by men who would feel that having now put one group of labor on this plane, and they not getting as much as they thought they would get, 7 cents an hour should be added to what they now receive.

I am not a negotiator, but so long as this discussion is on the Senate floor, it seems to me at this longer distance, and without knowing all the elements in dispute, if the whole equation were written out, the demands and rejections, we could tell a little more quickly where we are going than we can when we do not know what all the evidence in the case is, upon which we are supposed to pass our judgment.

Mr. PEPPER. The Senator is correct about that, and it is what we have been trying to emphasize from the beginning, namely, that because the country was disturbed, and properly so, about the strikes and work stoppages, the Senate suddenly determines to take the bit in its teeth and enact legislation which will affect the strikes. The Senator from Virginia has an idea that John L. Lewis has been exacting a royalty from the employers, 10 cents a ton, the figure which was mentioned, and he comes forward with an amendment which provides that no employer may pay any sum of money or other thing of value to the representatives of employees, or to any employees. Then some of us, including the Senator from Maryland and several other Senators on the floor, call attention to the sweeping prohibition of the amendment of the Senator from Virginia; and he comes back the next day and modifies the amendment, saying he does not object to the miners having a health fund provided management shall have an equal share in its administration. Of course, he still leaves in many other prohibitions, which the Senator from Montana [Mr. WHEELER] pointed out a few days ago, one of them being that it would prohibit a contribution to a baseball game, for example, or to recreational facilities, and that kind of thing. What the Senator from Virginia was striking at was John L. Lewis' negotiation, to make it illegal to ask a health fund as a condition of exacting an agreement.

We contend the Senator from Virginia has not made out a case to show that in an instance such as this collective bargaining by the free will of the employer and employee should not be followed.

Mr. MURRAY. Mr. President, will the Senator from Florida yield?

Mr. PEPPER. I yield.

Mr. MURRAY. Is it entirely correct to say that the 7 cents would go to the worker in the nature of compensation? Could it be regarded as a part of what he is earning?

Mr. PEPPER. I do not think so.

Mr. MURRAY. My understanding is that mining is a very dangerous industry in which to work, and that health conditions are very bad. The miners have silicosis and many other diseases which result from work in the mines. So the 7 cents is not something that goes to the worker. It is a fund to protect him from disease. He does not get it. If he were working in a factory he would not need the protection he should have when working in a mine. I do not think it is proper to start computing what the mine worker is going to earn and then add the 7 cents which is to go to the health program.

Mr. PEPPER. The Senator is absolutely correct in emphasizing, first, that not a dime of this money will go into the pocket of any worker. He will not be able to buy an extra penny's worth of food, clothing, shelter, or anything else unrelated to illness. The fund would have two salutary effects. First, it would give the mines more effective labor, by preventing illness among the workers due to preventive medicine and to curative medicine which might be administered to the workers in hospitals or otherwise. That is the first thing. It would tend to make the coal miner a more efficient worker, and keep him in the mines more days than he otherwise would be there.

The second result would be to make whole the bodies the mines had hurt, so far as medical science and care could provide for an injury or disability inflicted upon a miner. If a rock should fall, as in the case of the man Burns, from Alabama, whose case I described, who had a rock fall on him and paralyze him, does anyone deny that the mine or the mine system of this country should provide for his care? Either the mines have to do it or the public has to do it, or the poor man has to go uncared for.

Is there anything wrong with adding to the cost of coal the cost to repair breakage to machines and the breakage of human bodies, which occur in the production of coal from the coal mines? That is all this amounts to.

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

Mr. PEPPER. I yield.

Mr. MURRAY. Such a program would also relieve the local communities and States from the burden which would be cast upon them as a result of the injuries and as the result of the conditions of disease surrounding the miners, rendering them unfit to work. The burden falls on the general taxpayer instead of where it should fall, upon the industry that is responsible.

Mr. PEPPER. The Senator is absolutely correct. I was told of a certain State a few days ago—I shall not name the State, because I am not sure my informant was correct—where much coal is produced, and that State does not have a severance tax, that is to say, the company goes down into the earth of the State and takes out this valuable natural resource, coal. It sells the coal in the markets of the country for a profit. Yet if that mine in that community broke a man's back, or deprived him of

a limb, or made him an invalid for the rest of his life, the very community, the very State, which loses that natural resource without compensation, would have to pay for the wreckage the mine operation leaves on the State itself. That is not fair. So I see nothing wrong with the principle of providing a health fund for every industry.

Mr. President, I was about to refer a while ago to the degree of ill health and lack of care prevailing in the United States, and I should like to finish that subject. I pointed out that illness and accidents caused the average industrial worker to lose about 12 days from production a year, representing a loss of about 60,000,000 man-days annually. Sickness and accidents cost the United States at least $8,000,000,000 a year.

When the able Senator from Illinois was talking about how much this fund would be, how much this 7 percent, if that were the figure, would cost, he failed to take into consideration how much illness cost, and that if adequate medical care could be provided we could diminish the cost of illness to the whole of society.

Mr. LUCAS. Will the Senator yield?

Mr. PEPPER. I yield.

Mr. LUCAS. What does the Senator think about the bill for accidents and loss in health and wages, loss in time, loss in property, in the event the parties to the controversy do not reach some sort of an agreement through collective bargaining?

Mr. PEPPER. The loss will continue to fall upon the one who happens to sustain it. The worker sustains it himself if no other plan is provided for meeting it.

Mr. LUCAS. I am going to repeat what I visualize is coming in this country in the way of paralyzing our economy and throttling our industries to the point where nothing will be produced unless these strikes are settled. There will be many accidents and much sickness, and many people will suffer; there will be billions upon billions of dollars of losses upon the other 137,000,000 Americans who live in this country. It is not a one-way street, in view of the crisis which is approaching.

Mr. PEPPER. We all know that, but why not put in the Byrd amendment a prohibition against the mine owners refusing to negotiate on this subject? Why not send them to the penitentiary if they say they will not agree to such a principle as that which has been proposed?

Mr. LUCAS. Let me say to the Senator, on the question of collective bargaining, that one of the things that excited me from the beginning was the failure on the part of Lewis to do any collective bargaining in this coal strike. So far as I have heard, no one on the floor of the Senate or anywhere else has ever attempted to defend Lewis for the days he wasted while the coal supply of the country became smaller and smaller and smaller, never telling the American people or the operators or anyone else about the welfare plan which the Senator now is defending in the Senate. I do not remember the Senator from Florida saying anything about a welfare plan until John L. Lewis laid his proposition before the operators some 5 or 6 days ago.

Mr. PEPPER. Mr. President, again, as I said, I am not defending John L. Lewis, but I think it has been stated in the newspapers from the very beginning that John L. Lewis laid down an ultimatum and said, "Unless you are willing to agree in principle to the welfare and health fund we will not discuss anything else." I think the Senator remembers that in the newspapers.

Mr. LUCAS. I do not want to disagree with the able Senator, but from my information, and I believe it is reliable, for days and days—and I should like to have someone successfully dispute this statement, and I should like to know the truth about it—for days and days the operators of the coal mines and John L. Lewis met, and not a single thing was done. They met, talked about the Bible, talked about literature, talked about the weather, and adjourned without anyone saying what was wanted, and the only individual who could lay down the demands for what he wanted was Lewis who represented the miners who were out on strike. The conferees thought at the time, as I understand, that Lewis was going to talk sometime about wages and about hours, and one day he dropped a hint, after the nineteenth day, that he might talk about a 10 cents per ton royalty for a welfare fund, but at no time did he lay down a proposal until the United States Senate some 2 weeks ago started to discuss the seriousness of the situation throughout the country.

Mr. PEPPER. Mr. President, I do not think what the Senator from Illinois has said is justified by the facts with respect to what occurred in this controversy. It is my understanding that in the beginning of these negotiations Lewis laid down an ultimatum and said, "We will not discuss wages, we will not discuss working conditions until you agree in principle about a health and welfare fund." Management would not agree, and until management agreed to the principle, Lewis would not submit the details.

Mr. President, this is the statement which the mine owners made, I believe, on the 15th day of this month, the day following Lewis' statement which appeared in the New York Times. I read a part of it:

> Third, that it is a matter of public concern and is therefore a problem that should be considered not by this wage conference but by public legislative bodies and then only after a complete and thorough investigation by such legislative bodies of all the problems involved.
>
> This proposal presents to the conference a new social theory and philosophy the effect of which would extend to every industry in America, and as such must be considered and acted upon as a national problem and not as one relating to the coal industry alone, and in the judgment of the committee, we repeat, is one to be considered by public legislative bodies.

Then they go on to say that they will not entertain such a proposal and will not agree to it at all. They do say that they would agree to some kind of a little fund for emergency cases to be administered by the Red Cross. But even on the last day, when it was presented, they were just as adamant as I imagine they were the first day the matter was presented to the conference. If the Senate wants to pass some law on the subject it would be much more consistent with humanity to tell the employers they have got to provide a health fund than it would be for us to deny the employees the right to demand one from management, either employes in the coal mines or in any other industry.

What I am complaining about, however, is that the employer can be as stubborn as he will, and can say, "I will not give you a health fund; I will not give you a welfare fund," and yet if the worker stops working, the whole blame for the work stoppage is placed upon the worker and not on the selfish and stubborn employer who refuses to cut down the amount of his profit, who refuses to be the collecting agent from the public, even though in doing so he saves the lives and the health and the working strength of the working people of his own industry.

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

Mr. PEPPER. I yield.

Mr. TYDINGS. I have no desire to take sides in the controversy as to who makes the most money, or whether the operator makes a profit or not, but the Senator from Florida, I am sure, will be fair enough to admit that whether the increase is 5 cents or 10 cents or 15 cents or 18 cents or 20 cents or 25 cents an hour, the operator is going to make just as much profit after the increased charge is put on the price of coal as he would make if there had been no increase at all put upon it, because he is going to superimpose his profit upon the increased price of his product, which will be reflected in the sales price. If he did not do so he would not open his coal mine. So the operator will be just as well off if he gives the miners a dollar an hour more as he will be if he gives the miners 25 cents an hour more or 15 cents an hour or 10 cents an hour or 5 cents an hour more. The operator is going to make his profit or he is not going to operate his coal mine, and Senators can all count on that. The public is going to pay the bill in any case, no matter what increase may be arrived at.

Mr. PEPPER. The able Senator from Maryland is essentially correct. If he is completely correct, however, I cannot understand why the management is so stubbornly refusing to negotiate this subject, and so adamant in saying it will not yield any kind of a fund that amounts in substance and character to a health fund.

The second thing the Senator from Maryland is probably overlooking is the fact that there might be some detriment to management in this, in that it might put the price of coal, as a competitor to some other kind of fuel, in such a high bracket that it would not be so well able to compete with other kinds of fuels.

Mr. TYDINGS. That situation would not last very long, Mr. President, because no sooner does the price of coal go up because of the establishment of some fund of this sort than the price of oil will go up by reason of the fact that the oil

workers will also want to have the same sort of plan established with respect to them. We saw what has happened in connection with other recent strikes. There was a strike of automobile workers, and they received an increase in wages. Then came the strike of the steel workers. Following that came the strike of the farm-machinery employees, as a result of which farmers cannot get the machinery necessary for the operations on their farms. Then came the coal strike, and now we have the threatened railroad strike, and we will not be through until all workers get up on the same plane where those who struck first now are, and then all prices will go up accordingly. At that time we will be relatively at the point from which we started. Everyone receives more pay and everything costs more. All this commotion in the long run will amount to nothing more than a tempest in a teapot so far as the ultimate effect on our economy is concerned; for prices will go up with wages and wages will go up with prices. When all is said and done every worker, from the farm laborer on up, will receive an increase in wage, and all of them will pay more for every pair of shoes they buy, for every automobile, for every ton of coal, for every piece of farm equipment or for every farm implement, and we will have a grand old economic spree, and we will all sober up just about at the point where we were when we started to get drunk.

Mr. PEPPER. Mr. President, I do not think there would be so great an inflationary tendency from a 7-percent payroll tax, even if that were to be the amount distributed in the building of hospitals, in paying doctors, in paying nurses, in providing other facilities, as would result if the same amount of money were given directly to the miner, and he could compete in the purchasing market for consumer goods with a direct increase in wages.

Mr. TYDINGS. There is something to what the Senator from Florida says. There are often indirect benefits from such increases. But when, either by Government approval or by Government disapproval, or by Government nod or by Government hint, or through a Government negotiator, or however it was, the pattern was set at 18½ cents an hour in the steel strike, only an ostrich would have failed to realize that in the course of time the workers in every other industry would get a similar increase or a series of strikes would sweep the whole country. If the miners receive a 35-cent-an-hour increase the whole thing will start over again, because all other industrial workers will have to be brought up to that level before the side show is closed down.

Mr. PEPPER. But, Mr. President, remember that a great many workers of this country have already gotten health plans and welfare plans, arrived at by voluntary agreement with the management, and they are now in effect. I shall refer to some of those plans a little later. I believe that there would be less inflation and much more good would result if every industry put into effect such a health plan than if such plans were not put into effect.

Mr. LUCAS. Mr. President, will the Senator from Florida yield for one more question, and then I shall not disturb him any more this afternoon?

Mr. PEPPER. I yield.

Mr. LUCAS. The Senator and I were discussing a while ago the question of collective bargaining or the failure of collective bargaining between Lewis and the operators in the early stages of the coal strike. The Senator and I do not quite agree upon the facts. The Senator made a statement that in the beginning Lewis said there was no purpose in presenting his proposition as to a welfare fund so long as the operators did not agree to the principle of it. That was my understanding of what the Senator from Florida said.

Mr. PEPPER. I stated that my understanding—and again I got it only from the newspapers—was that Lewis in the very begining of the conference said, "I will not negotiate upon wages or working conditions or other conditions of the contract until you first agree to the principle of a health and welfare fund."

Mr. LUCAS. That is the way I understood the Senator. I wonder why, if that was the position of Lewis, he finally did lay down the terms, even though the operators did not agree to the proposal in principle? If he could have done it some 30 days after the coal strike started, he could have done it long before that. That is my basic dispute with John Lewis; for he knew better than any single individual in America the effect a failure to lay down his terms would have on our national economy.

Mr. PEPPER. Mr. President, again I say that it does not make the slightest difference to me whether the Senator from Illinois or any other Senator likes or dislikes Mr. John L. Lewis. I have had no contact, direct or indirect, with Mr. John L. Lewis. His statement which I quoted in the Senate I obtained from the New York Times. I have had no more contact with him than I have had with management. The statement of management which I read I obtained from the New York Times.

I am not defending John L. Lewis, except to say that so far as I know, probably if management had been a little yielding, perhaps Mr. Lewis would have been a little more yielding. Perhaps he is not altogether at fault. I do not know. But I am saying that we should not adopt the Byrd amendment, which would take this protection from the 200,000 who already have it. It would deny to William Green, Phil Murray, or John Smith, as the representative of organized or unorganized workers in this country, the right to make a health fund a condition precedent to executing a contract. That is all I am saying. The Senator from Virginia has shown no reason why we should adopt his amendment. If John L. Lewis wishes to be stubborn, he does not have to confine himself to this one excuse to be stubborn. The railway workers have threatened to go on strike. There is no health fund involved in that case. They were disputing over wages. John L. Lewis could have struck over a wage dispute as well as over a health fund dispute.

Yet how unbecoming it is in the United States Senate to give serious consideration to a proposal by a Senator which would say to the workers, "You may not insist upon a health-and-welfare fund from your employer." I say that the passage of the Byrd amendment would not send the miners back into the mines; and no Senator would so assert. The Byrd amendment would hamstring labor and provoke angry remonstrance from them. It would tend to create more strikes rather than fewer strikes. It would make labor less yielding rather than more yielding, more stubborn rather than less stubborn. What good would it do, except to show labor that the United States is against them, and make them feel that they must fight it out with their own strength?

I do not want this statement to be misunderstood, but I can imagine this Congress bringing about such a state of mind among the working people of this country that we shall begin to have sympatheic strikes. The workers evidently feel very deeply. Last night I heard a railway employee speak with deep determination about the railway strike. We do not understand their point of view because we are not familiar with the conditions. We lead a different life from the life they lead. But they feel very deeply concerned. They feel that they have been abused, that they have not been considered. They feel that their rights have been ignored, and that they have been temporized with by those who took advantage of the cooling-off period in the railway labor dispute to keep them working under burdensome wage-and-hour conditions. Therefore they have determined to go to the extreme of striking.

When we are dealing with men who have such deep convictions about something as close to them as their jobs, we have a problem in psychology as well as a problem in economics. All the Byrd amendment would do would be to make the psychological impasse greater and worse than it otherwise would be, whereas if we were not to adopt these restrictive amendments, but were to pass the bill which the committee reported, providing strengthened machinery for arbitration, mediation, and conciliation, my opinion is that we would work ourselves out of these strikes, and in a little while we would be back nearer to normal. After a while the country would begin to attain a momentum in production which would be a magnificent spectacle for us all. But if we enact this restrictive, punitive, antilabor legislation, all we shall be doing will be to embitter those men. We shall give arbitrary leaders more power. We shall make the situation worse than it is. That is what I am pleading with my colleagues not to do.

Everyone knows that the Byrd amendment would not send the miners back to work. It would not prevent the railway workers from striking. It would not do anything but embitter the workers and make them feel that we had turned our faces against them by preventing them

from obtaining a welfare fund to be administered by their own confreres, who have sympathy for the needs of the workers.

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

The ACTING PRESIDENT pro tempore. Does the Senator from Florida yield to the Senator from Montana?

Mr. PEPPER. I yield.

Mr. MURRAY. Reverting to the discussion which was taking place a few moments ago, when we were speaking about increases in wages in various industries such as the automobile industry, the steelworkers, and so forth, is it not a fact that all those conditions were the result of the war? The war had totally changed the economic and social conditions of the country. The cost of living had gone up to such a degree that it would be wrong to expect those workers to continue at the wages they were receiving, in view of the high cost of living which ensued.

Mr. PEPPER. The Senator is absolutely correct. I should like to ask this question: How many Senators who are sponsoring these restrictive amendments have done all they could to make OPA a success? How many Senators sponsoring these restrictive amendments have supported appropriations to make it possible for the OPA to enforce the law? Before the able Senator from Minnesota [Mr. BALL] leaves the Chamber, let me invite his attention respectfully to his statement of a few days ago, which I saw reported in the press, that the OPA was the biggest group of Fascists in the United States. The able Senator from Minnesota is one of the sponsors of these restrictive amendments. The able Senator did not seem sympathetic to the OPA. I do not know about the Senator from Virginia [Mr. BYRD]. I do not know whether he has supported the OPA all the way through or not.

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

Mr. PEPPER. I yield.

Mr. BALL. When the OPA extension bill comes before the Senate I expect to discuss it fully. I think I can put up a very good argument for the statement which I made, which was substantiated by the further statement that most of the OPA officials do not seem to believe in a free economy or the American system. I think I can prove that statement by a number of instances. However, I believe we should discuss that question when the OPA extension bill is before the Senate, rather than at this time. The administration itself wrecked any chance of effective price control when it deliberately pushed wages up 15 or 20 percent.

Mr. PEPPER. Yes; and the Senator from Minnesota is overlooking the fact that the cost of living went up before wages went up. The working men and women were not responsible. All OPA and the administration did was to allow wages to catch up, approximately, with the already increased cost of living.

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

Mr. PEPPER. I yield.

Mr. TAFT. The Senator may have heard Mr. Bowles' testimony before the committee last month. He testified that the average increase in wages per hour since 1941 was 62 percent, as compared with a 34-percent increase in the cost of living, before the recent large increase in wages was sanctioned by the administration. So the claim that the cost of living had gone up before wages went up is not substantiated by Mr. Bowles' own testimony before the Committee on Banking and Currency.

Mr. PEPPER. I did not hear that testimony, but I have talked with workers. I have had them submit their budgets to a committee over which I was presiding, or when I was present, and I have heard them tell the story as to what actually happened to their cost of living. The housewife knows more about the increase in the cost of living than do the statisticians, because she is the one who must buy the needs of her family.

What I started to say was that because we have not given OPA sufficient personnel, because we have not supported OPA, because we have let prices rise, then when the worker complains that he must have a larger wage we blame the worker and say that he is trying to break the economy when he demands a wage which will compensate him for the increased cost of living. Ninety-nine times out of a hundred it is not the fault of the workers. It is the fault of the Government in permitting the black market to flourish. Much of the fault lies with Congress, and part of it with the Senate, which, as I remember, reduced the amount of money available to OPA so severely that it could not possibly enforce the OPA regulations against a black market which is spreading all over the country.

So when the worker has a disability he is entitled to have some over-all consideration given to the reason which forces him to the position which he takes.

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

Mr. PEPPER. I yield.

Mr. ELLENDER. Has the distinguished Senator stated what effect the recent increases in wages of 18½ cents an hour have had on the increased cost of living? The Senator will remember that President Truman stated that it was possible to raise wages considerably without at the same time raising commodity prices. But as the Senator knows, that has not come to pass. Take the steel situation. Because of the wage increase in steel, as I understand, there has been a 10-percent increase in the cost of steel to the manufacturers, and yesterday a 4- or 5-percent increase in automobile prices was announced. Does not the Senator know that an increase in the cost of basic commodities is bound to be reflected in the price of every commodity that is manufactured?

Mr. PEPPER. Not necessarily so, at all.

Mr. ELLENDER. The Senator agrees with Mr. Bowles, I guess—that wages can be increased more and more without at the same time making a compensating increase in the cost of the products.

Mr. PEPPER. No, Mr. President; Mr. Bowles has never contended, nor do I, that wages can be increased without any limit and a relative increase in the cost of living not be expected. On the contrary, there is some relationship, but there is nothing like the same ratio of increase. Of course, we spend our money for different things. For example, I think experience has proved that because a steel worker receives 18½ cents more wages an hour, that does not mean that immediately he will have to pay 18½ cents more for everything he buys in the stores. The relationship simply does not work out in that way.

For example, we continue to keep down house rents. We continue to keep down the prices of the various things he buys. We do not let them rise, except here and there and over there, when a case is made for an individual commodity. But it takes time for the increases in wages to reflect themselves in the prices of the things the workers have to buy.

Mr. ELLENDER. Mr. President, as the Senator knows, when we held hearings on the minimum-wage bill the plea was made that wages could be increased without necessarily increasing the cost of the commodities. But there is one thing that Mr. Philip Murray, as well as Mr. Reuther, overlooked. Those gentlemen stated, in effect, that because enormous profits were made from 1941 until 1945, industry had a kind of backlog whereby it could increase wages without at the same time increasing the prices of commodities. But they have overlooked, as I see it, that back in 1939 and 1940 productivity kept up with wages.

At that time it was possible for a manufacturer not only to increase wages but at the same time to decrease the cost of the things he sold. The reason for that condition was that productivity kept up with the wage scales. But after the war, when many of the industries had to return to civilian production, they began with productivity much lower than it was before the war, but with a 52-percent increase in wages.

I should like to ask the Senator from Florida how it is possible for goods which were manufactured in 1941, when productivity kept up with wages, to be sold today at almost the same price at which they were available in 1941, although a 52½-percent increase has occurred in the wage structure? I should like to have the Senator from Florida or any other Senator answer that question.

Mr. PEPPER. Mr. President, the Senator from Louisiana has made a study of this subject, and I know he is very conscientious in his views about it. All I wish to say is to repeat what I said a minute ago, namely, that the policy of the administration was not to allow a break in the line, but to allow what was called a bulge in the line. The policy was to allow a wage increase only when it could be justified—to allow a steel increase when it could be justified, to allow a lumber increase when it could be justified, to allow a food increase when it could be justified. In other words, the relief which the Government could give was confined to the individual cases in which justification could be shown for the relief sought, and the policy was to worry along with it, taking care of the emergencies when they became acute, until eventually the volumes of supply and demand should come into some kind

of relationship one with the other. I think that policy is as good a policy as any the Government could have adopted. I am not any special defender of it, but I have yet to hear anyone propose a better policy than the one the Government is following.

I did not intend to enter into a detailed discussion of the OPA, except to say that a while ago the able Senator from Minnesota said he could prove that the OPA people were Fascist in their sentiments because they did not believe in freedom of enterprise. Yet the Senator from Minnesota is one of the most vigorous and strenuous advocates of restricting enterprise in America, if the enterprise happens to be the working strength of American working men and women. Oh, Mr. President, he does not become a liberal then. No; then he is in favor of restrictive legislation—when the victim of his legislative wrath is the workingman's back. But if we start to curb an employer, he says that is a totalitarian policy. He says that the employer must have freedom of action, and must not be interfered with. That is what he calls the private economy.

Mr. President, I have never forgotten the moving words of one of the great men in the history of the United States, William Jennings Bryan, who said in substance that the definition of "businessman" has been made too narrow; that the man who goes down into the mines or the man who goes up on the mountain tops or the man who goes out in the morning and toils all day in the field, the man who goes out in the spring and labors during all the summer, is as much a businessman as the man who sits on the board of trade and bets on the price of grain, and that these laborers have their capital in the capital of human strength. Mr. President, that capital, too, is entitled to the benefit of the same principles of freedom which Senators would give to other kinds of capital which may happen to be represented by money.

No, Mr. President; the liberals who become liberal in respect to not interfering with the freedom of action of management, but become totalitarian when they are dealing with labor, are not consistent. If I err, Mr. President, I prefer to err on the side of protecting human rights, rather than on the side of protecting somebody's dollars or somebody's profits or even somebody's business. Mr. President, if we could ever get the Congress to be as sensitive to the appeals of humanity as it is to the call of money and property, we would have a better America and a safer world.

Mr. President, last year the President of the United States recommended to Congress a 21-point program. Check back over the records and see how much of that program which has to do with the betterment of human rights and human conditions and human welfare in this country has been enacted.

So, Mr. President, now we have a series of amendments which are being proposed by various Senators—the Senator from Virginia, the Senator from Ohio, the Senator from Minnesota, and many other Senators. They are proposing to circumscribe and to limit the rights of workers in their collective bargaining. But not a single restraint do they propose to put upon management in its freedom in collective bargaining. They talk about correlative responsibility of capital and labor.

Mr. President, we who try to be the friends of labor have no objection to correlative responsibility for management and labor. But let us make it correlative. Let us put the burdens upon one in the same ratio as we put them upon the other. If we are going to say to John L. Lewis or to anyone else, "You cannot make a health fund a condition of making a contract," then let us say to management, "You cannot deny a health fund to your workers out of stubbornness, blindness, or prejudice"—nor, need I add, "out of avarice."

Mr. President, a little while ago I was reading something about the plight which some of the people of the United States suffer because they have not had adequate health care. I continue to read:

> Preventive services are inadequate—40 percent of our counties do not have even a full-time local public health officer. Sanitation needs are great—846,000 rural homes do not have so much as even an outdoor privy.

Mr. President, I am reading from a proposed report of a subcommittee on health and education, of the Senate Committee on Education and Labor. I have the honor to be chairman of the subcommittee. I read further from the proposed report:

> Hospitals are needed—40 percent of our counties, with an aggregate population of 15,000,000, do not have a single recognized general hospital. Doctor shortages are severe—in 1944, 553 counties had less than 1 active physician per 3,000 population, the "danger line," and 81 had no active doctor at all. Even in 1940, before many doctors were drawn off to war, 309 counties had less than 1 active physician for every 3,000 people, and 37 had no active doctor at all. Maternal and child-health services are inadequate—it is estimated that half the maternal and a third of the infant deaths could be prevented if known measures were fully applied.

Mr. President, if you were to tell a Senator of the United States that he was guilty of causing the death of a mother or a child, he probably would strike you down in remonstrance. Yet by withholding the care that would have saved their lives, do not we have a measure of responsibility in regard to what has happened to them? If we do not provide it by way of public health, the way the mine owners say it should be provided, then how are we to obtain it, unless by the way the miners themselves propose—namely, by means of collective bargaining?

Yet the Senator from Virginia wishes to paralyze the arm of administering it the way the workers say it should be administered, namely, by the workers.

I read further from the proposed report:

> Seventy-five percent of our rural counties have no prenatal or well-baby clinics at all under the supervision of State health departments. State agencies had 15,000 children on their lists awaiting crippled children's care in early 1944.

Has the Senator from Virginia ever proposed an adequate health bill in the Senate? Has he ever advocated the passage of the Wagner-Murray-Dingell bill or any measure comparable to it? Has he any other method by which the health of the workers of the United States is to be cared for? Does he suggest that it be cared for by means of any proposal of his?

I read further from the proposed report:

> They do not even pretend to care for the half-million children with rheumatic fever (the most killing of all diseases for children between ages 5 and 15)—

Think of that, Mr. President! In this country of ours, today, half a million children with rheumatic fever could not even find hospitalization and medical care—

> or for the tens of thousands of cerebral palsy ("spastic paralysis") victims.

Mr. President, because the Government has not provided such care, the employees, and, in many instances, favorably disposed employers, have been making a beginning in this field. Our report, on page 8, shows that in this country during 1945, 212,590 persons were eligible for health and care under plans financed entirely by employers. Those plans provided many different kinds of benefits such as hospital, medical, and home nursing service. There were 546,772 persons eligible for health care under plans financed jointly by employer and employee, and 752,786 under plans financed altogether by employees. That makes a total of approximately 1,500,000 workers who are covered at the present time by industrial health plans which were worked out through collective bargaining between employers and employees. Approximately one-third of those persons have plans administered exclusively by the employees themselves. Yet, the Senator from Virginia would want to make them illegal.

Mr. President, I am not only proposing to amend the amendment of the Senator from Virginia, but I have a substitute for it which was read earlier in the day by the clerk. I wish to read it again. At the proper place in the bill it is proposed to insert the following:

> SEC. —. (a) It is hereby declared to be the policy of Congress to encourage and facilitate the establishment and maintenance of approved plans within industry for providing hospital, medical, and home nursing care and services, insurance, vocational rehabilitation, and other benefits for employees in activities affecting commerce and for their families and dependents, and to encourage the support of such plans by employers, whether such plans are administered by employers and employees jointly or solely by employers or solely by employees or otherwise. No provision of this or any other act shall be deemed to prohibit such plans or to prohibit employers from contributing to the support of such plans, except in any case where such support constitutes an unfair labor practice under the National Labor Relations Act. The failure or refusal of an employer in an activity affecting commerce to bargain collectively concerning the establishment or maintenance of such a plan shall be deemed to be an unfair labor practice for the purposes of the National Labor Relations Act.

(b) As used in this section, the term "approved plan" means a plan which has been approved, or which is to take effect only upon its approval, by the Surgeon General of the United States insofar as such plan provides for hospital, medical, and home nursing care and services, and by the Secretary of Labor insofar as such plan provides other benefits. The Surgeon General and the Secretary of Labor shall approve any plan submitted to them for the purposes of this section if they find that such plan is a bona fide plan for providing benefits for employees and that a fair and equitable method of administering such plan is provided.

Mr. President, it is now approaching the hour of 5 o'clock. Only a few Senators are present on the floor, and I assume that we are not ready to vote on the amendment this afternoon. However, I shall be glad to have a vote taken on it at any time tomorrow after I have taken a few minutes to explain it, and when a quorum has been developed. With the hope that I may have an opportunity to explain my amendment, which I expect to be able to do in a relatively short period of time tomorrow, when we convene, and when I shall insist upon a quorum being present even though I have to have the roll called repeatedly in order to develop a quorum, I ask unanimous consent that I may discontinue my remarks at the present time, and resume them tomorrow, with the understanding that in all events I shall not consume more than an hour, and possibly not more than half or three-quarters of that time in a presentation to the Senate of my own amendment.

Mr. KNOWLAND. Mr. President, I wonder if the Senator will yield in order that I may make a unanimous-consent request.

I ask unanimous consent, that starting tomorrow each Member be limited in his discussion to 1 hour on each amendment to the pending bill and to 1 hour on the bill itself. There are approximately six or seven amendments to the pending bill. If my unanimous-consent request were granted, it would mean that each Senator would be allowed at least 6 or 7 hours to discuss the amendments. If we do not agree upon placing a limitation on further consideration of this measure a great deal of public business will suffer, because we are certainly going to continue to remain here and deal with this proposed legislation until it has been finally acted upon. As the Senator from Florida knows, there is on the calendar the selective service measure, the OPA extension measure, and much other proposed legislation, all of which is vitally important to the American people. We have now consumed approximately a week, and have not yet reached a vote on a single amendment to the pending bill. At that rate I am very much afraid that we shall soon face some additional deadlines, and that other important legislation will suffer.

Mr. PEPPER. Mr. President, I quite understand the feeling which the able Senator from California has expressed. The majority leader is not present. There are many other Senators who are not present who have expressed a desire to address the Senate on the pending subject. This is only the first day of the second week which the Senate has consumed in considering the matter. Interruptions were allowed to our consideration of the measure last week, and I hope the Senator from California will not urge his request. Because of the absence of the majority leader and other Senators, I do not believe we have yet approached the time when we can agree to the unanimous-consent request which the Senator from California has made. As I have already indicated, I wish to make progress. When other Senators have returned to the Chamber, and have an opportunity to speak for themselves, it may be that some form of an agreement can be worked out so that some limitation of time may be placed upon the debate on the pending measure.

Mr. KNOWLAND. Mr. President, I felt that I should make my request because of the important public business which is now on the calendar. The pending bill is one of the most vital issues before the American people at the present time. Of course, the distinguished Senator from Florida has a perfect right to do whatever he wants to do, but I repeat my request that there be a limitation agreed to in accordance with what I have suggested.

Mr. PEPPER. Mr. President, I must object to the unanimous-consent request of the Senator from California.

The ACTING PRESIDENT pro tempore. Objection is heard to the unanimous-consent request of the Senator from California.

Is there objection to the unanimous-consent request of the Senator from Florida?

Mr. WHITE. Mr. President, will the Senator repeat his request so that we can understand it?

Mr. PEPPER. There is now before the Senate a substitute amendment to the amendment offered by the Senator from Virginia. The substitute amendment has been offered in behalf of myself, the Senator from Montana [Mr. MURRAY], and the Senator from Oregon [Mr. MORSE.] I ask unanimous consent that I may retain the floor tomorrow upon the convening of the Senate for a brief presentation of my substitute amendment, with the understanding that I shall not in any event consume more than an hour and probably not nearly so long. So far as I am concerned, personally, I shall be ready to vote on the amendment, although I cannot speak for other Senators. We have had a very sparse attendance in the Chamber this afternoon, but I do not wish to leave the floor without explaining the amendment offered by me which is in the nature of a substitute for the amendment of the Senator from Virginia.

Mr. WHITE. If the Senator from Florida would not talk more than an hour in any event, could we not now proceed and vote on the substitute later this afternoon?

Mr. PEPPER. It would necessitate the developing of a quorum, because I want Senators present in order to know what the substitute is about. I should be compelled to ask for a quorum, and insist upon it at a time which is generally regarded as the end of the day.

Mr. WHITE. If we were to yield to the Senator's request in respect to his own time, could we have some agreement as to the time at which a vote would be taken on the Byrd amendment?

Mr. PEPPER. I would rather not agree except to a vote on the substitute.

Mr. WHITE. The Senator is asking that the Senate first vote on his amendment as a substitute for the Byrd amendment.

Mr. PEPPER. Yes.

Mr. WHITE. If we agree at the end of an hour that a vote may be taken on the substitute would the Senator be willing to agree that by the end of the following hour a vote could be taken on the Byrd amendment?

Mr. PEPPER. No; I do not know, Mr. President, what other Senators may wish to say with regard to the substitute. I should like to have a chance, with a quorum of the Senate being present, to say something in behalf of the substitute.

Mr. BALL. Mr. President, the Senator from Florida held the floor last week for 3 days in discussing the pending bill. He has held the floor since shortly after 2 o'clock this afternoon, and I object to his unanimous-consent request.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. PEPPER. Very well, Mr. President. I have no regrets whatever that the request has been denied me. In that case, I shall seek the floor when I can obtain it, and every Member will have an equal right.

I now relinquish the floor, but I give notice that I shall seek the floor again before a vote is taken on the substitute amendment.

Mr. BALL. Mr. President, am I correct in my understanding of the parliamentary situation, that an amendment to the pending Byrd amendment is in order?

The ACTING PRESIDENT pro tempore. The Chair is of the opinion that an amendment to the Byrd amendment is in order.

Mr. BALL. As I understand, under the rules the Pepper amendment is offered as a substitute for the Byrd amendment.

The ACTING PRESIDENT pro tempore. The Chair is so treating it, and if so, the Byrd amendment may be perfected. That is the judgment of the present occupant of the chair.

Mr. PEPPER. What is the question?

The ACTING PRESIDENT pro tempore. The question is whether the Byrd amendment, the pending amendment, may be perfected before the vote upon the amendment offered by the Senator from Florida, which the Chair understands to be in the nature of a substitute.

Mr. PEPPER. It is in the nature of a substitute; that is correct.

The ACTING PRESIDENT pro tempore. Then, in the opinion of the Chair, the Byrd amendment may be perfected.

Mr. BALL. In behalf of myself and the Senator from Ohio [Mr. TAFT] I wish to offer an amendment to the pending Byrd amendment.

Mr. TYDINGS. May we have the proposed amendment read, so that we can make corrections on our copies of the

Byrd amendment and take it home tonight?

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The CHIEF CLERK. In the amendment offered by Mr. BYRD, it is proposed to strike out clause (3) after the semicolon in line 12 on page 2 and insert:

Or (3) with respect to money or other thing of value paid to a trust fund established by such representative, for the sole and exclusive benefit of the employees of such employer, and their families and dependents (or of such employees, families, and dependents jointly with the employees of other employers making similar payments, and their families and dependents), provided

(A) such payments are held in trust for the purpose of paying, either from principal or income or both, for the benefit of employees, their families and dependents, for medical or hospital care, pensions on retirement or death of employees, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, or life insurance, disability and sickness insurance, or accident insurance; and

(B) the detailed basis on which such payments are to be made is specified in a written agreement with the employer, and employees and employers are equally represented in the administration of such fund, such agreement to contain a provision that in the event the employer and employee groups deadlock on the administration of such fund, the two groups shall agree on an impartial umpire to decide such dispute, or in event of their failure to agree within a reasonable length of time, an impartial umpire to decide such dispute shall, on petition of either group, be appointed by the district court of the United States for the district where the trust fund has its principal office; and

(C) such payments meet the requirements for deduction by the employer under section 23 (a) or section 23 (p) of the Internal Revenue Code.

And on page 4, at the end of the amendment, it is proposed to insert the following subsection:

(g) This section shall not apply to any contract in force on May 15, 1946, during the life of such contract.

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

Mr. BYRD. Mr. President, I wish to accept the amendment as a modification.

The ACTING PRESIDENT pro tempore. The Senator from Virginia accepts the amendment offered by the Senator from Minnesota as a modification of his amendment.

Mr. BARKLEY. Notwithstanding that, Mr. President, in order that Senators may understand it, I think it should be printed.

Mr. BYRD. I was about to make that request. There is another small modification, on line 11, page 2, after the word "other", to insert "membership." I then ask that the amendment as modified be printed in full.

The ACTING PRESIDENT pro tempore. The amendment of the Senator from Virginia as modified will be printed for the information of the Senate.

Mr. PEPPER. Mr. President, the able Senator from Maryland requested certain information of the Senator from Florida a short time ago, as to what would be the effect of the collection of the 7 percent if the demand were allowed. I now have the figures from what I believe to be a reliable source.

The total 1944 wages to the coal-production workers in the United States amounted to $920,608,000, or $1.49 per ton of coal mined.

Total value of coal at the mine, 1944, $1,810,901,000, or $2.92 per ton of coal.

Ratio of wages to value of coal produced in 1944, 51 percent.

Effect of 7-percent pay-roll tax upon the value of coal would be approximately 10 cents a ton.

Mr. TYDINGS. At the mine?

Mr. PEPPER. At the mine.

Mr. BALL. Mr. President, I wonder if the majority leader could give us an indication of whether we may start this week having night sessions in an effort to dispose of the pending legislation, if possible, by the end of the week.

Mr. BARKLEY. Mr. President, I am not in a position to make a categorical answer, except to this extent, that I would not attempt to have a night session earlier than Wednesday night of this week. I am not saying I shall ask the Senate to meet in the evening on Wednesday, but I can say definitely that I would not ask it to meet at night earlier than Wednesday. I hope to be able tomorrow to secure some limitation of debate on the bill and amendments thereto, which might facilitate an early vote, or a vote this week. It is my hope that we may conclude the consideration of the bill this week in order that we may take up the draft legislation, and I think by next week the Senate Committee on Banking and Currency will have concluded its deliberations on the bill known in some quarters as the "O. P. and A.," so that we may be ready to consider it at a very early date.

I should not like to say we will attempt to hold a night session even on Wednesday night, but I do feel we cannot attempt it earlier than that. If I can get a limitation of debate on the bill and amendments, the necessity for night sessions may be obviated.

Mr. BALL. Would it be safe to assume that the majority leader would not oppose too vigorously a request from this side that we have night sessions beginning Wednesday?

Mr. BARKLEY. I am not opposed to night sessions when the Senate wants them, but, frankly, I wish to say to the Senator that I do not want to see an attempt at holding a night session and then not be able to have one.

Mr. BALL. I agree.

Mr. PEPPER. Mr. President, I wondered if the able Senator were proposing that from now on through the remainder of the session we have night sessions so that we could dispose of all the business on the calendar.

Mr. BARKLEY. No; I am not making such a proposal. The Senator from Minnesota asked me if I was contemplating night sessions this week.

Mr. PEPPER. I was wondering whether the Senator from Minnesota was contemplating that we have night sessions right on from now to the end of the session.

Mr. BARKLEY. I cannot tell what the Senator from Minnesota was contemplating. I can only answer the question he asked me. Of course, it would be impossible, as every Senator knows, to arrange now for night sessions during the rest of this session to consider bills on the calendar. We have to take each bill as it comes up. We cannot make a blanket rule with respect to all bills on the calendar. As I stated a few days ago, there may be some of them which will not be taken up at all, and it obviously would be impossible to make any rule with regard to all the bills on the calendar. Each bill will have to take its own course when it is taken up. But I hope we can dispose of the pending bill this week. As I have already advised the Senator from Florida earlier in the day, as well as other Senators, it is my purpose to try to secure unanimous consent for a limitation of debate on the whole bill and all amendments thereto tomorrow. Whether I can obtain consent is another question.

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

Mr. BARKLEY. I yield.

Mr. McCARRAN. I wonder if following this bill, if and when it is concluded, we can have any assurance that we will take up the bill which has been a long time pending on the calendar, reported from the Committee on the Judiciary, known as the anti-poll-tax bill?

Mr. BARKLEY. I want to be perfectly frank about that matter. We all know that the anti-poll-tax bill involves an indefinite filibuster. I do not think that the situation and the juncture of the events in the country would justify the Senate of the United States in entering upon any such procedure at this time. So far as my program is concerned, when the pending bill is disposed of, the draft bill will be taken up, and following the draft bill, the Stabilization Act, which also expires on June 30. So far as I have any control over the legislative program, that is what I plan.

I want to say to the Senator from Nevada in all frankness, and to the country and to anyone else who may be interested, that, with the legislative situation which confronts us, I do not think the Senate of the United States would be justified in entering upon the consideration of any legislation which would involve 3 or 4 weeks of futility in the way of a filibuster. I do not intend to lend myself at this juncture to such a procedure, and I say that in spite of the fact that I am in favor of the anti-poll-tax bill, have voted heretofore to bring it to a vote, and will vote for cloture on it when it is brought up. But I think it would be most unfortunate for the Senate and for the country to inject it when we are considering legislation upon which there is a time limit, which every Senator here understands thoroughly.

Mr. McCARRAN. Mr. President, will the Senator again yield?

Mr. BARKLEY. Yes; I will yield. I will say that I appreciate the Senator's interest in the anti-poll-tax legislation, and it cannot be any greater than mine.

Mr. McCARRAN. Mr. President, I feel duty-bound as chairman of the Committee on the Judiciary to attempt in every way possible, within a reasonable time, to bring that bill up on the floor of the Senate.

Mr. BARKLEY. I appreciate that.

Mr. McCARRAN. I have promised many who are interested in it to attempt to bring it up for consideration.

Mr. BARKLEY. I want to cooperate with the Senator on that score.

Mr. McCARRAN. The only reason I raise the question now is to serve notice to those interested in the bill that it is not dead, and that I shall attempt at such reasonable time as I can find opportunity, to bring it up in the Senate. It is my duty to do so whether I want to or not.

Mr. BARKLEY. I fully appreciate that. I may say that I have received urgent telegrams addressed to me asking me to try to bring up H. R. 7, the anti-poll tax bill, even to set aside the pending legislation in order to do so. I think we all understand the situation here, and I think we all understand what will happen if and when the anti-poll-tax measure is brought up. Much as I am interested in that proposed legislation, there is no time limit running against it, and I think the Senate would pursue a course which would not meet with the approval of the country at this time, in view of the time limitations on the draft and on the stabilization program, in addition to the legislation we now have before us, if we were to attempt to indulge in what we may reasonably expect to be a long-drawn-out, if not a futile, effort.

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

Mr. BARKLEY. I yield.

Mr. WHITE. I am very glad that the Senator from Kentucky has made the statement which has just come from him. I think there are three pieces of legislation which the country looks on as of supreme importance, and all the other pieces of legislation which are talked about are relatively of less importance. I think we should confine ourselves to the pending labor legislation until it is disposed of, either by passage or by defeat or by withdrawal. I think next we should take up either the draft bill or the OPA bill. Those two pieces of legislation should follow, and we should dispose of them before the attention of the Senate is diverted to other, and, as I believe, measures of less importance. I am glad the Senator from Kentucky has made his statement. I completely concur in what he has said.

Mr. BARKLEY. I thank the Senator from Maine. We all understand the situation here with respect to pending legislation. We know the difficulties involved, and they are without regard to our own viewpoint in reference to this legislation, our own anxiety to get finally behind us the conclusion of legislation in which many of our people are interested, but we have a peculiar situation confronting the Senate at this time which we cannot ignore. I have no purpose to deceive or mislead the Senate or the country with respect to the possibility or the probability of considering legislation in which many people are concerned. That is why I make the frank statement I have made. I thank the Senator from Maine for the statement he just made.

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

Mr. BARKLEY. I yield.

Mr. HICKENLOOPER. I have a great deal of sympathy with and am in agreement with the statement made by the Senator from Kentucky and also by the one made by the Senator from Maine. In the absence of the chairman of the Special Committee on Atomic Energy of the Senate, I merely want to keep the record alive that the bill on atomic energy was considered at least a few months ago as one of most intense importance, and as the result of great pressure and long and arduous meetings, the bill has been perfected and has been on the calendar for some time. I know the Senator from Kentucky feels that it is a bill of very vital importance, and I merely call his attention to the fact that as a member of that committee I hope it is not lost sight of in making up the agenda of the Senate.

Mr. BARKLEY. No. I want to assure the Senator from Iowa, as well as all other Senators and other persons who are interested in the measure dealing with atomic energy, that not only is it not forgotten or overlooked, but it is one of the measures which we hope to be able to pass through the Senate early enough so that it may be considered by the House, if in the meantime the House has not acted, so that legislation may be concluded upon that subject before we shall ever attempt to take any adjournment of this session of the Congress.

Mr. HICKENLOOPER. I am sure those are the feelings of the committee which dealt with the subject.

Mr. BARKLEY. I feel very definitely that we ought to devote ourselves to legislation that can be enacted, or legislation which has a fair chance of being enacted.

Mr. HICKENLOOPER. I hope the Senator does not feel that I am critical of his statement.

Mr. BARKLEY. Not at all.

Mr. HICKENLOOPER. I am only keeping the record straight as to the importance of the atomic energy measure.

Mr. BARKLEY. I am glad the Senator called attention to it. The country is greatly interested in it. I frankly say that the atomic energy bill is one of those with respect to which I shall myself insist upon action upon the part of the Senate, and if possible by both branches of the Congress, before this session ends.

Mr. HICKENLOOPER. I do not want to be understood as urging action on the atomic energy bill prior to the two or three bills the Senator mentioned. I simply wanted to keep the measure alive before the Senate.

Mr. BARKLEY. Yes, I understand that. During the consideration of the pending labor legislation and the draft legislation and the OPA legislation we might find some point where a day or so could be devoted to the consideration of the atomic energy bill, by way of sandwiching it in between this legislation, and disposing of it. But the bill mentioned by the Senator from Nevada is not one that can be sandwiched in between anything, because it is in itself a whole sandwich—meat and bread, exclusively, and it cannot be sandwiched in between anything. We would be lucky if we could sandwich anything else in between it, if we were to take it up.

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

Mr. BARKLEY. I yield.

Mr. PEPPER. In view of the fact that everyone has emphasized that we are in a dilemma in the Senate in trying to dispose of all the bills on the calendar, perhaps we might enter into a unanimous consent agreement that no legislation now upon the calendar shall consume more than 10 days. Would the Senator yield for me to submit a unanimous consent request of that character?

Mr. BARKLEY. Ordinarily I would be glad to yield to the Senator for that purpose, but it is a foregone conclusion that it would be objected to.

Mr. PEPPER. Perhaps the able leader would be willing to direct himself to the junior Senator from Virginia, chairman of the Rules Committee, with the view that the committee report a rule which would provide for a limitation of debate with respect to legislation now upon the Senate calendar. Would the leader undertake to do that?

Mr. BANKHEAD. Mr. President, I call for the regular order.

Mr. BARKLEY. Is there any measure pending before the Rules Committee which would provide for anything like that?

The PRESIDING OFFICER. The regular order has been demanded.

Mr. BYRD. The Senator from Florida submitted an amendment a long time ago, and I offered to have a hearing on it, but I never heard anything from him respecting it, and we have not had a hearing upon it.

Mr. KNOWLAND. Mr. President, will the Senator from Kentucky yield to me so I may ask the Senator from Virginia a question?

Mr. BARKLEY. I yield.

Mr. KNOWLAND. I should like to ask the distinguished and able Senator from Virginia whether a hearing has as yet been held or has been arranged for with respect to a suggested amendment to the rules, which has been proposed by the distinguished Senator from Massachusetts [Mr. SALTONSTALL], attempting at least to make some headway with the matter of bottlenecks in legislation?

Mr. BYRD. I will say to the Senator from California that that measure was introduced 2 or 3 days ago, as I recall. A meeting of the Rules Committee will be held very shortly, and I shall confer with the Senator from Massachusetts and a suitable day and hour will be set for hearing.

Mr. BARKLEY. I hope that in all these matters the Committee on Rules will not overlook the fact that it is supposed to be a functioning committee, and that it will give serious consideration to these various efforts to expedite the transaction of business in the Senate.

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

Mr. BARKLEY. I yield.

Mr. SALTONSTALL. The Senator from Iowa brought up the question of the Atomic Energy Committee report. May I call the attention of the Senate to the fact that the experiments which are due to take place on July 1 at Bikini Island cannot be held unless another bill on the Senate calendar permitting the use of naval vessels is passed by both branches prior to that time. That bill is also pending on the Senate Calendar.

Mr. BARKLEY. Yes. The Senator from Massachusetts [Mr. WALSH], chairman of the Naval Affairs Committee, has called that bill to my attention, and I have assured him that I shall cooperate to the fullest extent of my ability to obtain action on it. All of which complicates our situation. If the demonstration at Bikini is to be carried out, it is also involved in a time limit, because the bill has to be enacted by both Houses before the atomic bombs can destroy this segment of our Navy.

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

Mr. BARKLEY. I yield.

Mr. HICKENLOOPER. In the absence of the Senator from New Hampshire [Mr. TOBEY], who usually quotes the classics, let me say that I am not a classicist, but in this particular situation of the majority leader I believe it would be appropriate to quote the remark of Dante when he was walking through the nether regions: "Woe is me! Everywhere I look is hell." [Laughter.]

Mr. BARKLEY. That reminds me of a quotation from Cicero, or from one of the Latin poets—Horace, Ovid, or Terence—in which the following expression was used: "O tempore! O mores! O hell." [Laughter.]

The ACTING PRESIDENT pro tempore. Is it the purpose of the Senator from Kentucky to have an executive session?

Mr. BARKLEY. No. There is no Executive Calendar, except for three treaties, and I do not ask that they be considered at this time.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The ACTING PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF A COMMITTEE

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. MCCARRAN, from the Committee on the Judiciary:

John W. Murphy, of Pennsylvania, to be United States district judge for the middle district of Pennsylvania, vice Albert W. Johnson, resigned; and

James T. Gooch, of Arkansas, to be United States attorney for the eastern district of Arkansas, vice Sam Rorex, term expired.

RECESS

Mr. BARKLEY. In the interest of harmony, I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 5 o'clock and 25 minutes p. m.) the Senate took a recess until tomorrow, Tuesday, May 21, 1946, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate May 20 (legislative day of March 5), 1946.

DIPLOMATIC AND FOREIGN SERVICE

Norris S. Haselton, of New Jersey, now a foreign-service officer of class 5 and a secretary in the diplomatic service, to be also a consul of the United States of America.

IN THE NAVY

Admiral John H. Towers, United States Navy, to be an admiral in the Navy, for temporary service, to rank from the 7th day of November 1945.

Admiral DeWitt C. Ramsey, United States Navy, to be an admiral in the Navy, for temporary service, to rank from the 28th day of December 1945.

Vice Adm. Arthur W. Radford, United States Navy, to be a vice admiral in the Navy, for temporary service, to rank from the 28th day of December 1945.

Vice Adm. Forrest P. Sherman, United States Navy, to be a vice admiral in the Navy, for temporary service, to rank from the 28th day of December 1945.

Rear Adm. Lawrence B. Richardson, United States Navy, to be a rear admiral in the Navy, for temporary service, to rank from the 6th day of April 1943.

Rear Adm. Rico Botta, United States Navy, to be a rear admiral in the Navy, for temporary service, to rank from the 30th day of June 1943.

Rear Adm. Leslie C. Stevens, United States Navy, to be a rear admiral in the Navy, for temporary service, to rank from the 3d day of July 1943.

Rear Adm. Clinton E. Braine, Jr., United States Navy, to be a rear admiral in the Navy, for temporary service, to continue while serving as deputy to the Chief of the Material Division, Office of the Assistant Secretary of the Navy, to rank from the 8th day of January 1946.

Rear Adm. Earl E. Stone, United States Navy, to be a rear admiral in the Navy, for temporary service, to continue while serving as chief of naval communications, office of the Chief of Naval Operations, to rank from the 8th day of January 1946.

Rear Adm. William S. Parsons, United States Navy, to be a rear admiral in the Navy, for temporary service, to continue while serving as Assistant Chief of Naval Operations (special weapons), to rank from the 8th day of January 1946.

Rear Adm. Leland P. Lovette, United States Navy, to be a rear admiral in the Navy, for temporary service, to continue while serving as chief of the United States naval mission to Brazil and until reporting for other permanent duty, to rank from the 8th day of January 1946.

Medical Director Joel T. Boone, to be a medical director in the Navy, with the rank of rear admiral, for temporary service, to rank from the 17th day of September 1942.

Medical Director Fredric L. Conklin, to be a medical director in the Navy, with the rank of rear admiral, for temporary service, to rank from the 17th day of September 1942.

Medical Director John P. Owen, to be a medical director in the Navy, with the rank of rear admiral, for temporary service, to rank from the 18th day of September 1942.

Medical Director Thomas C. Anderson, to be a medical director in the Navy, with the rank of rear admiral, for temporary service, to rank from the 18th day of September 1942.

Pay Director Archie A. Antrim, to be a pay director in the Navy, with the rank of rear admiral, for temporary service, to rank from the 15th day of September 1943.

Pay Director Charles W. Fox, to be a pay director in the Navy, with the rank of rear admiral, for temporary service, to rank from the 15th day of September 1943.

The following-named officers to be commodores in the Navy, for temporary service, while serving as indicated, and to continue during any assignment which is commensurate with the rank of commodore, or until reporting for other permanent duty:

Commodore Charlton E. Battle, Jr., United State Navy, while serving as commander, United States naval operating base, Guantanamo Bay, Cuba, to rank from the 13th day of April 1944.

Commodore Paul S. Theiss, United States Navy, while serving as commanding officer, United States naval training station, Newport, R. I., to rank from the 13th day of April 1944.

Commodore Allen G. Quynn, United States Navy, while serving as chief of staff to commander, Eastern Sea Frontier, to rank from the 13th day of April 1944.

Commodore Homer W. Graf, United States Navy, while serving as supervisor, New York Harbor, N. Y., to rank from the 10th day of November 1944.

Commodore Paul F. Lee, United States Navy, while serving as Assistant Director of the Shore Division, Bureau of Ships, to rank from the 12th day of January 1946.

Commodore Thomas G. Peyton, United States Navy, while serving as commandant, United States naval operating base, Guam, to rank from the 12th day of January 1946.

Commodore Myron W. Hutchinson, Jr., United States Navy, while serving as chief of staff to commander, Hawaiian Sea Frontier, to rank from the 12th day of January 1946.

Commodore Charles J. Rend, United States Navy, while serving as Deputy Chief of Naval Intelligence, to rank from the 12th day of January 1946.

Commodore John F. Wegforth, United States Navy, while serving as commander, naval air bases, Thirteenth Naval District, to rank from the 12th day of January 1946.

Commodore Daniel F. Worth, Jr., United State Navy, while serving as deputy commander, Marianas, and chief of staff and aide to commander, Marianas, to rank from the 12th day of January 1946.

Commodore George A. Seitz, United States Navy, while serving as commander, naval air bases, First Naval District, to rank from the 12th day of January 1946.

Commodore Walton W. Smith, United States Navy, while serving as commander, Carrier Division 19, to rank from the 12th day of January 1946.

Commodore Charles R. Jeffs, United States Navy, while serving as commanding officer, United States naval advanced base, Weser River, Germany, to rank from the 12th day of January 1946.

Civil Engineer Henry P. Needham, United States Navy, while serving on the staff of commander, service force, United States Pacific Fleet, to rank from the 12th day of January 1946.

HOUSE OF REPRESENTATIVES

MONDAY, MAY 20, 1946

The House met at 12 o'clock noon.

Rev. M. N. Starzynski, C. R., of Chicago, offered the following prayer:

We offer to Thee, most gracious Lord, the devout worship of our affection and the dutiful service of our reparation. We beg of Thee in the abundance of Thy loving kindness to behold the desires of Thy humble servants, so that, amid the changing things of this world, our hearts may be fixed where true joys are to be found.

Grant unto us, Thy lowly petitioners, whose life and work are consecrated to the common weal, an increase of religion, that by Thy holy inspiration we may ever think on such things as are right and by Thy guidance ever do what is correct.

O Almighty and Eternal Father, whose all-embracing providence never fails in its plans, mercifully grant that the affairs of this world may be directed in Thy tranquillity and order and that we may ever serve Thee in joy and peaceful devotion. Through Jesus Christ, our risen Lord and Saviour. Amen.

The Journal of the proceedings of Friday, May 17, 1946, was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Miller, one of his secretaries, who also informed the House that on May 18, 1946, the President approved and signed a bill of the House of the following title:

H. R. 5890. An act making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1946, and for prior fiscal years, to provide supplemental appropriations for the fiscal year ending June 30, 1946, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Frazier, its legislative clerk, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 5504) entitled "An act to amend an act entitled 'An act to establish a uniform system of bankruptcy throughout the United States,' approved July 1, 1898, and acts amendatory thereof and supplementary thereto."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1415) entitled "An act to increase the rates of compensation of officers and employees of the Federal Government."

The message also announced that the President pro tempore has appointed Mr. BARKLEY and Mr. BREWSTER members of the joint select committee on the part of the Senate, as provided for in the act of August 5, 1939, entitled "An act to provide for the disposition of certain records of the United States Government," for the disposition of executive papers in the following departments and agencies:

1. Department of the Interior.
2. Department of Justice.
3. Department of the Navy.
4. Department of War.
5. Selective Service System.
6. United States Maritime Commission.

The message also announced that Mr. BREWSTER and Mr. HAWKES had been appointed members on the part of the Senate to the Joint Committee on the Library to fill existing vacancies.

EXTENSION OF REMARKS

Mr. GIBSON asked and was given permission to extend his remarks in the RECORD and include a letter from E. F. Dean, of Odum, Ga.

Mr. BUNKER asked and was given permission to extend his remarks in the Appendix of the RECORD and include an editorial from the Mining Press of Nevada.

Mr. ABERNETHY asked and was given permission to extend his remarks in the Appendix of the RECORD and include an editorial.

Mr. RESA asked and was given permission to extend his remarks in the RECORD in two instances, in one to include an article by Howard Vincent O'Brien recently published in the Chicago Daily News.

Mr. TRAYNOR asked and was given permission to extend his remarks in the Appendix of the RECORD and include a newspaper article.

Mr. DURHAM asked and was given permission to extend his remarks in the RECORD and include an editorial.

Mr. COFFEE asked and was given permission to extend his remarks in the Appendix of the RECORD in three separate instances and in connection therewith to include excerpts from magazines and a newspaper article.

Mr. BIEMILLER asked and was given permission to extend his remarks in the RECORD and include a statement from the American Civil Liberties Union.

THE SECURITIES EXCHANGE COMMISSION AND MINING

Mr. BUNKER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. BUNKER. Mr. Speaker, I am today introducing a bill to amend the Securities Act of 1933 so as to exempt from unnecessary bureaucratic red tape certain securities issued by individuals, firms, or corporations engaged in prospecting for minerals, metals, petroleum, natural gas, or in the production thereof.

I am confident that our laws dealing with fraudulent practices and misuse of the mails are adequate to protect the investing public without further intermeddling by the Securities and Exchange Commission.

I am certain, too, that our search for strategic metals must move forward on a broader scale. The war made tremendous inroads into our visible supplies.

We have many people today who are willing to assist financially in the quest for needed minerals and metals, but they are restrained by absurd legal barriers.

There is no doubt in my mind but that the SEC has exceeded the authority Congress intended it should exercise. I have in mind, particularly, the attempts of that bureau to dictate evaluations of property in the process of exploration and to set up certain fantastic accounting routine. Also the SEC has invoked some impractical regulations concerning data that must be included in promotional publications.

These and similar barriers to mining progress could be removed by the passage of the resolution I am now presenting.

THE CENTRAL VALLEY PROJECT, CALIFORNIA

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, during the recent debate on the Interior appropriation bill I pointed out that the Republican Governor of California had sent wires to certain Members from California urging that the appropriation be raised to $50,000,000 instead of the $25,000,000 recommended by the Bureau of the Budget for the Central Valley project. In this telegram he specifically makes reference to dams, canals, transmission lines, and power-generating facilities that should be constructed as part of this great undertaking. I quote his telegram:

SACRAMENTO, CALIF., *May 13, 1946.*

Congressman GEORGE R. MILLER,
Sixth District, California,
Washington, D. C.:

The drastic cut made by the House of Representatives' Appropriation Committee for Central Valley project, California, in Interior bill for the 1947 fiscal year, came as a distinct shock to California. The State of California, through its water-project authority, has urged the Congress to appropriate to the United States Bureau of Reclamation the sum of $50,000,000 for the project during the 1947 fiscal year, which I believe necessary for the construction of project works during that period. I respectfully urge you to do all in your power to bring about the restoration in the appropriation bill the amount cut from the request of the Bureau of Reclamation for the Central Valley project, and, if possible, the inclusion of additional amounts up to a total of $50,000,000 for the 1947 fiscal year, to be utilized on all phases of the project—dams, canals, transmission lines, and power-generating facilities.

EARL WARREN,
Governor.

(Mr. MILLER of California asked and was given permission to extend his remarks and include a telegram.)

PERMISSION TO ADDRESS THE HOUSE

Mr. GATHINGS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

[Mr. GATHINGS addressed the House. His remarks appear in the Appendix.]

UNNECESSARY WASTE OF WAR SURPLUS AUTOMOBILES AND EQUIPMENT IS INEXCUSABLE

Mr. REES of Kansas. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. REES of Kansas. Mr. Speaker, a few days ago, I called attention to the tremendous amount of surplus property being held by the Army, Navy, and War Assets Administration, that ought to be placed in the hands of people who need it and can use it. I called attention then to the fact that veterans are clamoring for the use of this property, but have difficulty in securing it.

Mr. Speaker, for example, I am calling attention now to dispatches recently appearing in our newspapers. Here is a dispatch in which it is said General Eisenhower on his inspection trip saw 22,000 Army vehicles, mostly jeeps and cars, piled up in a large stadium, gathering dust and rust, at Kobe, but even worse, right here in America, thousands of Army vehicles are tied up because of the reluctance of Government departments and agencies to release them.

Here is a photograph showing an estimated twenty-five to forty thousand Army vehicles, mostly cars, that are slowly deteriorating in the open air at the ordnance depot at Atlanta, Ga. These cars have been exposed to the sun, wind, and rain for months. Tires are rotting. There are thousands more in other parts of the country that are deteriorating and going to waste.

Mr. Speaker, it certainly does not make good sense or show good judgment that, in view of the tremendous need for use of automobiles, trucks, and equipment, that this property should not be put into use. Thousands of servicemen want and need these vehicles. They are anxious to get them and are willing to pay for them, and yet, because of red tape, slowdowns, and negligence, millions of dollars worth of property is being permitted to deteriorate and waste. The delay is inexcusable.

We have had plenty of investigation with regard to this problem. What we really need is action and we need it now.

SPECIAL ORDER GRANTED

Mr. PUFFETT. Mr. Speaker, I ask unanimous consent that tomorrow after disposition of matters on the Speaker's desk and at the conclusion of any special orders heretofore entered, I may address the House for 30 minutes to discuss the so-called British loan.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. HOPE. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

[Mr. HOPE addressed the House. His remarks appear in the Appendix.]

Mr. ANDREWS of New York. 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 York?

There was no objection.

[Mr. ANDREWS of New York addressed the House. His remarks appear in the Appendix.]

(Mr. ANDREWS of New York asked and was given permission to revise and extend his remarks and include a statement.)

THE A. F. OF L. AND CIO

Mr. COX. 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 Georgia?

There was no objection.

Mr. COX. Mr. Speaker, in the organizational fight now opening up in the South between the CIO and the A. F. of L., there is but one issue involved, and that is communism. The A. F. of L. is an American institution whereas the CIO as it now operates is Communist controlled. The A. F. of L., however, should get back to the principle it laid down under the leadership of Samuel Gompers who said:

> There is no right to strike against the public safety by anybody, anywhere, or at any time.

EXTENSION OF REMARKS

Mr. HORAN asked and was given permission to extend his remarks in the RECORD in three instances and to include newspaper articles, two of the articles to run consecutively.

Mr. BRADLEY of Michigan asked and was given permission to extend his remarks in the RECORD and include an address delivered by himself.

Mr. CURTIS asked and was given permission to extend his remarks in the RECORD and include a newspaper article.

Mr. McMILLEN of Illinois asked and was given permission to extend his remarks in the RECORD and include an editorial from the Clinton (Ill.) Journal and Public, and also an editorial from the Champaign (Ill.) News Gazette.

Mr. COLE of Missouri asked and was given permission to extend his remarks in the RECORD in two instances, in one to include a letter concerning OPA sent to him by a constituent, and in the other to include a news article.

Mr. STEVENSON asked and was given permission to extend his remarks in the RECORD on the subject, How UNRRA Is Working in the Balkans, and to include an article by Constantine Brown on the same subject.

Mr. DWORSHAK (at the request of Mr. SPRINGER) was given permission to extend his remarks in the RECORD.

Mr. REED of New York asked and was given permission to extend his remarks in the RECORD in two instances and include a newspaper article and a brief submitted by him to the OPA and the answer of OPA.

Mr. MANSFIELD of Montana asked and was given permission to extend his remarks in the RECORD and include a newspaper article.

Mr. VOORHIS of California asked and was given permission to extend his remarks in the RECORD and include a letter.

Mr. JUDD asked and was given permission to extend his remarks in the RECORD in two instances; to include in one an article by Harold Stassen, and in the other an article on the situation in France today.

Mr. SMITH of Wisconsin asked and was given permission to extend his remarks in the RECORD in two instances; to include in one a newspaper editorial, and in the other an article.

THE LATE BOOTH TARKINGTON

Mr. RANKIN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. RANKIN. Mr. Speaker, another great American has passed away.

The grim messenger that knocked upon the door of Edgar Allan Poe and summoned him to the "Misty dim region of Weir," the same messenger that conducted Longfellow into the harbor and Tennyson across the bar, the same messenger that conducted Shakespeare to the "Undiscovered country from whose bourne no traveler returns," has knocked upon the door of one of America's greatest novelists, Booth Tarkington, of Indiana, and enrolled him among the literary immortals of all time.

It has been said that the rarest thing to be found today is a decent character in a current novel. Booth Tarkington believed in both truth and decency in fiction. I wish it were possible for every school child to read the works of Booth Tarkington, beginning with the Gentleman from Indiana and coming on down until his career was closed by blindness. They would not only find decent characters in all his works but they would get an inspiration rare to be found in the books even of his day.

He now sleeps beneath the soil of the great State of Indiana from which he drew his greatest inspiration.

The SPEAKER. The time of the gentleman from Mississippi has expired.

RAILROAD RETIREMENT ACTS

Mr. SABATH, from the Committee on Rules, reported the following privileged resolution (H. Res. 625, Rept. No. 2077),

which was referred to the House Calendar and ordered to be printed:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 1362) to amend the Railroad Retirement Acts, the Railroad Unemployment Insurance Act, and subchapter B of chapter 9 of the Internal Revenue Code, and for other purposes. That after general debate, which shall be confined to the bill and continue not to exceed 5 hours, to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

STRATEGIC AND CRITICAL MATERIALS—NATIONAL DEFENSE

Mr. SABATH, from the Committee on Rules, reported the following privileged resolution (H. Res. 626, Rept. No. 2078), which was referred to the House Calendar and ordered to be printed:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 752) to amend the act of June 7, 1939 (53 Stat. 811), as amended, relating to the acquisition of stocks of strategic and critical materials for national defense purposes. That after general debate, which shall be confined to the bill and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Military Affairs, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

SELECTIVE SERVICE

Mr. COX, from the Committee on Rules, reported the following privileged resolution (H. Res. 627, Rept. No. 2079), which was referred to the House Calendar and ordered to be printed:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 6035) to provide that there shall be no liability for acts done or omitted in accordance with regulations of the Director of Selective Service, and for other purposes. That after general debate, which shall be confined to the bill and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Military Affairs, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

ANNUAL REPORT OF THE GOVERNOR OF THE PANAMA CANAL, FISCAL YEAR ENDED JUNE 30, 1943—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States, which was read, and, together with the accompanying papers, referred to the Committee on the Merchant Marine and Fisheries and ordered to be printed:

To the Congress of the United States:

I transmit herewith, for the information of the Congress, the Annual Report of the Governor of the Panama Canal for the fiscal year ended June 30, 1943.

HARRY S. TRUMAN.

THE WHITE HOUSE, *May 20, 1946.*

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar Day. The Clerk will call the first bill on the Consent Calendar.

THEODORE ROOSEVELT NATIONAL PARK

The Clerk called the bill (H. R. 4435) to establish the Theodore Roosevelt National Park; to erect a monument in memory of Theodore Roosevelt in the village of Medora, N. Dak.; and for other purposes.

Mr. BIEMILLER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

RAILROAD CORPORATIONS

The Clerk called the bill (H. R. 5924) to enable debtor railroad corporations, whose properties during a period of 7 years have provided sufficient earnings to pay fixed charges, to effect a readjustment of their financial structure without further proceedings under section 77 of the Bankruptcy Act, as amended.

Mr. COLE of New York. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

INDIAN TRIBES

The Clerk called the bill (H. R. 2231) to authorize the Secretary of the Interior to adjust debts of individual Indians, associations of Indians, or Indian tribes, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized in his discretion to adjust or cancel charges of the Government of the United States existing as debts against individual Indians, associations of Indians, or Indian tribes, which have accrued or shall accrue from the use of funds held in trust for Indian tribes, whenever he shall determine that any such debt is uncollectible in whole or in part, or that in equity and good conscience, repayment should not be enforced: *Provided*, That no debt incurred from tribal funds shall be adjusted or canceled without the consent of the tribe involved, expressed through a resolution of the governing body thereof or otherwise.

SEC. 2. The Secretary of the Interior may accept from individual Indians conveyances of land or interests therein to the United States in trust for the tribe of which they are members, in partial or full settlement of debts resulting from the use of tribal funds or funds appropriated by Congress for the benefit of Indians, whenever he may determine that such debts are otherwise uncollectible: *Provided*, That if in any case the value of the land or interest therein exceeds the debt, the Indian may be paid the difference from any unobligated tribal funds belonging to the tribe for whose benefit the conveyance is made, or from any public appropriations available to the Indian Service for the purchase of land for Indian tribes: *And provided further*, That unobligated tribal funds shall not be expended for this purpose without the consent of the tribe involved, expressed through a resolution of the governing body thereof or otherwise.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BRIDGE ACROSS THE SUSQUEHANNA RIVER, LUZERNE COUNTY, PA.

The Clerk called the bill (H. R. 5403) to revive and reenact the act entitled "An act granting the consent of Congress to the Commonwealth of Pennsylvania to construct, maintain, and operate a free highway bridge across the Susquehanna River at Bridge Street in Plymouth Borough, between Plymouth and Hanover Townships, in the county of Luzerne, and in the Commonwealth of Pennsylvania."

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

Mr. COLE of New York. Reserving the right to object, Mr. Speaker, this bill has been approved by the Committee on Interstate and Foreign Commerce, authorizing the construction of a free highway bridge in the State of Pennsylvania. This is the third or fourth time the bill has been called, and as yet no explanation or reason has been given for postponement of action on it. In view of that fact, Mr. Speaker, I must object to the request that the bill be passed over at this time.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. PATMAN, Mr. MADDEN, and Mr. TRIMBLE objected.

PROTECTING THE SHORES OF PUBLICLY OWNED PROPERTY

The Clerk called the bill (H. R. 2033) authorizing Federal participation in the cost of protecting the shores of publicly owned property.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That with the purpose of preventing damage to public property and promoting and encouraging the healthful recreation of the people, it is hereby declared to be the policy of the United States to assist in the construction, but not the maintenance, of works for the improvement and protection against erosion by waves and currents of the shores of the United States that are owned by States, municipalities, or other political subdivision: *Provided*, That the Federal contribution toward the construction of protective works shall not in any case exceed one-third of the total cost: *Provided*

further, That the plan of protection shall be approved by the Beach Erosion Board, organized under the provisions of section 2 of the Rivers and Harbors Act, approved July 3, 1930. As used in this act, the word "shores" includes all the shore lines of the Atlantic and Pacific Oceans, the Gulf of Mexico, the Great Lakes, and estuaries and bays directly connected therewith.

With the following committee amendment:

On page 2, line 4, strike out all of lines 4 to 10, inclusive, and insert the following: "That the plan of protection shall have been specifically adopted and authorized by Congress after investigation and study by the Beach Erosion Board under the provisions of section 2 of the River and Harbor Act approved July 3, 1930, as amended and supplemented.

"SEC. 2. When the Chief of Engineers shall find that any such project has been constructed in accordance with the authorized plans and specifications, he shall cause to be paid to the State, municipality, or political subdivision the amount authorized by Congress.

"SEC. 3. The Chief of Engineers may, in his discretion, from time to time, make payments on such construction as the work progresses, but these payments, including previous payments, if any, shall not be more than the United States pro rata part of the value of the labor and materials which have been actually put into such construction in conformity to said plans and specifications.

"SEC. 4. As used in this act, the word 'shores' includes all the shore lines of the Atlantic and Pacific Oceans, the Gulf of Mexico, the Great Lakes, and estuaries and bays directly connected therewith."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARKETING OF ECONOMIC POISONS AND DEVICES

The Clerk called the bill (H. R. 5645) to regulate the marketing of economic poisons and devices, and for other purposes.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. ALLEN of Illinois, Mr. KEAN, and Mr. SCHWABE of Missouri objected.

UNITED STATES MERCHANT MARINE ACADEMY

The Clerk called the bill (H. R. 1751) to authorize the course of instruction at the United States Merchant Marine Academy to be given to not exceeding 20 persons at a time from the American Republics, other than the United States.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Chairman of the United States Maritime Commission is hereby authorized to permit, upon designation of the President of the United States, not exceeding 20 persons at a time from the American Republics (other than the United States) to receive instruction in the United States Merchant Marine Cadet Corps and at the United States Merchant Marine Academy at Kings Point, N. Y. Not more than three persons from any of such republics shall receive instruction under authority of this act at the same time. The persons receiving instruction under authority of this act shall receive the same pay, allowances, and emoluments, to be paid from the same appropriations, and, subject to such exceptions as may be determined by the Chairman of the United States Maritime Commission, shall be subject to the same rules and regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation as cadet-midshipmen at the Merchant Marine Academy appointed from the United States; but such persons shall not be entitled to appointment to any office or position in the United States merchant marine by reason of their graduation from the Merchant Marine Academy.

With the following committee amendment:

At the end of the bill insert the following:

"SEC. 2. In conformity with the Executive order of February 7, 1942, No. 9054 (7 F. R. 837), the authority conferred upon the Chairman of the United States Maritime Commission by this act shall be vested in and exercised by the Administrator of the War Shipping Administration."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RELIEVING LIABILITY FOR ACTS DONE OR OMITTED UNDER SELECTIVE SERVICE REGULATIONS

The Clerk called the bill (H. R. 6035) to provide that there shall be no liability for acts done or omitted in accordance with regulations of the Director of Selective Service, and for other purposes.

Mr. TRIMBLE. Mr. Speaker, I understand that a rule has been granted on this bill; therefore, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

EXTENDING BENEFITS OF EMERGENCY OFFICERS' RETIREMENT ACT OF MAY 24, 1928

The Clerk called the bill (H. R. 2325) to extend the benefits of the Emergency Officers' Retirement Act of May 24, 1928, to officers honorably discharged from the Army under Public, No. 259, Sixty-seventh Congress, June 30, 1922.

Mr. COLE of New York. Mr. Speaker, in view of the fact that the War Department has expressed opposition to this bill, I ask that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

OFFICE OF NAVAL RESEARCH, NAVY DEPARTMENT

The Clerk called the bill (H. R. 5911) to establish an Office of Naval Research in the Department of the Navy; to plan, foster, and encourage scientific research in recognition of its paramount importance as related to the maintenance of future naval power, and the preservation of national security; to provide within the Department of the Navy a single office, which, by contract and otherwise, shall be able to obtain, coordinate, and make available to all bureaus and activities of the Department of the Navy, world-wide scientific information and the necessary services for conducting specialized and imaginative research; to establish a Naval Research Advisory Committee consisting of persons preeminent in the fields of science and research, to consult with and advise the Chief of such Office in matters pertaining to research.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That there is hereby created and established in the Office of the Secretary of the Navy an Office of Naval Research, which shall be charged with such duties relating to (1) the encouragement, promotion, planning, initiation, coordination, and control of all naval research; (2) the conduct of naval research in augmentation of and in conjunction with the research and development conducted by the respective bureaus and other agencies and offices of the Navy Department; and (3) the supervision, administration, and control of activities within or on behalf of the Department of the Navy relating to patents, inventions, trade-marks, copyrights, royalty payments, and matters connected therewith; as may be prescribed by the Secretary of the Navy. All of the duties of this Office shall be performed under the authority of the Secretary of the Navy and its orders shall be considered as emanating from him and shall have full force and effect as such.

SEC. 2. At the head of the Office of Naval Research there shall be a Chief of Naval Research, appointed by the President, by and with the advice and consent of the Senate, for a term of not to exceed 3 years, from among officers not below the grade of commander on the active list of the Navy. The Chief of Naval Research shall, in addition, report to the Chief of Naval Operations, and shall have the same rank and shall be entitled to the same pay, allowances, and privileges of retirement as are now or may hereafter be prescribed by or in pursuance of law for chiefs of bureaus in the Navy Department.

SEC. 3. An officer on the active list of the Navy may be detailed as Assistant Chief of Naval Research, and such officer shall receive the highest pay of his grade and in case of the death, resignation, absence, or sickness of the Chief of Naval Research, shall, until otherwise directed by the President as provided in Revised Statutes, section 179 (U. S. C., title 5, sec. 6), perform the duties of such chief until his successor is appointed or such absence or sickness shall cease.

SEC. 4. The Secretary of the Navy is hereby authorized to establish a Naval Research Advisory Committee, which shall consist of not exceeding 15 persons to be appointed by the Secretary from those persons in civilian life who are preeminent in the fields of science, research, and development work. One member of such committee will be from the field of medicine. The members of such committee shall serve for such term or terms as the Secretary may specify, and shall meet at such times as may be specified by the Secretary to consult with and advise the Chief of Naval Operations and the Chief of the Office of Naval Research. Each member of such committee shall be entitled to compensation in the amount of $50 for each day or part of a day he shall be in attendance at any regularly called meeting of the committee, together with reimbursement for all travel expenses incident to such attendance: *Provided*, That nothing contained in sections 41, 109, and 113 of the Criminal Code (U. S. C., title 18, secs. 93, 198, and 203); in Revised Statutes, section 190 (U. S. C., title 5, sec. 99); in section 19 (e) of the Contract

Settlement Act of 1944 (Public Law 395, Seventy-eighth Congress); or in any other provision of Federal law imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with any claim proceeding, or matter involving the United States, shall apply to such persons solely by reason of their appointment to and membership on such committee.

SEC. 5. There is hereby authorized to be appropriated such amounts as may be necessary for the Office of Naval Research to carry out its functions as provided for herein, including such sums as may be required for administrative expenses, and the conduct of research and development work in Government facilities and under contracts with private individuals, corporations, and educational or scientific institutions. Sufficient information relative to estimates of appropriations for research by the several bureaus and offices shall be furnished to the Chief of the Office of Naval Research to assist him in coordinating the Navy research program and the carrying out of such other duties as outlined in section 1.

SEC. 6. Within the limits of available appropriations, the Secretary of the Navy, and, by direction of the Secretary, the Chief of the Office of Naval Research and the chiefs of all bureaus of the Navy Department (acting through and under the Chief of Naval Research), may enter into contracts, or amendments or modifications of contracts, for services and materials necessary for the making and securing of reports, tests, models, apparatus, and for the conducting of research, without performance or other bonds, and without regard to section 3709 of the Revised Statutes (U. S. C., title 41, sec. 5), section 3718 of the Revised Statutes (U. S. C., title 34, sec. 561), section 3719 of the Revised Statutes (U. S. C., title 34, sec. 562), section 3720 of the Revised Statutes (U. S. C., title 34, sec. 563), section 3722 of the Revised Statutes (U. S. C., title 34, sec. 572), and may make advance, progress, and other payments with respect to such contracts without regard to the provisions of section 3648 of the Revised Statutes (U. S. C., title 31, sec. 529): *Provided*, That nothing herein shall be construed to authorize the use of the cost-plus-a-percentage-of-cost system of contracting.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

INTERCHANGE OF PROPERTY BETWEEN ARMY, NAVY, AND COAST GUARD

The Clerk called the bill (H. R. 6057) to amend the act of July 11, 1919 (41 Stat. 132), relating to the interchange of property between the Army and the Navy, so as to include the Coast Guard within its provisions.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the provision contained in the act of July 11, 1919 (41 Stat. 132; U. S. C., title 10, sec. 1274), relating to the interchange of property between the Army and the Navy, is hereby amended to read as follows:

"The interchange, without compensation therefor, of military stores, supplies, and equipment of every character, including real estate owned by the Government, is hereby authorized between the Army, Navy, and Coast Guard upon the request of the head of one service and with the approval of the head of the other service."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BENEFITS TO ENLISTED PERSONNEL IN LIEU OF ACCUMULATED LEAVE

The Clerk called the bill (H. R. 4051) to grant to enlisted personnel of the armed forces certain benefits in lieu of accumulated leave.

Mr. COLE of New York. Mr. Speaker, this bill carries an authorization for a substantial sum of money. Therefore, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

UNITED STATES COAST GUARD LIFEBOAT STATIONS

The Clerk called the bill (H. R. 5219) to authorize the Commandant of the United States Coast Guard to accept enlistments of certain individuals for duty at lifeboat stations during the year 1946.

Mr. COLE of New York. Mr. Speaker, the cost of this measure is upward of $2,000,000. Therefore, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

AMERICAN LEGION CONVENTION

The Clerk called the bill (H. R. 6343) to authorize the Secretary of War to lend War Department equipment for use at the twenty-eighth annual national convention of the American Legion.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized to lend, at his discretion, to the twenty-eighth national convention of the American Legion, for use at the twenty-eighth national convention to be held at San Francisco, Calif., in the months of September and October 1946, unoccupied barracks, cots, blankets, pillows, mattresses, and bed sacks: *Provided*, That no expense shall be caused the United States Government by the delivery and return of said property, the same to be delivered at such time prior to the holding of the said convention as may be agreed upon by the Secretary of War and the American Legion through its national convention committee: *Provided further*, That the Secretary of War before delivering said property shall take from the American Legion a good and sufficient bond for the safe return of said property in good order and condition and the whole without expense to the United States.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONFEDERATED SALISH AND KOOTENAI TRIBES

The Clerk called the bill (H. R. 3843) to provide for the disposition of tribal funds of the Confederated Salish and Kootenai Tribes of Indians of the Flathead Reservation in Montana.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That notwithstanding any other provision of existing law, the tribal funds now on deposit or hereafter placed to the credit of the Confederated Salish and Kootenai Tribes of Indians of the Flathead Reservation in Montana, in the United States Treasury, shall be available for such purposes as may be designated by the tribal council of said tribe and approved by the Secretary of the Interior.

With the following committee amendment:

Page 2, line 1, insert "*Provided*, That any expenditures so designated and approved shall be in accordance with the provisions of the tribal constitution and charter.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DEVILS LAKE INDIAN RESERVATION

The Clerk called the bill (H. R. 4315) to confer jurisdiction on the State of North Dakota over offenses committed by or against Indians on the Devils Lake Indian Reservation.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

Mr. MADDEN. Mr. Speaker, I ask unanimous consent to substitute the Senate bill (S. 1305) to confer jurisdiction on the State of North Dakota over offenses committed by or against Indians on the Devils Lake Indian Reservation, an identical bill.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There being no objection, the Clerk read the Senate bill, as follows:

Be it enacted, etc., That jurisdiction is hereby conferred on the State of North Dakota over offenses committed by or against Indians on the Devils Lake Indian Reservation in North Dakota to the same extent as its courts have jurisdiction generally over offenses committed within said State outside of Indian reservations: *Provided, however*, That nothing herein contained shall deprive the courts of the United States of jurisdiction over offenses defined by the laws of the United States committed by or against Indians on said reservation, nor shall anything herein contained deprive any Indian of any protection afforded by Federal law, contract, or treaty against the taxation or alienation of any restricted property.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H. R. 4315) was laid on the table.

FORT BERTHOLD RESERVATION

The Clerk called the bill (H. R. 1095) for the relief of the Indians of the Fort Berthold Reservation in North Dakota.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $400,000 in full and final settlement of all claims and demands of the Indians of the Fort Berthold Indian Reservation in North Dakota, composed of the Arickarees, Gros Ventres, and Mandans, which claims are based upon stipulations of an unratified treaty dated July 27, 1866 (Kappler's Laws and Treaties, vol. 2, p. 1052):

Provided, That the amount when appropriated shall be deposited in the Treasury of the United States to the credit of the Indians of the Fort Berthold Reservation and shall draw interest in accordance with existing laws: *Provided further*, That not to exceed 5 percent of the amount herein authorized may be used by the Secretary of the Interior for payment of fees and expenses of attorneys employed under contract approved in accordance with existing law.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL SERVICE LIFE INSURANCE ACT OF 1940

The Clerk called the bill (H. R. 6371) to amend certain provisions of the National Service Life Insurance Act of 1940, as amended, and for other purposes.

Mr. COLE of New York. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

CONFEDERATED SALISH AND KOOTENAI TRIBES

The Clerk called the bill (H. R. 2678) conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and render judgment in any and all claims which the Confederated Salish and Kootenai Tribes of Indians of the Flathead Reservation in Montana, or any tribe or band thereof, may have against the United States, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That jurisdiction is hereby conferred upon the Court of Claims, with the right of appeal by either party to the Supreme Court of the United States, to hear, examine, adjudicate, and render judgment in any and all legal and equitable claims of whatsoever nature which the Confederated Salish and Kootenai Tribes of Indians of the Flathead Reservation of Montana, or any tribe or band thereof, may have against the United States, including, but not limiting the generality of the foregoing, claims arising under or growing out of the treaty of July 16, 1855 (12 Stat. 975; 2 Kappler 722), or any subsequent treaty or agreement, act of Congress, or Executive order, or by reason of any lands taken from said Indians by acts of Congress or otherwise, including lands lost to them by erroneous surveys, or lands opened to settlement, or used for dam, power, and reservoir sites and irrigation projects, or loss of lands by submergence by erection of reservoirs, without compensation and without their consent given in the usual manner, or for the failure or refusal of the United States to protect the interests of any of said Indians in lands as to which they had or claimed possessory right of use and occupancy, or because of any mismanagement or wrongful handling of any of the funds, lands, properties, or business enterprises belonging to or held in trust for said Indians.

SEC. 2. That suit or suits under this act may be instituted by the Confederated Salish and Kootenai Tribes of Indians, or any tribe or band thereof, either separately or jointly, as party or parties plaintiff, against the United States as party defendant, by filing within 5 years after the approval of this act a petition or petitions in the Court of Claims and serving with respect to each suit a copy thereof on the Attorney General of the United States, who, either in person or by some attorney from the Department of Justice to be designated by him, shall appear and defend the interests of the United States. Such petition or petitions shall set forth the facts upon which the claim or claims for recovery is or are based and shall be verified by the attorney or attorneys employed by said Indians, under contract approved in accordance with existing law, to prosecute said claims, which may be made upon information and belief, and no other verification shall be necessary. The petition or petitions shall be subject to amendment at any time prior to final submission of the case to the Court of Claims. Such petition or petitions may, in addition to alleging specific claims, demand a general accounting of all funds and property expended or used by the United States for the account of said Indians, in which event the General Accounting Office shall within a reasonable time from date of filing said petition or petitions make a complete audit of said accounts, and, in addition to the usual copies furnished the Attorney General, shall furnish a copy thereof to the attorney or attorneys for said Indians; and the court, after full hearing, shall state the account and render judgment in accordance therewith.

SEC. 3. That at the trial of any suit instituted hereunder the court shall apply as respects the United States the same principles of law as would be applied to an ordinary fiduciary and shall settle and determine the rights therein, both legal and equitable, of said Indians against the United States, notwithstanding lapse of time or statutes of limitation. In the determination of the validity of any claim asserted or defense interposed hereunder, the court shall have the full power and authority of a court of equity.

SEC. 4. That the court shall have authority by proper orders and process, to make parties to any suit or suits instituted hereunder any other tribe, band, or group of Indians deemed by it necessary or proper to a final determination of the matters in controversy.

SEC. 5. That in any suit instituted hereunder any letter, paper, document, map, or record in the possession of any officer or department of the United States (or certified copies thereof) may be used in evidence, and the departments of the Government of the United States shall give full and free access to the attorney or attorneys for said Indians to such letters, papers, documents, maps, or records as may be useful to said attorney or attorneys in the preparation for trial or trials of such suit or suits.

SEC. 6. That no payment or payments which have been made by the United States upon or in satisfaction of any claim or claims asserted in any suit brought hereunder, or expended for any of the said Indians, shall operate as an estoppel against any suit brought hereunder, but there shall be set off against any recovery obtained by said Indians hereunder any payment made by the United States on any claim asserted by said Indians, together with such gratuity expenditures as are directed to be set off by the act of Congress, approved August 12, 1935 (49 Stat. 596): *Provided*, That no moneys expended for the benefit of said Indians under the Wheeler-Howard Act, approved June 18, 1934 (48 Stat. 984), shall be applicable as set-offs.

SEC. 7. That if the court shall find that any lands formerly belonging to or possessed by said Indians have been appropriated by the United States without compensation therefor or without their consent, or set apart and reserved as national reservations, dam, power, and reservoir sites, and for irrigation projects, or that loss of lands has been occasioned by submergence by the erection of reservoirs, or that lands have been taken for other public uses or otherwise reserved or disposed of in any manner whereby the said Indians have been deprived of the use or benefits of such lands and the natural resources thereof, it is hereby declared that such action shall be sufficient grounds for equitable relief, and the court shall render judgment in favor of said Indians, and shall award to them, as for a taking under the power of eminent domain, just compensation for all such lands, sites, projects, and natural resources.

SEC. 8. That the Attorney General of the United States and the Secretary of the Interior in behalf of the United States, and the attorney or attorneys representing said Indians, shall have authority, with the approval of the tribal council, at any time after the approval of this act to compromise and settle any claim asserted by said Indians.

SEC. 9. That upon the final determination of any suit or suits instituted hereunder, whether by judgment, compromise, or otherwise, the Court of Claims, in the event of judgment for said Indians or, in the event any claim asserted by any of said Indians shall be compromised or settled without the institution of any suit hereunder, the Secretary of the Interior shall determine such fees or compensation to be paid the attorney or attorneys as said court or said Secretary shall find reasonable or equitable, and in addition thereto such actual and necessary expenses as shall have been incurred by the attorney or attorneys in the prosecution of said claims. In no case shall the fees or compensation decreed by said Court of Claims or by the Secretary of the Interior be in excess of the amount stipulated in the contract or contracts approved by the Commissioner of Indian Affairs and the Secretary of the Interior, and in no event to exceed 10 percent of the amount of the recovery, and shall be paid out of any money appropriated by Congress for the benefit of said Indians pursuant to any judgment or settlement hereunder.

SEC. 10. That the amount of any judgment recovered or settlement made for said Indians, less attorneys' fees and expenses, shall be placed to the credit of said Indians in the Treasury of the United States and shall draw interest at the rate of 4 percent per annum from date of judgment or settlement, and shall thereafter be subject to appropriation by Congress and used for the benefit of said Indians, including, but without limitations, the purchase of lands, livestock, farming implements, erection of buildings and improvements, and for productive enterprises, with the approval of the Secretary of the Interior and the consent of said Indians.

With the following committee amendments:

Page 5, lines 14 and 15, strike out the words "without compensation therefor or without their consent"; and on page 5, line 22, after the comma, insert the words "without compensation therefor and without their consent."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on table.

FEDERAL CREDIT UNION ACT

The Clerk called the bill (H. R. 6372) to amend the Federal Credit Union Act.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Federal Credit Union Act, as amended, is hereby further amended as follows: Paragraph (5) of section 7 is amended by adding at the end

thereof the following: "The taking, receiving, reserving, or charging a rate of interest greater than is allowed by this subsection, when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. In case the greater rate of interest has been paid the person by whom it has been paid, or his legal representatives, may recover back, in an action in the nature of an action of debt, the entire amount of interest thus paid from the credit union taking or receiving the same: *Provided*, That such action is commenced within 2 years from the time the usurious transaction occurred."

SEC. 2. Section 9 of such act is amended by adding at the end thereof the following:

"Shares may be issued in joint tenancy with right of survivorship with any person designated by the credit union member, but no joint tenant shall be permitted to vote, obtain loans, or hold office, unless he is within the field of membership and is a qualified member."

SEC. 3. Subsection (c) of section 11 of such act is amended by striking out the clause "fix the amount and character of the surety bond required of any officer having custody of funds" and inserting in lieu thereof the following: "require any officer or employee having custody of or handling funds to give bond with good and sufficient surety in an amount and character to be determined, from time to time, by the board and authorize the payment of the premium or premiums therefor from the funds of the Federal credit union."

SEC. 4. Subsection (d) of section 11 of such act is amended by striking out in the first sentence thereof the following: "(by the treasurer)".

SEC. 5. The fourth sentence of subsection (d) of section 11 of such act is amended to read as follows: "No loan shall be made to any member which shall cause such member to become indebted to the Federal credit union in the aggregate, upon loans made to such member, in excess of $200 or 10 percent of the Federal credit union's paid-in and unimpaired capital and surplus, whichever is greater, or in excess of $300 unless such excess over $300 is adequately secured."

SEC. 6. Subsection (e) of section 11 of such act is amended by adding at the end thereof the following:

"As used in this subsection the term 'passbook' shall include any book, statement of account, or other record approved by the Governor for use by Federal credit unions."

SEC. 7. At the end of such act a new section is added as follows:

"SEC. 22. The provisions of this act shall be extended to and include the Panama Canal Zone."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. MADDEN. Mr. Speaker, that concludes the call of the bills on the Consent Calendar.

COAST GUARD APPROPRIATION ACT, 1947

Mr. LUDLOW. 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. 6428) making appropriations for the Coast Guard, Treasury Department, for the fiscal year ending June 30, 1947, and for other purposes, and pending that motion, Mr. Speaker, I ask unanimous consent that general debate continue for three-quarters of an hour, half of the time to be controlled by the gentleman from New York [Mr. TABER] and the other half by myself.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Indiana [Mr. LUDLOW].

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 H. R. 6428, with Mr. SULLIVAN in the chair.

The Clerk read the title of the bill.

On motion by Mr. LUDLOW, the first reading of the bill was dispensed with.

The CHAIRMAN. The gentleman from Indiana [Mr. LUDLOW] is recognized.

Mr. LUDLOW. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, the Coast Guard is a very old institution. It had its origin in 1790, when the Revenue Cutter Service was established by authority of the First Congress. Since its purpose was to suppress smuggling and to enforce the provisions of the revenue laws, it was placed under the Treasury Department, and there the Coast Guard has always remained. The first commission ever issued to a seagoing officer of the United States was issued by President George Washington on March 21, 1791. The Coast Guard of today is a fusion of four services: the Revenue Cutter Service, the Life Saving Service, the Lighthouse Service, and the Marine Inspection and Navigation Service. The last of these to join the combination was the Marine Inspection and Navigation Service, which became part of the Coast Guard in February 1942.

In peacetime the Coast Guard operates as a branch of the Treasury Department. In wartime it becomes a part of the Navy and is directed by the same authority that conducts the naval operations. On November 1, 1941, slightly more than a month before Pearl Harbor the Coast Guard was transferred from the Treasury Department to the Navy Department. On January 1, 1946, by Executive Order 9966, President Truman transferred the Coast Guard back to the Treasury Department. The bill before you is a reconversion bill and makes provision for the first year of full peacetime operation of the Coast Guard following the war.

AN EXPANDING SERVICE

The estimates for the fiscal year 1947 as they came to us provided for a resumption of the traditional peacetime duties of the Coast Guard such as lifesaving, law enforcement, and so forth, but with a number of additional duties and functions which had developed from the experience of the war. The postwar Coast Guard is a much broadened and enlarged service compared with the prewar Coast Guard and this expansion must be implemented with appropriations very much in excess of prewar appropriations. For instance, the coordinated use of units for air-sea rescue was largely developed and perfected during the war. The specific assignment of small coast patrol boats, airplanes, and communication facilities into task units for instant observation, reporting, and rescue has demonstrated the need of this type of facility for postwar use. One of the greatest contributions to the safety of transoceanic travel by military planes during the war was the assignment of vessels for weather reporting, observation, and assistance. In perpetuation of this program of aid to air navigation the Coast Guard's postwar program provides for the manning by the Coast Guard with Coast Guard personnel of nine weather stations located in the Atlantic and Pacific Oceans.

LORAN, RADAR, RACON, ANRAC

During the war various electronic navigational aids were developed, including loran, radar, racon, anrac, and so forth.

Under directives from the Navy, the Coast Guard was assigned the duty of establishing, maintaining, and operating all loran stations, racon stations, and high-frequency direction-finder networks. These stations proved their value in providing for safe operation of both vessels and aircraft, and contributed a major part to the winning of the war. The value of these aids in assisting the safe movement of men and supplies during wartime indicates the valuable contribution they will make to peacetime navigation. The Coast Guard proposes to continue operation of these aids, relocating and reducing the number in order to decrease operating expenses and improve efficiency.

With the renewal of its peacetime functions, such Coast Guard activities as were either subordinated or discontinued during the war are being resumed on a full-time basis. For instance, the International Ice Patrol, which was discontinued during the war, was restored in March this year, with the assignment of two cruising cutters to the patrol work and two cutters as radar-research vessels.

HEAVY CUTS . . BUDGET ESTIMATES

The added peacetime obligations and responsibilities of the Coast Guard growing out of the war make it inconceivable that future appropriations for the Coast Guard ever again will be as low in dollar volume as they were before the war. Nevertheless, this bill, as presented to you, makes heavy cuts in the amounts the Coast Guard asked for. It is understandable that the Coast Guard, realizing its importance in the public service and wishing to maintain its record of doing an excellent job, should place its sights high. It asked the Budget for a total of $185,198,100. The Budget cut the request $51,298,100 and allowed $133,900,000. Our subcommittee made an additional cut of $19,734,000, and the bill comes before you carrying a total of $114,166,000.

Lest some persons may mistakenly jump to the conclusion that we have cut a national defense agency too sharply, let me say, first of all, that the Coast Guard for which we are appropriating is not a national defense agency in the accepted sense. It is a peacetime agency with only peacetime functions. If unhappily there should be another war, it

would be in shape under the appropriation to be fused immediately into the Navy, just as it was in the last war, but it would be contrary to our appropriation history to treat the Coast Guard in peacetime as anything but a peacetime agency performing peacetime duties.

APPROPRIATION ALLOWED TWO AND A HALF TIMES PREWAR SIZE

In the second place the appropriations we have allowed could not be construed by the wildest stretch of the imagination as crippling the Coast Guard in any respect. In 1940, the last strictly peacetime year, the appropriations for all of the activities that are now combined in the Coast Guard totaled $45,279,858—see page 2 of the report. The appropriation for the Coast Guard which we allow in this bill, $114,166,000, is $68,896,142 more than the combined total for 1940. In other words it is more than two and a half times the appropriation for the last prewar year. That certainly shows we have been liberal with the Coast Guard. We believe the history of the Coast Guard shows that it is a well-organized and efficiently administered service and worthy of the encouragement which we have sincerely sought to extend to it. The wartime appropriations of the Coast Guard for 1946 totaled $359,064,318. This bill is $244,898,318 below that amount.

SEVEN TITLES UNTOUCHED

There are nine appropriation titles in the bill that is before you. Under seven of the title heads we approved the estimates just as they came from the Budget. Under two of the title heads we made reductions. We reduced the estimate for pay and allowances $9,222,000, from $81,222,000 to $72,000,000. The estimate for general expenses we cut $10,512,000, from $40,707,000 to $30,195,000, and provided that in addition to the amount which we allowed, $3,500,000 shall be transferred to the general expenses appropriation from the general supply fund, as we were convinced that the inventories on hand would well justify this transfer.

TOP-HEAVY WITH ADMIRALS

Under the appropriations we allowed for pay and allowances, the Coast Guard strength in 1947 will be far in excess of what it was in the prewar year 1940. In 1940 there were 12,070 enlisted men, 628 commissioned officers, and 693 warrant officers. The Budget allowed for 1947, 19,000 enlisted men, 2,500 commissioned officers, and 1,000 warrant officers. In making our cut below the Budget we did not attempt to indicate how it should be applied as to personnel, but we unhesitatingly called the attention of Coast Guard administrative heads to what appeared to us to be an unwholesome tendency to create a top-heavy surplusage of admirals, commodores, and other high-ranking officers. In 1940 there were 3 admirals and 31 captains for an organization composed of 12,070 men. In 1947 the Budget included provisions for 1 admiral, 17 rear admirals, 15 commodores, and 138 captains for an enlisted force of 19,000 men. We hope and believe that those in charge of administering the Coast Guard will see the wisdom of reducing the number of high-ranking officers.

It will interest the House and the public to know that more than half of the cut c. $9,222,000 we made in the Budget estimate for pay and allowances is made up of two items, both of which are plainly justifiable on their face. The estimate as it came to us included $4,308,308 for mustering-out payments to personnel which will be discharged during the last 60 days of the fiscal year 1946. The Comptroller General advised us that these payments should be made out of 1946 appropriations and as we are appropriating only for the fiscal year 1947 we made the appropriate deduction. Appropriations already made for 1946 are adequate for this purpose. Then we reduced the item for clothing $1,000,000 on learning of large existing stocks of clothing. At the end of December 1945, the inventory of regular uniform clothing was $5,878,763, most of which is still on hand.

CUT IN GENERAL EXPENSES ITEMIZED

The principal items comprising the cut of $10,512,000 in the estimate for general expenses, Coast Guard, are as follows:

The Budget included $1,512,000 for purchases of ordnance from the Navy. Inasmuch as both the Army and the Navy have large stocks of ordnance on hand which has no market value and which in the course of a few years will be worthless, the committee eliminated the amount and made provisions for the transfer of such ordnance as the Coast Guard may require from the Army and Navy, without cost to the Coast Guard.

In addition to the supply account fund inventory there is on hand, in the form of surpluses of wartime purchases, etc., supplies and equipment to the value of at least $21,000,000. This material is distributed through all the Coast Guard stations and its exact volume, nature, and usability are not known to headquarters personnel. Steps should be taken immediately to account for all such property and so to distribute it as to insure the utilization of all that has value. The items in the Budget for outfits, $4,100,000, repairs to vessels, $15,296,500, repairs to aircraft, $1,984,500, communications, $5,000,000; boat building, $500,000, and rebuilding and repairing stations, $2,325,000, all may be partially met by issues from this stock without cost to the appropriation, so the committee made a reduction of $4,500,000 on that account.

There is now in course of transfer from the Navy to the Coast Guard a stock of boat engines and engine parts which was maintained by the Navy at Norfolk, Va., during the war for Coast Guard and similar craft. The exact value of this stock is not known but is estimated to be not less than $1,000,000 and probably more than that. It is all usable equipment and probably will be used within a year. The committee therefore made a reduction of $1,000,000 on this account.

FOR RELIEF OF COMMANDANT

We not only allowed the full estimate of $1,697,500 for salaries of the office of the commandant but we wrote into the bill a provision which we believe will be of material assistance in a reduction of the heavy backlog of accounting work which is giving the commandant and his assistants much concern. This provision permits the commandant to detail to his headquarters such number of enlisted persons as may be approved by the Bureau of the Budget for temporary duty in addition to the 30 permanently authorized.

DIFFICULTIES IN PREPARING BILL

Your subcommittee prepared this bill under most difficult circumstances, after 3 days of hearings beginning on March 19. The metamorphosis of war, introducing radar, loran, the transoceanic weather stations, and so many other new factors, had almost wiped out the old appropriation guideposts. It will necessarily be some time until the Coast Guard becomes shaken down in its new peace environment and its sights become clearer. Definite conclusions as to the size of the Coast Guard in the postwar future must await crystallization of these basic factors to be taken into account in connection with future budgets. We believe we have prepared the best bill possible for this transitory period, and we hope it will meet the approval of the Congress.

By unanimous consent of the House, I present the following table, prepared by the Coast Guard Commandant, Admiral Joseph F. Farley, showing the strength of the Coast Guard at various times:

PERSONNEL STRENGTH OF COAST GUARD AT VARIOUS PERIODS

June 30, 1891: The personnel of the Revenue Cutter Service consisted of 220 commissioned officers and 843 appointed and enlisted men, a total force of 1,063.

June 30, 1914: The personnel of the Life-Saving Service, before its consolidation with the Revenue Cutter Service, as the Coast Guard, consisted of 13 superintendents, 291 keepers, and 1,976[1] surfmen, a total force of 2,280.

The personnel of the Revenue Cutter Service before its consolidation into the Coast Guard totaled 217 commissioned officers, 12 cadets, 351 warrant officers, and 4,132 enlisted men, a total force of 4,712.

June 30, 1916: The Coast Guard, comprising the Revenue Cutter Service and Life-Saving Service, consisted of 223 commissioned officers, 362 warrant officers, and 4,018 enlisted men, a total force of 4,603.

June 30, 1918: World War I strength. 228 commissioned officers, 412 warrant officers, and 5,250 enlisted men, a total force of 5,890.

June 30, 1930: 405 commissioned officers, 863 warrant officers, and 10,762 enlisted men, a total force of 12,030.

June 30, 1941: 714 commissioned officers, 776 warrant officers, and 17,546 enlisted men, a total force of 19,036.

On July 1, 1939, the former Lighthouse Service was consolidated with the Coast Guard, and these figures include the personnel of the Lighthouse Service brought into the military branch of the Coast Guard.

June 30, 1945: 11,256 commissioned officers, 1,637 chief warrant and warrant officers, and 158,224 enlisted personnel, a total force of 171,117.

In addition, the Temporary Reserve—men and women serving on full time, part time and intermittent duty, with or without pay—totaled 53,214, or a combined total of 224,331.

Mr. TABER. Mr. Chairman, I yield myself 5 minutes.

The CHAIRMAN. The gentleman from New York is recognized.

[1] NOTE.—Surfmen at this time were only employed during the periods when the life-saving stations were manned (termed the active season).

Mr. TABER. Mr. Chairman, this bill comes to the House with the unanimous support of the committee. It calls for a cut of $19,734,000 below the Budget estimate. That cut is made up of items which result from an investigation that we caused to be made of the fiscal situation of the country. We found there was property in store that could take care of a very considerable part of the general expenses of the Coast Guard. That investigation was performed by our clerk. It resulted in the saving of appropriations of $10,512,000.

The pay and allowance item we have been able to reduce without impairing in any way any essential function of the Coast Guard. They came before us with a program to provide for 15 admirals as against 3 before the war, with only about 25 or 30 percent increase in enlisted personnel. Their program also called for 8 commodores as against none before the war, and 136 or 137 captains as against about 17 in the period before the war, and a percentage of the higher-up commissioned officers that was comparable to the set-up with reference to admirals, commodores and captains. We found on investigation that they could do with many fewer high-ranking officers and that they, like the Army and the Navy, should get down to earth. That is what we have provided, so that they may get rid of those high-commissioned reserve officers and get down to a real businesslike basis. That we have provided and we have provided amply for every necessary activity. I hope that this bill will go through promptly and without amendment.

Mr. COLE of New York. Mr. Chairman, will the gentleman yield?

Mr. TABER. I yield to the gentleman from New York.

Mr. COLE of New York. In the matter of the Coast Guard, a bill was on the Consent Calendar today, having been approved by the Committee on the Merchant Marine and Fisheries, authorizing the Coast Guard to accept the enlistment of certain individuals for the year 1946. I am wondering if the gentleman can advise us why it is necessary to have legislative authority for the Coast Guard to accept enlistments of the nature covered by that bill?

Mr. TABER. Frankly, I expect the gentleman wants me to tell him just exactly what the picture is. I do not believe there is any question but what the Coast Guard today has the authority to take care of every situation that is covered by that bill.

We held hearings on that bill and went into it very thoroughly. We asked Captain Richmond, who was the witness furnished us by the Coast Guard, if there had been any failure on the part of the Coast Guard to meet its obligations in any way with reference to its life-saving activities and we were advised that there had been no substantial loss of life or property that had resulted from anything of that character. We went into that situation quite carefully.

Of course, the gentleman realizes, as all of us must, that the Coast Guard situation with reference to the life-saving activities along the coast is a little different now than it was 20 years ago because as the boats are all motorized it does not take quite as many men to man them and to operate them effectively and efficiently as it did in the day when they had boats propelled by oars.

Mr. COLE of New York. Can the gentleman explain why the Coast Guard would not make representations to the Appropriations Committee for additional funds if the Coast Guard felt that additional personnel was needed, yet at the same time appear before another committee of the House and urge additional authority to recruit personnel?

Mr. TABER. I have before me a copy of the hearings that were held on that particular subject after the bill had been reported, because we did not want to come out here with a bill which did not provide sufficient men to meet the real requirements of the Coast Guard. I have here the hearings that were held which I think the gentleman will find interesting. I am going to supply him with a copy which I think covers that picture thoroughly.

Mr. COLE of New York. Do I understand that after the Merchant Marine Committee reported this bill out favorably the Coast Guard appeared before the Appropriations Committee and made no request for funds to cover the situation referred to in the bill?

Mr. TABER. That is the situation. I will supply the gentleman with a copy of these hearings. We did not want to take any changes on bringing a bill out here which did not provide for the life-saving activities and I do not think we have.

Mr. Chairman, I reserve the balance of my time.

Mr. LUDLOW. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia [Mr. BLAND].

Mr. BLAND. Mr. Chairman, this is the first time in my experience that the appropriation for the Coast Guard has been handled by a committee dealing specifically with appropriations for the Coast Guard. Heretofore I think it has usually been handled by the Treasury Department. I have no criticism of the procedure.

Mr. TABER. Mr. Chairman, will the gentleman yield?

Mr. BLAND. I yield to the gentleman from New York.

Mr. TABER. This is being handled by the Treasury subcommittee, and the Treasury subcommittee has always heretofore, except during war times, handled the Coast Guard appropriation. Our Treasury bill had been reported and passed the House before the estimates came up from the Budget, and therefore the estimates were referred to the Treasury subcommittee for hearings.

Mr. BLAND. I have no complaint of the procedure which was pursued. I am merely making the statement with reference to the condition in which we find ourselves.

Mr. LUDLOW. Mr. Chairman, will the gentleman yield?

Mr. BLAND. I yield to the gentleman from Indiana.

Mr. LUDLOW. Supporting the statement made by the gentleman from New York, this bill has been handled in exactly the regular way under the Treasury Department.

Mr. BLAND. However, there has been some criticism of the Coast Guard estimates in the report and also in the statement here, and I wish that Members of the House may understand the situation that exists at this time. I wish the House to know that the members of the Committee on the Merchant Marine and Fisheries, charged with Coast Guard litigation, is going to look very carefully into the criticisms which have been made.

I know that the conditions in the Coast Guard are different now from those that have obtained in the past. For many years Admiral Waesche has been Commandant of the Coast Guard. Everyone had come to rely on him. He has now retired. His health is bad. He is now in the naval hospital. I doubt if he will ever be well again; in fact, I should not be surprised to hear of his passing at any time. Heretofore he has given such close attention to all matters pertaining to the Coast Guard and has been so well prepared to justify everything proposed that all of us have become a little careless, perhaps, in our supervision. In addition he has been very ably assisted by Admiral Gorman. The two made a splendid team. But Admiral Gorman's health was bad when the last hearings were held. It became necessary, in the presentation of their estimates to the committee, for new men to represent the Coast Guard. I know Admiral Farley, the present Commandant of the Coast Guard. He is an excellent man, on whom the committee may rely. He wants to do what is economically right and what is for the best interest of the Coast Guard and of the Nation. He does not seek to expand beyond the necessities of the present. He is vigilant, alert, conscientious, and intelligent. I feel that I can say that criticisms of this kind will not come in the future. Those in charge of the Coast Guard will see to that. Furthermore, the Committee on the Merchant Marine and Fisheries will endeavor to ascertain the grounds for the present criticisms and how far they may be justified. There has been a new man handling the matter before the committee. I say "new," because I do not think he has the experience of the men appearing in the past. I know him. He has been before our committee, and he is a well-qualified man. I doubt that he knows all of the breadth, scope, and intricacies of committee investigation in matters of this kind. I do not complain of those hearings. I think they show how well the Committee on Appropriations is discharging its duty. However, I felt that the record of the Coast Guard demanded that I should make this statement in their defense.

As to the bill which is on the Consent Calendar today, it is true that hearings were held before the Committee on the Merchant Marine and Fisheries. I am gratified to know that no additional authority is needed for temporary enlistments. There may be considerable temporary enlargement required in enlistments. It seemed to us that this was

here to provide for surfmen particularly charged with the saving of life along the coast, particularly the Great Lakes and the New England States. The bill was introduced by the distinguished gentleman from New Jersey [Mr. AUCHINCLOSS] and fully justified by needs clearly pointed out to us, existing along the Atlantic, Gulf, and Pacific coasts, and on the Great Lakes. It was obvious that enlistments for the next year would not take care of the danger. The purpose of the Auchincloss bill is to authorize the Commandant of the Coast Guard to enlist not more than 2,000 persons with previous Coast Guard service for duty at lifeboat stations within the continental limits of the United States. The Committee on the Merchant Marine and Fisheries said:

Because of the requirements of the demobilization program, plus the fact that the Coast Guard has been assigned a large number of additional duties, a serious shortage of personnel has developed. As a result, it is presently impossible to assign a sufficient number of men adequately to man lifeboat stations on the coasts or on the Great Lakes. This condition is probably temporary in nature and will be alleviated to a large extent as soon as men now assigned to Navy duty can be released.

To provide sufficient manpower during this period, this bill would permit service for the specified purpose for the short period involved, with the provision that all such enlistments shall expire on December 31, 1946.

Under the provisions of this bill, enlistments are authorized in the grade held at the time of discharge or extension of enlistment. Veterans' rights, preferences, and benefits are expressly safeguarded and an extension of time for invoking them equal to the period of enlistment under this bill is also provided.

Then say:

The committee is of the opinion that the Auchincloss bill will go far to mitigate the existing dangerous situation and will provide adequate lifesaving protection until the beginning of the next calendar year, at which time it is hoped that the Coast Guard will be in a position to operate on a normal basis.

Subsequent to appearing before the committee and prior to the publication of the committee's report the Coast Guard recomputed the number of officers necessary and, in order to carry the maximum number of enlisted men, arbitrarily reduced the number of officers required for the fiscal year 1947. On May 10 it was announced to the service and the public that as of July 1 the officer strength would be reduced to 2,500 officers for regular duty and 467 for Bureau of Marine Inspection and Navigation functions. The distribution of the high ranks is as follows:

Rank	Percentage	Number	Extra numbers for former BMIN
Flag	1	25	1
Captain	4	100	8
Commander	8	200	18

It will be noted from the above the Coast Guard has already indicated a material reduction in the number of senior officers to be carried in 1947.

With respect to the duties of officers of high rank, the Coast Guard has for years maintained that certain key positions in the service should be filled by senior officers of flag rank. Thus it was considered that each district, of which there are fourteen, should be commanded by an officer of such rank. Further, the chiefs of offices at headquarters similarly should be flag officers. Counting the commandant, assistant commandant, and engineer in chief, which hold flag rank by virtue of statutory authority, there are eight such positions in the Department.

In this connection it is interesting and very informative to read an editorial which appeared in the Evening Star of Washington, D. C., in its issue of May 16, 1946, entitled "Peacetime Coast Guard," and which reads as follows:

The difficulty which the House Appropriations Committee said it encountered in seeking to reduce Coast Guard appropriations to somewhere near their prewar level is understandable in view of the postwar responsibilities which the Treasury's "navy" must assume. In the future, largely as a result of wartime developments in electronics, meteorology, and air-sea rescue work, the Coast Guard will be called upon to operate in much wider fields than before the war.

The series of loran stations established along the coast to guide American combat and cargo ships during the war is to be retained and expanded by the Coast Guard as a peacetime service to ships of all nations. Loran, a word derived from "long-range navigation," is an electronic device enabling ships at sea to determine quickly their exact position, regardless of fog or darkness. These "invisible lighthouses" should be a tremendous boon to mariners, particularly in the North Atlantic, where visibility is often limited by fog and rain. The Coast Guard also will maintain floating weather stations in the Atlantic and Pacific for the benefit not only of surface vessels but of aircraft. The air-sea rescue organization which proved of so much value during U-boat attacks on Allied shipping off the east coast is to be continued under Coast Guard auspices as another Government contribution to the safety of those who cross the ocean by ship or plane.

Against this background of service the $19,734,000 cut made in the Budget estimate of $133,900,000 appears to be a substantial one. Nearly half of this reduction is to be applied to personnel, especially in the high-ranking brackets. Even so, the Coast Guard will have 7,000 more men than in 1940, when the total strength was 12,000 men. The investment made in these additional men should pay big dividends in increased safety at sea—tangible dividends in lives and property saved.

The Auchincloss bill is to be heard on its merits later, in all probability. Objection has been made now to its consideration on the Consent Calendar.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. LUDLOW. Mr. Chairman, I yield two additional minutes to the gentleman from Virginia.

Mr. AUCHINCLOSS. Mr. Chairman, will the gentleman yield?

Mr. BLAND. I yield to the gentleman from New Jersey.

Mr. AUCHINCLOSS. The gentleman has spoken about the bill that was on the Consent Calendar today which I introduced. I have just had an opportunity of reading the hearings held by the Appropriations Subcommittee on this matter. From this testimony it is quite evident that the Coast Guard believes that during the summer season it will not be able to man these lifesaving stations in the way it would like to; that the redeployment of their personnel makes it almost impossible for it to do so.

Mr. BLAND. They are used in troop movements, bringing the troops back, and in other movements incident to the war that take away from the stations along the coast men who have been relied upon for protection by our fishermen and those who are employed in the waters there, as well as by the passenger service on the Great Lakes.

Mr. AUCHINCLOSS. I fail to understand how the committee can be satisfied that there will be sufficient funds and personnel without this measure.

Mr. BLAND. I am going to have no quarrel with the Committee on Appropriations now. We will have our day in court later. If we can then convince the House that we are right, I hope the necessary funds will be accorded.

The CHAIRMAN. There being no further requests for time, the Clerk will read the bill for amendment.

The Clerk read as follows:

Acquisition of vessels and shore facilities: For the purchase or construction of additional and replacement vessels and their equipment, and the construction, rebuilding, or extension of shore facilities, including the acquisition of sites and improvements thereon when specifically approved by the Secretary, and rental of shore facilities for temporary use, $1,325,000, of which amount not to exceed 4 percent shall be available for administrative expenses in connection therewith, including personal services at the seat of government.

Mr. BLAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BLAND: On page 8, line 7, strike out "$1,325,000" and insert in lieu thereof "$1,375,000."

Mr. LUDLOW. Mr. Chairman, will the gentleman from Virginia yield?

Mr. BLAND. I yield to the gentleman from Indiana.

Mr. LUDLOW. The Coast Guard has no better friend than the gentleman from Virginia [Mr. BLAND]. Our committee has the utmost confidence in his comprehensive knowledge of the requirements of the Coast Guard. I am pleased to say that the committee will accept the amendment.

Mr. BLAND. I have no desire to take the time of the committee. I will simply say that the purpose is to provide funds for the construction of additions to the present engineering building at the Coast Guard Academy.

Mr. LUDLOW. As I understand, the boiler has been purchased, and there is no covering to house the boiler.

Mr. BLAND. That is true. The matter was investigated by the Board of Visitors at its recent meeting at the Coast Guard Academy. It was unanimously approved.

The purpose of this amendment is to appropriate funds for the construction of an addition to the present engineering building at the Coast Guard Academy. This additional space is required to house a complete fireroom and boiler installation for instruction of cadets in marine engineering. In addition to furnishing

facilities for classroom study and experimental work, the equipment will be used as a stand-by unit in case of failure of the New London electrical system which at the present supplies the Academy. All of the necessary equipment has been secured from the Navy and is on hand. The boiler is in place and is covered by a temporary structure of frame and canvas. The Coast Guard allocated funds for the construction of this addition from available balances during the fiscal year 1946, but due to the drastic reduction in the construction program subsequent to VJ-day, the funds for this purpose, along with other balances, were rescinded.

First. The present boiler in the engineering laboratory at the Coast Guard Academy was installed in 1933; the boiler being a small water tube boiler removed from the old cutter *Itasca* when that vessel was decommissioned. This boiler is very old and of an obsolete design, being of little value for cadet training and experimental work in view of present modern design installations aboard ships. This boiler serves the laboratory with steam for performing experiments in steam, mechanical and electrical engineering. The capacity of the boiler is limited and furnishes very low-pressure saturated steam.

Second. The Coast Guard Academy has long recognized these limitations and has desired to bring the engineering laboratory up to date with modern marine practice in regards to the type boiler and associated equipment installed. With a more modern plant installation of greater capacity, it is planned to utilize a turbo-generator unit which would, in addition to furnishing facilities for classroom study and experimental work, be used as a stand-by unit in case of failure of the New London electrical system which at present supplies the Academy.

Third. With the Academy desires in mind, Coast Guard headquarters prepared a letter to the Chief, Bureau of Ships, code 809, dated June 29, 1944, file ENE-13, requesting modern destroyer escort equipment which had become available due to the cut-back in the DE program. This equipment was requested under the terms of amendment 1, property disposition directive No. 1, issued by the Secretary of the Navy, May 23, 1944, file PM 600 LLS: jf. The request was approved by Bureau of Ships letter, August 9, 1944, file DE (TE) 558.

Fourth. The major components of the equipment desired by the Academy and subsequently shipped included:

(a) DE boiler and associated auxiliaries including pumps, fuel-oil heaters, and so forth.

(b) DE auxiliary turbo-generator.

(c) DE auxiliary condenser.

(d) DE ship's service switchboard.

(e) DE evaporator of the two-effect solo-shell type.

With the acquisition of this additional equipment, it became obvious that greater space must be allotted for the improved installation. Therefore, funds in the amount of $50,000 were allocated to the Academy on January 3, 1945, for the construction of an addition to the engineering laboratory. This addition contemplated a building 30 by 46 feet of reinforced concrete and brick, attached to the present engineering building, of architecture to harmonize with the present building. There will be only one room to the building, so constructed and equipped to resemble the engineroom of a ship. This allocation of funds was canceled on September 15, 1945, due to the rescission of funds subsequent to VJ-day.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia.

The amendment was agreed to.

The Clerk concluded the reading of the bill.

Mr. LUDLOW. Mr. Chairman, I move that the Committee do now rise, and report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SULLIVAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H. R. 6428), making appropriations for the Coast Guard, Treasury Department, for the fiscal year ending June 30, 1947, and for other purposes, had directed him to report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill as amended do pass.

Mr. LUDLOW. Mr. Speaker, I move the previous question on the bill and the amendment thereto to final passage.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

EXTENSION OF REMARKS

Mr. McCORMACK asked and was given permission to extend his remarks in the RECORD and include an article on Commodore John Barry.

Mr. BLAND asked and was given permission to revise and extend the remarks he made in committee today and include an editorial from the Washington Star.

Mr. BREHM asked and was given permission to extend his remarks in the RECORD and include an editorial from the Washington News.

Mr. BYRNES of Wisconsin asked and was given permission to extend his remarks in the RECORD and include an article from the National Hardwood News.

AMENDING TITLE 28 OF UNITED STATES CODE

Mr. SMITH of Virginia. Mr. Speaker, I call up House Resolution 394 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

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 the bill (H. R. 2788) to amend title 28 of the United States Code in regard to the limitations of certain actions, and for other purposes. 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 the ranking minority member of the Committee on the Judiciary, 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 back to the House with such amendments as shall 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. SMITH of Virginia. Mr. Speaker, I have no requests for time on this side. I yield 30 minutes to the gentleman from Michigan [Mr. MICHENER].

Mr. MICHENER. Mr. Speaker, this rule makes in order the bill H. R. 2788. The committee report on the bill is exceptionally clear and complete. The report from the committee is not unanimous. Joint minority views have been filed by the gentleman from Ohio [Mr. FEIGHAN] and the gentleman from Massachusetts [Mr. LANE]. Further views have been filed by the gentleman from Tennessee [Mr. KEFAUVER]. Still another view has been filed by the gentleman from Pennsylvania [Mr. WALTER]. Of course, the majority report of the committee advocates the passage of the bill in the form in which it has been reported. The minority report of the gentleman from Ohio [Mr. FEIGHAN] and the gentleman from Massachusetts [Mr. LANE] concludes with these words:

It would be more appropriate to consider the question of a limitation period for that act in the context of those amendments than to legislate in the blunderbuss manner proposed in this bill.

This reference is to amendments included in bills, the purpose of which are to perfect the wage and hour law. Those bills have been before the Labor Committee for a long, long time. There may be hopes that the Labor Committee will act, but there are no prospects. If this is desirable legislation, why, then, should we defeat it because some other committee might, at some future time, take like action?

The minority views filed by the gentleman from Tennessee [Mr. KEFAUVER] state:

I have no objection to a general statute of limitations applicable to some of the statutes covered in this bill. The statute should, however, be longer than 1 year and several of the actions included under the wide scope of this legislation should be excluded.

The minority views filed by the gentleman from Pennsylvania [Mr. WALTER], who always states his position in a clear, precise, and fearless manner, conclude:

It is my opinion that the bill as reported by the majority of the committee is too broad and far-reaching and will bring about results which were never in the contemplation of the committee.

I speak of these minority views for one purpose, that is, to indicate that this bill should be brought before the House for consideration. This is not a new bill. It is a bill that each and every Member of Congress, who pays any attention to bills, is familiar with. It was introduced in the House on March 27, 1945. Extensive hearings were held. It was reported on October 22, 1945. A rule was granted on November 8, 1945. Therefore, this is one bill where it cannot be truthfully said that haste is an element in its consideration. It has been thoroughly considered.

The rule is an open rule and makes it possible to offer any amendments desired by any Member of the House to perfect the bill. Under these circumstances, it would seem that orderly procedure in the House suggests and demands that this important matter be brought before the House. Those who have different views may express those views in the 2 hours' general debate, at the conclusion of which amendments will be in order.

Mr. ROBSION of Kentucky. Mr. Speaker, will the gentleman yield?

Mr. MICHENER. I yield.

Mr. ROBSION of Kentucky. Of course, the report shows that a majority of the committee was in favor of certain limitations on those cases. Is that right?

Mr. MICHENER. That is correct. The real controversy, I think, is as to the length of the limitation—1, 2, or 3 years. Under existing law, here is a particular type of case where there is no Federal limitation. In other words, it is conceivable that under existing law a suit might be brought 50 years from now. Now, that is not fair and should not be allowed. The country does not want it, and I am sure the House does not want it.

Mr. ROBSION of Kentucky. What I was leading up to, a majority of the committee reported a bill with a certain limitation. As I understand your reference to these minority views, submitted by various members of the Committee on the Judiciary, they also indicate that there should be a limitation on those actions fixed by law?

Mr. MICHENER. I think the gentleman is correct.

Mr. ROBSION of Kentucky. But now there is no limitation at all?

Mr. MICHENER. There is no Federal limitation.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include some excerpts from the committee report.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. MICHENER. And may I suggest to the Members of the House again, that they read the report filed by the committee, because it is a worth-while document; it is clear and will answer your questions. Including the minority views, it presents to the House a picture of the whole matter in a way that is seldom presented by committee reports. This bill is technical. No speech here can give the condensed information the reports contain. That report reads in part:

GENERAL STATEMENT

The bill would affect only causes of action for the recovery of wages, penalties, or other damages pursuant to any law of the United States, and for which a specific statute of limitation is not provided.

It would affect the following causes of action:

1. Suits for treble damages based on infringement of a registered trade-mark (15 U. S. C., sec. 96).
2. Suits based on infringement of copyright (17 U. S. C., sec. 25).
3. Actions for treble damages against persons importing goods into the United States and selling the same systematically at less than the market value with intent to injure an industry in the United States or to create a monopoly (15 U. S. C., sec. 72).
4. Suits for treble damages and costs including attorney fees for violation of the antitrust laws (15 U. S. C., sec. 15).
5. Actions for damages for violation of the so-called Civil Rights Statutes (8 U. S. C., sec. 43).
6. Suits for double the amount involved plus costs and attorney fees for violation of sections of the Fair Labor Standards Act relating to minimum pay and maximum hours (29 U. S. C., sec. 216).
7. Suits for wages due merchant seamen, plus penalties (46 U. S. C., sec. 596).
8. Actions by the United States to recover penalties for failure to comply with certain provisions of the Packers and Stockyards Act of 1921 (7 U. S. C., sec. 207).
9. Actions by the United States to recover penalties based on failure to file certain statements with the Federal Trade Commission (15 U. S. C., sec. 65).
10. Suits against directors of national banking associations for knowingly violating certain banking laws (12 U. S. C., sec. 93).
11. Suits by the United States to recover penalties for failure to file certain information, documents, or reports under the Securities Exchange Act of 1938 (15 U. S. C., sec. 78 ff.).
12. Suits to recover treble the amount of illegal fees knowingly collected by any consular officer (22 U. S. C., sec. 92).
13. Suits by the United States for liquidated damages based on failure of any contractor to comply with terms of contract as to wages, hours, etc. (41 U. S. C., sec. 36).
14. Suits by the United States for fixed amounts of damage under the Contract Settlement Act of 1944 (41 U. S. C., supp. IV, sec. 107 (d)).
15. Suits to recover penalties against registers of public lands for giving false information in regard to registering of land (43 U. S. C., sec. 107).
16. Suit by the United States to recover penalty of $1,000 per day from common carriers by water for failure to file with the United States Maritime Commission copies of certain agreements with other carriers (46 U. S. C., sec. 814).
17. Suit for treble damages against certain carriers by water who discriminate against other carriers (46 U. S. C., sec. 1227).
18. Suits against common carriers subject to the provisions of chapter 1 of title 49, United States Code, for violation of provisions of said chapter (title 49, sec. 8).
19. Suits brought by the United States against persons who defraud the Government in connection with the disposal of surplus property (Surplus Property Act of 1944, sec. 26).

An examination of these statutes will show that they create causes of action for the recovery of unusual damages or penalties. They were written principally as aids to law enforcement. They are in a sense quasi-criminal in their nature, rather than provisions for the recovery of ordinary damage.

In similar situations, the Congress has often enacted specific statutes of limitation providing a short period of time for the bringing of the action. For example, penalties are provided in the price-control law, but action must begun within 1 year. Many other cases could be cited.

The fact that the statutes before enumerated do not have a specific limitation does not mean that no limitation will be enforced by the courts. On the contrary, the applicable statute of limitation fixed by the State will govern. This is in accordance with title 28, United States Code, section 725, which provides as follows:

"LAWS OF STATES AS RULES OF DECISION

"The laws of the several States, except where the Constitution, treaties, or statutes of the United States otherwise require or provide, shall be regarded as rules of decision in trials at common law, in the courts of the United States, in cases where they apply."

The difficulty is that there is often uncertainty in determining what particular State statute is applicable.

EXPLANATION OF THE BILL

H. R. 2788 would remedy the present situation by:

(1) Requiring that all causes of action accruing after the enactment of the law be commenced within 1 year.

(2) Requiring that all causes of action which had accrued prior to the law's enactment and which had not already become barred by any applicable statute of limitation be commenced within 6 months after such enactment.

(3) Providing protection to all persons who had in good faith relied upon any regulation, order, or administrative practice, notwithstanding the fact that such regulation, order, or practice may have been later amended or rescinded, or declared to be of no legal effect.

In the case of causes of action accruing after the enactment of the law, the statute of limitations would begin to run immediately and such causes of action would be barred at the end of 1 year.

There will, of course, be some causes of action which have already accrued the day the law becomes effective. Such actions must be commenced within 6 months after the date of such enactment. There is, however, to this an important limitation covering those actions which may have already been barred by some applicable statute or court decision prior to the effective date of the act. In other words, actions already barred under any applicable law are not affected. They will remain barred and the 6-month provision does not apply to them.

The second provision in the bill protects those who, in good faith, have relied on any regulation, order, or administrative interpretation or practice in the event there is a change in that regulation, order, interpretation, or practice, brought about either by the administrative body or the courts. Of course, all administrative bodies are required to interpret and administer laws in accordance with the intent of Congress, and courts in reviewing these acts will be guided by that principle. But there are many instances

when two or more interpretations are permissible or one of several practices discretionary with the enforcing agency.

NEED FOR THIS LEGISLATION

It has long been the policy of the law to require the litigation of disputes within a reasonable time. Particularly is this true where the statute creating the cause of action subjects the defendant to unusual and arbitrarily determined damages or penalties. Then, too, liability often comes about by reason of the extension of laws through interpretation and application of administrative agencies. It is often where a new interpretation is applied that an employer for the first time finds himself liable for large sums for past services of individuals, many of whom may no longer be in his employ, but whose right to collect can be asserted as much as 12 years later.

A good illustration arises from the operation of the Fair Labor Standards Act. An employer who violates the provisions of this law relating to wages or hours may be subjected to suit for twice the amount involved together with costs and attorney fees. The application of this law has been greatly extended by administrative regulations. As a result an employer who may have, in good faith, relied upon a certain ruling, regulation, or practice, suddenly finds himself confronted with many suits, when a change is made either by the Administrator or by the courts. The enforcement of this new liability dating back to the enactment of the law would in many cases bankrupt the employer.

From the hundreds of examples that might be cited here, only a few will be mentioned.

For 4 years after the Fair Labor Standards Act was passed, building operators who rented space to persons or companies engaged in the production of goods for commerce assumed that their own employees who did not produce any goods were not subject to the act. In June 1942 the Supreme Court of the United States decided that the employees of these building operators were engaged in occupations necessary to production and consequently subject to the act.

Some years ago the Wage and Hour Administration advised that cookhouse personnel in logging camps were there for the convenience of the employees, were not engaged in an occupation necessary for the production of goods for commerce, and so were not under the act. Approximately 3 years later, the Administration announced that it had been in error in its first opinion and that employers would be required to make retroactive overtime pay adjustments to cookhouse employees.

For many years, both coal miners and operators generally agreed that traveltime was not worktime. Wages were adjusted on that basis In fact, it was the subject of collective bargaining agreements between the operators and the union. In accordance with this understanding, the Wage and Hour Administrator ruled that such traveltime was not worktime under the act. Thereafter, in the case of *Jewel Ridge Coal Co.* v. *Local No. 6167, United Mine Workers* (322 U. S. 756), the Supreme Court of the United States held that, notwithstanding the collective bargaining agreement, traveltime was worktime. This decision had the practical effect of creating new and unforeseen contingent liabilities which both parties had deliberately attempted to avoid.

Mr. SMITH of Virginia. Mr. Speaker, I agree with what has been said by the gentleman from Michigan. I think this bill is a question of simple justice already too long delayed. This resolution has been pending on the calendar since last November. I am glad that finally it is to be called up and acted upon.

Many injustices are constantly occurring by reason of the failure to have a limitation on tort actions and semitort actions by the Federal Government. The fact is that we have legislation which enables an individual to sue through the Government, and there is no limitation at present on that, which leads to a situation similar to this: You may have a matter where all parties act in good faith under a decision by the bureau that has control of the administration of the act governing it. You may find years later after liabilities that nobody knew about have arisen the bureau will change its views and issue a new regulation which will bring this particular subject under the jurisdiction of that board. When that happens these claims arise. The result is that today citizens by reason of changes in bureau regulations over which they have no control and about which they have no opportunity to do anything, find themselves stuck with large penalties running back over a period of many years when their records are lost or destroyed, or have not been kept because they were advised that they did not come under this particular bill.

It is a matter that in simple justice we ought to correct and that ought to be done as soon as possible.

I understand there is some objection to the 1-year limitation, although that is the customary tort limitation, but I believe the committee in order to reach a compromise has agreed to offer an amendment which will make the limitation 2 years. It seems to me this ought to dispell every proper objection to the bill, and I very much hope that the bill will be passed.

Mr. Speaker, I have no further requests for time on this side and therefore move the previous question on the resolution.

The previous question was ordered.

Mr. HOBBS. 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. 2788, to amend title 28 of the United States Code in regard to the limitations of certain actions and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H. R. 2788, with Mr. GRANGER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Alabama [Mr. HOBBS] is recognized for 1 hour and the gentleman from New York [Mr. HANCOCK] for 1 hour.

Mr. HOBBS. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I do not know how many of you remember the old Octagon soap wrapper days, but down in my country we used to clip them and save them until we could get a fountain pen or something of that sort. This bill is aimed at such a practice in the administration of law. It is designed to require that you not wait to say what your case is until everybody has forgotten about it, then dump it into the hopper when there is no chance for the defendant to defend because of shifting employment, and those who had knowledge of it way back yonder have forgotten all about it.

Let me ask you this question: What were you doing on Sunday, the 3d day of April 1936? How many hours did the man next to you work on that day? Is he entitled to time and a half or double time? Is he entitled to double or triple pay for overtime work that he performed or is supposed to have performed on that day? The answer is that no employer can possibly check back accurately for 6 or 8 years.

Here is a case reported in the Washington Star of December 21, 1945. A suit for $34,290.22 damages and interest was filed on that day in the Alexandria, Va., Federal court against the firm of the Mutual Ice Co. The suit was filed by a gentleman by the name of A. A. Corbin claiming that 6 years before, in 1938, he worked overtime and was entitled to time and a half and so forth. Then all through the 6 years that had intervened he was claiming that he worked overtime or was entitled to double or triple damages, or what not, until the total amounted to the huge sum claimed.

That is the kind of thing this bill is aimed to remedy. It simply establishes in 19 cases where civil damages are permitted to be claimed, what should be a reasonable time within which to file suits under those 19 acts, none of which provide any statute of limitation. In other words, the man who claims such damages must present his claim within a reasonable time, before the demand has become stale through his own laches.

Mr. ROBSION of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. HOBBS. I am always delighted to yield to the gentleman from Kentucky.

Mr. ROBSION of Kentucky. I assume that in this particular case the books of the company showed that the man had not worked overtime or double time or that he was entitled to these claims?

Mr. HOBBS. I am not informed as to that.

Mr. ROBSION of Kentucky. I assume the books show that.

Mr. HOBBS. Yes, sir.

Mr. ROBSION of Kentucky. So in most of these cases it would finally resolve itself into oral testimony of witnesses called in as to what that man did work in order to contradict the records of the employer. Then, as the gentleman said, in this shifting of labor and witnesses to various parts of the country it would be impossible to get the witnesses together and, if you do, have them remember each particular day what happened on that particular day and at that particular hour.

Mr. HOBBS. The distinguished gentleman, a member of our committee and one of the honored Members of this House, is exactly right. As I have studied the minority views as expressed, there are only two real objections.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. HOBBS. Mr. Chairman, I yield myself two additional minutes.

Mr. Chairman, there are only two real points of controversy, one of which is as to the length of the statute of limitations

hereby fixed at 1 year. We have agreed substantially, certainly the distinguished author of the bill, the gentleman from Iowa [Mr. GWYNNE] has agreed, and every one of the subcommittee has been consulted by him about it and agrees with him and with us, that we should make this 2 years, which was the time of limitation which a former head of the Wage-Hour Division of the Government proposed.

Second. There was some question whether or not suits brought by the Government were covered by the pending bill. Your Committee on the Judiciary does not think so. We know the Supreme Court held in a long line of decisions that only when the Government is specifically mentioned in the limitation law, does it apply to the Government. This is not true in this case, and, therefore, the large majority of your committee does not think that the Government is, or could be, held to be covered by the proposed law. But in view of the fact that there has been a difference of opinion about it, a second amendment will be offered with the approval of the distinguished author of the bill, and all those who have been consulted, which says that there is excepted those suits by the Government in which the Government is the real party in interest. So with those two amendments adopted, there should be no objection to the passage of the bill as it will then appear.

Mr. HANCOCK. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the bill before us merely fills an omission in the law which should have been taken care of years ago. It establishes a period of limitation within which civil suits for penalties and damages may be brought where no limitation now exists in the law. Contrary to the false statements of the unreliable Mr. Drew Pearson, the bill has no application to criminal actions.

Let me give you a single example from my own district showing the necessity for this legislation. There is a small sand and gravel company there whose business is entirely local. Its properties and its customers are all within the State of New York. Neither the owners nor the employees had the slightest idea that they were engaged in interstate and subject to Federal wage-and-hour laws. In fact, they were not so engaged until the Supreme Court, by torturing the English language and stretching the interstate commerce clause of the Constitution, proceeded to cover almost every conceivable business transaction. Some smart lawyer, taking advantage of those recent decisions of the Supreme Court, rounded up the employees of this little company, W. F. Saunders & Sons, Inc., of Nedrow, N. Y., and brought an action for time and a half pay for every hour worked in excess of 40 hours per week for the last 8 years, with a penalty of 100 percent, together with costs and attorney's fees. The suit is for $50,000. If it succeeds—and it may very well succeed—it means ruin to a small group of honest, hard-working, thrifty, law-abiding men. This bill, if passed, will put an end to outrageous suits of that sort, which shock our sense of justice.

I will not take any more of your time, because I want to give as much time as he needs to the able gentleman from Iowa, who introduced this bill and who is better qualified to explain the bill in detail and answer any questions you may have than I. If you will read the hearings, which are very full and complete, you will find there is little difference of opinion among those who appeared before our committee, except as to the period of limitation. Most of us on the Judiciary Committee think 1 year is adequate. Others want 3 years or more. I understand the gentleman from Iowa has agreed to accept an amendment compromising on 2 years, which is reasonable. This legislation is long overdue. I hope it will be passed today.

Mr. Chairman, I now yield 5 minutes to the gentleman from Wisconsin [Mr. KEEFE].

Mr. KEEFE. Mr. Chairman, this is a subject in which I have been interested for quite a considerable period of time. I have discussed this matter with Mr. Walling, the head of the Wage and Hour Division, for the past 2 years when he has appeared before the Subcommittee on Appropriations relating to this subject matter. We spent most of the forenoon today going over this proposed legislation.

Certainly justice and common sense indicate that the Congress ought to deal promptly with the situation. I find absolutely no criticism whatsoever of this bill from those in authority except as to the period of the limitation. Mr. Walling testified before the Committee on the Judiciary that it was his opinion that a 3-year statute would meet the situation as far as wage-hour violations are concerned. In many States, as you well know, actions for the collection of a penalty or forfeiture are limited to only 1 year. Actions to collect the 100 percent money penalty for violation of the wage-hour law are in reality actions to collect a penalty or a forfeit. I believe the 2-year limitation suggested by the distinguished gentleman from Iowa perhaps should be written into the law. That will give adequate time for every employee to bring his action within that period of time against the employer when the facts disclose that he has in fact been underpaid under the provisions of the Walsh-Healey or the Wages and Hours Act. There is nothing that penalizes an employee. All this action does is simply say, "If you have a cause of action, you shall assert it within the period limited in the law," as provided now, 1 year, and as it may be by amendment, a 2-year period of time. It should be clearly understood that the Wages and Hours Act provides criminal penalties against willful violators. This in addition to the money penalties. This legislation does not affect or change any criminal provision.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. KEEFE. I yield to the gentleman from New York.

Mr. CELLER. Is it not a fact that sometimes the worker does not know what his rights are? There is no information posted in the plants as to what his rights are. He may have to wait more than 1 year or 2 years before the Supreme Court will interpret the statute known as the Wages and Hours Act to know whether or not he has any rights under that act.

Mr. KEEFE. That is exactly one of the questions we ought to deal with here. Certainly, the right of action of an employee would not accrue until after such a decision and the limitation would not start to run until the right accrued. I think the wage-hour law has been in existence long enough now, and the evidence disclosed by the Wage and Hour Division certainly demonstrates that fact, that all of the people in this country who are unionized know their rights under the wage-hour law. Make no mistake about that. In the plants where they have unionization, they protect the rights of the employees. If there is underpayment, they certainly know about it.

As to those employees who may not have the benefit of union advice and assistance in seeing to it that they get the proper wages, the Wage and Hour Division has spent hundreds of thousands of dollars, and is doing it day after day, through the radio, through newspapers, through advertising, through bulletins, and in every way humanly possible, to make employees realize and understand exactly what their rights are. If anybody is not willing to find out what his rights are as an employee and is not willing to do it within 2 years, then he certainly is not very much hurt because of any default on the part of his employer.

Let me call your attention to the fact that one of the very things Mr. Walling points out is that the Wage and Hour Division has made certain interpretations as to coverage and responsibility under the wage-hour law, only to find that the Court 2, 3, 4, or 5 years later has set aside the interpretation of the wage-hour law and thus has compelled employers who have in good faith complied with the interpretation of the goveernmental agency itself, to be subjected to tremendous damages and penalties and interest, as a result of a decision that may have occurred 4 or 5 years after the employer fully complied with the orders of the Wage and Hour Division. A simple innate sense of justice tells me that that sort of thing should not be permitted to continue. I think the gentleman from New York will concede that this unpredictable balance of potential liability which is being built up against employers in this country due to the fact that there is no statute of limitations requires this Congress to take action immediately by passing the Gwynne bill to deal with that situation.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. KEEFE. I yield to the gentleman.

Mr. CELLER. I agree fully with the gentleman that there should be a statute of limitation.

Mr. KEEFE. Then the gentleman ought to vote for the bill with a 2-year statute of limitations.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. HOBBS. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. CELLER].

Mr. CELLER. Mr. Chairman, I am one of those who feel there should be a statute of limitation. It is utterly barbarous to have individuals sit on their rights indefinitely and not bring action, because other rights intervene and it would be utterly injudicious to have a man know that he has a claim and not offer to go to court to adjudicate that claim. The only question to my mind is what would be a fair number of years to set for a statute of limitation. This bill as drafted calls for 1 year. I believe it would be reasonable and proper to have a statute of limitations for 3 years. The Secretary of the Navy advocated that the statute be for 3 years. The Attorney General asked that it be for 3 years, and the Secretary of Labor asked that it be for 3 years. The administration wants the statute to be 3 years. Thirty-five States, together with the District of Columbia, have a statute of limitations with reference to wages-and-hours suits for 3 years or more. Thirty-five State entities, therefore, have a statute of limitations of 3 years, and also the District of Columbia. Fourteen of those thirty-five States have a statute of limitations for 6 years with reference to wages-and-hours suits. There is going to be an amendment offered to increase the statute of limitations to 2 years. If you are going to amend the number of years, I think it should be 3 years, particularly since so many States have the 3 years or more statute. If you make it 2 years or 1 year, you run counter to the wishes of those 35 States.

When the original Wages and Hours Act was being considered by the House, I was the author of the amendment that eliminated from the provisions of the act "employees at retail stores and in retail services." When the bill came back to the House from conference, my words "retail stores and retail services" were changed to "retail establishments." It took the Supreme Court over 5 years to determine in many instances exactly what "retail establishment" meant. What is the conclusion to be drawn from that? Many of the employees did not know whether they were included in the Wages and Hours Act or not. It all depended upon how the Supreme Court interpreted the words "retail establishment" in each individual case. If you make the statute of limitation 1 year or 2 years, then those workers will not know what their rights are, or rather were, since they would find that 2 years or 3 years will have elapsed before the Supreme Court will render a final decision. Thus, before he can sue, the statute will have run against him. They would be too late in bringing their action against the employer. I am willing to compromise and make it 3 years.

In addition, I think we should observe the tradition that there should be no statute of limitations invoked against the Government. The Government should have the right to sue any time.

In that regard I would like to read a brief passage from a statement by the then Assistant Attorney General, now Judge Holtzoff—page 20 of the hearings:

> I am not quite clear as to what is meant by "public action," but if it is meant actions brought by the United States, then this proviso would create or result in a drastic and almost revolutionary change in laws that have existed since the early days of the Republic. The statute of limitations does not run against the United States, unless it is expressly specified. For instance, there are provisions of certain tax laws which expressly are applicable to the United States. It has frequently happened that the Government may discover that a payment has been fraudulently made, or that a payment has been erroneously made, and the Government had a cause of action to recover back the payments so made, and frequently the facts are not discovered until some years after the payment is made. That is a very practical situation. Now, to cut off the rights of the Government would be a very serious matter.

For that reason, Judge Holtzoff, speaking for the Department of Justice, urged that there be no proscription against the Government whereby the Government would be barred from bringing any action for fraud or otherwise against a guilty individual by the statute of limitations.

Mr. SPRINGER. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield.

Mr. SPRINGER. Does the distinguished gentleman from New York believe that the bill as written embraces the Government?

Mr. CELLER. I am very doubtful as to whether it does or does not. Frankly, I do not know. There have been some cases which have stated that unless there is specific language to bar the Government by way of a statute of limitations, the Government is not barred. But in order to clear it up, so that there will be no doubt about it, why should we not insert some exemption for the United States Government?

Mr. SPRINGER. My understanding is that, unless the Government is specifically mentioned, the Government would not be within the statute of limitations.

May I say that an amendment will be offered to this bill which will entirely clarify the matter, holding that the Government is not within the provisions of the statutes.

Mr. CELLER. I am happy to know that the amendment will be offered. I simply made the statement so that the Members of the House may have clearly in their minds the need for such an amendment.

Mr. ERVIN. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield.

Mr. ERVIN. Under the Fair Labor Standards Act of 1938, there are only three remedies. One is the remedy of an employee to bring his suit. The other is the right of the administrator to bring suit to enjoin violations. Of course, a suit to enjoin violations is only directed against future actions, and is calculated to prevent future actions. So that there is no necessity for a statute of limitations.

Mr. CELLER. I only yielded for a question. I understand there are three remedial provisions with reference to the Wages and Hours Act.

Mr. ERVIN. And the third is a criminal prosecution and, of course, is to be guided by the criminal law.

Mr. CELLER. I still think the statute should be only 3 years, as far as the limitation is concerned, and it would be woefully inadequate to make it 2 years.

Now, let us see what some of the statutes are which are involved.

Suits for wages and penalties by a merchant seaman would be barred after 2 years with the Gwynne amendment. Sometimes it takes a year for a seaman to make his voyage. One year to go and 1 year to come back. At the end of his voyage, if he had any kind of a right to sue for penalties against the steamship company, he would be barred. Take cases of suits against directors of national banking associations for knowingly violating banking laws. These cases involve malfeasance, negligence, and the like. It takes more than 1 or 2 years to discover and marshal evidence suitable for the instituting of a suit.

Take an action brought for triple damages, based on a trade-mark infringement. It takes a long time to know whether a trade-mark has been infringed. This is a vast country. It would require a regiment of investigators to determine whether or not that infringement occurred within 2 years. I say, therefore, in that particular case there should be a statute of limitation of 3 years, because it would take more than 2 years to ferret out the infringements.

The same thing applies to suits on copyright infringements.

Now take the case where under the Sherman Antitrust Act an individual, aggrieved, has a right to sue for triple damages those guilty of monopoly and those guilty of the antitrust laws. Such a plaintiff can use in the civil action for damages the minutes of the criminal proceedings resulting in conviction of the defendant or defendants. The record of conviction is prima facie evidence of the plaintiff's claim. Thus such cases are started and successfully prosecuted in the civil courts on the basis of the criminal proceedings. But it takes sometimes more than a year and more than 2 years to complete the criminal suit on which the civil action is based. With a statute of limitations of 2 years many such triple damage cases would be in the main barred. That would be indefensible, and, as Acting Attorney General Fahy stated in a letter to the Judiciary Committee:, this bill "would thus weaken the entire antitrust program."

Mr. KEEFE. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield.

Mr. KEEFE. There would be nothing under the sun to prevent the filing of a suit, and this would toll the action of the statute under those circumstances.

Mr. CELLER. But the individual himself would not know what the extent of his rights was, would not know what evidence he could use. He relies in the main on the criminal proceedings to establish his claim. He could only with great cost and difficulty procure adequate evidence. The plaintiff would have to hire very, very expensive law-

yers to ferret out the evidence to sustain the suit for treble damages. The civil action is to enable the individual who is hurt to use the evidence brought out in the criminal proceedings, and if there is a statute of limitations of 1 or 2 years, in many instances the plaintiff would be deprived of his prima facie evidence in order to file his suit. The criminal case might take more than 2 years.

Mr. KEEFE. But there is nothing to prevent him from starting his case.

Mr. CELLER. Of course, he could start his case any time but he may not even know he has a case until the facts are brought out at the criminal proceedings. He has not usually the wherewithal to get the evidence. He must rely upon the Government.

In this regard I quote in full Acting Attorney General Fahy's letter to the committee:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D. C., June 20, 1945.

Hon. HATTON W. SUMNERS,
Chairman, Committee on the Judiciary,
House of Representatives,
Washington, D. C.

MY DEAR MR. CHAIRMAN: This is to supplement my letter to you dated May 16, 1945, in which I stated my views concerning a bill, H. R. 2788, to amend the United States Code in regard to the limitation of certain actions.

I wish at this time to emphasize the detrimental effect which the enactment of the bill would have upon the enforcement of the antitrust laws of the United States. As you know, those laws provide a variety of remedies to the Government, and in addition permit private persons who have been injured by practices in violation of such laws to maintain civil suits for treble damages against the offending persons (15 U. S. C. 15). The Congress has given these private persons the benefit of the final disposition of any criminal or equitable proceeding growing out of such violation instituted by the Government against the same defendants, by providing that a final judgment or decree to the effect that the defendants have violated the law shall be prima facie evidence against such defendants in the private suit (15 U. S. C. 16). Actions for treble damages therefore, are frequently brought after the final disposition of the proceedings, brought by the Government. In many instances, the facts giving rise to a cause of action upon behalf of a private party may not be recognized as a violation of the antitrust laws until they are subsequently revealed by a comprehensive investigation to be a part of broad scheme. Under existing law an indictment may be found or information instituted under the antitrust laws within 3 years next after the offense has been committed. Under the proposed legislation (H. R. 2788) it will be necessary for the Government to institute proceedings within 1 year after the cause of action has accrued to a private person in order that such person may take advantage of the Government's proceedings.

The reach of H. R. 2788 is thus much greater than a mere limitation upon the right of action of a particular party in a particular case. The deterrent effect of the possibility of treble-damage suits occupies an important place in the well-rounded antitrust program enacted by Congress. Obviously, H. H. 2788 would lessen the likelihood of treble-damage suits being filed, and would also lessen the likelihood of success in such suits. It would thus weaken the entire antitrust program.

I desire to point out, also, the particular interest of this Department in safeguarding the rights granted by the so-called civil rights statute (8 U. S. C. 43). Under this provision of law, persons whose civil rights have been violated may maintain an action for damages against the offending parties. It seems to me that much of the benefit derivable from the civil rights law may be nullified by limiting such actions to a period of 1 year after the offense .

The committee may also wish to consider the possible impact of the proposed legislation upon litigation brought under the following statutes:

15 U. S. C. 72 (importation or sale of articles at less than market or wholesale price);

15 U. S. C. 96 (infringement of trademarks);

17 U. S. C. 25 (infringement of copyrights);

46 U. S. C. 596 (recovery of wages by merchant seamen).

I also desire to repeat that the bill is highly detrimental to the interest of the Government, since it would fix a 2-year statute of limitations for many actions brought by the Government.

I therefore wish to reiterate my opposition to the enactment of the bill.

Sincerely yours,

CHARLES FAHY,
Acting Attorney General.

Mr. HANCOCK. Mr. Chairman, I yield 15 minutes to the gentleman from Iowa [Mr. GWYNNE].

Mr. GWYNNE of Iowa. Mr. Chairman, I want only to make an explanation of this bill, and I shall be pleased to yield at any time for a question.

In a general way the bill does two things: First, it puts a limitation of one year on the bringing of certain suits.

Mr. SPRINGER. Mr. Chairman, will the gentleman yield?

Mr. GWYNNE of Iowa. I yield.

Mr. SPRINGER. Just to clarify a point, it applies to civil actions.

Mr. GWYNNE of Iowa. That is right.

Mr. SPRINGER. It does not apply to criminal actions.

Mr. GWYNNE of Iowa. That is correct. I intend to go into that in detail a little later.

Second, the last proviso of the bill provides that where an individual has relied in good faith upon the rules and regulations of any administrative body and later those rules and regulations are changed either by the administrator or by the courts, the change will not be retroactive.

Mr. FEIGHAN. Mr. Chairman, will the gentleman yield?

Mr. GWYNNE of Iowa. I yield.

Mr. FEIGHAN. I think I am correct in adding to the statement about rules and regulations also the term "practices and interpretations" which to my mind are in a little different category.

Mr. GWYNNE of Iowa. They are a little different, of course, but the effect is substantially the same.

Let me cite an example. Some years ago the administrator at that time of the Fair Labor Standards Act visited certain lumber camps on the west coast; he held forums and spoke to organizations as to what the wage and hour law really meant. They asked him if the Wages and Hours Act covered cook-house employees. He said that in his opinion it did not, that it was his interpretation of the law and it did not apply, and it was their practice to not bring any suits based on such alleged violations. The employers relied upon it and fixed their pay scales and hours accordingly. Some years later the administrator changed his mind, whereupon those people who had relied in good faith upon that interpretation and upon that practice found themselves subjected to suits going back to the beginning of the law, the penalty being twice the amount involved, plus attorneys' fees and costs.

Now, to get on to what the bill does not cover. The bill does not cover criminal prosecutions, Mr. Justice Drew Pearson to the contrary notwithstanding. It does not cover injunctions or any kind of special proceedings whatever. It does not cover any Federal statute giving anyone the right to sue if a special period of limitation is provided in the particular statute. For example, you will recall that in the price-control law we provided that under certain circumstances a purchaser may sue a seller for $25 or $50 or something of that kind. We wrote into that statute a year's limitation. So that is not affected by this particular bill. Finally, it does not affect suits brought by the United States Government itself for the following reason: At common law a general statute beneficial to the crown affected the crown, but any restrictive statute did not bind the sovereign; it did not apply to the sovereign unless the sovereign was specifically named in the statute. That rule has been affirmed by our own Supreme Court on many occasions. Those of you who are interested might read the case of *U. S.* v. *Heron* (21 Wall. 251) and *U. S.* v. *Thompson* (98 U. S. 456), where the Court held a statute of limitation, for example, which is restrictive does not apply to the Government unless the Government is specifically named. The Court also held to the same effect in connection with insolvency statutes.

However, recent decisions, as is often the case, have in the minds of some people thrown a little doubt on what the Supreme Court might hold. I had no intention of writing a statute to cover the Government. So the committee did the conservative thing and in the report set out all the statutes that could possibly be affected, whatever position might be taken by the Court in the future on the theory I have just related. In order to avoid any possible trouble whatever, we thought it would be well—in fact, an amendment will be offered by the gentleman from Tennessee [Mr. KEFAUVER] to make it clear that this bill does not apply to any suits brought by the Government.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. GWYNNE of Iowa. I yield to the gentleman from New York.

Mr. CELLER. I do not see the gentleman from Tennessee [Mr. KEFAUVER]. I hope the gentleman will offer the amendment in the event of his absence.

Mr. GWYNNE of Iowa. I think the amendment should be offered and I believe he intends to offer it.

Mr. Chairman, I would like to say a word about the need for this legislation and I want to cite a few cases. You will recall that for 75 years the Supreme Court of the United States held that insurance was not interstate commerce; consequently, the antitrust laws which had been adopted by the Congress in that

period did not apply to insurance companies. The States regulated insurance companies and many States allowed and some even required insurance companies to do the very thing which would violate the Sherman Act if the Sherman Act were held to apply. We all remember that in the Southeastern Underwriters case the Supreme Court suddenly reversed its previous decisions and held that insurance was interstate commerce. The immediate effect of that was to say that for all these years since the very day the Sherman Act was passed many insurance companies were by direction of different State violating the antitrust laws. They would be subject to suits for treble damages. It will be recalled that the Congress moved in immediately to take care of that situation and adopted a bill introduced by the gentleman from New York [Mr. HANCOCK], and by the gentleman from Pennsylvania [Mr. WALTER], which provided in effect for a moratorium on those suits, thus preventing what might have been absolute chaos in the insurance business.

Another illustration arises in connection with the wage-hour law. There are several sections of that law which provide for minimum pay and maximum hours. Time and one half must be paid for all over the minimum time. The purpose of this bill is not to be of any benefit whatever to the intentional chiseler, the person who is deliberately violating the Wages and Hours Act. He can be sued. He can be prosecuted criminally and injunctions can be obtained against him, and that is being done.

But here is the situation that we have in the wage-and-hour law. No attorney, I believe, in this country who has been experienced in the courts could, in his most imaginative moments, have dreamed of the extension the Administrator and the courts were going to give to that act. This is what they held, for example, in a New York case. Here was an office building. Up on the top floor was a company engaged in the business of manufacturing and selling goods across the State line. Everyone would know, of course, that those employees would be under the act. But do you think any Member of Congress ever thought that they would hold that the man running the elevator, who took customers up there, who took the workers up and down, among other passengers, was under the act? Do you think anyone would have imagined that they would have held this way, for instance, in North Carolina? Here was a small group engaged in crushing lime rock to make limestone to spread on the fields in that one county. It never crossed the county line, let alone the State line. But in view of the fact that it went on the fields and the fields produced the crops and the crops went across the State line, therefore those people are under the wage-and-hour law. Let me tell you how damaging this can be in some cases.

Mr. MICHENER. Mr. Chairman, will the gentleman yield?

Mr. GWYNNE of Iowa. I yield to the gentleman from Michigan.

Mr. MICHENER. I have a very pertinent case. Here is a small town having three banks. Those three banks for years have hired a policeman who, during banking hours, went from bank to bank just to see that everything was in order. He has the authority of a local police officer. He functions as such, but his chief duty is to protect the three banks. Inasmuch as banks are engaged in interstate commerce, that policeman, they now find out, is engaged in interstate commerce, and is subject to the wage and hour law.

Mr. GWYNNE of Iowa. I am not surprised. I had not heard of that particular case.

Here is another illustration. A company was engaged in the repairing of electrical equipment in certain factories. They simply went in, like a carpenter or any repair man, to repair the equipment in the factories. They were held to be under the act.

To show you how damaging this thing can be, I want to cite a case that happened on the west coast in the lumber business. Here was a company that employed 100 men, and the men drove out in their cars where they worked, some distance away. They were receiving for straight time $1.36 per hour and for overtime $2.04 per hour. When the war came on the workers could not get the gasoline, so the company said, "We will take you out in our own trucks." The company arranged to get the gasoline and took the workers out in the company's trucks. It has always been thought in this country that travel time was not work time. The miners so construed it, and as a matter of fact, in order to avoid any trouble about it whatever, the mine workers in their collective bargaining agreements with the companies provided that travel time was not work time. That case went to the Supreme Court in the Jewel Ridge Coal Co. case and the Supreme Court held that in spite of the attempt of the employee and the employer to bargain against it, travel time was work time. So this lumber company that undertook to do something to further the war effort now finds that it must pay time and a half for the time they were taking these people out in their own trucks at a cost to the company of some $200,000 a year. In some cases this extra liability is enough to bankrupt the employer.

Mr. SAVAGE. Mr. Chairman, will the gentleman yield?

Mr. GWYNNE of Iowa. I yield to the gentleman from Washington.

Mr. SAVAGE. I am quite familiar with the cases involving travel time. May I point out that this travel time accrued only after the workers had traveled in their own cars from their homes and gathered on the company property, then were taken out to some other part of the company property? It did not include the time involved in picking up a man at his home.

Mr. GWYNNE of Iowa. It included the time when these people were taken out in the company truck.

Mr. SAVAGE. Where they gathered at a central place on the company property.

Mr. GWYNNE of Iowa. That is correct. In any event, it resulted in penalizing this company some $200,000.

The Supreme Court has recently made another decision which makes this situation even more difficult. Suppose an employer has inadvertently violated the law and a suit is about to be brought. He cannot make a settlement or, if he does make a settlement, it is not binding. The settlement can be made, and a suit can still be brought for twice the amount involved, together with attorneys' fees and costs. That has been decided by the Supreme Court.

Here is what is happening. Naturally, in the failure of Congress to act, State legislatures have been moving in. Under our conformity law, as you recall, if the Federal Congress has not passed a statute, or if the Federal courts do not have a decision which applies in the case, then the Federal court trying the case must apply the applicable State statute or decision. The net result has been that Federal courts have searched through the dockets to see what, if any, statute of limitations applies, and they have held all the way from 1 to 12 years. They decided 12 years in Maryland. If you will read the letter sent to the committee by the Secretary of the Navy, he points out that there is a possibility of applying a 20-year statute.

To get away from that, State legislatures have enacted laws, and this was the score when we were holding hearings on the bill last summer. Ten States have acted. Of the 10, 5 have adopted a 1-year statute or less.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. HANCOCK. Mr. Chairman, I yield five additional minutes to the gentleman from Iowa.

Mr. GWYNNE of Iowa. If something is not done, more and more States will adopt statutes. In many cases they will be very limited, and in many cases they will not conform with the practices of the other States.

May I point out the interest the Federal Government has in this. I hope you will read the letter, which is set out in the committee report, filed by the Secretary of the Navy, Mr. Forrestal. He points out in that letter that the Government is being sued on these cost-plus-a-fee contracts. You know that the extra money the employer must pay must be paid by the Government under those contracts. The Comptroller General, Mr. Lindsay Warren, has so held.

At the time of the hearings it was said some 5,000 suits had been brought against contractors for the War Department alone, and the extra amount the Government might have to pay might run from $1,500,000,000 to $2,000,000,000.

In that connection, I hope you will read, and I hope other speakers will call attention to, the testimony at the hearings of Mr. Simmons, who is general counsel for the Federal Cartridge Corporation. He points out that they at that

time had 300 suits against them, the judgments in which must be paid by the Federal Government. Those suits were being brought in some cases by people who were actually drawing $600 to $800 a week, but who, through some hokus-pokus, were able to claim that 20 percent of their time was not spent in their administrative capacity and, therefore, they were under the Wage-Hour Act. As a matter of fact, in those suits they had been directed from Washington not to set up certain defenses, so it looks as if the Government is going to have to pay.

That is the bill, Mr. Chairman, putting it rather briefly.

Mr. ELSTON. Mr. Chairman, will the gentleman yield?

Mr. GWYNNE of Iowa. I yield to the gentleman from Ohio.

Mr. ELSTON. I notice that the statute of limitations is 1 year from the time the cause of action accrues. What would be the situation if the cause of action were not discovered until after the statute of limitations had run?

Mr. GWYNNE of Iowa. The same rule would apply. In cases of fraud, the statute does not begin to run until the fraud is discovered or, in the exercise of reasonable diligence, should have been discovered. Incidentally, an amendment will be offered to raise that from 1 to 2 years. Personally, I think 1 year is sufficient. However, I am not disposed to quarrel about that. I am willing to accept 2 years.

Mr. ROBSION of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. GWYNNE of Iowa. Yes.

Mr. ROBSION of Kentucky. Does the gentleman think the bill provides that the statute of limitations would not apply in the event of fraud or where by the exercise of reasonable diligence a person could not have discovered his rights?

Mr. GWYNNE of Iowa. There is no need to include it in the bill. It is already in the law. We have many statutes of limitations. What a statute of limitations says is that you must bring your suit within a certain period of time from the date the cause of action accrued. There is no statutory law that I know of, but the courts, including our own Supreme Court, have said that a cause of action does not accrue in the case of fraud until you discover the fraud or when in the exercise of reasonable diligence it should have been discovered.

Mr. ROBSION of Kentucky. Suppose there is no fraud and yet a person is unable to discover his rights by the exercise of reasonable diligence?

Mr. GWYNNE of Iowa. That is true of every statute of limitations in the world, is it not? It is true in every case.

Mr. CURTIS. Mr. Chairman, will the gentleman yield?

Mr. GWYNNE of Iowa. I yield.

Mr. CURTIS. The theory of government and the theory of law is that we are to discourage legislation if that is possible; is that not true?

Mr. GWYNNE of Iowa. That is correct. As the gentleman knows, the basis of the statutes of limitation is public policy.

Mr. CURTIS. Yes; to let bygones be bygones. And if someone has a cause of action, they have a duty in the interest of the public good and orderly procedure to exercise that right or lose it.

Mr. GWYNNE of Iowa. That is correct.

Mr. CURTIS. That is the basis of this proposed legislation, is it not?

Mr. GWYNNE of Iowa. Yes.

Mr. HAND. Mr. Chairman, will the gentleman yield?

Mr. GWYNNE of Iowa. I yield.

Mr. HAND. Does the gentleman regard this contract action as an action that will be limited by your bill?

Mr. GWYNNE of Iowa It limits every action to 1 year. It limits every cause of action arising under Federal law for damages for which a statute of limitations has not been written.

Mr. HAND. Does the gentleman consider this in the nature of a contract action or a tort action?

Mr. GWYNNE of Iowa. Some of these actions under the Wages and Hours Act have been held to be suits for liquidated damages; they are not penalties.

Mr. HAND. Most statutes of limitations applying to contract actions are for 6 years, are they not?

Mr. GWYNNE of Iowa. No; I would not say so.

Mr. HAND. They are in my State and in a great many States that I know of.

Mr. GWYNNE of Iowa. That may be.

Mr. HAND. Does the gentleman not think that 1 year is too short a time? I think certainly we ought to have a statute of limitations, of course.

Mr. GWYNNE of Iowa. I am willing to concede 2 years. If you will examine the statutes involved here, they are not ordinary contract suits for a grocery bill.

Mr. HAND. I understand that.

Mr. GWYNNE of Iowa. They are suits for treble damages and double damages. They are suits such as are brought under the OPA, on which we put a 1-year limitation.

Mr. HAND. Does the gentleman think a 3-year period of limitation is unreasonably long?

Mr. GWYNNE of Iowa. I think 1 year is sufficient. I think 1 year complies with the action taken by the majority of the State legislatures. It accords with our own action in this House. The reason I am willing to take 2 years is because a number of people think that 2 years is all right and I am willing to take it.

Mr. BAILEY. Mr. Chairman, will the gentleman yield?

Mr. GWYNNE of Iowa. I yield.

Mr. BAILEY. Will the gentleman explain his statement that that would correspond with the action taken by the various State legislatures? Is not your proposal considerably at variance with the time fixed in the Workmen's Compensation Acts in the several States?

Mr. GWYNNE of Iowa. No. What I was getting at is that 10 States have adopted a special statute to limit the time within which these double-damage suits may be brought under the wages-and-hours law. Of the 10, 5 have adopted either a 1-year statute or a 6-month statute. That is what I was referring to.

Mr. HOBBS. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. FEIGHAN].

Mr. FEIGHAN. Mr. Chairman, I urge that the House do not pass H. R. 2788 in its present form.

This bill would impose a 1-year statute of limitations on any cause of action under a Federal statute for the recovery of wages, penalties, or actual or exemplary damages, for which no period of limitation was specially provided by act of Congress.

The bill applies, not only to the Fair Labor Standards Act, but also to a great variety of laws including the Anti-trust laws, the copyright laws and the Civil Rights Act. The fact is, that we hardly know all the laws to which the bill may apply.

The period of limitation adopted is so short as to materially prejudice the bringing of any action under such laws. The bill has been condemned by the Department of Justice on the ground that it would "weaken the entire anti-trust program," and by the Department of Labor on the ground that it would favor unscrupulous employers who were willing to take a chance on violating the minimum wage and overtime provisions of the Fair Labor Standards Act, on the fairly safe prediction that employees as to whom violations have been committed will not be able to bring suit within the year after year the cause of action accrued. I think we should not pass legislation which would operate against the effective enforcement of laws which Congress in its considered judgment has seen fit to enact.

Much of the testimony on this bill before the Committee on the Judiciary had to do with the effect this bill would have upon the Fair Labor Standards Act. I think we should all remember that when we put into a law provisions that allow the persons who are to get its benefit to bring their own suits in court to recover that benefit, we are saving the taxpayers and the Government of the United States money it would otherwise have to spend hiring inspectors, paying lawyers, and doing all the other things that are necessary to enforce a law. Suits for back wages under the Fair Labor Standards Act serve exactly this function, and if we pass this bill we will be defeating it.

Not only will we be making more complicated and more difficult the Government's task of enforcement of the Fair Labor Standards Act if we pass this bill in its present form, but we will also be permanently depriving of its protection the very people whom that law was designed to protect. Organized labor, in strong unions, does not especially need the Fair Labor Standards Act. It can get better terms, and enforce them too, under its collective-bargaining agreements. The people who need minimum wage and maximum hour protection are the poorly paid, unorganized workers, and there are still plenty of them who would not get their 40 cents an hour and overtime if it were not for this law. These people consider themselves lucky to be able to keep their jobs. If they are not paid in accordance with the law, they are not going to start a suit against

their employer to get their lawful wages while they are still working for him; they will wait until they have been laid off, or until they have found other work, before they will venture to go to court. If we pass this bill we will make a mockery of a law that was passed to give some assurance of subsistence to the very lowest paid working people of our country.

Furthermore, a 1-year statute of limitations would, as the Department of Labor has told the committee, discourage voluntary observance of the law by fair-minded employers who want to pay a legal wage and proper compensation for overtime. How will they be able to compete with the others, the unscrupulous employers, who do not mind cutting costs to the bone out of the pay envelopes of their employees? Unless they do the same, they will not be able to put their products and services on the market in competition with the cheaper ones produced under substandard conditions. And this is exactly what will happen if we discourage employee suits by passing a 1-year statute of limitations.

The provision for employee suits in the Fair Labor Standards Act is a necessary part of the enforcement system which has been established by Congress. Let us take the case of an employer who is considering his pay-roll practices from the standpoint of compliance or noncompliance with the provisions of the act. If the employee-suit provisions are, in effect, deleted from the act by this bill, the employer will have to consider only the possibilities of being made the subject of an injunction decree or the rather unlikely prospect of a criminal prosecution. In the former case, that is, the injunction decree, he can only be restrained from future violations. In the latter case, that is, the criminal prosecution, his violation must be exceedingly deliberate and willful to merit that penalty. In the great bulk of cases, therefore, he can calculate that he can violate until governmental authorities actually detect his violation.

The employee-suit provision has this effect—it makes it necessary for the employer who is considering his practices under the act to take into account the fact that if he violates it will be necessary for him to pay not only the money which he is liable to pay under the act, but also an equal sum as liquidated damages. The existence of this provision has undoubtedly had the effect of securing compliance without either Government action or court action. I think it would be well to note that the employee is not the only one who will suffer from the passage of this bill. The bill will strike equally hard at the great bulk of conscientious employers who try to live up to the letter of the law. These men will find themselves at a competitive disadvantage against unscrupulous employers who seek to evade the law and thus cut their labor costs.

The proposal to limit the bill to a statute of limitation applicable only to private causes of action would not solve the problems that are created by the bill. The antitrust laws and Fair Labor Standards Act provide for a private means of enforcements in the form of suits by private individuals for damages where violations have occurred. Congress, when it legislated these acts, thought it desirable to provide this supplementary means of enforcement. The bill, by providing an unduly short period of limitation, would destroy the beneficial effect of this private means of enforcement. Furthermore, it would be necessary for Congress to make available larger sums of money and greater numbers of Federal personnel to make up the gap that will be left if this bill is passed.

So far as the Fair Labor Standards Act is concerned, only a small number of States have statutes of limitation for the short period of a year which apply to employee suits. The period which is in effect in the largest number of States in 3 years, and 33 States have periods of 3 years or more. Three years is a customary period of limitation for suits on a contract. Liability for back wages, even when an equal amount is added as damages, is not so much more painful or difficult to meet than liability for damages for breach of contract with accrued interest, and it would not seem to require that we impose so extraordinarily short a period of limitations on these suits.

I should like also to point out that there are now pending in Congress amendments to the Fair Labor Standards Act, one of which provides for a 3-year period of limitation on employee suits. I think it would be very ill-advised to take action on this bill at this time, before Congress has had an opportunity to act on these proposed amendments, in the light of the particular facts applicable to suits of this sort.

The Fair Labor Standards Act is, of course, not the only statute that will be affected by this bill. I have already mentioned the opposition of the Department of Justice to a 1-year statute from the point of view of the antitrust laws. Suits under these laws raise complicated and difficult questions, and very often it may take more than a year merely to investigate the facts and determine whether a cause of action exists. In our zeal to assure the timely bringing of actions, we should not take such measures as will provide to lawbreakers the opportunity to escape the consequences of their acts.

Furthermore, before we enact a law that will limit all suits for wages, damages, or penalties under Federal law, we ought to make sure that we know what laws provide for such suits, and how they will be affected. The repeal of unspecified statutes by implication is a slipshod method of legislation, and will undoubtedly produce extremely unfortunate results.

Mr. HANCOCK. Mr. Chairman, I yield such time as he may desire to the gentleman from New Jersey [Mr. HAND].

Mr. HAND. Mr. Chairman, I feel, after reflection, that 3 years is a reasonable time to be placed in this bill.

I shall support such an amendment when it is offered. There is no doubt at all that some period of limitation is required. The only question and difference between us is what constitutes a reasonable period of time within which the action should be brought.

I call attention to the summary of State statutes of limitation, which appears on page 159 of the committee hearings. An examination of this table reveals that in my own State of New Jersey, approximately 1,000,000 employees covered, the period of limitation is 6 years. Detailed reference to this table will show that in most of the large industrial States, the period is 3 years and over.

I am not persuaded that there is any sound reason for changing this general pattern which has been established by the States; moreover I am convinced, in my own mind, that a period of limitation so short as 1 year is wholly unreasonable.

Mr. Chairman, I have carefully examined the committee report, the bill itself, and portions of the rather extensive committee hearings, because I consider this bill to be of importance, and I know it to be of interest to a large number of business concerns and also a large number of workers in my district. The business concerns are obviously anxious to have as short a period as possible incorporated as a limitation against any actions that may be brought against them. Conversely, the workers are interested in having as liberal an allowance of time as may be possible. In this case, as in many cases, it is the duty of a legislator to try to reconcile, reasonably, the conflicting claims of parties with dissimilar interests. In my own mind, I have concluded that 3 years is a proper period under all the surrounding circumstances, and I shall vote for an amendment providing for a 3-year period of limitation, if such an amendment is offered.

Mr. HANCOCK. Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky [Mr. ROBSION].

Mr. ROBSION of Kentucky. Mr. Chairman, I think in view of reports throughout the country emanating from certain sources that this measure (H. R. 2788) deals also with limitations on criminal prosecution, we should not fail to emphasize that this legislation applies solely and only to civil suits. It has nothing whatsoever to do with criminal actions. It does not apply to criminal actions in any way. It does not apply to actions brought by the United States Government. Now it is agreed by our Judiciary Committee that we offer an amendment that will specifically exclude actions by the United States Government. It does not interfere with the limitations for certain actions already provided by law. There are certain laws referred to in the report of our committee, but these laws provide for actions brought by the United States Government. The general law provides, and the Supreme Court has uniformly held, that the limitation of actions mentioned in this report do not apply to the United States Government. No limitation is binding on the United States Government unless the act expressly provides.

The wages-and-hours law provides a severe penalty for the violations of the workers' rights under that law. It gives to the worker the right to bring his action and in some cases recover not merely the amount of wages actually due but he may recover double damages and

even treble damages. If, therefore, we are going to permit the employee to recover penalties of double and even treble the amount that may be due the worker as unliquidated damages, it seems to me in fairness to require diligence on the part of the plaintiff in bringing his suit. The bill before us provides for 1-year limitations, but by way of compromise it has been agreed that an amendment be offered, and I think will be adopted by an overwhelming vote, to fix the 2-year limitation; therefore, any worker aggrieved by reason of any violation of the workers' rights under the wages-and-hours law will have 2 years in which to bring his action from the date his right of action accrued.

When the wage-and-hour law was originally enacted there was no limitation as to time that an aggrieved employee could bring an action against his employer for violation of that act, such as paying him a less wage than the Minimum Wage Act provides, or as provided in the collective-bargaining contract, or for failure to pay him for overtime or double time as is provided by law, and, therefore, no limitation was fixed in the law as to the time the complaining party must file his action and from then until this date there is no limitation as to time he may bring his action. He could bring it in 1 day or 10 years or even wait a longer period of time. As the wage-and-hour law might not have been well understood by the worker generally, there might have been some excuse for not fixing any limitation as to time for filing any action, but during these years the provisions of the wage-and-hour law have been explained by the various agencies of the Government, they have been broadcast over the radio, and have appeared many times in workers' journals and magazines, and the representatives of the workers have been busy in pointing out the rights of the workers under the wage-and-hour law, and it must be conceded that the workers now almost to a man understand their rights under the wage-and-hour law.

They know very well whether they have worked overtime 1 hour, 2 hours, 1 day, or 2 days, or whatever the time may be. The wage rates are posted in mines, shops, factories, and mills and they know if the employer from time to time is not paying them the full amount of their wages; therefore, there is no good reason why a limitation as to fixing the maximum time in which an aggrieved worker can bring his action should not be adopted. The Congress and the States have had fixed limitations on the filing of every type of action in civil cases and we are now here dealing with civil cases and not criminal cases. It has been urged by statesmen and the courts that limitations are fixed to serve two purposes: First, to discourage unnecessary and unjust litigation and, second, that these lawsuits should be brought within a reasonable time when the testimony on the points of issue is available to both parties. The employer should know as soon as it is reasonably possible what his contingent liabilities are. Numerous cases have been cited in the debate today, and we know of and have heard of many other cases, where, after many years, workers have brought suits claiming that they worked so many hours overtime on various days and that they worked on holidays at various times. They certainly should know when they do this overtime at the time they do it. Under the present law there is no limitations as to when they could bring suit and present such claim or claims. Under the bill before us, they would have two long years to present their claim or claims.

By reason of death and the shifting of workers from one plant to another, or from one community to another, or from one State to another, unless there is some limitation as to time the witnesses who could sustain or disprove these claims become scattered and as the employer has no notice of any such claim to be filed he could not have provided against it if he had an honest defense.

No doubt some employers have gypped their workers. This measure gives the aggrieved worker 2 years to file his suit and on the other hand it gives the employer a chance to meet with evidence any false claims that might be asserted against him. Every member of our committee favored a statute of limitations on this subject. Some thought it ought to be 1 year, some 2 years, and some 3 years. Nearly all legislation is a matter of compromise. The overwhelming majority of our committee, in order to secure proper legislation, have agreed on 2 years and this 2-year provision will be overwhelmingly ratified by the House in my opinion. I might also point out that a majority of the States that have acted upon this matter have fixed the limitation for violation of the wage-and-hour law at 1 or 2 years.

Now if Congress does not fix a limitation, a Federal judge in the district courts of one of our States that has a 1-year limitation will be governed by that State law as to limitation. But if Congress acts and fixes a limitation of 2 years that will govern the law of limitations in cases tried in the Federal courts in the various States even in those States with the 1-year limitation.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. ROBSION of Kentucky. I yield to the gentleman from New York.

Mr. CELLER. The statute of limitations for wage-and-hour action is 5 years. Does not the gentleman think 3 years a fair compromise?

Mr. ROBSION of Kentucky. There may be a very limited number of States with a 5-year statute of limitation but the big majority of them was 1 year or 2 years. There are more of 1 year than there are of either 2 years or 5 years. The 2-year limitation, as agreed on in this bill for the Federal law, appears to meet with the overwhelming majority of the Judiciary Committee as well as the Members of the House. As I understand it, since this matter has become better understood throughout the nation, the legislatures that have acted in recent years, a majority of them, have fixed it at 1 year and nearly all the others at 2 years.

Mr. CELLER. To get the record straight, on page 159 will be found a summary or table of the State statutes of limitation.

Mr. ROBSION of Kentucky. Since the limitations on the wage-and-hour question has been studied in connection with the actual working out of the Wages and Hours Act, questions arising throughout the country, many State legislatures have taken action.

Mr. CELLER. Up to June 1945, over 35 States had 3 years or more as the statute of limitations.

Mr. ROBSION of Kentucky. Many of these statutes were enacted several years ago by the State legislatures. They did not have the experience and information that has been brought out in recent years. The States that have acted since this question arose have been overwhelmingly for 1 year and some of them 2 years.

Mr. HANCOCK. Mr. Chairman, will the gentleman yield?

Mr. ROBSION of Kentucky. I yield to the gentleman from New York.

Mr. HANCOCK. According to the statement in the RECORD, six States have passed statutes establishing the limitation at 1 year, three for 2 years, and four for 3 years; so the great majority of the States have gone on record as favoring 2 years or less.

Mr. ROBSION of Kentucky. As I understand it, the States that have acted on this matter of limitations in recent years, or at least an overwhelming majority, have put the limitation at 1 year and some of them as low as 6 months. The number that have fixed 3-year limitations is very limited indeed.

As we have pointed out, a violation of the wage-and-hour law carries not only a criminal penalty but a civil penalty in the way of unliquidated damages. The worker can recover not only his actual wages for overtime, double time, and his regular wages that have not been paid to him, but he can recover three times the amount as unliquidated damages in the way of punishment of the employer.

Now, the 2-year limitation in this bill still gives him the right to recover these treble damages, but it has no effect on criminal actions that the Government may desire to institute against the employer. Limitations on the criminal part is governed by the Federal Criminal Code.

This bill contains other provisions to which I wish to invite the attention of my colleagues. It does not bar actions that may have accrued or may accrue before the Senate acts on this bill and it is approved by the President and becomes a law. Any worker who has been aggrieved by the employer for violating the wage and hour law and whose claim has not been barred by other statutes has 6 months after the passage of this act to file any claim that he has under the wage-and-hour law. I might say that it has uniformly been held by the courts that if the worker has been misled or deceived through the fraudulent acts of his employer and by reason of that fraud he did not and could by the exercise of reasonable diligence have discovered his right of action, he could still bring an action even after the 2-year limitation.

When Congress passed the OPA Act and its amendments, which provide that if the merchant overcharges the customer the customer may bring an action

for treble the amount of the overcharge, the Congress expressly provided that such actions must be brought within 1 year. In the light of that statute and some other Federal statutes providing for 1-year limitation in bringing civil actions, it cannot be said that the 2-year limitation, as provided in this bill, is unjust or unfair.

There is another provision in this bill that protects the worker. The 2-year or 6-month provision does not apply if the person liable for such damages shall not be found within the United States within that period so that process may be issued and served against such person, firm, or corporation. I call attention to another provision of the bill before us which is intended to protect employers who have followed the directives, orders, interpretations, and regulations of those enforcing the wage-and-hour law and in good faith have paid such wages and sums and observed such hours as they have been ordered and directed to pay and observe by the administrators of the wage-and-hour law, in good faith, even though such directives, orders, interpretations, and regulations may be amended, rescinded, or determined by judicial authority to be invalid and of no legal effect. I do not understand that this would excuse or acquit the employer from paying whatever wages for the actual time or hours that the employee may have served but it certainly would protect the employer from treble damages, if he in good faith carried out the orders, directives, rules, and regulations laid down by the Government in administering the wage-and-hour law.

Unfortunately, we have had cases in this country where the employer and employee both in good faith undertook, by collective bargaining, to carry out the wage-and-hour law as ordered, directed, and interpreted by the administrators of the law, and later on these orders, directives, interpretations were set aside or held invalid by the courts. We undertake in this act to protect the employers and the workers who act in good faith. We know under present conditions that unless the employer carries out the directives, orders, regulations, interpretations of those who administer the law that he would soon be in jail. Now, when he does in good faith carry out the directives, orders, and interpretations of the Government itself, he should not be penalized and required to pay treble damages. Under most of our State laws suits for the negligent killing or maiming of a person must be brought within a year and under the Federal Employers' Liability Act, actions for the negligent killing or injury must be brought in 2 years, the same limitation as fixed in this bill.

Believing that this measure is just and fair both to the employer and the employee, I am giving H. R. 2788 my support.

Mr. CELLER. Mr. Chairman, I yield 10 minutes to the gentleman from Tennessee [Mr. KEFAUVER].

Mr. KEFAUVER. Mr. Chairman, in the report on this bill is set forth my position about it. I believe that a general statute covering as many Federal laws that do not have specific periods of limitation as we can properly include under one bill with a general limitation is in the public interest. The reason I feel that way about it is that all the rights, privileges, and immunities from these laws, of course, emanate from the Congress. They have interstate character. They apply to people doing business in interstate commerce. They apply to corporations that may have plants in several States. So I think for the benefit of the individual and for the orderly administration of these laws that it is better to have a general statute of limitations covering the acts that do not have specific ones written into them.

I do think that 1 year is entirely too short a time in which to try to blanket all of the actions covered in these various statutes. Looking at some of the actions that are covered, I notice here No. 10 in the report deals with suits against directors of national banking associations. It happened one time that I was attorney for a receiver of a national bank and the manner of ascertaining whether we had a suit against a director of a national bank, with all of the complicated transactions that must be considered to make that determination, is a very, very difficult one. The fact is that the average lawyer is not a specialist on national banking matters, and I doubt if any appreciable number of suits could be brought to enforce the depositors' rights or the rights of people who are interested against officers of a national bank or directors of a national bank under the National Banking Act if we had a 1-year limitation.

Then there is also the matter of suits for triple damages under the antitrust laws. This may already have been discussed, but by statute Congress has said that whenever anyone is convicted of violation of the antitrust laws, that a person adversely affected has a prima facie claim for triple damage against the violators. We all know how long it takes in criminal procedure to reach a final conclusion in an antitrust suit. Ordinarily an individual waits until the Federal Government has prosecuted its case to see whether he has a right of action. If he is forced to bring his suit within 1 year, a definite hardship and, I am afraid, a miscarriage of justice would be worked in many cases. The same goes with the Fair Labor Standards Act. It places too much of a burden on an individual, if he has a right, to ascertain all the facts in 1 year.

The gentleman from Kentucky referred to the statutes of limitation in the various States. Mr. Chairman, on page 159 you will find a table giving the time limit for bringing certain actions, and the various States are listed. These are actions that apply under the State statute to the Fair Labor Standards Act. As I count the number at the present time there are five States that have one year and there is one State that has half a year limitation. The average would seem to be somewhere between three and four years; three and a fraction years.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. KEFAUVER. I yield to the gentleman from New York.

Mr. CELLER. I made a tabulation of the States. Four States have a statute of limitations of 2 years; 7 States have a statute of limitations of 1 year; 35 States have a statute of limitations of 3 years or more. You can find that tabulation at page 159 of the hearings. It is included in the testimony given by Mr. Metcalfe Walling, administrator of the wage-and-hour law. If there are any changes in the States with reference to those statutes of limitation since June 1945, I do not know of them.

Mr. GWYNNE of Iowa. Mr. Chairman, will the gentleman yield?

Mr. KEFAUVER. I yield to the gentleman from Iowa.

Mr. GWYNNE of Iowa. I mentioned 10 States that have legislated. I referred to the States that have legislated specifically to cover this wage-and-hour situation. Of the 10, one-half have fixed 1 year or less. It is true there are many States where the courts have had to look over the books and the decisions and work out a statute. In my State they picked out a 5-year statute as being applicable. We then passed a 2-year statute. I do not want anybody to get the impression that 35 States have legislated in this particular case.

Mr. CELLER. The impression might be given that there are not 35 States that have a statute of limitations of 3 years or more. I ask the gentleman to point out whether or not the statutes in those 35 States have been changed to decrease the time limit in the statute of limitations. I do not believe the gentleman will find any.

Mr. GWYNNE of Iowa. My own State did that very thing. They found a 5-year statute, and we passed a 2-year statute. In Maryland they applied a 12-year statute, and I think they passed a 3-year statute.

Mr. CELLER. The courts in all those States mentioned here have adjudicated that the numbers of years indicated in this summary are the limitations in those various States. There are 35 that have a statute of limitations of 3 years or more.

Mr. KEFAUVER. I think there is no argument between the gentleman from Iowa and the gentleman from New York. I think that unless it is specifically provided for, the general statute of limitations for recovering an amount due on a debt will apply to these various actions.

I have always thought that the decisions reached by the Legislature of Tennessee on matters of this kind would be about fair and right. I notice in this table, at page 159, that apparently in the beginning the statute covering actions under the Fair Labor Standards Act in Tennessee was 6 years. I assume that came within the general provision for recovering an amount due on a contract or a debt. Apparently the Legislature of Tennessee has reduced that time to 3 years. That seems like a reasonable compromise. I think the average here would be something more than 3 years.

Mr. HANCOCK. Mr. Chairman, will the gentleman yield?

Mr. KEFAUVER. I yield to the gentleman from New York.

Mr. HANCOCK. I call the gentleman's attention to the tables appearing on pages 8 and 9 of the hearings. There the statutes of limitation covering this particular question are set forth. On page 9 the gentleman will find the bills that are pending. The New York courts have interpreted this wage-and-hour law to come under a 6-year statute of limitations. A bill has been introduced and undoubtedly will be passed, known as assembly bill 2118, providing a 1-year statute of limitations.

Mr. CELLER. How does the gentleman know that bill will be passed in New York State?

Mr. KEFAUVER. I think we have enough to settle here on this floor without deciding what the Legislature of the State of New York is going to do.

I think the 3 years would be a reasonable compromise.

The gentleman from Pennsylvania [Mr. WALTER] necessarily has to be away today, because tomorrow is the primary election in Pennsylvania. He asked me to present an amendment on his behalf, to strike out 1 year and insert 5 years. I am going to do that at the proper time on behalf of the gentleman from Pennsylvania. My personal feeling, however, is that 3 years would be reasonable.

Also on behalf of the gentleman from Pennsylvania, I am going to offer another amendment, and I think some little explanation should be made of this amendment. It will be noted on page 2 of the report that very frequently this limitation would apply to the bringing of a suit by the Government. I do not think suits by the Government should come within the limitation of this law. Therefore, on behalf of the gentleman from Pennsylvania [Mr. WALTER] I am going to offer an amendment at the appropriate time as follows:

Provided further, That the provisions of this act shall not apply to actions in which the United States or an agency or officer thereof is plaintiff.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. CELLER. Mr. Chairman, I yield three additional minutes to the gentleman from Tennessee.

Mr. KEFAUVER. I wonder if the author of the bill feels that this bill is to apply to suits by the Government and whether he would be willing to accept a clarifying amendment? What is the gentleman's attitude toward the amendment?

Mr. GWYNNE of Iowa. Mr. Chairman, will the gentleman yield?

Mr. KEFAUVER. I yield.

Mr. GWYNNE of Iowa. It is my own opinion that the bill as reported out by the committee does not apply to suits by the Government. In order to avoid any possibility of conflict or disagreement on it, I would be glad to accept that amendment, so far as I am concerned.

Mr. KEFAUVER. I thank the gentleman. I know it was discussed in committee. The gentleman said he did not intend for it to apply to suits or actions by the Government. But in the event there might be any doubt about it, I appreciate the gentleman accepting this clarifying amendment.

Mr. HANCOCK. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana [Mr. SPRINGER].

Mr. SPRINGER. Mr. Chairman, I think perhaps the real point of disagreement with respect to this measure is with reference to the time to be fixed as a period of limitation within which these actions are to be brought. I know in many instances there has been much confusion as to which particular statute of limitations, provided by the several States, was applicable in suits of this character. I know in my own State we have one statute of limitations of 2 years. Then in other actions we have the 6-year statute. Also we have a statute of 10 years; and in other actions relating to real estate we have a 15-year statute of limitations. It has been a problem for our courts and lawyers to determine exactly which particular statute is applicable in this particular class of cases. Also we have the conformity laws. By reason of the fact that we have no Federal statute which applies to this particular class of cases, then the statute of limitations which is applicable in the several States which have the venue of these actions must apply, and that is where the confusion lies in determining which one of these particular statutes applies. There may be some question as to whether or not there should be a long period of time or a short period of time under the statute which is fixed to control the commencement of actions of this character. May I say, as we approach this subject, that statute only applies to the commencement of the action. It is not intended, and by this proposed law it is not meant, that the action must be completed or the case tried within the time fixed. The only requirement is that the action be commenced within the specified time provided in the statute. All of us who have had experience in courts know the longer a person delays in preparing the trial of the case after the happening of an accident or the occurrence which is involved in the case, the harder it is to secure evidence. The witnesses die and move away or the evidence becomes scattered. A long delay causes witnesses to forget the facts and this particular situation applies to all parties to the action. It is almost impossible on the part of both plaintiff and defendant in the action to collect evidence and prepare for trial if a long delay occurs. On that particular point, I desire to refer to a report and to the special letter which was written by Mr. Forrestal, the Secretary of the Navy, in which he expresses his opinion on that very subject. Reading from his letter, he says:

State statutes fixing short periods are now of doubtful validity as they may be held to be unconstitutional attempts to interfere with the operation of Federal laws, having been enacted in some cases in a more or less hostile spirit.

Then he goes on:

On the other hand, State statutes fixing a long period of time confronts the Navy with serious difficulties in terminating and settling cost-type contracts. Moreover, many Navy contractors will cease doing business and will disband their organizations when war contracts run out. Since in the important issue of exemptions the burden of proof is on the defendant, long delays in instituting suit may make it possible for unjustified claims to succeed, as the evidence to rebut them will have disappeared.

I am quite certain that every lawyer experiences that same situation when he attempts to collect his evidence, to prepare for the trial of cases, after a long period of time has expired.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield.

Mr. CELLER. The gentleman has quoted from some statement by Secretary of the Navy Forrestal. He also says, on page 7 of the report, that he recommends favorable enactment of the bill as modified above. That modification refers to the suggestion of the Department of Labor that the statute of limitations be for 3 years.

Mr. SPRINGER. Before I close, I desire to refer to a statement made by Mr. Walling, Administrator of the Fair Labor Standards Act and the Public Contracts Act. I refer to page 157 of the hearings, which were held before Subcommittee No. 4 of the Committee on the Judiciary, of which I have the honor to be a member. I asked Mr. Walling certain questions regarding the period of time which he suggested, as follows:

Mr. SPRINGER. The suit does not necessarily have to be completed within that time to come within the statute. It would only be necessary to file it.

Mr. WALLING. Yes. My point was merely that it takes a certain amount of time before the employee knows whether he needs to file suit or not to recover.

Mr. SPRINGER. That is right; but ordinarily that could be ascertained with a reasonable degree of certainty within 7 or 8, or even 9 months, could it not?

Mr. WALLING. I should think in many cases it could; yes.

Mr. SPRINGER. Then, that would leave approximately 3 to 4 months in which to institute action?

Mr. WALLING. That is right.

Mr. SPRINGER. If the limitation were fixed at 1 year?

Mr. WALLING. That would be true in many cases, of course.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. HANCOCK. Mr. Chairman, I yield the gentleman two additional minutes.

Mr. SPRINGER. Then, further on, the gentleman from Iowa [Mr. GWYNNE] suggested in a question:

Mr. GWYNNE. Have you ever suggested in a report made to Congress a period of limitation or has your department suggested a period of limitation?

Mr. WALLING. I think one of the previous administrators may have suggested a different period in one of his annual reports.

Mr. GWYNNE. What was that?

Mr. WALLING. Well, I am not sure, but I am inclined to think that a 2-year period may have been suggested by General Fleming in one of his reports.

Mr. Walling, following the report of General Fleming, said to the subcommittee which heard this testimony that General Fleming had stated that a 2-year statute of limitations would be

proper. Therefore, it occurs to me that any great, long period of time of waiting will be important insofar as both the plaintiff and the defendant are concerned in cases of this character. All are required to assemble the evidence; it is necessary to secure the location of witnesses; it is essential to prepare for trial, and if the evidence is scattered, the witnesses have left and are residing elsewhere, it would be almost impossible for them to have a fair and impartial trial of their case because of their inability to secure the testimony necessary to present their case.

Since an amendment will be offered providing for a 2-year period, I think that is fair, from the standpoint of all parties concerned. That is a fair period of time for all parties in which to prepare their case for trial and to commence the action by filing the complaint and causing summons to be issued thereon. And that is all that is necessary in order to comply with the statute now proposed herein. There is just one concluding thought I wish to make with respect to this pending measure; that is on page 2, line 17, in which this measure provides that no liability shall be predicated in any case on any act done or omitted in good faith in accord with any regulations, order, or administrative interpretation or practice. That provision will clarify the situation in many of these cases, and this provision will prevent injustice in many cases. It is my hope this measure is passed by a unanimous vote.

The CHAIRMAN. The time of the gentleman from Indiana has again expired.

Mr. HANCOCK. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee [Mr. JENNINGS].

Mr. JENNINGS. Mr. Chairman, this bill is for the purpose of limiting the time within which suits may be brought for wages, for penalties, and for damages, actual or exemplary, fixed not only by law but by the multitudinous rules, regulations, and interpretations of such rules and regulations that have been prescribed from time to time by the unnumbered bureaus which operate here in the city of Washington. It first provides for uniformity with respect to the time in which these suits may be brought. Just to show you how necessary that is, by way of illustration, here is a man working in a certain State where the period of limitation within which he could bring suit for time and a half, double time, or for penalties is 5 years. He goes out of that State under the impression that he can bring his suit within 5 years and goes into a State where the time within which he must bring his suit is 1 year. Because he sleeps on his right and does not bring suit within the year allowed in the State to which he has moved he loses his right of action.

The purpose of this bill is to bring about uniformity with respect to the time within which these suits may be brought. That helps both the employer and the employee. They both know that unless suit is brought within 2 years there can be no recovery under the Federal law.

The second purpose is to set at rest these controversial matters. As a matter of public policy the laws of every State in the Union prescribe a time within which a man must prosecute his cause of action; and that is for the reason that witnesses die and go elsewhere, and because of the fallibility of human memory. Facts fade from the human mind and there comes a time when a designing person may perpetrate a fraud by bringing forth a stale demand, and out of that situation has grown the doctrine known in equitable practice as laches; that is where a man has slept upon his right of action and it becomes stale, witnesses have died, the evidence has been lost. The law in a case of that kind favors the diligent and not those who sleep upon their rights, and such a demand is rejected by the courts.

And then it has another good purpose, and that is to preserve the species that may soon become extinct, the small businessman and the taxpayer whom we shear once a year. We have now gotten to the point where we skin him. We who are farmers know that you can shear a sheep once a year and get a goodly return of wool, but you can skin him only once. The dodo bird is a thing of the past, and the passenger pigeon has long since passed into the limbo of things forgotten and gone, and now the American taxpayer, the small businessman, is on his way out.

Here is what happens every day under the law as it now is: A number of little fellows get together and pool their life savings to set up a business; they employ their neighbors and they operate under multitudinous rules and regulations issued from Washington. They do not know about them; they are not able to employ a learned legal staff and research department to keep up with the bureaucrats in Washington. At best they must work all day and sit up all night trying to keep out of jail and trying to observe the law. Those little fellows go along and do their best. They think they have paid all they owed, they have paid their taxes out of a narrow margin, and most businesses operate on a narrow margin. Three or four years from that time they wake up confronted with a suit for double wages, time and a half, treble damages, and they are wiped off the face of the earth.

The report of the Committee on the Judiciary fully sets out the reasons which demand the passage of this bill.

In the case of *Missel* v. *Overnight Transportation Company* (316 U. S. 572) it was decided that even though the defendant had no way of knowing he was violating the law, and was in absolute good faith in what he did, nevertheless, he must suffer the penalty, and the Court said:

> Is this provision of the law as to liquidated damages mandatory or discretionary? Since the act has been violated in good faith in this case, we would, indeed, like to hold that it is discretionary.

The Good Book says, "He that knows and does a wrong shall be punished with many stripes, but that he who does not know and stumbles," or words to that effect, "shall be punished with few stripes."

Under the law as we have heretofore understood it, courts looked to the intent of the defendant, but here the Court says that intent does not enter into it at all.

The Court then went on to say:

> It seems a keen injustice for employers bewildered by strange legislation and confused by divergent authority in courts to be subjected to such a measure. Yet, no matter how much we lament its harshness, the section appears to be mandatory, and virtually all the courts have so construed it.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. HANCOCK. Mr. Chairman, I yield the gentleman two additional minutes.

Mr. JENNINGS. Mr. Chairman, no man today, I do not care how learned he may be in the law, can say to his client what the law is today or what it will be tomorrow. Mr. Justice Roberts, speaking recently about a divergence of the Supreme Court of the United States from the beaten path of precedent, said, and in this he is speaking about the highest court in the land:

> It has come to pass that the decisions of this Court are like a limited railroad ticket, good for this day and this train only.

In that aspect of things should there not be a limit within which these rights to sue are asserted? The working people know their rights. I live in an industrial city, and since these laws have been in effect, all the courts having jurisdiction, both Federal and State, have had on their dockets many cases asserting the rights of workers under these statutes. Do not think for one minute that they do not know what their rights are. Let these rights, whatever they may be, be asserted within a period of 2 years and let the people who are hanging on by their fingernails on the narrow ledge of an effort to carry on, make a living, pay their employees, and contribute to the maintenance of this Government have a chance. Let them know within what time they are to be liable in these suits that may put them out of business and render them bankrupt. It is a much needed law, it is long overdue, and can result in injustice to no one. Especially is it needed by the small businessman in every State in the Union. His capital is small, his profits are small, and suits of this nature ruin both him and his employees by closing out his business and by destroying the jobs of his employees.

The CHAIRMAN. The time of the gentleman from Tennessee has again expired.

Mr. HANCOCK. Mr. Chairman, I yield the balance of the time on this side to the gentleman from Maine [Mr. FELLOWS].

Mr. FELLOWS. Mr. Chairman, I doubt if I can add anything to this discussion as I find it is very difficult to follow such Members as the gentleman from Iowa [Mr. GWYNNE], the gentleman from Indiana [Mr. SPRINGER], the gentleman from New York [Mr. HANCOCK], the gentleman from Tennessee [Mr. JENNINGS], to mention only a few. It seems

to be generally conceded that there is need for a limitation. If we cannot agree on a limitation of 1 year I believe that we can agree that 2 years is fair and will operate fairly with everybody concerned.

I want to read one paragraph of a letter I received from a committee of small businessmen in the part of Maine where I live:

> The committee recommends passage of H. R. 2788, the companion bill to S. 1013, on the grounds that this bill if enacted, will protect business from hidden and surprise suits, (after 1 year has passed) growing out of violations that may have occurred even through the businessman has acted in good faith. In other words, businessmen have many times relied on "official" wage-hour interpretations and actions, only to learn that the things they have relied on have been amended, revoked or held to be illegal. All this in spite of the fact that the businessman was acting in good faith.

That is the appeal from the so-called small businessmen all over the country. They are asking for some reasonable rule that will protect them in order that they may continue to do business and provide employment.

I want to direct your attention, however, for a few moments, to this particular provision of the proposed statute, namely, the last part:

> Provided further, That no liability shall be predicated in any case on any act done or omitted in good faith in accord with any regulation, order, or administrative interpretation or practice, notwithstanding that such regulation, order, interpretation, or practice may, after such act or omission, be amended, rescinded, or be determined by judicial authority to be invalid or of no legal effect.

That is an important part of this proposed statute, and I am going to try in a somewhat unsatisfactory manner to illustrate how important it is that some general rule be adopted that will protect the men who have conducted themselves according to what they understood in good faith to be the law of the country.

A short time ago the president of a small business concern came to my office. The business is an old one. It has been in operation approximately 100 years, and all during that time it has given labor wages and support to at least 100 families. It has a splendid reputation. The men and women who work for that concern are happy. This is a small concern. They found, as meat processors, that they could afford to have only one grade, while the big fellows had three grades and could manipulate those grades to suit themselves. In an examination of hundreds of regulations this company decided that it must petition for a change of formula. So they came to Washington. We went down to OPA, and the head of the division was very gracious and very kind and he gave us plenty of time. We prepared the triplicate petition to change the formula, because they found they had to change the quantity of one or two ingredients in order to comply, as they interpreted it, with the law or regulation then existing. We sat down with this head of the department, and after he had pointed out the regulation applicable to our case, we submitted the petition. I asked him if the petition was in proper form. He said, "Yes," and that we had proceeded under the correct regulation. I said, "Well, in the meantime, are we going to be arrested while you are deciding what is right and wrong?" He said, "No; I think you are perfectly all right, and you will hear from us very soon—10 days or 2 weeks." So we went back and the president of the company went home. Two weeks went by. Four weeks went by. Six weeks went by and I received a letter from the head of the division stating that the rule under which we had proceeded, which he had pointed out as the correct rule, had been rescinded 2 weeks before we filed the petition. We got home to find that our trucks were held up and our pictures were in the paper as violators of the law. We were punished while the Department was finding out that the rule under which we were in good faith proceeding did not exist.

So I say there is a crying need that men who are carrying on a business honestly and conducting themselves according to the Government's own interpretation of a regulation under existing law should be protected and not punished. Those are the men who are not in the black market. That concern is operating today at a loss. Because it is an old concern and because for years it has operated and taken care of 100 families, it continues to operate. This is a splendid illustration of why it is necessary that men in business be protected when they have followed the interpretation of the regulation of the department itself. So I am urging as forcefully as I can that this bill be passed.

Mr. HOBBS. Mr. Chairman, I yield 5 minutes to the distinguished chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. SUMNERS].

Mr. SUMNERS of Texas. Mr. Chairman, the proposed legislation is important from several angles. It is recognized, of course, that the causes of action with reference to which the proposed statute of limitations would apply do not arise out of any breach of contract or tort in the ordinary sense but are actions to recover a penalty imposed by an act of Congress—a matter of statute. They are based upon the claim that the regulation in effect required the employer to do something he had not done, and that Congress has provided in circumstances of that sort that the individual may bring suit and get judgment for twice or, in some instances, three times the amount of money agreed to be paid for that particular service.

That is a hard sort of arbitrary thing which the Congress imposes with no limitation on the time in which this penalizing procedure may be instituted. The employer lives in constant peril of such suits. There is no duty to be vigilant imposed by the Congress which imposes this penalty, which partakes more of the nature of a punishment for crime than a recovery for value of services rendered for breach of contract. If it be conceded that the objective may be good, that the employer should be penalized, certainly it should be conceded that the beneficiary of this law, given power to recover this penalty, should proceed with reasonable expedition to determine his right to this penalty. What time and how long after the right of recovery has arisen should the person claiming the right to recover have in which to initiate proceedings to recover? The Committee on the Judiciary has suggested 1 year. An amendment will be offered to make it 2 years. That is long enough. This power to recover the kind of judgment referred to is a dangerous sort of power or legal right for anybody to possess. It is one that must be exercised within the support of public opinion in the communities of the country, or there will be a dangerous reaction—dangerous to the just claims of the possessor of this power. As nearly as public opinion can be reflected by the legislation of the States, it is indicated that 2 years is about the right time in which suit may be brought. When Iowa had a 5-year statute, they reduced it to 2. Maryland had a 12-year statute; they cut it to 3. All the States that have dealt with this question, with one or two exceptions, have reduced the statute to 2 years. I believe it is a fair conclusion that the 2-year provision indicates the judgment of the people in the State legislatures and probably the judgment of public opinion in those communities. It seems to be agreed by the members of the committee that it ought not to be more than 2 years. I submit to the judgment of those who are interested in protecting the legitimate rights of labor, that labor at this moment is in about the situation that management was some 20 or 25 years ago when it was riding high, wide, and handsome in this country and apparently had little regard for public opinion. From my examination of the way things happen, I am convinced that the favorite explanation for that conduct with which we do not agree is due to the fact that the other fellow and his group are meaner than I and my group will not stand up. It is more frequently true that the offending group is the victim of too much power.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. HOBBS. Mr. Chairman, I yield three additional minutes to the gentleman from Texas [Mr. SUMNERS].

Mr. SUMNERS of Texas. It is doubly dangerous if such power has been gained quickly. Those who are going fast under the momentum of such power do not seem able to apply the brakes themselves. If ever statesmanship, both inside and outside of labor, had a duty to labor and to the whole country to perform, it is now. It will be one of the most remarkable exceptions to the rule if history is able to record that labor has been able to possess the power which it has up to now acquired as quickly as it has, without so tyrannically exercising that power that it will lose the support of public opinion, will lose much of what it has gained, and the pendulum will swing far in the other direction. This radical swing of the pendulum is dangerous for everybody and is one of the most conspicuous indications that democracy itself is in danger. I realize this item of legislation would not of itself justify these

observations, but it happens to come at a time when conditions are such that these observations are pertinent to that which is pending and to the general situation. If ever there was a time on earth that any group needed the restraining influence of its friends, labor needs it now. Suits stirred up months and years after that has been done on which the cause of action is based, with administrative rules being changed, established court decisions overruled, financial conditions altered, and so forth, with the possibility of ruinous judgments being rendered, is just as dangerous now to labor in the long run as it is to management.

Mr. SAVAGE. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. SAVAGE. I wonder if the gentleman would not bear in mind that the necessity of this legislation comes about because employers violate the laws and not because employees violate the laws.

Mr. SUMNERS of Texas. There is no claim that workers violate the laws. There is no such claim that they do.

Mr. SAVAGE. No.

Mr. SUMNERS of Texas. But my point is that we should be very reasonable in providing a statute of limitations within which these workers must bring their suits to recover that which the Congress says they are entitled to. That is the only point I am making at the moment. I believe we should agree that 2 years is a reasonable length of time, as will be proposed by a member of the committee as being fair to the employer and fair to the employee. I very much hope this amendment will be accepted which I understand is going to be offered.

Mr. GWYNNE of Iowa. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. GWYNNE of Iowa. I was going to ask the distinguished chairman if the necessity for this bill does not arise partly from the fact that the Administrator changes his opinion so that a person who is complying with his rules today finds tomorrow that he is not complying with them and is thus subject to suits going back to the beginning of the law. That is the real reason for the statute.

Mr. SUMNERS of Texas. Yes; that is a reason. Then another reason is that the construction or interpretation and application of the commerce clauses is so utterly beyond reason and common sense that nobody knows what can be done that will not be held to come within its powers.

Mr. HOBBS. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. GORSKI].

Mr. GORSKI. Mr. Chairman, I am opposed to the 1-year limitation in this bill. I think it ought to be 3 years. Of course, 2 years is better than 1 year. However, I am informed there are about 530,000 establishments affected by this law and about 19,000,000 employees. We know that people in business usually know their rights, or they have people who inform them of their rights, while a vast number of the 19,000,000 employees do not always know just what their rights are, and if the time is too short, an injustice would be done to them, and the law violator would benefit and profit by his violation to the detriment of both the employee and the honest competitor.

I favor a statute of limitations here so that it would be fair to both sides. However, I do not think it should be too long, nor should it be too short I think 1 year is too short a time for the employee to know his rights. In many cases, although he might know them, he might not want to exercise them because of jeopardizing his job. Since the controversy here is the time limits, I think that 3 years would be fair to all concerned. It would give the person who had a claim ample time, and would not be a disadvantage to those who have to defend. Three-fourths of our States have statutes of limitations of 3 years or more on actions of this nature. The legislatures of these States have carefully and fully considered this question, and in their wisdom they have allowed at least 3 years to a claimant to bring his action. I am therefore, opposed to the 1-year limitation, as is provided in this bill, and earnestly ask the time be extended to 3 years.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. HOBBS. Mr. Chairman, I yield myself the balance of the time.

The CHAIRMAN. The gentleman from Alabama is recognized for 17 minutes.

Mr. HOBBS. Mr. Chairman, just a word or two in conclusion about this matter of the statute of limitations and the time that it should run. Let us not be too sure that any man will ever be hurt by passing this statute of limitations. I doubt if there is a man living who does not know what the provisions of the wage and hour bill are with regard to the minimum wage. I doubt if there is a man living who does not know what the penalties are, time and a half, double time, and treble damages, and so on. The same is true as to the other 18 laws.

The point we are making is that it is not fair for him to come in 8 years later and say, "On a certain Sunday I worked an hour and a half overtime. I am entitled to double wages because it was Sunday; I am entitled to treble damages because you violated the law 8 years ago."

No one can defend that kind of an action because all of the witnesses are gone; they are scattered to the winds. We have seen many cases of that kind that have been brought in testimony before our committee, and we believe something should be done. Two years is double the time of the average limitation fixed by law for tort actions. Most of these cases sound in tort. If they are under contract, then they are for penalties, liquidated damages and the like, which the law does not favor and which should be brought not later than 2 years.

Something has been said to the effect that a man might not know his rights. All he has to do is send a postcard directed to the Wage and Hour Administrator, or other administrator, and he will get the information very promptly.

All this bill seeks to do is to bar cases like the one I cited in my opening remarks, a suit that may absolutely wreck the Mutual Ice Co. of Alexandria, Va., where after 6 years suit is brought for $34,200 by one man who brought in a claim that in 1938 he worked overtime, that he had so many hours during that year and so many hours in each year since. If that employer cannot, because of the lapse of time, successfully defend that suit it means bankruptcy.

It seemed to the committee which studied this matter—and the hearings are extensive—it seemed to everyone that we have contacted, including the report of General Fleming, that 2 years as a statute of limitations is fair and reasonable. It is a compromise between the 1 year which the committee thought was right and the 3 years which others thought was right, including Mr. Walling, the present administrator of the Wage-Hour Bureau.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. HOBBS. I am glad to yield to the distinguished gentleman from New York.

Mr. CELLER. Does the gentleman say that the Secretary of the Navy, Mr. Forrestal, the Secretary of Labor, and the head of the Department of Justice are less important than Mr. Fleming or Mr. Walling?

Mr. HOBBS. No, sir; I do not think so.

Mr. CELLER. They advocate 3 years.

Mr. HOBBS. I believe they indicated that they were following the lead of the Department of Labor and were testifying for 3 years merely because the Secretary of Labor had so testified.

Mr. GWYNNE of Iowa. Mr. Chairman, will the gentleman yield for another observation?

Mr. HOBBS. I shall be pleased to yield to the distinguished gentleman from Iowa.

Mr. GWYNNE of Iowa. I think this fact should be mentioned also that when the bill was introduced recently in the Senate by Senator PEPPER to amend the wage-hour law in certain particulars, it contained a 2-year provision.

Mr. HOBBS. I thank the gentleman for that contribution. We are familiar with it, of course, in our committee. Now the House has that additional information.

Mr. GALLAGHER. Mr. Chairman, will the gentleman yield for a question?

Mr. HOBBS. I shall be so happy to yield to the distinguished gentleman from Minnesota.

Mr. GALLAGHER. I wish to ask but one question. There are some men who have claims at the present time. How far back could the claim go? Could it go back further than 2 years?

Mr. HOBBS. He could go back to the very beginning of the act under which the claim is made. We are specific. I am so glad the gentleman asked that question, for it is very pertinent. Even if that claim is now barred by this bill, it will be revived and suit can be brought at any time within 6 months after the passage of this bill. We are delighted to try to do what is fair to both sides. All we want is that both sides be treated fairly and that these double and treble penalties, these liquidated damages, and these claims sounding in tort, should not be saved up for years until the demands

have become stale and then thrown into the hopper and wreck a legitimate business.

Mr. BAILEY. Mr. Chairman, will the gentleman yield?

Mr. HOBBS. I am glad to yield to the distinguished gentleman from West Virginia.

Mr. BAILEY. Does the gentleman mean by his statement that they have no records to show the length of time worked by employees? Is the gentleman aware of the fact that most plants require their employees to punch in and punch out on time records? Would not those records show what hours he worked?

Mr. HOBBS. That is certainly true of the large plants but not of the average plant. We are talking now of the average plant, and the small plant as well as the large. Also there are instances where reasonably large plants do not keep those records over 6, 8, or 10 years.

Something has been said here as to claims arising from fraud. There is no possible controversy about that. Fraud cases can only begin to run from the time of the discovery of the fraud. So let us not be misled by any specious argument of that kind.

If you pass a 10-minute statute of limitations it would not begin to run until the fraud had been discovered. If a fraud had been perpetrated against the Government or against anybody else a hundred years ago suit could be filed, no matter what length of limitation you might put upon the action, if they acted within a reasonable time fixed in the statute of limitations after discovery of the fraud.

There can be no objection to this bill as we see it, in view of the two committee amendments which I shall offer, one eliminating all suits where the Government itself is a party in interest, and we compromised on a 2-year statute of limitations, half-way between those who advocated a 3-year statute and the committee's version which after full hearing fixed it at 1 year.

We beg the Committee to pass this bill, which is long overdue.

Mr. SAVAGE. Mr. Chairman, will the gentleman yield?

Mr. HOBBS. I gladly yield to the gentleman from Washington.

Mr. SAVAGE. The gentleman stated that he did not believe there was a man in the United States who did not know the minimum wage provided under the Wage-Hour Act, which is probably true; but recently the Department reported an investigation showed that thousands of employers were violating the minimum-wage law. I think those are willful violations because they must know what the minimum wages are. I believe a limitation is all right, but it certainly ought to be 3 years, long enough so the employees can find out what their rights are and bring suit. As I stated, a limitation is all right if it is not made too short. It particularly helps those employers who are deliberately violating the law if it is made too short.

Mr. HOBBS. All employers have been treated that way under the enforcement of the wage-hour law from the beginning. They have always been chargeable with willful violations of the law. No one has ever claimed that the employers did not know. All I am saying is that I believe the employee also knows, and if he does not know a post card directed to Mr. Walling will get that information.

Mr. Chairman, we believe this is a fair bill and we urge its support by the Committee.

The CHAIRMAN. All time has expired. The Clerk will read the bill for amendment.

The Clerk read as follows:

Be it enacted, etc., That title 28 of the United States Code, as amended, be further amended by adding a new section to be known as section 793, and to read as follows:

"SEC. 793. Except as otherwise provided in any action creating a right of action to recover damages, actual or exemplary, no action under the laws of the United States shall be maintained unless the same is commenced within 1 year after such cause of action accrued, unless a shorter time be fixed in any applicable State statute: *Provided, however*, That public actions to recover money damages may be enforced if brought within 2 years after the cause of action accrued except when the United States is not the real party at interest: *Provided, further*, That the person liable for such damages shall, within the same period, be found within the United States so that proper process thereof may be instituted and served against such person."

With the following committee amendment:

Strike out all after the enacting clause and insert the following: "That hereafter, except as otherwise specially provided by act of Congress, no action for the recovery of wages, penalties, or other damages, actual or exemplary, pursuant to any law of the United States shal be maintained in any court unless the same was commenced within 1 year after such cause of action accrued: *Provided*, That causes of actions which had accrued prior to the passage of this act and which had not become barred by any applicable statute of limitations may be maintained if commenced within 6 months after the date of enactment: *Provided further*, That no liability shall be predicated in any case on any act done or omitted in good faith in accord with any regulation, order, or administrative interpretation or practice, notwithstanding that such regulation, order, interpretation, or practice may, after such act or omission, be amended, rescinded, or be determined by judicial authority to be invalid or of no legal effect. No limitation under this act shall apply if the person liable for such damages shall not be found within the United States, within the same period, so that proper process may be instituted and served against such person."

Mr. HOBBS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOBBS: On page 2, line 11, after the words "United States" add a comma and then the words "except actions brought by the United States as the real party in interest."

Mr. HOBBS. Mr. Chairman, I move the adoption of the amendment.

Mr. KEFAUVER. Mr. Chairman, will the gentleman yield?

Mr. HOBBS. I yield to the gentleman from Tennessee.

Mr. KEFAUVER. Mr. Chairman, I propose to offer an amendment which also excludes actions by the United States. I shall offer the amendment on behalf of the gentleman from Pennsylvania [Mr. WALTER]. Is it the gentleman's understanding that both amendments accomplish the same thing?

Mr. HOBBS. My idea is, sir, that the bill itself does not cover the Government, but in order to make assurance doubly sure the amendment says that there is excepted from the operation of this bill any action brought by the Government as the real party in interest.

Mr. KEFAUVER. Mr. Chairman, I ask unanimous consent that the amendment proposed by the gentleman from Pennsylvania [Mr. WALTER] be printed in the RECORD at this point. I shall not offer the amendment because this amendment covers the same subject matter.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The amendment is as follows:

Amendment offered by Mr. KEFAUVER: Page 3, line 2, strike out the period after "person" and insert a colon and the following: "*Provided further*, That the provisions of this act shall not apply to actions in which the United States or an agency or an officer thereof is plaintiff."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama [Mr. HOBBS] to the committee amendment.

The amendment to the committee amendment was agreed to.

Mr. HOBBS. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. HOBBS: Page 2, line 12, strike out the words "1 year" and insert in lieu thereof the words "2 years."

Mr. CELLER. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from Alabama:

Page 2, line 12, strike out the numeral "2" and insert "3". On that I ask for recognition.

Mr. GWYNNE of Iowa. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. GWYNNE of Iowa. I make the point of order against the amendment offered by the gentleman from New York [Mr. CELLER] that it is an amendment in the third degree.

Mr. CELLER. Mr. Chairman, I withdraw the amendment, and I offer a substitute amendment that on page 2, line 12, the word "one" be striken out and the word "three" be inserted.

Mr. GWYNNE of Iowa. Mr. Chairman, I make the same point of order against the amendment now offered by the gentleman from New York.

The CHAIRMAN. The same point of order would apply. The Chair sustains the point of order.

Mr. KEFAUVER. Mr. Chairman, I offer an amendment to the amendment.

Mr. GWYNNE of Iowa. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GWYNNE of Iowa. Does the gentleman offer an amendment to the amendment?

The CHAIRMAN. Yes.

The Clerk read as follows:

Amendment offered by Mr. KEFAUVER: Page 2, line 12, strike out "1 year" and insert "5 years."

Mr. GWYNNE of Iowa. Mr. Chairman, I make the same point of order.

The CHAIRMAN. The Chair sustains the point of order.

The question is on the amendment offered by the gentleman from Alabama [Mr. HOBBS] to the committee amendment.

The question was taken; and on a division (demanded by Mr. CELLER) there were—ayes 71, noes 20.

So the amendment to the committee amendment was agreed to.

Mr. CELLER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CELLER. Is it in order now to strike out the word "two", in line 12, on page 2, and insert the word "three"? If it is parliamentarily proper, I shall offer that as an amendment.

The CHAIRMAN. Such an amendment is not now in order.

The question is on the committee amendment as amended.

The committee amendment as amended was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. GRANGER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H. R. 2788) to amend title 28 of the United States Code in regard to the limitations of certain actions, and for other purposes, pursuant to House Resolution 394, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

The title was amended so as to read: "A bill to limit the time during which certain actions under the laws of the United States may be brought."

A motion to reconsider was laid on the table.

Mr. HOBBS. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days in which to extend their remarks in the RECORD on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

SCHOOL-LUNCH PROGRAMS

Mr. FLANNAGAN submitted a conference report and statement on the bill (H. R. 3370) to provide assistance to the States in the establishment, maintenance, operation, and expansion of school-lunch programs, and for other purposes.

EXTENSION OF REMARKS

Mr. SADOWSKI asked and was given permission to extend his remarks in the RECORD and include an article from the Chrstian Science Monitor.

Mr. CELLER asked and was given permission to extend his remarks in the RECORD.

Mr. CARNAHAN asked and was given permission to extend his remarks in the RECORD and include correspondence regarding the misuse of the honorable-discharge button.

Mr. KEFAUVER asked and was given permission to extend his remarks in the RECORD and include an address he recently delivered.

Mr. DOYLE asked and was given permission to extend his remarks in the RECORD and include an article, The 5-Year Plan of Aviation Backward, by Chick Logan.

AMENDING AN ACT ESTABLISHING A UNIFORM SYSTEM OF BANKRUPTCY THROUGHOUT THE UNITED STATES

Mr. SUMNERS of Texas submitted a conference report and statement on the bill (H. R. 5504) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, and acts amendatory thereof and supplementary thereto.

APPOINTMENT OF ONE ADDITIONAL DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA

Mr. SUMNERS of Texas. Mr. Speaker, I call up the conference report on the bill (S. 1163) to provide for the appointment of one additional district judge for the northern district of California.

The Clerk read the title of the bill.

The Clerk read the conference report.

The conference report and statement are as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1163) to provide for the appointment of one additional district judge for the northern district of California, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House, insert the following: *"Provided,* That unless the President shall, not later than July 1, 1946, submit a nomination to the Senate to fill the office hereby created, then in that event this Act shall be of no force and effect."

HATTON W. SUMNERS,
EMANUEL CELLER,
C. E. HANCOCK,
Managers on the Part of the House.

PAT MCCARRAN,
ERNEST W. MCFARLAND,
ALEXANDER WILEY,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1163) to provide for the appointment of one additional district judge for the northern district of California, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report.

The House passed the Senate bill after amending it to provide that no appointment should be made to fill the first vacancy which should thereafter occur in that district, and by further providing that the act should be ineffective unless a nomination to fill the office thus created be submitted to the Senate within 90 days. The Senate disagreed to the House amendment and requested the conference, to which the House agreed.

The House receded with respect to the limitation on the filling of the first vacancy arising in said district and this part of the House amendment is stricken out.

With respect to that part of the House amendment limiting the time within which a nomination should be submitted, the conferees agreed that unless a nomination is submitted to the Senate by July 1, 1946, to fill the office hereby created then in that event the act shall be of no force and effect.

HATTON W. SUMNERS,
EMANUEL CELLER,
C. E. HANCOCK,
Managers on the Part of the House.

The conference report was agreed to.

A motion to reconsider was laid on the table.

EXTENSION OF REMARKS

Mr. PITTENGER asked and was given permission to extend his remarks in the RECORD in three instances on three separate subjects and include newspaper items and quotations in each instance.

JOINT COMMITTEE TO INVESTIGATE LABOR RELATIONS

Mr. SMITH of Virginia, from the Committee on Rules, reported the following privileged resolution (H. Con. Res. 148, Rept. No. 2082), which was referred to the House Calendar and ordered to be printed:

Resolved by the House of Representatives (the Senate concurring), That there is hereby established a joint committee to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The committee shall select a chairman and a vice chairman from among its members.

SEC. 2. The committee shall make a thorough study and investigation of existing and pending labor legislation and of the whole field of labor relations and report to their respective Houses of Congress its recommendations for legislation to promote harmonious relations between labor and industry and to safeguard the public interest in the orderly and uninterrupted flow of interstate commerce and the mining, manufacturing, and production of essential commodities, and the uninterrupted cooperation of public utilities and enterprises essential to the operation of such utilities or essential to the public health or welfare.

The committee shall also investigate and report on the desirability of further legislation concerning the health and safety of employees engaged in industries that are essentially hazardous, with a view to the prevention of accidents and the improvement of health and sanitary conditions connected with such industries.

The committee shall further investigate the feasibility of the establishment of a uniform voluntary system of welfare funds with a view to the enactment of legislation to assist in the promotion and encouragement of

such a program for the benefit of ill, disabled, or aged employees and their families.

The committee shall confer and consult with responsible leaders of both organized labor and industry and shall seek, as far as compatible with their own judgment, to recommend legislation that will eliminate all reasonable objections of either labor or industry.

The committee shall have power to report to the Senate and the House of Representatives, through the Members of the respective Houses, such legislation as it may deem wise and adequate to carry out the purposes of this concurrent resolution.

SEC. 3. (a) The committee, or any duly authorized subcommittee thereof, is authorized to sit and act at such places and times during the sessions, recesses, and adjourned periods of the Seventy-ninth Congress, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words.

(b) The committee is empowered to appoint and fix the compensation of such experts, consultants, and clerical and stenographic assistants as it deems necessary, but the compensation so fixed shall not exceed the compensation prescribed under the Classification Act of 1923, as amended, for comparable duties.

INDIAN CLAIMS COMMISSION

Mr. SABATH. Mr. Speaker, I call up House Resolution 511 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

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 the bill (H. R. 4497) to create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes. That after general debate, which shall be confined to the bill and shall continue not to exceed 1 hour to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Indian Affairs, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same back to the House with such amendments as shall 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.

CALL OF THE HOUSE

Mr. TABER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently no quorum is present.

Mr. COOPER. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 124]

Adams	Bennet, N. Y.	Brooks
Arends	Bishop	Brumbaugh
Baldwin, Md.	Blackney	Buck
Baldwin, N. Y.	Bland	Buckley
Barden	Bloom	Buffett
Barrett, Pa.	Bonner	Bulwinkle
Bates, Mass.	Boren	Burch
Bell	Boykin	Butler
Bender	Bradley, Pa.	Campbell
Cannon, Fla.	Hall, Edwin Arthur	Philbin
Cannon, Mo.	Hall, Leonard W.	Powell
Carlson	Harris	Price, Ill.
Case, N. J.	Hart	Quinn, N. Y.
Celler	Hartley	Rabaut
Clark	Hays	Rabin
Clason	Healy	Rains
Clippinger	Hébert	Ramey
Cochran	Heffernan	Randolph
Colmer	Hinshaw	Rayfiel
Cooley	Hoch	Reece, Tenn.
Corbett	Holmes, Mass.	Rich
Curley	Huber	Rivers
Daughton, Va.	Jarman	Robinson, Utah
Dawson	Jenkins	Rodgers, Pa.
De Lacy	Johnson, Ind.	Roe, Md.
Delaney, James J.	Kelley, Pa.	Roe, N. Y.
Delaney, John J.	Keogh	Rogers, Fla.
D'Ewart	Kerr	Rogers, N. Y.
Dingell	King	Rooney
Dirksen	Kinzer	Rowan
Domengeaux	Kirwan	Sadowski
Dondero	Klein	Shafer
Douglas, Calif.	Knutson	Sharp
Durham	Kunkel	Sheppard
Dworshak	LaFollette	Sheridan
Earthman	Lane	Short
Eberharter	Lanham	Simpson, Pa.
Elliott	Lea	Slaughter
Elston	LeCompte	Somers, N. Y.
Engle, Calif.	LeFevre	Spence
Fallon	Luce	Starkey
Fenton	Ludlow	Stewart
Fernandez	Lynch	Sumner, Ill.
Fisher	McConnell	Talbot
Flood	McCowen	Tarver
Folger	McGehee	Thom
Forand	McGlinchey	Thomas, N. J.
Fulton	Maloney	Thomas, Tex.
Gamble	Marcantonio	Tibbott
Gardner	Mathews	Tolan
Gary	May	Torrens
Gavin	Morgan	Traynor
Gearhart	Murphy	Vinson
Gerlach	Neely	Voorhis, Calif.
Gifford	Norton	Vursell
Gillette	O'Brien, Ill.	Wadsworth
Goodwin	O'Brien, Mich.	Walter
Gore	O'Neal	Wasielewski
Graham	O'Toole	Weaver
Granahan	Pace	Weichel
Green	Patrick	White
Gross	Patterson	Winstead
Gwinn, N. Y.	Peterson, Ga.	Wolfenden, Pa.
Hagen	Pfeifer	Wood
		Woodhouse

The SPEAKER. On this roll call 229 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

INDIAN CLAIMS COMMISSION

Mr. SABATH. Mr. Speaker, after I have consumed about 7 minutes, I shall yield to the gentleman from Indiana [Mr. HALLECK], a member of the Committee on Rules.

Mr. TABER. Mr. Speaker, will the gentleman yield for a question?

Mr. SABATH. I yield to the gentleman from New York.

Mr. TABER. Does the gentleman realize this opens up anew $1,133,000,000 of claims that have already been authorized by previous law to be submitted to the Court of Claims and passed on, and that the bill wipes out the right of offset on the part of the Government that has heretofore been allowed? That is the decision of the Attorney General and the Comptroller General.

Mr. SABATH. That was the case under the two former bills, but the committee has held prolonged and careful hearings and, after due and careful consideration on the part of the Committee on Indian Affairs, after hearing many witnesses, and giving careful consideration to the two original bills, H. R. 1198 and H. R. 1341, the committee, so I am informed—of course, I did not attend any of those hearings—by a unanimous vote finally reported the bill H. R. 4497, which is before us now.

Mr. Speaker, the rule provides for 1 hour of general debate, after which the bill will be considered under the 5-minute rule. It is as usual an open rule, giving the Members the opportunity to offer amendments and to vote for or against them, and to vote for or against the bill or any provision thereof.

As I understand, Mr. Speaker, there are a few opposed to this bill, but I am informed by the proponents of the bill that the objection originally was to the first two bills, which have been rewritten and the rights and interests of the Government have been safeguarded and protected to the best ability of the committee. I am informed also that the gentleman from New York [Mr. TABER], as well as one or two others, were opposed to the bill, and especially to the provision that "no claim shall be excluded from consideration on the ground that it has become barred by law or any rule of law or equity, or that it is barred by any statute of limitations or by laches." I have been advised that the committee has agreed to the amendment that will be offered to clarify this provision so that no claims that already have been adjudicated, or have had their day in court, shall be permitted to be revived or tried de novo.

As one who has been here for a good many years and has seen many of these Indian claims bills before the House, I am of the opinion that a limit should be set and these continuous claims should be limited in time to 5 years.

This bill, Mr. Speaker, creates a Fact-Finding Commission of three. The Commission will not have final and complete jurisdiction to adjust or approve any claim. The Commission will be responsible to the Court of Claims. It is given jurisdiction to hear and recommend, but the final decision will be made by the Court of Claims. The Commission must make a report within 5 years, and all the claims must be settled within 10 years. Therefore, we can look forward, if this bill is passed, to getting rid of these many Indian claims bills within 10 years. These bills have been with us for many years. I am not disposed to deprive the Indians of any rights because I have some Indians in my district, but they are good Indians. I feel that justice should be done to them and that these professional claim hunters and claim filers should be stopped. Before the Committee on Rules we heard several gentlemen, outstanding Americans, who had the interest of our country at heart. They highly recommend, approve, and urge this legislation. In view of the unanimous report of the Committee on Indian Affairs, the Committee on Rules, after hearing these witnesses, unanimously agreed to grant a rule on this bill. Consequently, I feel that the rule should be adopted, and in the interest of the Indians, as well as our Nation, the bill should be passed, because it is bound to put an end, as I say, to many of these professional lawyers who have been pestering Congress for many years with new claims—new claims—and more new claims. Unless this bill is passed, we will have claims coming before us for perhaps another 25 years.

Let us put an end to them. Let us adopt the rule and pass the bill.

Mr. Speaker, I reserve the balance of my time, and now yield to my genial friend from Indiana [Mr. HALLECK] the usual 30 minutes.

Mr. HALLECK. Mr. Speaker, I yield myself 3 minutes.

CALL OF THE HOUSE

Mr. TABER. Mr. Speaker, I make the point of order a quorum is not present.

The SPEAKER. The Chair will count. [After counting.] A quorum is not present.

Mr. SPARKMAN. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 125]

Adams	Gardner	Norton
Andrews, Ala.	Gary	O'Brien, Ill.
Baldwin, Md.	Gavin	O'Brien, Mich.
Baldwin, N. Y.	Gearhart	O'Neal
Barden	Gerlach	O'Toole
Barrett, Pa.	Gibson	Outland
Bates, Ky.	Gifford	Pace
Bates, Mass.	Gillette	Patrick
Bell	Goodwin	Patterson
Bender	Gore	Peterson, Ga.
Bennet, N. Y.	Graham	Pfeifer
Bishop	Granahan	Philbin
Blackney	Grant, Ind.	Ploeser
Bland	Green	Powell
Bloom	Gross	Price, Ill.
Bonner	Gwinn, N. Y.	Quinn, N. Y.
Boren	Hagen	Rabaut
Boykin	Hall,	Rabin
Bradley, Pa.	Edwin Arthur	Rains
Brooks	Hall,	Ramey
Brumbaugh	Leonard W.	Randolph
Buck	Harless, Ariz.	Rayfiel
Buckley	Harris	Reece, Tenn.
Buffett	Hart	Rich
Bulwinkle	Hartley	Riley
Burch	Hays	Rivers
Butler	Healy	Robinson, Utah
Campbell	Hébert	Rodgers, Pa.
Cannon, Fla.	Heffernan	Roe, Md.
Cannon, Mo.	Hinshaw	Roe, N. Y.
Carlson	Hoch	Rogers, Fla.
Case, N. J.	Holifield	Rogers, N. Y.
Celler	Holmes, Mass.	Rooney
Clark	Huber	Rowan
Clason	Jarman	Sadowski
Clippinger	Jenkins	Shafer
Cochran	Johnson, Ind.	Sharp
Cooley	Johnson, Okla.	Sheppard
Corbett	Jones	Sheridan
Cox	Kefauver	Short
Curley	Kelley, Pa.	Simpson, Pa.
Daughton, Va.	Keogh	Slaughter
Dawson	Kerr	Somers, N. Y.
De Lacy	Kinzer	Spence
Delaney,	Kirwan	Starkey
James J.	Klein	Stewart
Delaney,	Knutson	Sumner, Ill.
John J.	Kopplemann	Sumners, Tex.
D'Ewart	Kunkel	Talbot
Dingell	LaFollette	Tarver
Dirksen	Lane	Taylor
Dondero	Lanham	Thom
Douglas, Calif.	Larcade	Thomas, N. J.
Durham	Latham	Thomas, Tex.
Dworshak	Lea	Tibbott
Earthman	LeCompte	Tolan
Eaton	LeFevre	Torrens
Eberharter	Luce	Traynor
Elliott	Ludlow	Vinson
Elsaesser	Lynch	Vursell
Elston	McConnell	Wadsworth
Engle, Calif.	McCowen	Walter
Fallon	McGehee	Wasielewski
Feighan	McGlinchey	Weaver
Fenton	McMillen, Ill.	Weichel
Fernandez	Maloney	White
Fisher	Marcantonio	Winstead
Flood	Mathews	Wolfenden, Pa.
Folger	May	Wolverton, N. J.
Forand	Morgan	Wood
Fulton	Murphy	Woodhouse
Gamble	Neely	Zimmerman

The SPEAKER. On this roll call 218 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

INDIAN CLAIMS COMMISSION

Mr. HALLECK. Mr. Speaker, as was pointed out by the chairman of the Rules Committee in his discussion of this resolution, the bill the resolution seeks to make in order was reported unanimously by the Committee on Indian Affairs. After a presentation to the Rules Committee, that committee likewise determined that the matter should come to the floor for consideration, debate, and final determination.

I do not propose to go into the merits of the legislation. I will leave that to the members of the Committee on Indian Affairs. However, may I say that this matter of Indian claims, claims of Indian citizens against their Government, should be settled once and for all. We have all been aware of the fact that the issue presented in those claims is of tremendous concern not only to the claimants but to our people generally and to the Government. As I say, in my opinion, it is highly desirable that they be settled and determined. As a matter of fact, both of the political parties in their platforms, without undertaking to specify in detail what the legislation should be, have declared for the accomplishment of that result. Therefore, I am for this rule. I trust it will be adopted so that we may proceed to the consideration of the bill in order that effective legislation may be finally enacted for the accomplishment of this very worthy objective.

Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. TABER].

Mr. TABER. Mr. Chairman, I have before me letters from both the Attorney General and the Comptroller General to the gentleman from Missouri [Mr. COCHRAN] indicating their opposition to this bill. These letters in general are based upon a construction that they place on language at the bottom of page 2 and at the top of page 3, as follows:

> No claim shall be excluded from consideration on the ground that it has become barred by law or any rule of law or equity, or that it is barred by any statute of limitations or by laches.

There have been at one time or another an enormous quantity of Indian claims presented to the Court of Claims. I have a tabulation of claims totaling $1,133,713,497.13. All of these claims could under that language be considered by the commission which it is here proposed to establish. In addition to that, any other claim that they might think they had might be considered by the commission. Many of those claims, that is, perhaps a little more than 20, according to my recollection, have not yet been determined by the Court of Claims. I understand that the committee proposes an amendment to meet that situation. Frankly, a cursory examination of that amendment does not lead me to believe it is strong enough to prevent the reconsideration of these claims that have already been considered by the Court of Claims. Probably 60 percent or 70 percent of these claims have been totally denied. Many of them have been allowed for certain amounts, and many have offsets which the Court of Claims has allowed to the United States. Some of those offsets have run into amounts exceeding the amount of the claim.

Mr. HALLECK. Mr. Speaker, will the gentleman yield?

Mr. TABER. I yield.

Mr. HALLECK. First of all I would say my understanding about this proposal is that it is designed to give the Indian citizens of the country their day in court in respect to their claims.

Now, if any one of those citizens has had his day in court and has had an adjudication of his claim, that should end it. While I support the rule and this bill, I certainly would support such language in the bill, by amendment or otherwise, that would definitely provide that there be no reopening of claims where it can be shown or where, in truth and in fact, the claimant has had his day in court and has had a decision by a competent tribunal authorized to hear and determine the case.

Mr. MUNDT. Mr. Speaker, will the gentleman yield?

Mr. TABER. I yield.

Mr. MUNDT. In response to the gentleman from Indiana [Mr. HALLECK] the committee has a committee amendment, which has been unanimously agreed to, to meet the specific objection which has rightfully been raised by the gentleman from New York [Mr. TABER].

The SPEAKER. The time of the gentleman from New York has expired.

Mr. HALLECK. Mr. Speaker, I yield the gentleman three additional minutes.

Mr. TABER. That amendment has been submitted to me. Frankly, I do not think it does exactly meet the situation, but I would hope that something might be worked out overnight that might meet the situation.

Mr. MUNDT. Mr. Speaker, will the gentleman yield?

Mr. TABER. I yield.

Mr. MUNDT. I would like to read the amendment at this point and then perhaps some suggestion will be developed overnight.

Mr. TABER. I would like to see it put into the RECORD at this point.

Mr. MUNDT. The amendment is offered by the gentleman from Washington [Mr. JACKSON] in behalf of the committee:

> Page 3, line 3, substitute a colon for the period and insert the following: *"Provided, however,* That any final determination upon an issue of law or fact involved in any claim that has been made upon the merits of such issue by any court of the United States in a prior proceeding with respect to such claim shall be binding upon the Commission."

It seems to me that states very clearly the fact that where a competent court has made a ruling, that claim shall not be reopened. Certainly that is the intention of the committee. We have never departed from that idea. The record of the testimony in the hearings, the record of the debate on the floor of the House bears that out. The amendment bears it out. But if the gentleman wishes to tighten the language to achieve the same goal, certainly the committee will be glad to go along with him.

Mr. TABER. In the morning I will submit to the chairman of the committee language which I think would improve that picture, but for the moment I will not go into the detail of that any further.

Mr. CASE of South Dakota. Mr. Speaker, will the gentleman yield?

Mr. TABER. I yield.

Mr. CASE of South Dakota. With that understanding, with the suggestion of the committee in the RECORD, with the understanding that the gentleman from New York will give further consideration and make suggestions to the committee in charge of the bill, it would be agreeable with the gentleman from New York that we proceed to vote for the adoption of the rule?

Mr. TABER. I would like to be quite sure that those who are at all critical of the bill may have an opportunity. One hour of debate is not very liberal for a bill that has as many possible involvements as this bill.

Mr. WHITTINGTON. Mr. Speaker, will the gentleman yield?

Mr. TABER. I yield.

Mr. WHITTINGTON. The gentleman has referred to two letters, one from the Comptroller General and one from the Attorney General of the United States. As I understand, those letters are dated after the report on the pending bill and during the year 1946, and refer to the pending bill and not the previous bill in lieu of which the pending bill was reported?

Mr. TABER. This bill was reported on December 20, 1945. The letters are dated February 14, 1946, a couple of months after the bill was reported. So that the letters are a couple of months after the date the bill was reported.

Mr. WHITTINGTON. You are going to put the letters on the record, are you?

Mr. TABER. I think we should.

The SPEAKER. The time of the gentleman from New York has again expired.

Mr. TABER. Mr. Speaker, I ask unanimous consent to insert in the RECORD extracts from letters from the Comptroller General and the Attorney General to the gentleman from Missouri [Mr. COCHRAN]. I do not want to put them in in their entirety because of their bulk.

Mr. JACKSON. Mr. Speaker, reserving the right to object, would not the gentleman in all fairness be willing to put in the entire letter?

Mr. TABER. I would be glad to do that only they are too bulky.

Mr. JACKSON. It is pretty difficult to get the whole picture from a portion of a letter.

Mr. TABER. Then I will put them both in in their entirety.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

(The letters referred to follow:)

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, February 14, 1946.

Hon. JOHN J. COCHRAN,
House of Representatives.

MY DEAR MR. COCHRAN: Further reference is made to your letter of December 28, 1945, acknowledged December 29, requesting an expression of the views of this office with respect to H. R. 4497, Seventy-ninth Congress, entitled "A bill to create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes." The said bill was reported to the House of Representatives favorably without amendment by the House Committee on Indian Affairs on December 20, 1945, accompanied by House Report No. 1466, which report contains information as to the purpose of the bill and the background of the matter.

Under date of April 16, 1941, I made a report to the chairman of the Senate Committee on Indian Affairs on S. 1111, Seventy-seventh Congress, which bill was generally similar to H. R. 4497. In that report I called attention to some of the problems for consideration in connection with the proposed legislation and recommended certain amendments but made no recommendation as to the merits of the bill generally. Also, see Senate Report No. 230, Seventy-fifth Congress, accompanying S. 1902, a somewhat similar bill which passed the Senate but failed of passage in the House of Representatives, after extended discussion and debate, by a vote of 176 to 73 (pp. 6237–6267, CONGRESSIONAL RECORD for June 23, 1937).

Briefly, H. R. 4497 would create an Indian Claims Commission composed of three members appointed by the President by and with the advice and consent of the Senate, to continue in existence for a maximum of 10 years after its first meeting. The Commission would be empowered to hear and determine "all claims of every nature whatsoever against the United States on behalf of any Indian tribe, band, or other identifiable group of American Indians residing within the territorial limits of the United States or Alaska," including claims arising under the Constitution, laws, treaties or Executive orders, claims "whether sounding in contract or tort or otherwise," claims which would result if treaties, contracts, and agreements were revised on the ground of fraud, duress, unconscionable consideration, mutual or unilateral mistake or any other ground cognizable by a court of equity, claims resulting from any breach of duty by any officer or agent acting within the apparent scope of his authority, claims arising from the taking of lands owned or occupied by the claimant without payment of the agreed compensation, and "claims of whatever nature which would arise on a basis of fair and honorable dealings, even though not recognized by any existing rule of law or equity," irrespective of the fact that any claim otherwise might be barred "by law or any rule of law or equity, or that it is barred by any statute of limitation or by laches." Upon motion of the claimant, prior to the final submission of the case to the court, any suit pending in the Court of Claims or any claim for which suit in the Court of Claims has been authorized must be transferred to the Commission for determination. The Commission may hold hearings in any part of the United States or in Alaska and shall make a written "final determination" of each claim, including a statement "whether there are any allowable offsets, counterclaims, or other deductions, and, if so, the amount thereof."

It may certify to the Court of Claims for instructions any pertinent question of law and, upon petition of either party, the Court of Claims may require that any conclusion of law stated by the Commission as a basis for its final determination be certified to the said court for review and if the court finds error the Commission shall take action in conformity with the instructions of the court. Determinations of questions of law by the Court of Claims shall be subject to review by the Supreme Court. Each group of Indians may retain legal counsel and the interest of the United States shall be represented by the Attorney General or his assistants, who "shall have authority, with the approval of the Commission, to compromise any claim presented to the Commission." The Commission would be required to report each final determination to the Congress after expiration of the time for filing petitions in the Court of Claims with respect thereto and such final determination would have the effect of a final judgment and shall be paid in like manner as a judgment of the Court of Claims. Section 24 of the bill would extend the jurisdiction of the Court of Claims to claims of Indian tribes, etc., accruing after date of approval of this act. Section 12 of the bill provides:

"The Commission shall receive claims for a period of 5 years after the date of the approval of this act and no claim existing before such date but not presented within such period may thereafter be submitted to any court or administrative agency for consideration, nor will such claim thereafter be entertained by the Congress."

The question of establishing a new basis and new methods of procedure for disposition of the claims of Indian tribes or groups appears to be one peculiarly within the province of the Congress, as a matter of policy. However, I am glad to furnish such suggestions and recomendations as present themselves with respect to that question in connection with H. R. 4497. In order to discuss the effect of the proposed legislation, it seems necessary to state briefly the present method of handling Indian claims.

By separate acts of Congress in each case, certain tribes or bands of Indians have been authorized to file suit in the Court of Claims for money alleged to be due in fulfullment of treaties, agreements, act of Congress, etc. The petitions filed by the Indians are forwarded to this office by the Department of Justice for reports, which reports usually require a complete accounting and detailed explanation of practically all fiscal transactions between the plantiffs and the United States. Some petitions do not claim a definite amount but pray for a general accounting. The preparation of these reports requires careful search and analysis of available record pertaining to the fiscal relations between the plaintiffs and the United States, sometimes requiring several years for completion. In this connection, it may be stated that it appears impracticable to accelerate to any appreciable extent the preparation of such reports, inasmuch as the desired information is contained in a limited number of books and documents which can be made accessible to only a few employees at any given time. Accordingly, with respect to any Indian claim which involves an extensive search of the pertinent records, this element of delay will be present irrespective of the forum or the method provided for determining and adjudicating the claims.

This office has no information as to the congestion, if any, of the docket of the Court of Claims or as to any resulting delay in disposing of Indian suits. However, the court is authorized to appoint commissioners "to afford the Court of Claims needed facilities for the disposition of suits brought therein," and the members of the court, as well as the commissioners, are authorized to take evidence outside the District of Columbia, doubtless for the convenience of claimants as well as to facilitate the ascertainment of pertient facts (28 U. S. Code 269, 275a, 276).

The bill, H. R. 4497, would greatly broaden the basis for possible claims by Indians and, without further action by the Congress, would open the way for the filing of any and all claims which any tribe or group of Indians may have against the United States and for reopening every Indian claim which heretofore has been acted on by the Congress or adjudicated by the courts or otherwise disposed of—and such results almost certainly would follow, in view of the fact that the

proposed legislation would establish a new and more liberal basis for determining Indian claims. It is thought, too, that the proposed limitation of 5 years for filing claims would encourage the filing of questionable claims within that period in order that no possible claim should be barred. In this connection, there is for consideration, also, the fact that no statute can bind a subsequent Congress and it is to be expected that Indian claims will continue to be presented to and acted on by the Congress from time to time, irrespective of a contrary declaration of policy by a prior Congress.

It may be that enactment of the proposed legislation would expedite the disposition of some Indian claims, but whether such desirable effects as might result from such enactment would balance the undesirable effects appears open to serious doubt; and there is suggested for consideration the question whether justice to the Indians now living requires disposition of their claims on the liberal basis proposed in H. R. 4497, involving the questioning of all treaties and agreements with the ancestors of such Indians and the reopening of many or all claims heretofore determined in accordance with congressional action and the rules of judicial procedure. Presumably, most of the important and reasonably well-founded claims of Indian tribes or groups have been asserted by them and determined prior to this time.

In addition to the general objections above suggested, the bill contains a number of provisions which are open to specific objection of a serious nature. For example, section 2 would provide that the Commission, in determining whether a claimant is entitled to relief on legal grounds, shall apply with respect to the United States the same principles of law as would be applied to an ordinary fiduciary, and "shall make appropriate deductions for all payments made by the United States on the claim, and for all other offsets, counterclaims, and demands that would be allowable in a suit brought in the Court of Claims under section 145 of the Judicial Code (36 Stat. 1136; 28 U. S. C., sec. 250), as amended." The effect of such provisions would be to eliminate as offsets all gratuitous expenditures made by the United States for the Indians, insofar as legal claims submitted by the Indians to the Commission are concerned. Such gratuitous expenditures might be used as offsets, in the discretion of the Commission, with respect to "claims of whatever nature which would arise on a basis of fair and honorable dealings, even though not recognized by any existing rule of law or equity." With respect to such latter cases, section 2 provides:

"* * * the Commission * * * shall make such deductions * * * as it finds the entire course of dealings and accounts between the United States and the claimant in good conscience warrants. In making such finding the Commission shall take into account the economic and social conditions of the Indians involved, the extent to which they are possessed of resources adequate to permit them to become self-supporting at a standard of living comparable to that enjoyed by the citizens of the United States generally, and their ability to support necessary public services."

Such provision apparently would not only permit the abandonment of uniformity in the determination of offsets but would require such abandonment and would substitute for uniformity the broad discretion of the Commission as influenced by "the economic and social conditions of the Indians involved."

In this connection, it is to be noted that the set-off provisions of the act of August 12, 1935, 49 Stat. 596, were intended to be applicable to all suits pending or thereafter instituted in the Court of Claims by any Indian tribe or band against the United States, in order that there should be uniform and consistent disposition of questions involving set-offs and gratuities. However, the said act applies specifically to suits or claims of Indians in the Court of Claims only and would not apply to the Commission proposed to be established under the subject bill, unless the set-off provisions of the bill are amended. If the bill is to be favorably considered for enactment, it is strongly recommended that it be so amended as to require the Commission to consider and set off against any amount otherwise found due the claimant Indians gratuities as provided in section 2 of the said act of August 12, 1935, which section directs that in all suits then pending or thereafter filed in the Court of Claims by "any such tribe or band of Indians," the court shall consider and set off against any amount found due such tribe or band "all sums expended gratuitously by the United States for the benefit of such tribe or band," with certain exceptions specified in the act.

As hereinbefore suggested, another feature of the bill which appears open to objection arises from the fact that the exceptionally broad powers to be conferred upon the Commission to hear and determine "all claims of every nature whatsoever" against the United States, together with the provision that "no claim shall be excluded from consideration on the ground that it has become barred by law or any rule of law or equity," might be regarded as authorizing the reopening of all Indian claims and suits heretofore adjudicated by the courts or otherwise disposed of. In this connection, attention is invited to a table printed at pages 167 to 170 of the hearings before the Committee on Indian Affairs, House of Representatives, on H. R. 1198 and H. R. 1341, Seventy-ninth Congress—bills to create an Indian Claims Commission. The said table, which summarizes the results of suits by Indians in the Court of Claims, shows that the total of amounts allowed by the Court of Claims in such cases was $49,401,518.71 and that against this amount the court allowed offsets amounting to $29,387,217.74, thus reducing the net total amount of the judgments to $20,014,300.97. If H. R. 4497 is enacted in its present form, it might be anticipated that many of those suits would be reopened before the Commission and that, in view of the very liberal provisions of the bill, many of the amounts heretofore set off against the claims of Indians would not be allowed as offsets by the Commission.

With reference to transfer of suits to the Court of Claims, it is suggested that section 11 of the bill should be amended so as to provide for such transfers upon motion by either party instead of only upon motion of the claimant.

Attention is invited, also, to the provision in section 15 of the bill authorizing the Attorney General or his assistants, "with the approval of the Commission, to compromise any claim presented to the Commission." Such a provision is unusual in legislation relative to the disposition of claims against the United States and, it is thought, should be subjected to careful scrutiny before being given favorable consideration. Since the bill would authorize the Indians to assert "all claims of every nature whatsoever against the United States," it cannot be foreseen what claims may be asserted. In fact, as above suggested, it seems probable that there would be asserted a large number of claims, in a tremendous aggregate amount, and the said provision authorizing specified officials to compromise any claim asserted would expose such officials to many importunities and demands for settlement, while surrendering congressional control over the disposition of the said claims and the expenditure of large amounts of public funds.

For the reasons above set out, I am unable to recommend favorable consideration of H. R. 4497 in its present form. If the Congress regards as desirable some definite change in the methods of procedure for disposition of claims by Indian tribes or groups, there is suggested for consideration the desirability of establishing a commission or other body exclusively to hear and investigate such claims and report the facts and findings to the Court of Claims for adjudication; leaving undisturbed all claims and suits heretofore finally disposed of by the Congress, the courts, or otherwise; giving all such claimants a right to submit their claims for final adjudication without the enactment of special jurisdictional acts by the Congress, and protecting the Court of Claims from the undue burden which might result if all such claimants were permitted to file suits in the Court of Claims without special jurisdictional acts. Such a program should assure the orderly disposition of claims in accordance with the uniform practices and statutory provisions as to set-offs, etc., now prevailing. If desired, this Office would be glad to cooperate in the drafting of legislation for that purpose.

Sincerely yours,

LINDSAY C. WARREN,
Comptroller General of the United States.

Hon. JOHN J. COCHRAN,
House of Representatives,
Washington, D. C.

MY DEAR MR. CONGRESSMAN: This is in response to your request for my views with respect to the bill (H. R. 4497) to create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes.

The bill would establish an Indian Claims Commission to hear and determine "all claims of every nature whatsoever against the United States on behalf of any Indian tribe, band, or other identifiable group of American Indians residing within the territorial limits of the United States or Alaska." The jurisdiction to be conferred on the Commission would embrace not only claims of a legal or equitable nature but also those claims which are based solely on moral or ethical grounds and are not ordinarily justifiable in a court. The Commission would be required to file in writing with its clerk the final determination made with respect to each claim presented to it. This determination would include its findings of fact upon which its conclusions are based, and a statement whether there are any just grounds for relief of the claimant and, if so, the amount thereof; whether there are any allowable offsets, counterclaims, or other deductions, and, if so, the amount thereof; and a statement of its reasons for its findings and conclusions.

The Commission would be authorized to certify to the Court of Claims questions of law concerning which instructions are desired and the court may thereupon give appropriate instructions on the questions certified. The Court of Claims upon petition of either party could require that any conclusion of law stated by the Commission as a basis for its final determination be certified to it for review. The determination of questions of law by the Court of Claims would be made subject to review by the Supreme Court of the United States upon writ of certiorari pursuant to section 3 of the Act of February 13, 1925 (43 Stat. 939, 28 U. S. C. 288) as amended. Upon its final determination of a claim and after the time for review has expired, or after the claim's final disposition following a review, the Commission would be required to report promptly thereon to the Congress. There would be set forth in the report the final determination of the Commission, a transcript of proceedings upon review, if any, with instructions of the Court of Claims and a statement of how each commissioner voted upon the final determination. This report would have the effect of a final judgment

which would be required to be paid in like manner as provided with respect to judgments of the Court of Claims.

This bill, in addition to its detailed provisions with respect to an Indian Claims Commission, provides, in effect, by section 24 for a general jurisdictional act conferring jurisdiction upon the Court of Claims with respect to all legal claims of Indian tribes, bands, or groups arising in the future.

In recent years there have been presented to the Congress several proposals for the establishment of a Commission to hear and determine all types of claims, legal, equitable, and moral which the various Indian tribes may assert against the United States. Apparently, the fundamental concept underlying these proposals is that they would provide a method for the disposition of certain claims which cannot be ordinarily considered by judicial tribunals and the determination of which would depend upon vaguely defined principles of moral philosophy and fair dealings. The basic purpose of the bill is in keeping with this concept. The prompt and final disposition of all claims of Indian tribes against the United States is, of course, greatly to be desired, but whether a plan along the lines proposed in the bill should be adopted is a question of legislative policy as to which I express no opinion. It may be stated, however, that if the proposal is adopted, doubtless hundreds of claims will be filed with the Commission most of which will probably be based upon moral consideration. Very large sums of money will be required if these claims are to any appreciable extent to be recognized. I, therefore, take the liberty of saying that before giving serious consideration to the adoption of a plan, such as proposed in the bill, the Congress should realize that huge sums of money amounting in all probability to many millions of dollars must be appropriated in order to satisfy the Indian claimants. I am also calling attention to certain features of the bill which appear to be objectionable.

(1) The bill provides in section 2 that "No claim shall be excluded from consideration on the ground that it has become barred by law or any rule of law or equity * * *." This provision would seem to be subject to the interpretation that a claimant might sue again upon a claim which has already been adjudicated or upon a claim which has been satisfied by compromise or settlement. It is even possible that this language might be interpreted to mean that a claimant would be entitled to seek from the Commission an additional recovery upon a claim which had been successfully prosecuted in the Court of Claims. The hearings entitled "Creation of Indian Claims Commission" before the Committee on Indian Affairs, House of Representatives, on H. R. 1198 and H. R. 1341 (bills similar to H. R. 4497), held on March 2, 3, and 28, June 11 and 14, 1945, set forth on page 164 a total of nearly $1,500,000,000 in claims made by Indian tribes against the United States which have been dismissed by the Court of Claims. While the amount of these claims is no doubt greatly exaggerated the claimants would evidently be entitled under the language quoted to present them to the Indian Claims Commission and it would appear quite likely that most of them would be urged before the Commission on the ground that even though not sound as legal claims, they should be allowed as moral claims.

(2) The bill also provides in section 2 that the Commission in determining whether a claimant is entitled to relief on legal grounds, shall treat the United States as an ordinary fiduciary. The justification for such a provision is not apparent, for if the claim is one based upon legal grounds the Commission ought to determine, according to principles of law, just what fiduciary duty, if any, existed with respect to the claim against the United States and not be compelled to treat the United States as an ordinary fiduciary when it was in fact under no such duty.

(3) The bill would provide that when the report of the Commission determining any claimant to be entitled to recover has been filed with the Congress, such report would have the effect of a final judgment to be paid in like manner as are judgments of the Court of Claims. This provision would make the Commission virtually a court with the power to determine claims based both upon legal and moral grounds rather than a fact-finding body as an aid to Congress. In view of the vague basis upon which many of the claims presented to the Commission would be predicated, and the extremely novel character of the functions delegated to the Commission, the question is raised of whether or not the recognition of the claims should not rest finally with the Congress. The provision making the findings of the Commission binding upon Congress would constitute a surrender by Congress of its very necessary prerogative to sift and control this unusual type of claim against the Government.

(4) The bill makes no provision under which the Commission would be required to offset against the amount due any sum expended gratuitously by the United States for the benefit of the claimant. The only provision for offsetting such expenditures is that they may be offset in the discretion of the Commission and to the extent believed by the Commission to be warranted and then only with respect to moral claims.

By the act of August 12, 1935 (49 Stat. 571, 596, 25 U. S. C. 475a), the Congress has declared as a matter of policy that the Court of Claims shall offset against the amount of any judgment awarded to an Indian tribe all sums expended gratuitously by the United States for the benefit of that tribe. Under the provisions of the bill, the Indian Claims Commission would replace the Court of Claims as the body determining the liability of the United States. It would seem that the Congress would desire to adhere to the declared policy expressed in the act of August 12, 1935, which is evidently based upon the idea that the gratuitous expenditure represents a substitute for money which would have been expended from tribal funds had the amount claimed in the suit been standing to the credit of the tribe at the time of the expenditure.

In view of the provisions of the bill under which claims are not to be excluded from consideration because barred by law or any rule of law or equity, it seems quite likely that should the bill be enacted all claims allowed in the Court of Claims that were either reduced or wiped out because of gratuitous offsets would be presented to the Indian Claims Commission for payment in full without any reduction for gratuitous offsets. Under the terms of the bill these claims would not be "barred by law or any rule of law or equity." Furthermore, since they have already been allowed by the Court of Claims as legal claims against the Government, the Indian Claims Commission would apparently not be authorized to offset gratuitous expenditures against them, as such expenditures are permitted by the bill to be offset only as against moral claims. If this interpretation of the provisions of the bill is correct (and it is a possible interpretation) the result would be that the Indian tribes against whose recoveries in the Court of Claims gratuity offsets have been made would be entitled to recover the amount of such offsets. The hearings to which attention has already been called include a table (pp. 167–170) setting forth offsets in the amount of $29,387,217.74, made over the years in Indian tribal cases in the Court of Claims. As recently as February 4 the Court of Claims denied recovery in cases filed by the Sioux Tribe of Indians because gratuitous expenditures in the sum of nearly $2,500,000 were offset, thus entirely wiping out the claims. It is quite possible that should the bill be enacted this entire sum of more than $31,000,000 would be payable to the Indian tribes involved upon a mere filing of the claims with the Commission. It is suggested that should the Congress desire thus, in effect, to repeal retroactively all provisions of statutes requiring the offset of gratuitous expenditures in Indian tribal cases, a more satisfactory method to accomplish the purpose would be through the appropriation of the sums for the respective tribes rather than through the indirection of having the claims pass through the Indian Claims Commission and come to the Congress in the form of judgments required to be rendered against the United States by the Commission.

(5) With respect to section 24, which in effect provides for a general jurisdictional act for all legal claims of Indian tribes arising in the future, I may say that the primary purpose of establishing an Indian Claims Commission, as I understand, is to furnish redress to the Indian tribes with respect to claims arising against the United States during the period of the settlement and expansion of this country. Most of these claims, I assume, are of a moral character and are not based upon legal principles. Thus, the problems presented by the proposal made in section 24 are quite different from those dealt with in the remainder of the bill. If the Tucker Act (286 U. S. C. 250) is to be amended in substance so as to provide for suits against the United States by Indian tribes, bands, or groups, that proposal probably should be considered in a separate piece of legislation.

In view of the foregoing considerations, I am unable to recommend enactment of the bill.

I am advised by the Director of the Bureau of the Budget that there would be no objection to the presentation of this report and that the enactment of the proposed legislation would not be in accord with the program of the President.

With kind personal regards,

Sincerely yours,

TOM CLARK,
Attorney General.

Mr. SABATH. Mr. Speaker, I am pleased and gratified that the little misunderstanding as to the provisions of the bill has been cleared up. Consequently I feel there can be no opposition to the rule so I move the previous question.

The previous question was ordered.

The resolution was agreed to.

Mr. JACKSON. 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. 4497) to create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of H. R. 4497, with Mr. MONRONEY in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. The gentleman from Washington is recognized for 30 minutes.

Mr. JACKSON. Mr. Chairman, I yield myself 10 minutes.

The CHAIRMAN. The gentleman from Washington is recognized.

Mr. JACKSON. Mr. Chairman, before proceeding to an explanation of the objectives and provisions of the Indian Claims Commission bill, H. R. 4497, I should like to express my appreciation and that of the entire Indian Affairs Committee for the very courteous and sympathetic consideration which the Rules Committee of this House has given us in granting a rule on this legislation. I believe that the Rules Committee was unanimous in allowing this rule just as our own committee was unanimous in recommending enactment of the bill. As I see it, the bill is not controversial in its objectives but it does deal with subject matter that is difficult and susceptible to many misunderstandings. It would thus be impossible to clear up all such misunderstandings within the limits of this debate.

When I say that this legislation is noncontroversial as to its major objectives, I have in mind that both the Republican and the Democratic platforms have pledged the enactment of legislation along the lines of H. R. 4497, which is itself a bipartisan product based upon the Stigler bill (H. R. 1198) and the Robertson bill (H. R. 1341). I have in mind that all the Indian tribes and departmental agencies that testified before our committee in hearings extending over several months have agreed on the main principles of this legislation. I have in mind that similar legislation was unanimously passed by the Senate in 1935 but failed at that session to come up for a vote in the House. I have in mind also the fact that such legislation has since 1935 been repeatedly recommended by the Senate Committee on Indian Affairs. In fact, since 1928 when at the suggestion, I believe, of President Hoover, a comprehensive study was made by the Brookings Institution of our Indian administration, every group, private or public, that has studied this Indian problem has come to the conclusion that there ought to be a prompt and final settlement of all claims between the Government and its Indian citizens, and that the best way to accomplish this purpose is to set up temporarily an Indian Claims Commission which will sift all these claims, subject to appropriate judicial review, and bring them to a conclusion once and for all. That, in brief, is what H. R. 4497 seeks to accomplish.

Today every citizen of the United States who is not an Indian has the right to go to the Court of Claims for an adjudication on his agreements with the Government whenever he feels that such agreements have been violated. Why should not Mr. Indian have the same right in this respect as any of his fellow citizens? The discrimination against the Indian is a relic of old times when Indians were not citizens and were classed with foreigners, as far as suits in the Court of Claims are concerned. Since 1924, when the last noncitizen Indian became an American citizen, pursuant to act of Congress, there has been no reason in the world why Indians should not have the same right to sue in the Court of Claims as anyone else. I do not know of anyone who would contend that the Indians should not have that right. I do not know of anyone on either side of the aisle here who would contend that Indians alone should be subject to illegal action by Government officials in the mishandling of Indian property and the denial of Indian rights without having full and free recourse to the Court of Claims. I hope we can all agree on these general objectives because if we can I think the reasons behind the specific provisions of H. R. 4497 will commend themselves to the sympathetic consideration of all the Members of this House.

Your Indian Affairs Committee has been attempting for many years to see that the Indian is permitted to enjoy full rights of citizenship. At the close of World War I the excellent combat record of the American Indian led the Congress to enact legislation extending citizenship to all native-born Indians who had not already attained citizenship under various special laws and agreements going back as far as 1817. But in some respects the Indian has attained the shadow of citizenship and not the substance. The most important of these respects in which the Indian is discriminated against by existing law is this matter of the right to sue on claims against the Government. Back in 1863 when the entire Nation was at war, with many Indian tribes actively participating on both sides of that war, the Congress passed a special law excluding Indian treaties and agreements from the jurisdiction of our Court of Claims, and from that day to this no Indian tribe has been able to secure a hearing on any claims based on wrongful acts of Federal officials, except by virtue of a special act of Congress. Such special acts are costly of time and effort. In effect, they require the Indians to prove their case in both Houses of Congress before they can get into the Court of Claims. And both Houses of Congress have more important and pressing business to attend to. The result is that our piecemeal approach to this problem is costing millions of dollars in waste motion—in reports on pending bills by various Government departments and so forth—that does nobody any good and the Indian claims become more complicated and more expensive to investigate the longer their settlement is delayed.

H. R. 4497 would put an end to the discriminatory statute of 1863, which prevents the Court of Claims from considering contracts and agreements with Indians on the same basis that it considers every other type of contract or agreement. But that, by itself, would not entirely solve the problem, because since 1863 these cases have been accumulating and it would swamp the courts to decree an immediate hearing on the accumulated grievances of 83 years. In order to secure the most expeditious and economical disposition of this great backlog of Indian cases, your committee thought it appropriate to provide for a special temporary commission that would hear all pending claims within the next 5 years and, subject to review on points of law by the Court of Claims and the Supreme Court, make its report back to the Congress concerning the merits or demerits of each case.

Until we enact Indian claims legislation we are going to continue to spend large sums of money on the salaries of personnel who are employed to give relief and special services to people who would not need relief and special services if we paid up our just debts to them.

The Interior Department itself has suggested that it ought not to be in a position where its employees can mishandle funds and lands of a national trusteeship without complete accountability. To continue the present situation is not in the national interest. To continue the present situation is to perpetuate misunderstandings and resentments and wild expectations of imaginary future wealth in Indian minds that, in many cases, keep Indians from concentrating their energies along productive and sound economic lines. To continue this situation is also to perpetuate clouds on white men's titles that interfere with the proper development of our public domain.

Let us pay up our debts. Let us pay our debts to the Indian tribes that sold us the land that we live on. They sold it for little enough, generally a few cents an acre. Let us at least pay what we promised to pay, if we have not already done so, and let us see that the Indians have their fair day in court so that they can call the various Government agencies to account on the obligations that the Federal Government assumed. And let us make sure that when the Indians have their day in court they have an opportunity to present all their claims of every kind, shape, and variety, so that this problem can truly be solved once and for all without coming back to haunt us or our successors in the form of further bills to extend the jurisdiction that this bill would confer on an Indian Claims Commission.

I realize that the subject is a complicated one—I might even say a forbidding one—to those who have not given it much time and thought, and I should therefore like to spend a few minutes in giving the high lights of the various sections of the Indian Claims Commission bill.

The most important section of the bill is section 2, which defines the jurisdiction of the claims and counterclaims that the Indian Claims Commission is to consider. It was the unanimous opinion of the committee that the jurisdiction of the Commission ought to be broad enough so that no tribe could come back to Congress 10 years from now and say that it had a meritorious claim which the Claims Commission was not authorized to consider.

In order to make sure that we have included all possible claims within the jurisdiction of the Commission, we have gone over the various special Indian jurisdictional acts that Congress has passed in recent years and put together the various phrases that are used in these different acts. We might have condensed this language but we thought it best even at the risk of some duplication or overlapping to make sure that we had covered every sort of case which Con-

gress has in recent years considered worthy of a hearing. It will be noted that some of the categories refer to purely legal claims, while others refer to claims based on equity and fair dealing, such as Congress permitted to be heard in the California Claims Act of 1928, and the Alaskan Tlingit and Haida Claims Act of 1935. There is nothing novel or unprecedented, therefore, in allowing suits based on principles of equity and fair dealing. It must be remembered that many Indian cases, even cases arising comparatively recently, involve the interpretation of provisions in treaties or agreements made many years ago when Indian tribes were treated as "domestic dependent nations" and treaties were made with them, subject to Senate ratification, in the same manner as foreign treaties. It is perfectly obvious that if a mistake was made in writing out the agreed terms of such a treaty or if a boundary was incorrectly drawn under the treaty, that is not the kind of question that is ordinarily subject to private litigation in our domestic courts, and our ordinary rules of tort and contract do not reach to those questions. Really, we are dealing here with a kind of limited international law and it is for that reason that we have to bring in such standards as "fair and honorable dealing" in order to give the Commission a proper guide to action. I do not see how anybody can object to that phrase in this context. We have been telling foreign nations for many years that we expect them to live up to standards of "fair and honorable dealing" in their relations with us and with their weaker neighbors. I do not think we should be afraid to apply the same standards to our own dealings with the Indian tribes that once held this land from the Atlantic to the Pacific.

On the matter of offsets, section 2 provides—beginning at page 3, line 4—that Indians shall be subject to the same rules as other American citizens with respect to offsets and counterclaims, and that there should be no discrimination against Indians as such. This means that if the Indian claimants are bringing the kind of suit based on private rules of law that any other citizen or corporation might bring in the Court of Claims, they should be subject to the same offsets or counterclaims as other citizens, namely, a deduction of past payments made by the Government in settlement of the claim or other debts owed by the claimants to the United States. They ought not to be subject to a deduction just because the Government once gave some members of the tribe relief rations or spent money for military control of the Indian country. After all, if a private claimant makes a contract to sell shoes to the Government, we do not expect the Court of Claims to deduct from the price of the shoes that the Government has promised to pay an amount that might correspond to the education the claimant has received in the schools of the District of Columbia, or the cost that the United States was put to in furnishing him a soldier's uniform, or anything of that sort. All we are insisting on in this bill is that the Indians be treated on an equal basis with other citizens where their suits are the kind of suits that other citizens might bring.

In those cases which are peculiar to Indians, which are, I might say, more or less international cases, and which the Commission would handle on a basis of "fair and honorable dealing," the bill does provide that "all expenditures or grants of money or property, including gratuities, made by the United States for the benefit of the claimant" should be considered by the Commission as possible offsets against any recovery. In deciding whether or not any such past gift to the Indians should be deducted from a recovery, the Commission is instructed to consider the present economic condition of the Indians involved. This is in accord with a suggestion made some months ago by two Justices of the United States Supreme Court that we ought to consider the present needs as well as the past circumstances of the claimant tribe.

Section 3 of the bill—beginning at page 4—provides for a temporary bipartisan three-man Commission, the members of which are to devote full time to the work of the Commission. It is the hope of the committee that at least one of the members appointed by the President to this Commission should be an Indian. As a condition of service, however, an Indian so appointed would be expected to relinquish any interest he might have in any Indian claims.

The next important section of the bill is section 12—beginning at page 7, line 23—which provides that all Indian claims shall be presented to the Commission within 5 years and that "no claim existing before such date but not presented within such period may thereafter be submitted to any court or administrative agency for consideration." In other words, we would be outlawing all claims not presented within 5 years. I think that is a reasonable and workable limit. When we set up a Court of Private Land Claims in California in 1851 we set a limit of 2 years on the presentation of Spanish and Mexican claims. We cleared up the situation in that period of time and so far as I know we have not reopened the question since. From time to time we have set up other special temporary commissions on Indian claims, such as the Dawes Commission and the Pueblo Lands Board, which were able to clear up within a few years problems that had been troublesome for many decades. The decisions of the Dawes Commission and the Pueblo Lands Board have not been overthrown either by the courts or by later Congresses. I think we can expect as much finality in the work of this Indian Claims Commission provided we give it a jurisdiction broad enough to deal with the entire problem as it now exists and provided we require all Indian tribes to present their claims within 5 years or forever hold their peace.

The next important section of the bill is section 20, which provides for review of Commission decisions by the Court of Claims and by the Supreme Court. Such review on points of law is to be had either by certiorari from the reviewing court—the Court of Claims or the Supreme Court as the case may be—or by way of certification of legal questions presented by the Commission itself. The findings of fact of the Commission are made final. Otherwise the very lengthy and complicated record in each of these cases would have to be reopened in each appeal. In the interests of economy we felt that it was proper to restrict appeal in these cases to questions of law, and only to such questions of law as the Commission or the Court of Claims or the Supreme Court might consider doubtful enough to warrant review.

Section 21, page 14, and section 22, page 15, provide for reports of Commission decisions to Congress, which decisions are to be treated in like manner as judgments of the Court of Claims. Congress, of course, always retains the final power to make appropriations and to pay or decline to pay any such judgment, but as a matter of fact, Congress always has voted appropriations to pay judgments against the Federal Treasury and we can reasonably expect that it will continue to do so.

Section 23, page 15, provides for the termination of the Commission after 10 years or at such earlier date as the Commission shall have made its final report on claims filed with it.

Finally, section 24 of the bill provides that with respect to all grievances that may arise hereafter Indians shall be treated on the same basis as other citizens of the United States in suits before the Court of Claims, so that it will never again be necessary to pass special Indian jurisdictional acts in order to permit the Indians to secure a court adjudication on any misappropriations of Indian funds or of any other Indian property by Federal officials that might occur in the future.

Section 25 contains the usual repeal of inconsistent prior legislation.

I sincerely believe that this bill represents the best thought that this House and all the other interested agencies of Government have been able to give to this problem over a period of more than a decade. This bill is fair to the Indian and fair to his neighbors and fair to the United States. It will save money in the long run. It will put an end to un-American discrimination against the original Americans.

Mr. HAND. Mr. Chairman, will the gentleman yield?

Mr. JACKSON. I yield to the gentleman from New Jersey.

Mr. HAND. The gentleman has twice referred to the fact that the Indians in connection with their claims against the Government are discriminated against. Does not this bill provide for discrimination in favor of Indians? For example, I call the gentleman's attention to page 2, line 24, reading as follows:

> No claim shall be excluded from consideration on the ground that it has become barred by law or any rule of law or equity or that it is barred by any statute of limitation or by laches.

The rule of contributory negligence lies against the gentleman's constituents and mine when we go into court. Why does this bill discriminate in favor of the Indians?

Mr. JACKSON. In the handling of these Indian claims there are some very unique situations, to say the least. Many of these claims are not necessarily legal obligations but they are moral obligations of the Government of the United States. As I understand it, technically the statute of limitations will run against most of these claims because they did not have the means of getting into court—they having been barred by action of Congress in 1863.

Mr. CASE of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. JACKSON. I yield to the gentleman from South Dakota.

Mr. CASE of South Dakota. Is it not true that in the contracts and agreements between the Government and the Indian you are dealing in effect with a contract between a guardian and his ward? You are dealing with contracts as between two contracting parties of equal standing. This throws the claim as between the ward and the guardian on a different basis than that existing as between two contracting parties of equal competency.

Mr. JACKSON. That is correct.

Mr. HALE. Mr. Chairman, will the gentleman yield?

Mr. JACKSON. I yield to the gentleman from Maine.

Mr. HALE. I just want to call attention to the language on page 2, lines 18 to 21, which permits the recovery of claims of whatever nature which would arise on a basis of fair and honorable dealings, even though not recognized by any existing rule of law or equity. Does not the gentleman think that language is pretty broad on any view?

Mr. JACKSON. No; I might say, as a matter of fact though I may be in error on this, and I am calling on my colleague, the gentleman from Oklahoma [Mr. STIGLER], who is more familiar with some of the previous statutes that have been passed, my recollection is that this and similar language has been used in special statutes for getting into the Court of Claims, because of the very nature of the claim. If they barred it on rules of law and equity, there would not be anything to get into the courts on. My point is that this language has been used time and time again in special acts which have been passed by the Congress. We are now going at it in a piecemeal fashion, and it is costing us $100,000 a year to have reports prepared by the Department of Justice and the Department of the Interior.

Mr. STIGLER. That is correct.

Mr. JACKSON. The Indian law is a bit complicated. It has a long background. It is becoming more continuous and more complicated. I have about as few Indians in my district as any district in this country; probably not more than 2,000 or 3,000 in the entire district. I have given a lot of thought to this problem as have the other members of the committee, and we have come to the conclusion that unless these claims are settled once and for all, we will never settle this Indian problem in the United States. We are appropriating now $30,000,000 a year to the Indian Service, trying to take care of the Indians on a paternalistic basis, and the result is that as long as these claims are pending, the Indians will stay on the reservations; they will never want to leave, and it simply means more cost to the Government, and from an economic standpoint we have come to the conclusion that this is about the only solution.

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. JACKSON. Mr. Chairman, I yield myself five additional minutes.

Mr. STIGLER. Mr. Chairman, if the gentleman will yield, I might add further that a lot of these claims represent not only moral obligations but are predicated on treaties entered into by the United States Government.

Mr. JACKSON. Since 1863, I will say to the gentleman from Oklahoma, it is my understanding that they have not been able to go into a court to enforce treaties that have been previously entered into because they have no way of getting in by virtue of the law that was passed.

Mr. STIGLER. Without a special jurisdictional act.

Mr. JACKSON. That is right. The result is that Congress will pass a jurisdictional act about once every 2 years, and that has been going on since 1863, and we are now trying to settle this business once and for all.

Let me say that there has been a lot of talk about reopening of cases. There will not be any reopening here of any cases that have been previously adjudicated. Is it not fair and honorable on the part of the Government of the United States to let these claims be settled once and for all? If Congress does not want to appropriate the money after the Commission has made its determination, that is up to Congress, but let us get this thing settled.

Mr. HAND. Mr. Chairman, if the gentleman will yield further, how much longer does the gentleman think that we are going to have to continue this paternalistic attitude toward our Indian residents and citizens and spend $30,000,000 on their tutelage?

Mr. JACKSON. I think that is a very fair question. I think that as long as these claims remain unsettled and until some final disposition is made we are going to continue on indefinitely. It is getting worse every year. All of the witnesses who appeared before our committee appreciate the problem that we are faced with.

A lot of the Indians have gone on to school and graduated, but they come back to the reservation to live there. Why? Because they feel that if they leave and lose their enrollment status they will not be able to participate in their ancestral claim if it is settled, so they go back to the reservation.

Mr. CASE of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. JACKSON. I yield to the gentleman from South Dakota.

Mr. CASE of South Dakota. As a matter of fact, at least on the reservation with which I am familiar, if an Indian wants to leave the reservation and take a job they ask him if he wants a patent to his land so that he can take the assets from that and convert it into a house where he has his job. They ask him to sign not merely a waiver of his rights on that particular land but a waiver of all of his tribal claims and interests. That operates to hold him on the reservation. If we get these claims settled, it will encourage the Indians to feel free to leave.

Mr. JACKSON. I appreciate the gentleman's comment because I know he has several thousand Indians in his State and is familiar with the problem. I believe the gentleman from Oklahoma [Mr. STIGLER] will concur in that statement.

I think, frankly, this bill goes to the real heart of this problem. If you are ever going to settle this Indian question in the United States, you have to settle these claims. Our only interest is to try to economize in this matter. I believe it is real economy to pass this legislation, because if history is true we are going to continue to pass these special jurisdictional acts from now until the end of time. The result is that even though you do not pass these bills you have all these reports and investigations that are going on regularly year after year and are costing the Government $100,000 a year.

This bill requires that all the claims be filed within 5 years and that final disposition be made of the claims within 10 years from the date of the enactment of the legislation. I think you will go a long way toward cutting down the cost of operation of the Bureau of Indian Affairs. That is the unanimous feeling of the committee. I think the House ought to give it most serious consideration.

Mr. STEFAN. Mr. Chairman, will the gentleman yield,

Mr. JACKSON. I yield to the gentleman from Nebraska.

Mr. STEFAN. I concur in everything the gentleman has to say regarding the necessity for this legislation. May I ask the gentleman how many members would be on the Commission.

Mr. JACKSON. Three members would be on the Commission.

Mr. STEFAN. Does the bill provide for one of the members to be an Indian?

Mr. JACKSON. No, it does not. We had that in there originally and took it out.

Mr. STEFAN. It would not prohibit the appointment of an Indian?

Mr. JACKSON. It would not prohibit it. It is the usual statutory language for establishing a commission of this kind, that not more than two members are to be of the same party, so the way the Commission would be set up it would provide, in effect, for two Democrats and one Republican.

Mr. STEFAN. But it would not prohibit an Indian being appointed to the Commission?

Mr. JACKSON. Absolutely not. We just felt it probably would not be proper to have an express provision of that kind in the bill. However, I think the members of the committee would be happy if someone of Indian blood would be on the Commission.

Mr. MUNDT. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, this bill has been well explained by the chairman of the House Committee on Indian Affairs and comes to you, as you know, with the unanimous report of the committee. It is a bill on which the committee has worked long and hard in an effort to fulfill the mandates placed upon Congress by the national conventions of the two major political parties of this country. Both the Democratic National Convention and the Republican National Convention faithfully and clearly promised the American Indians that they would pass the Claims Commission bill, and we have endeavored to bring before you a bill which would implement those platform promises.

It is inconceivable to me that there is going to be any serious objection to this legislation once it is clearly understood. The gentleman from New York [Mr. TABER] has called attention to some clarifying language which should be written into the bill, and we are ready to present a committee amendment which has the unanimous support of the committee to meet that objection. I think the gentleman is presently working on a change in that language which we will be happy to accept, because we have in mind only the settlement of the claims which have not yet had an opportunity to be heard in the courts of this country.

Another thing about this legislation is that it grows out of a resolution which the House adopted about 2 years ago, House Resolution 166 which I introduced, setting up an investigating committee to investigate Indian conditions in this country. That was under the able leadership of the then chairman, the late departed James O'Connor, of Montana.

It was my privilege to serve as vice chairman of that investigating committee. Our committee reported back at length in a committee report issued December 23, 1944, in which we listed four factors which today are causing the Indians to remain on the reservations and which are retarding the progress of the Indians who desire to be rehabilitated at the white man's level in the white man's economy. One of those flaws was the fact that there are inadequate provisions in present legislation and Bureau regulations to make final settlement of prevailing Indian claims. Anybody familiar with Indians at all realizes that the Indian is reluctant and unwilling to leave his reservation so long as he feels he has an unsettled claim against the Government. He is no different in that regard from what you or I would be, because under the Indian traditions, when a man leaves his reservation he is likely to lose his tribal status and lose his right to inherit or to receive or participate in that portion of the Indian claim which may eventually be settled.

Mr. SPARKMAN. Mr. Chairman, will the gentleman yield?

Mr. MUNDT. I am happy to yield to the gentleman.

Mr. SPARKMAN. I was interested in what the gentleman was saying about the investigating committee that served in the last Congress, I believe. May I ask the gentleman if this bill is the outcome of that investigation or does it result from the recommendation of that committee?

Mr. MUNDT. It does entirely.

Mr. SPARKMAN. Does the gentleman think this legislation will get at those conditions that he just recited in the report?

Mr. MUNDT. I feel certain it will. We have checked these provisions very carefully with not only the Indian Office down here but, what is more important, with the Indians themselves. It meets with their approval and it meets with the approval of everybody we can find who has had any experience or background or knowledge concerning this whole perplexing problem of Indian claims.

As has been pointed out previously, we are now spending about $100,000 a year from the standpoint of employing Government counsel to meet and offset the arguments of Indians who are presenting their claims. From the $100,000, the Indians get nothing. No one gets anything except a few Government attorneys who are employed. Their job, of course, is to defend the Government against these claims.

Mr. GRANGER. Mr. Chairman, will the gentleman yield?

Mr. MUNDT. I am happy to yield.

Mr. GRANGER. As a matter of economy, does not the gentleman think that a procedure of this kind actually in the long run will mean an actual economy; and would not the gathering of these facts as to these claims submitted to the impartial board be of great assistance to the Congress so that it would leave us free and there would not be any coloring of the personality of the members on these claims; and would not the public be better served all around?

Mr. MUNDT. The gentleman has made a very good point. We have spent on Indian Affairs alone over $600,000,000 in the last 20 years in trying to take care of the Indians on the reservations. Our investigating committee reported to the last Congress in our report No. 2091, that we have been urging and driving the Indian Bureau to facilitate the movement of Indians from the reservations into the white man's economy. But we always run up against the same road block—the Indian claims. Until and unless the Congress takes action to dispose of these claims, it simply means that these annual appropriations for the Indian Service and the Indian Bureau and for the bureaucrats who run them are going to have to be made, and the Indians will stay on their reservations, and we will get no place steadily in promoting the real interest and advancement of the Indian.

Mr. JACKSON. Mr. Chairman, will the gentleman yield?

Mr. MUNDT. I yield to my chairman.

Mr. JACKSON. Is it not true, may I say to the gentleman from South Dakota, that it costs more to take care of the Indians in the United States than it costs to operate the legislative branch of the Government?

Mr. MUNDT. That is correct.

Mr. JACKSON. Twenty-six million dollars, I believe it is, the budget this year for the legislative branch of the Government, and the Bureau of Indian Affairs, I believe, is going to get $30,000,000 this year.

Mr. MUNDT. That is right. The Bureau tells us furthermore that $30,000,000 is entirely inadequate and in that statement the Bureau is right. They cannot even provide for a decent status or standard of living for the Indian on the reservation with $30,000,000.

Mr. STIGLER. Mr. Chairman, will the gentleman yield?

Mr. MUNDT. I am happy to yield to the gentleman.

Mr. STIGLER. Is it not a fact that that does not include the amount that the Indians spend out of their own tribal funds?

Mr. MUNDT. That is right.

Mr. STIGLER. That $30,000,000 is spent by the Government alone.

Mr. MUNDT. As the gentleman well knows, because he has original Indian blood coursing through his veins, some of our Indian tribes have a considerable amount of money in their own hands but they are not free so that they can spend it themselves and they refuse to "detribalize," if there is such a term, because they have in the back of their minds that the Indian claims are going to be settled and it is going to provide them a great bounty from now on forever. Therefore this claims problem must in one way or another be liquidated. We are never going to get anything done by bringing in little tribal or individual Indian claims bills, one at a time, as we have for more than a century and a half in Congress.

We have to do it by bringing the whole claims situation into one picture and attacking it in one particular bill. I think this Indian Claims Commission bill is directed properly and wisely into that channel.

When I speak of the financial side of this legislation I am not thinking simply of the salaries of the members of this Commission and their staff. I am thinking in larger terms than that. We have been appropriating funds for Indian administration at least since 1775, when Benjamin Franklin, Patrick Henry, and James Wilson were appointed Indian Commissioners by the Continental Congress. For 170 years the total of our annual appropriations for this purpose has been growing. Today our Indian population is increasing twice as rapidly as our white population. Unless we do something to reach a fair, just, and permanent solution to the Indian problem that will incorporate the Indian into our national economy, we are going to have to look forward to spending increasing millions every year on Indian administration. That would be the inevitable result of a "do nothing" policy. That would be the result of defeating this legislation. That result—endlessly increasing expenditures—may be attractive to some bureaucrats in the Indian Bureau or the Justice Department but it is not attractive to me. That prospect is no more attractive to the other members of our Indian Affairs Committee or to the Indians. I and the other members of the Indian Affairs Committee feel very strongly that the sooner we get to the bottom of this problem and work out a

fair, just, and permanent solution, the better it will be for all concerned.

With that in mind, our committee urged 2 years ago that the House set up a Select Committee to Investigate Indian Affairs and Conditions in the United States. Our recommendation met with the approval of this House. Incidentally, we spent less than half of the $15,000 that was voted for this investigation. We hoped thereby to set an example of economy to some of the Government agencies. We came back and made our report in December 1944. It is Report No. 2091, to which I have already referred.

The bill that is now before this House carries out 1 of the 16 major recommendations of that report. Several others of our recommendations have already been acted upon. We are making progress. But until an Indian Claims Commission is set up we cannot gain much additional ground.

Our investigations revealed that throughout the country there were thousands of Indians who would not continue as members of Indian tribes, would not live on reservations, would not get services from Indian agencies, would not be a drain upon the Federal revenues, but would go out and find their place in the economy of their white neighbors, were it not for the fact that they are encouraged to believe that somewhere at the end of the rainbow is a great pot of gold that will come to their tribe when the United States finally settles its accounts with the Indians. That anxiety to participate in a big settlement is only natural.

Let us get this picture cleared up. If we still owe these Indians anything for the lands that they have sold us or for any lands that we have taken by mistake without payment, let us settle up, and if it is found that many of these Indian claims are without merit, let us have that cleared up and made a matter of record, and let us bring an end once and for all to Indian claims bills and Indian claims cases. That will be good for the Indian and it will be good for the United States as a whole.

In December 1944 our special investigation committee reported that failure to secure final settlement of prevailing Indian claims cases was "prominent among the factors retarding the progress of the Indian," and that this in fact was among the "four major reasons for the disappointing progress which has been made after over 150 years of Government supervision of the American Indian." Our committee reported that only by establishing adequate machinery for the final settlement of these claims could we succeed in "removing from Government supervision Indians ready, able, and willing to step into the white man's society as full-fledged citizens."

There is a second side of this financial picture that impressed our investigating committee. This was the fact that under present legislative procedures Indian claims bills shuttle back and forth from the Court of Claims to Congress and often have a life tenure of 20, 30, or 40 years. That process is enormously costly and unsatisfactory to everyone. It means that Government clerks and attorneys in the Interior Department, the Department of Justice and the General Accounting Office spend years and years examining and reexamining Indian claims in an effort to determine whether the Indians should have a day in court. and of course, when a special jurisdictional bill is enacted, the process of investigation starts all over again. Then, only too often, the Court of Claims or the Supreme Court finds some fault with the language of the jurisdictional act, and the Indians come back for an amended jurisdictional act and the merry-go-round starts up again. In the last 20 years the General Accounting Office alone has spent over a million dollars in reporting on Indian claims bills. And not one cent of that went to any Indian to settle any claim. Justice and Interior and the committees of Congress have probably spent comparable sums. That, in the judgment of your committee, threatens to be an endless waste of the taxpayer's money. This dilly-dallying with the claims problem, according to our investigating committee's findings, promises to "continue to be a real road block on the path to Indian independence 100 years from now." For that reason your special investigating committee recommended that legislation be adopted to fix a final date after which no more Indian claims would be considered by any agency or instrumentality of the Government and to provide for a claims commission that would find the facts and make final determinations on all pending Indian claims cases within a period not exceeding 10 years. We ought to have a definite time table; we ought to know that, once having given the Indians a fair opportunity to present their cases, this chapter in our history and this expense to our taxpayers will be concluded once and for all. That is my chief concern in the bill that is before us.

For your further information, I shall include in the RECORD at this point the entire section of the report our investigating committee made on the subject of Indian Claims:

(3) Indian claims: Indian claims of varying degrees of legality, morality, and merit remain outstanding against the Government in the aggregate sum of many hundreds of millions of dollars. Some of these claims are of unquestioned merit; others are highly questionable. Their existence, however, serves to hold the Indian to his life on the reservation through fear that separation from the tribe might deprive him of his share of a settlement which he believes the Government may some day make. They also serve to induce Indians to employ attorneys to plead their claim cases before congressional committees at considerable expense to the individual Indian or his tribe as well as to the Government.

At the present rate of settlement and adjudication of these claims, they will still continue to be a real road block on the path to Indian independence 100 years from now. Some definite action is urgent to dispose of these claims, finally and completely, so that those which are just may be paid and those which are unjust may be so designated and rejected for once and all.

Your committee recommends that the Seventy-ninth Congress enact legislation setting up an Indian Claims Commission, suitably staffed and sufficiently empowered to proceed as follows: (1) File and consider all Indian claims whether legal (growing out of contract or treaty obligations) or moral (growing out of ethical obligations allegedly owed by the Government for injustices against the Indian) up until the 31st day of December 1950 after which no more Indian claims presently outstanding are to be considered by any agency or instrumentality of either branch of the Government; (2) determine which claims are legal and which are moral, and so classify them; (3) certify to the Court of Claims all legal claims so that the Court of Claims will have jurisdiction for making final settlement of these claims and determining what, if any, offsets should be made growing out of gratuities and advancements; (4) make recommendations to Congress for the appropriation of whatever amount of money is found to be right and equitable for the final settlement of all moral claims, if any, which are found to be meritorious and warranted.

It is further recommended that this legislation be so enacted as to set December 31, 1955, as the final date for the complete settlement and payment of all presently outstanding Indian claims.

Both major political parties have repeatedly pledged themselves to the final settlement of all outstanding Indian claims. Your committee believes the time has come to redeem these pledges. We also recommend that at least one Indian be made a member of the proposed Indian Claims Commission.

I am satisfied that the objectives of this report cannot be realized unless we give the Commission the broadest possible jurisdiction to consider every Indian grievance, real or fancied, and to provide Congress with a final and objective appraisal of all these alleged claims. What we pay on those claims that are found to be valid is not likely to be out of line with the $43,000,000 that we have already paid on the most pressing of the Indian claims which have gone to judgment during the past 80 years. I make no attempt to guess what the precise figure of our just debts to the Indian tribes may be, but I do predict that the total of our payments under this bill will be but as a drop in the bucket compared with the prospect of our continuing to spend more than $300,000,000 every 10 years on an Indian administration that could be radically curtailed if we paid the Indians what we owe them and let them go on their way as self-respecting American citizens rather than puppets of an endless bureaucracy.

Does it make sense to spend millions of dollars every year on salaries of Government employees who are doing for the Indians the things the Indians could do for themselves if we paid up our debts to them? Does it make sense to keep them in poverty by not paying our debts to them and then spend millions curing the disease and ignorance that is the fruit of poverty? Here we are, a great Nation, voting billions in gifts to poor people all over the earth, protecting minorities all over the earth. Here is our own oldest minority, people who are proud but poor, people who will not stir from the doors of their tepees and cabins until we have heard their grievances and settled them. Are we to strain our eyes looking across the oceans and forget our own at home? Remember this minority of ours will not be helped by loans or relief from Britain

or Russia if we let them down. They have only Congress to look to. Let us vote today to redeem our oft-repeated pledges to the American Indian.

Mr. KEEFE. Mr. Chairman, will the gentleman yield?

Mr. MUNDT. I yield to the gentleman from Wisconsin.

Mr. KEEFE. Is there anything in this bill which permits claims which have heretofore been passed upon by the Court of Claims and upon which adverse decisions have been rendered, to be reopened and reexamined under the provisions of this bill? The contention has been made this afternoon that such is the purport of section 2 of the bill.

Mr. MUNDT. I might say that while the gentleman was inadvertently called from the floor a few minutes ago that matter came up, and we read a committee amendment, which has been prepared and agreed upon, which specifically states that issues which have been solved in the Court of Claims could not be used by the Commission in determining its findings.

Mr. KEEFE. In other words, those claims that have already been tried and heard before the Court of Claims, or upon which the Congress has heretofore acted, are res adjudicata as far as those claims are concerned, and the enactment of this legislation will not revive them so as to bring into reexamination this whole field that has already been passed upon?

Mr. MUNDT. The gentleman states it well in the fancy language for which attorneys are accustomed to charging their clients equally fancy fees.

Mr. JACKSON. Mr. Chairman, will the gentleman yield?

Mr. MUNDT. I yield.

Mr. JACKSON. It was the intention all the way through to bar all claims that have been previously adjudicated. So there would not be any question about it, however, we have an amendment which the gentleman has already read into the RECORD, which makes that particular point specific in the language of the bill itself.

Mr. MUNDT. Correct.

Mr. KEEFE. I regret I was compelled to be at an Appropriation Committee hearing up until this time and was not familiar with what had transpired. But I am happy to note that you have provided such an amendment in the bill.

Mr. MUNDT. In the gentleman's absence that other great guardian of the Treasury, the gentleman from New York [Mr. TABER] raised the same point. I think we have worked out a harmonious solution of that question, and I believe the bill with its proposed amendments should now receive the overwhelming approval of this House.

I have nothing more to say for myself, but before I conclude I want to give you the words of a group of old Indian chiefs who, twenty-odd years ago, said what shines through the years with the clarity that simple truths contain:

> We have also been told that you have said that our claim is too large. We have never put any price on our lands, or on the rights you took away from us without our consent. All we have asked, all we now ask is that the matter be settled; that you permit your Court of Claims to decide whatever it is just for you to pay us. Are you not willing to pay that; are you not willing to pay whatever you justly owe; whether it is big or little? We are told that you are the head of the wealthiest Nation in the whole world; that the United States is a benevolent Nation, that has given hundreds of thousands of dollars—great sums that the poor Indian cannot comprehend—to the poor people across the ocean in the countries where the great World War was fought, and where our own sons fought, bled, and died, fighting shoulder to shoulder with your own sons. Whatever your courts may decide and fix upon as the amount justly due us for the lands and rights taken from us will be as but a leaf from the great tree of your wealth; it will be but as a small twig from the branch that you broke off and gave away. Is not the heart that gives away big enough to move you to pay the just debt, be it little or big, that you owe to us poor Indians?
>
> An Indian pays his debts before he gives a potlatch.

The CHAIRMAN. The time of the gentleman from South Dakota has expired.

Mr. MUNDT. Mr. Chairman, I yield 5 minutes to the gentleman from North Dakota [Mr. ROBERTSON].

Mr. ROBERTSON of North Dakota. Mr. Chairman, the bill now before the House, H. R. 4497, has been drafted after an exhaustive study by the committee of all the questions involved. It is an attempt to give to the American Indian a legal forum with jurisdiction to hear and determine all claims of every nature whatsoever he may have, or believes he has, against the United States.

It is a lamentable fact that the courts of this country are not open to the Indians and our civil liberties have never been given to them. In other words, the Indians have no rights which any department of this Government is bound to respect. This condition has existed from the beginning of our Government in spite of the fact that the fifth amendment to the Constitution says:

> No person shall be deprived of life, liberty, or property without due process of law.

Certainly an Indian is a "person."

Not only is the Indian a "person," but nearly the whole continent of the United States was once owned by the Indians, and the thousands of claims presented by them arise for the most part out of the encroachment upon their rights by white men for several hundred years.

At the present time there is no legal forum open to the Indians. The only process he can follow is to secure passage of a jurisdictional act through the Congress of the United States. I believe the record will show that no jurisdictional act has been passed by this Congress in the last 6 or 7 years. The Committee on Indian Affairs has reported several jurisdictional bills giving the Indians the right to go to the Court of Claims, but these bills have not been passed by the House due to the rule requiring unanimous consent to pass a bill of this sort.

Since the court of claims has been established, of the 98 suits brought by Indians before the court, they have won 28 and lost 70.

The passage of this bill will give to the Indian a fair tribunal to which he may bring all claims of every nature, whether in law or in equity, and give him that protection which he has long been denied.

Recognizing the unfair treatment accorded the Indians over the years, this House passed House Resolution 166 in the Seventy-eighth Congress, creating a select committee of the Committee on Indian Affairs to make an investigation to determine whether the changed status of the Indian requires a revision of the laws and regulations affecting the American Indian. After extended hearings and taking testimony of representatives of the Indian race all over the country, that committee reported as follows:

> Indian claims of varying degrees of legality, morality, and merit remain outstanding against the Government in the aggregate sum of many hundreds of millions of dollars. Some of these claims are of unquestioned merit; others are highly questionable. Their existence, however, serves to hold the Indian to his life on the reservation through fear that separation from the tribe might deprive him of his share of a settlement which he believes the Government may some day make. They also serve to induce Indians to employ attorneys to plead their claim cases before congressional committees at considerable expense to the individual Indian or his tribe as well as to the Government.
>
> At the present rate of settlement and adjudication of these claims, they will still continue to be a real road block on the path to Indian independence 100 years from now. Some definite action is urgent to dispose of these claims, finally and completely, so that those which are just may be paid and those which are unjust may be so designated and rejected for once and all.

Both major political parties have pledged themselves in their respective platforms to legislation of this kind.

We should no longer neglect the fulfillment of this pledge to the original Americans of this country.

Mr. JACKSON. Mr. Chairman, I yield 5 minutes to the gentleman from Oklahoma [Mr. STIGLER].

Mr. STIGLER. Mr. Chairman, the bill we are now considering, known as H. R. 4497, grew out of H. R. 1341, introduced by my colleague the gentleman from South Dakota, Congressman ROBERTSON, and H. R. 1198, introduced by me. Extensive hearings were had on both bills on March 2, 3, and 28, and June 11 and 14, 1945, after which a "clean" bill was introduced by the gentleman from Washington, the Honorable HENRY JACKSON, the distinguished chairman of our House Indian Affairs Committee, and it is that bill that is now before the House.

Our House Rules Committee gave a unanimous report on a rule permitting this legislation to come to the floor. I am told that it is the first time in about 12 years that any legislation emanating from the House Indian Affairs Committee affecting Indians has been given a rule. For this I desire to thank the entire membership of the Rules Committee.

This bill creates a commission of three, appointed by the President subject to confirmation of the Senate, to hear and determine all claims of every nature whatsoever against the United States on behalf of any Indian tribe, band, or other identifiable group of American Indians

residing within the territorial limits of the United States or Alaska.

Primarily, the bill is designed to right a continued wrong to our Indian citizens for which no possible justification can be asserted. It is an attempt to meet a recognized problem and a situation admitted to be unsatisfactory which has been before the Congress and the Departments for many years. The United States Court of Claims has held in the Jaeger case that the courts of this country are not open to the Indians and our civil liberties have never been given to them. That, Mr. Chairman, is a very pathetic situation, when the original Americans here in the United States can have no forum under the Stars and Stripes where they have a right to go and assert their rights. Certainly, the Indians have rights the same as other people. The fifth amendment tc our Constitution guarantees that, wherein it says, "No person shall be deprived of life, liberty, or property without due process of law." Mark the words, "no person."

Today any white man who has supplied goods or services to the United States under contract might, if the United States has failed to carry out its part of the bargain, go into the Court of Claims, or in certain cases into the Federal district courts, and secure a full, free, and fair hearing on his claim against the Government. Not so the Indian. He is the only American citizen today who is denied such recourse to the courts.

By virtue of a statute adopted on March 3, 1863—Twelfth Statutes 765–767—all claims against the United States growing out of Indian treaties were barred from the jurisdiction of the Court of Claims, and from that day to this no Indians have been able to bring their disputes with the Federal Government before the Court of Claims without a special act of Congress permitting them to receive the hearing that is the right of every American citizen to demand without special legislation.

The question of establishing an Indian Claims Commission is not new to the Congress of the United States. Repeated efforts have been made to create such a commission to hear and determine once and for all any and all claims which any Indian tribe, band, or group may have against the United States. The report of the House Select Committee to Investigate Indian Affairs recommended that this legislation be enacted. Both major political parties have repeatedly pledged themselves to the final settlement of all outstanding Indian claims. The time has come, Mr. Chairman, when the Congress should redeem these pledges.

One outstanding feature of the proposed Indian Claims Commission, as it would be established by the pending bill, is the provision for final disposition of claims. Under the pending bill the determination of the Commission would be subject to judicial review as to matters of law. Once the reviewing process had been completed, the determinations would be reported to the Congress and would have the effect of the final judgment of the Court of Claims and would be paid in a like manner.

The bill before us allows 5 years, during which time any tribe may file its claim against the Government and it allows the Commission an additional 5 years in which to hear and determine the same. In addition, the Commission would be given jurisdiction over so-called moral claims, as well as over claims strictly legal in nature. This authority would overcome the defect in the present system under which many of the claims of the Indians are precluded from a hearing on their merits on technical legal grounds, even though the claims may be such as would challenge the conscience of a court of equity.

Oklahoma, as has been pointed out before, has one-third of the total Indian population of the United States. On April 23, 1945, there was a concurrent resolution passed by the Oklahoma State Legislature memorializing Congress to enact legislation creating an Indian Claims Commission. Governor Kerr filed a statement with the Rules Committee urging that a rule be given. Oklahoma and particularly my district is very much interested in seeing this bill passed.

It may be interesting to note that the Court of Claims has dismissed various suits filed by various tribes amounting to the sum of $1,412,749,509.66, and since 1884 definite recoveries have been allowed in the sum of $9,390,937.53.

At the time the hearings were being conducted on this legislation, there were pending cases in the United States Court of Claims, definite in amount, in the sum of $55,942,955.50.

There are still many Indian claims unsettled, all of which constitute a barrier to the exercise by the Indians of their tribal rights and liberties, either those traditionally exercised or those specifically granted by statute. Not until these claims are settled can the United States ever approach the solution of the Indian problem desired by all.

The slight cost involved would be more than offset by settling issues which have been costly to the United States, and in the absence of the Claims Commission will continue to be costly. No argument of economy should prevail. The Commission is only temporary, created for a specific purpose, and its cost comparatively trivial. Furthermore, the satisfaction of claims increasing the capital funds of many tribes would reduce the need of annual appropriations for services which the tribes themselves could support. Experience with some tribes has already demonstrated that.

The United States has been dealing with the Indians by treaty, agreement, and contract in buying and selling land, timber, and minerals amounting in value to many hundreds of millions of dollars. We have been told that about 95 percent of our public domain was purchased from the Indians by the Federal Government, and it has been estimated that about $800,000,000 was paid to the Indians in this process.

There is no factual basis for the view that Indian claims are all of ancient origin. But even if there are some claims that have roots in 80- or 90-year-old treaties, it is difficult to understand why their age should deprive the aggrieved Indians of appropriate relief.

One of the most eloquent pleas I ever read was made by a group of Indians from the State of Washington with reference to claims they had against the United States Government. In discussing their claims, they said:

> We are told that you * * * have said that our claims are too old. Who made them old; who delayed the settlement? We are your children; we are your wards; we can do nothing without your consent. We have been—we are now—helpless unless you act. We cannot bring suit against you in your courts. If settlement with us has been delayed, it has been due to your own fault. It is not the fault of the poor, ignorant, helpless Indian. Will you take advantage of your own fault? Will you say, "I delayed a long time settling with my children; now because I delayed so long I will not settle with them at all"? An Indian does not so pay his debt. If he cannot pay it his children pay it. We cannot believe that you * * * meant to take advantage of the poor Indian, and refuse to pay him because of your own delay.

I am wondering today, Mr. Chairman, if Congress means to take advantage of the poor Indian and refuse to pay him because of its own delay. Here at long last Congress has an opportunity to pay a debt long overdue. By failing to do this, you will compromise the national honor of the United States.

Some of you may be considering voting against this measure because it establishes a new Commission. Personally, I too feel like it is time to cease establishing any new agencies, but I feel under the circumstances that the consideration calling for the establishment of this Commission is overwhelming.

No Indian claim is ever forgotten until it is heard and decided. Sooner or later all existing claims, even under the protracted delays of existing procedures, are likely to come to judgment. These claims do not dwindle in amount with the passing of years. In many cases they grow, and meanwhile the United States spends every year millions of dollars in furnishing the Indians with educational and other services which they could furnish themselves, as do white communities similarly situated, if they had in their control the funds that are rightfully theirs.

It has been repeatedly testified by many witnesses, and various investigating committees have found and reported, that the settlement of outstanding Indian claims would lay the basis for the drastic reduction of the annual Federal outlay for the Bureau of Indian Affairs, which, at the present rate, runs to something like $30,000,000 a year and shows little signs of diminishing during the next half century. If the result of the proposed adjudication of existing claims will be, as our committee confidently expects, to permit a reduction of at least 50 percent in Federal expenditures on Indians during the next 50 years, the total ultimate saving in such expenditures would be in the neighborhood of $750,000,000, a sum many times the most optimistic estimate made by the Indians of probable recoveries on all existing claims.

May I point out to you that approximately 40 out of 80 or 100 existing tribes have had some or all of their claims adjudicated. The total of actual cash recoveries allowed in approximately 135 cases decided by the Court of Claims since its establishment in 1855 is in the neighborhood of $43,000,000, and these funds have been used generally in such a way as to minimize or eliminate Federal gratuity appropriations for such tribes as the Klamath, the Wind River Shoshone, and the New York Indians.

Mr. Chairman, no one could make a more convincing argument in regard to the United States settling its debt with the Indians on claims against our Government than was made by the Colville and Okanogan Indians, of Washington, some years ago, when they said:

> We have also been told that you have said that our claim is too large. We have never put any price on our lands, or on the rights you took away from us without our consent. All we have asked, all we now ask, is that the matter be settled; that you permit your Court of Claims to decide whatever it is just for you to pay us. Are you not willing to pay that; are you not willing to pay whatever you justly owe; whether it is big or little? We are told that you are the head of the wealthiest Nation in the whole world; that the United States is a benevolent Nation, that has given hundreds of thousands of dollars—great sums that the poor Indian cannot comprehend—to the poor people across the ocean in the countries where the great World War was fought, and where our own sons fought, bled, and died, fighting shoulder to shoulder with your own sons. Whatever your courts may decide and fix upon as the amount justly due us for the lands and rights taken from us will be as but a leaf from the great tree of your wealth; it will be but as a small twig from the branch that you broke off and gave away. Is not the heart that gives away big enough to move you to pay the just debt, be it little or big, that you owe to us poor Indians?
>
> An Indian pays his debts before he gives a potlatch.

Not much can be added to this plea. The plea is just as strong today as it was at the time it was made. I am asking the Members of Congress this afternoon to heed that plea and right a wrong which was committed by our Government in some instances many decades ago.

Mr. MUNDT. Mr. Chairman, I yield such time as he may desire to the gentleman from Oklahoma [Mr. RIZLEY].

Mr. RIZLEY. Mr. Chairman, this bill is much needed. It is in keeping with the commitments made by both political parties at their respective national conventions in 1944 when they met at Chicago. This bill is designed to treat the Indians the same as other citizens. It is legislation that is long overdue the Indians in this country. It affords them the same consideration and respect that others with valid claims against the Government have been given from time to time.

A vote against this bill is a vote discriminating against our Indian citizens. Justice, equity, and fair play is all our Indians ask and I hope this bill will have the unanimous support of this House when a vote is taken on final passage of the bill.

Mr. MUNDT. Mr. Chairman, I yield such time as he may desire to the gentleman from South Dakota [Mr. CASE.]

INDIAN CLAIMS COMMISSION

Mr. CASE of South Dakota. Mr. Chairman, the bill H. R. 4497 should pass as a matter of right and justice. It proposes to establish an Indian Claims Commission to "hear and determine all claims of every nature whatsoever against the United States on behalf of any Indian tribe, band, or other identifiable group of American Indians residing within the territorial limits of the United States or Alaska."

The bill in section 22, says:

> When the report of the Commission determining any claimant entitled to recover has been filed with the Congress, such report shall have the effect of a final judgment and shall be paid in like manner as are judgments of the Court of Claims.

REPUBLICAN PARTY PLEDGE

This bill, then seeks, to carry out the pledges that have been made by the national conventions of the great political parties of our Nation in recent years. I quote the following pledge from the Republican national platform of 1944:

> We pledge an immediate, just, and final settlement of all Indian claims between the Government and the Indian citizenship of the Nation.

A similar pledge has been made in Democratic platforms. And today, we see the Committee on Indian Affairs, composed of members of both parties, unanimously reporting this bill to the House of Representatives and asking for its passage.

I congratulate the members of that committee, of which I was once a member, on the work they have done in bringing the bill to this floor and I urge its passage today. I especially want to commend the chairman of the committee, the gentleman from Washington, the Honorable HENRY M. JACKSON, and the ranking Republican member, my colleague the gentleman from South Dakota, the Honorable KARL E. MUNDT, for their work in the committee and before the Rules Committee, in preparing the bill for our consideration here today.

WOUNDED KNEE CLAIMS

The bill will not remedy every wrong that has been done the Indian tribes of this country but its passage here and in the body at the other end of the Capitol and its signature by the President will open the door for the settlement of honest claims which have never had their day in court.

As an illustration, I might say that in my opinion this bill, if enacted into law, will make possible consideration of the claims of the Sioux Indians who were injured or suffered losses in the Wounded Knee massacre. That is an identifiable band or group of Indians whose claims have never been determined in court, although as the result of hearings which were obtained when I was a member of the Indian Affairs Committee, a few years ago, a bill for settlement was favorably reported.

OLD-AGE ASSISTANCE LIENS

Another claim of more recent origin should be admissible under the terms of this bill, and that is the one for recovery of Indian money wrongfully taken, in my judgment, to liquidate liens for old-age assistance.

In passing upon the famous Black Hills claims, the Court of Claims has pointed out the terms of the act of February 28, 1877, promised:

> In consideration of the foregoing cession of territory and rights, and upon full compliance with each and every obligation assumed by the said Indians, the United States does agree to provide all necessary aid to assist the said Indians in the work of civilization; to furnish them schools and instruction in the mechanical and agricultural arts, as provided for by the treaty of 1868. Also to provide the said Indians with subsistence consisting of a ration for each individual of a pound and a half of beef (or in lieu thereof, one-half pound of bacon), one half-pound of flour, and one-half pound of corn; and for every 100 rations, 4 pounds of coffee, 8 pounds of sugar, and 3 pounds of beans, or in lieu of said articles the equivalent thereof, in the discretion of the Commissioner of Indian Affairs. Such rations, or so much thereof as may be necessary, shall be continued until the Indians are able to support themselves.

And while the cession of lands under the treaty of 1868 was never ratified under the terms of that treaty, which required approval by three-fourths of the adult males, the Government proceeded on that basis and not only ratified its pledges in this act of February 28, 1877, but confirmed them in subsequent legislation in 1889.

Furthermore, those pledges of this assistance to "needy Indians" were cited by the Court of Claims in its holding that compensation was given for the lands of the Black Hills country.

Yet today, when aged Indians needing this assistance are extended paltry sums as small as $5 or $9 or $11 per month, liens are filed against their trust land allotments and money derived from their sale or lease is taken to pay back the old-age assistance that has been extended to them. The lands, it should be remembered, either belonged to the Indians or were also granted to them as part payment of the compensation for the lands taken. That is, part of the compensation given is being taken back and made to pay the other part.

AERIAL GUNNERY RANGE

The most outstanding example of such injustice, I think, came in the treatment accorded Indians who had lands in an area wanted by the Government for an aerial gunnery range for an air base during the recent war. The lands were taken by the Government at the prices the Government appraisers fixed; the money was turned over to the Superintendent at Pine Ridge Agency, and the money, in turn, was then seized to satisfy liens that had been placed on the lands for old-age assistance. And if any balance remained, the aged Indian was taken off the old-age assistance rolls and required to live up that balance before he could be restored to eligibility for the aid which had been promised him as compensation for lands earlier taken.

I do not know what the lawyers will say, but in my judgment this constitutes a claim to which consideration can be given by the Commission to be created if the bill now pending becomes law.

MUST EXAMINE PENDING CLAIMS

There are some of the older claims of the Sioux which may receive consideration under this bill but it is impossible to tell which ones until we know what form this bill finally takes. In order to obtain agreement for passage of the bill today, I understand, it may be necessary to accept an amendment which will throw out claims which have been passed upon by courts in some degree heretofore. We shall have to examine those claims carefully to see whether undecided issues remain for further consideration.

Be that as it may, this bill offers a chance to get an evaluation of all claims the Sioux tribes and other tribes may have.

It is the biggest step in the direction of settling Indian claims that has been taken in many, many years, and will benefit the Government and Indians alike. With these old claims passed upon, the road will open for a new day in the life of the Indians of this Nation. They will know where they stand. Either the claims will be marked as good for settlement or good for nothing.

CHANCE FOR A NEW DAY

The individual Indian will know where he stands. If he has something coming as a member of a tribe, there will be a chance to know how much it amounts to and when he may expect payment. If it is determined that he has nothing coming, he can say good-by to the dream as he does to a day that is gone, and start on a new day.

Mr. Chairman, no racial group in America showed greater loyalty to the Nation in her hour of trial during the late war than did the American Indian, and the Indian citizens of this country are entitled to an accounting, a settlement of their claims. This bill does not propose to give them anything they do not have coming; it proposes to determine what they have coming and to make a settlement. That is but simple justice to any claimant against the Government. It is particularly due the Indians who have been wards of the Government, and who, when the testing time came, proved themselves stanch, true, and courageous warriors for the cause of the United States. This bill should pass today.

Mr. MUNDT. Mr. Chairman, I yield such time as he may desire to the gentleman from North Dakota [Mr. LEMKE].

Mr. LEMKE. Mr. Chairman, I am not a member of the Indian Affairs Committee, but I am in favor of the passage of H. R. 4497, a bill that creates an Indian Claims Commission, which commission is to pass upon and settle all Indian claims of every nature whatsoever against the United States.

Ever since I have been a Member of Congress I have had occasion to appear before the House Indian Affairs Committee in connection with some of these claims. I know that most of the time of that committee is taken up with these old claims. These claims should have been adjusted and settled years ago.

Just why Congress has neglected these claims so long is beyond my understanding. This commission when created, I am sure, will settle these claims in fairness and justice to the Indians. Long enough have these settlements been neglected. The time has arrived to dispose of them in accordance with equity and justice to the Indians, and once and for all. I am sure every Member of Congress who is familiar with these claims will support this legislation.

Mr. MUNDT. Mr. Chairman, I yield such time as he may desire to the gentleman from Nebraska [Mr. STEFAN].

Mr. STEFAN. Mr. Chairman, I speak on behalf of the members of the Winnebago, Omaha, Santee Sioux, and Ponca Indians, who live in the Third District of Nebraska. I favor the immediate passage of H. R. 4497, which seeks to create an Indian claims commission. Members of the Indian tribes whom I have the honor to represent favor the passage of this legislation, because it is a long time overdue. This legislation will give our Indian citizens the same rights as citizens which is extended to the white citizen. These Indians have been discriminated against too long. Their claims have been discriminated against time and again when these claims reached this body. This legislation is needed now more than ever. I am pleased to have the assurance of the chairman of the committee that in the selection of commissioners, should this legislation be enacted into law, Indians will not be discriminated against and that an Indian will have the right to be appointed on the commission. I feel the commission would be strengthened if an Indian is appointed as one of the commissioners. I shall be happy to report to the Indians of the Third District of Nebraska that this legislation has finally been given the approval of this House of Representatives. I urge a favorable vote on the bill.

Mr. MUNDT. Mr. Chairman, I yield such time as he may desire to the gentleman from New York [Mr. TABER].

Mr. TABER. Mr. Chairman, I want to ask the chairman of the committee a question. The Comptroller in his letter advises that offsets cannot be made in the same manner that they are now being made against Indian claims by the Government. Would the gentleman be able to answer that question?

Mr. JACKSON. Mr. Chairman, it is my understanding that offsets and counter claims will be permissible in these proceedings the same as now provided in the Court of Claims. At least, that is the intention of the committee.

Mr. TABER. That is the intention of the language that appears on page 3, lines 7 to 13?

Mr. JACKSON. Yes; that is correct?

Mr. TABER. I thank the gentleman.

Mr. JACKSON. Mr. Chairman, I yield such time as he may desire to the gentleman from Arizona [Mr. MURDOCK].

Mr. MURDOCK. Mr. Chairman, as a member of the Committee on Indian Affairs, I have studied this measure and believe it good legislation. I favor it and shall give it my wholehearted support. At this late hour I do not care to go over the matter any more fully than my colleagues on the committee have done, but I do believe it is a necessary and timely enactment.

As has already been pointed out, we have had before the House many Indian claim measures. During the short time that I have been a Member of Congress, I have tried often to get a meritorious claim passed by the House, dealing with some land connected with the Apache Reservation known as the San Carlos Reservation in Arizona. However, we have never had time to consider that bill adequately and therefore no such legislation has been passed. How much better it is that this and all other such claims, very greatly involved, should be submitted to an impartial board of experts who can weigh all the evidence and make their recommendations. This Congress has far too many and far more important matters to give adequate consideration to such claims, although the claims themselves are important and they do seriously affect the lives of so many of our Indian citizens.

Time will not permit the pointing out of the justice of giving better consideration now to Indian claims. After the First World War, we recognized the Nation's debt to Indian veterans. After the Second World War, we should do likewise in recognizing the great debt we owe to Indian veterans by some such legislation as this which will guarantee a greater measure of justice in the Government's dealings with them. It is with this thought that I call on my colleagues to give their support to this bill.

The CHAIRMAN. If there are no further requests for time, the Clerk will read the bill for amendment.

The Clerk read as follows:

Be it enacted, etc., That there is hereby created and established an Indian Claims Commission, hereafter referred to as the Commission.

JURISDICTION

SEC. 2. The Commission shall hear and determine all claims of every nature whatsoever against the United States on behalf of any Indian tribe, band, or other identifiable group of American Indians residing within the territorial limits of the United States or Alaska. Such claims shall include, but shall not be confined to, (1) claims arising under the Constitution, laws, treaties of the United States, and executive orders of the President; (2) claims whether sounding in contract or tort or otherwise, with respect to which the claimant would have been entitled to redress in a court of the United States if the United States were subject to suit; (3) claims which would result if the treaties, contracts, and agreements between the claimant and the United States were revised on the ground of fraud, duress, unconscionable consideration, mutual or unilateral mistake, whether of law or fact, or any other ground cognizable by a court of equity; (4) claims on account of any breach of duty committed to the injury of the claimant by any officer or agent of the United States while acting within the apparent scope of his authority; (5) claims arising from the taking by the United States, whether as the result of a treaty of cession or otherwise, of lands owned or occupied by the claimant without the payment for such lands of compensation agreed to by the claimant; and (6) claims of whatever nature which would arise on a basis of fair and honorable dealings, even

though not recognized by any existing rule of law or equity. No claim accruing after the date of the approval of this act shall be considered by the Commission.

No claim shall be excluded from consideration on the ground that it has become barred by law or any rule of law or equity, or that it is barred by any statute of limitations or by laches.

The Commission, in determining whether a claimant is entitled to relief on legal grounds, shall apply with respect to the United States the same principles of law as would be applied to an ordinary fiduciary. In determining the quantum of relief the Commission shall make appropriate deductions for all payments made by the United State on the claim, and for all other offsets, counterclaims, and demands that would be allowable in a suit brought in the Court of Claims under section 145 of the Judicial Code (36 Stat. 1136; 28 U. S. C., sec. 250), as amended. Where the Commission determines that the claimant is entitled to relief, in whole or in part, solely on the grounds specified in clause (6) of the first paragraph of this section, it shall inquire into all expenditures or grants of money or property, including gratuities, made by the United States for the benefit of the claimant, and shall make such deductions on account thereof, in addition to the deductions required by the preceding sentence, as it finds the entire course of dealings and accounts between the United States and the claimant in good conscience warrants. In making such finding the Commission shall take into account the economic and social conditions of the Indians involved, the extent to which they are possessed of resources adequate to permit them to become self-supporting at a standard of living comparable to that enjoyed by the citizens of the United States generally, and their ability to support necessary public services.

MEMBERSHIP APPOINTMENT; OATH; SALARY

SEC. 3. (a) The Commission shall consist of a Chief Commissioner and two Associate Commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate, and each of whom shall receive a salary of $10,000 per year. At all times at least two members of the Commission shall be members of the bar of the Supreme Court of the United States in good standing: *Provided further*, That not more than two of the members shall be of the same political party. Each of them shall take an oath to support the Constitution of the United States and to discharge faithfully the duties of his office.

TERM OF OFFICE; VACANCIES; REMOVAL

(b) The Commissioners shall hold office during their good behavior until the dissolution of the Commission as hereinafter provided. Vacancies shall be filled in the same manner as the original appointments. Members of the Commission may be removed by the President for cause after notice and opportunity to be heard.

NOT TO ENGAGE IN OTHER VOCATIONS OR REPRESENT TRIBES

(c) No Commissioner shall engage in any other business, vocation, or employment during his term of office nor shall he, during his term of office or for a period of 2 years thereafter, represent any Indian tribe, band, or group in any matter whatsoever, or have any financial interest in the outcome of any tribal claim. Any person violating the provisions of this subdivision shall be fined not more than $10,000 or imprisoned not more than 2 years, or both.

QUORUM

(d) Two members shall constitute a quorum, and the agreement of two members shall be necessary to any and all determinations for the transaction of the business of the Commission, and, if there be a quorum, no vacancy shall impair or affect the business of the Commission, or its determinations.

STAFF OF COMMISSION

SEC. 4. The Commission shall appoint a clerk and such other employees as shall be requisite to conduct the business of the Commission. All such employees shall take oath for the faithful discharge of their duties and shall be under the direction of the Commission in the performance thereof.

OFFICES

SEC. 5. The principal office of the Commission shall be in the District of Columbia.

EXPENSES OF COMMISSION

SEC. 6. All necessary expenses of the Commission shall be paid on the presentation of itemized vouchers therefor approved by the Chief Commissioner or other member or officer designated by the Commission.

TIME OF MEETINGS

SEC. 7. The time of the meetings of the Commission shall be prescribed by the Commission.

RECORD

SEC. 8. A full written record shall be kept of all hearings and proceedings of the Commission and shall be open to public inspection.

CONTROL OF PROCEDURE

SEC. 9. The Commission shall have power to establish its own rules of procedure.

PRESENTATION OF CLAIM

SEC. 10. Any claim within the provisions of this act may be presented to the Commission by any member of an Indian tribe, band, or other identifiable group of Indians as the representative of all its members; but wherever any tribal organization exists, recognized by the Secretary of the Interior as having authority to represent such tribe, band, or group, such organization shall be accorded the exclusive privilege of representing such Indians, unless fraud, collusion, or laches on the part of such organization be shown to the satisfaction of the Commission.

TRANSFER OF SUITS FROM COURT OF CLAIMS

SEC. 11. Any suit pending in the Court of Claims or any claim for which suit in the Court of Claims has been authorized at the time of the approval of this act may be transferred to the Commission as of right upon motion of the claimant at any time prior to the final submission of the case to the court, and upon such transfer all further proceedings shall be in accordance with the provisions of this act, except that any provision of the jurisdictional act under which the suit was authorized, relating to the jurisdiction of the court, any cause of action, or any special measure of damages, shall, unless formally waived by the claimant, be equally applicable to the proceedings before the Commission. In the event of such a transfer, the claimant shall continue to be represented by its attorney or attorneys under their approved existing contract according to its terms.

LIMITATIONS

SEC. 12. The Commission shall receive claims for a period of 5 years after the date of the approval of this act and no claim existing before such date but not presented within such period may thereafter be submitted to any court or administrative agency for consideration, nor will such claim thereafter be entertained by the Congress.

NOTICE AND INVESTIGATION

SEC. 13. (a) As soon as practicable the Commission shall send a written explanation of the provisions of this act to the recognized head of each Indian tribe and band, and to any other identifiable groups of American Indians existing as distinct entities, residing within the territorial limits of the United States and Alaska, and to the superintendents of all Indian agencies, who shall promulgate the same, and shall request that a detailed statement of all claims be sent to the Commission, together with the names of aged or invalid Indians from whom depositions should be taken immediately and a summary of their proposed testimonies.

(b) The Commission shall establish an Investigation Division to investigate all claims referred to it by the Commission for the purpose of discovering the facts relating thereto. The Division shall make a complete and thorough search for all evidence affecting each claim, utilizing all documents and records in the possession of the Court of Claims and the several Government departments, and shall submit such evidence to the Commission. The Division shall make available to the Indians concerned and to any interested Federal agency any data in its possession relating to the rights and claims of any Indian.

CALLS UPON DEPARTMENTS FOR INFORMATION

SEC. 14. The Commission shall have the power to call upon any of the departments of the Government for any information it may deem necessary, and shall have the use of all records, hearings, and reports made by the committees of each House of Congress, when deemed necessary in the prosecution of its business.

At the trial of any suit or proceeding instituted hereunder, any official letter, paper, document, map, or record in the possession of any officer or department, or court of the United States or committee of Congress (or a certified copy thereof), may be used in evidence insofar as relevant and material, including any deposition or other testimony of record in any suit or proceeding in any court of the United States to which an Indian or Indian tribe or group was a party, and the appropriate department of the Government of the United States shall give to the attorneys for all tribes or groups full and free access to such letters, papers, documents, maps, or records as may be useful to said attorneys in the preparation for trial or determination of any suit or proceeding instituted hereunder, and shall afford facilities for the examination of the same and, upon written request by said attorneys, shall furnish certified copies thereof.

REPRESENTATION BY ATTORNEYS

SEC. 15. Each such tribe, band, or other identifiable group of Indians may retain to represent its interests in the presentation of claims before the Commission an attorney or attorneys at law, of its own selection, whose practice before the Commission shall be regulated by its adopted procedure. The fees of such attorney or attorneys for all services rendered in prosecuting the claim in question, whether before the Commission or otherwise, shall, unless the amount of such fees is stipulated in the approved contract between the attorney or attorneys and the claimant, be fixed by the Commission at 10 percent of the amount recovered, plus all reasonable expenses incurred in the prosecution of the claim, except that the Commission may award a lesser sum if, in accordance with standards obtaining for prosecuting similar contingent claims in a court of law, it finds such to be adequate compensation for services rendered and results achieved, considering the contingent nature of the case. The attorney or attorneys for any such tribe, band, or group as shall have been organized pursuant to section 16 of the act of June 18, 1934 (48 Stat. 987; 25 U. S. C., sec. 476), shall be selected pursuant to the constitution and bylaws of such tribe, band, or group. The employment of attorneys for all other claimants shall be subject to the provisions of sections 2103 to 2106, inclusive,

of the Revised Statutes (25 U. S. C., secs. 81, 82–84).

The Attorney General or his assistants shall represent the United States in all claims presented to the Commission, and shall have authority, with the approval of the Commission, to compromise any claim presented to the Commission. Any such compromise shall be submitted by the Commission to the Congress as a part of its report as provided in section 21 hereof in the same manner as final determinations of the Commission, and shall be subject to the provisions of section 22 hereof.

NO MEMBER OF CONGRESS TO PRACTICE BEFORE COMMISSION

SEC. 16. No Senator or Member of or Delegate to Congress shall, during his continuance in office, practice before the Commission.

HEARING

SEC. 17. The Commission shall give reasonable notice to the interested parties and an opportunity for them to be heard and to present evidence before making any final determination upon any claim. Hearings may be held in any part of the United States or in the Territory of Alaska.

TESTIMONY

SEC. 18. Any member of the Commission or any employee of the Commission, designated in writing for the purpose by the Chief Commissioner, may administer oaths and examine witnesses. Any member of the Commission may require by subpena (1) the attendance and testimony of witnesses, and the production of all necessary books, papers, documents, correspondence, and other evidence, from any place in the United States or Alaska at any designated place of hearing; or (2) the taking of depositions before any designated individual competent to administer oaths under the laws of the United States or of any State or Territory. In the case of a deposition, the testimony shall be reduced to writing by the individual taking the deposition or under his direction and shall be subscribed by the deponent. In taking testimony, opportunity shall be given for cross-examination, under such regulations as the Commission may prescribe. Witnesses subpenaed to testify or whose depositions are taken pursuant to this Act, and the officers or persons taking the same, shall severally be entitled to the same fees and mileage as are paid for like services in the courts of the United States.

FINAL DETERMINATION

SEC. 19. The final determination of the Commission shall be in writing, shall be filed with its clerk, and shall include (1) its findings of the facts upon which its conclusions are based; (2) a statement (a) whether there are any just grounds for relief of the claimant and, if so, the amount thereof; (b) whether there are any allowable offsets, counterclaims, or other deductions, and, if so, the amount thereof; and (3) a statement of its reasons for its findings and conclusions.

REVIEW BY COURT OF CLAIMS

SEC. 20. (a) In considering any claim the Commission at any time may certify to the Court of Claims any definite and distinct questions of law concerning which instructions are desired for the proper disposition of the claim; and thereupon the Court of Claims may give appropriate instructions on the questions certified and transmit the same to the Commission for its guidance in the further consideration of the claim.

(b) In any claim pending before the Commission it shall be competent for the Court of Claims, upon petition of either party, whether the claimant or the Government, to require that any conclusion of law stated by the Commission as a basis for its final determination be certified to the Court of Claims for review, with like effect as if certified by the Commission under subdivision (a) of this section. Such petition must be filed within 60 days after the filing of the final determination of the Commission. Upon the transmittal of any instructions given pursuant to such certification which involve a determination by the Court of Claims that the Commission has erred in resolving a question of law upon which its final determination is predicated, the Commission shall reopen the proceedings and take such further action therein as may be appropriate for the revision of its final determination in a manner consistent with the instructions of the Court of Claims.

(c) Determinations of questions of law by the Court of Claims under this section shall be subject to review by the Supreme Court of the United States in the manner prescribed by section 3 of the act of February 13, 1925 (43 Stat. 939; 28 U. S. C., sec. 288), as amended.

REPORT OF COMMISSION TO CONGRESS

SEC. 21. In each claim, after filing its final determination and after expiration of the time fixed for filing petitions in the Court of Claims with respect thereto, the Commission shall promptly submit its report to Congress. If within such time a petition for review has been filed as provided in section 20 of this act, the report shall not be made until after the disposition of all proceedings in respect thereof.

The report to Congress shall contain (1) the final determination of the Commission; (2) a transcript of the proceedings upon review, if any, with the instructions of the Court of Claims; and (3) a statement of how each Commissioner voted upon the final determination of the claim.

EFFECT OF FINAL DETERMINATION OF COMMISSION

SEC. 22. (a) When the report of the Commission determining any claimant to be entitled to recover has been filed with Congress, such report shall have the effect of a final judgment and shall be paid in like manner as are judgments of the Court of Claims.

The payment of any claim, after its determination in accordance with this Act, shall be a full discharge of the United States of all claims and demands touching any of the matters involved in the controversy.

(b) Any final determination of the Commission against a claimant made and reported in accordance with this Act shall forever bar any further claim or demand against the United States arising out of the matter involved in the controversy.

DISSOLUTION OF THE COMMISSION

SEC. 23. The existence of the Commission shall terminate at the end of 10 years after the first meeting of the Commission or at such earlier time after the expiration of the 5-year period of limitation set forth in section 12 hereof as the Commission shall have made its final report to Congress on all claims filed with it. Upon its dissolution the records of the Commission shall be delivered to the Archivist of the United States.

FUTURE INDIAN CLAIMS

SEC. 24. The jurisdiction of the Court of Claims is hereby extended to any claim against the United States accruing after the date of the approval of this act in favor of any Indian tribe, band, or other identifiable group of American Indians residing within the territorial limits of the United States or Alaska whenever such claim is one arising under the Constitution, laws, treaties of the United States, or Executive orders of the President, or is one which otherwise would be cognizable in the Court of Claims if the claimant were not an Indian tribe, band, or group. In any suit brought under the jurisdiction conferred by this section the claimant shall be entitled to recover in the same manner, to the same extent, and subject to the same conditions and limitations, and the United States shall be entitled to the same defenses, both at law and in equity, and to the same offsets, counterclaims, and demands, as in cases brought in the Court of Claims under section 145 of the Judicial Code (36 Stat. 1136; 28 U. S. C., sec. 250), as amended: *Provided, however*, That nothing contained in this section shall be construed as altering the fiduciary or other relations between the United States and the several Indian tribes, bands, or groups.

EFFECT ON EXISTING LAWS

*SEC. 25. All provisions of law inconsistent with this Act are hereby repealed to the extent of such inconsistency, except that existing provisions of law authorizing suits in the Court of Claims by particular tribes, bands or groups of Indians and governing the conduct or determination of such suits shall continue to apply to any case heretofore or hereafter instituted thereunder which is not transferred to the Commission pursuant to section 11 of this Act.

Mr. JACKSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JACKSON: On page 3, line 3, strike out the period, insert a comma and the following: "But no claim shall be considered by the Commission where a final determination upon an issue of law or fact involved has been made on the merits of such issue by any court of the United States in a proceeding with respect to such claim."

Mr. JACKSON. Mr. Chairman, the amendment just offered was prepared by the gentleman from New York [Mr. TABER] and I am willing to accept it on behalf of the committee. It is in lieu of a previous committee amendment approved by the committee.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington [Mr. JACKSON].

The amendment was agreed to.

Mr. JACKSON. Mr. Chairman, I offer another amendment.

The Clerk read as follows:

Amendment offered by Mr. JACKSON: Page 10, beginning with line 14, after the word "at" and continuing through the period of line 21, strike out "10 percent of the amount recovered, plus all reasonable expenses incurred in the prosecution of the claim, except that the Commission may award a lesser sum if, in accordance with standards obtaining for prosecuting similar contingent claims in a court of law, it finds such to be adequate compensation for services rendered and results achieved, considering the contingent nature of the case." and insert "such amount as the Commission, in accordance with standards obtaining for prosecuting similar contingent claims in courts of law, finds to be adequate compensation for services rendered and results obtained, considering the contingent nature of the case, plus all reasonable expenses incurred in the prosecution of the claim; but the amount so fixed by the Commission, exclusive of reimbursements for actual expenses, shall not exceed 10 percent of the amount recovered in any case."

Mr. JACKSON. Mr. Chairman, the amendment was agreed to unanimously by the committee. It strengthens the provision relating to allowance of attorneys' fees and places the burden of proof on the attorney in making the necessary allowance.

Mr. WICKERSHAM. Mr. Chairman, will the gentleman yield?

Mr. JACKSON. I yield to the gentleman from Oklahoma.

Mr. WICKERSHAM. I desire to state that I am for this legislation and I wish to compliment the members of the committee, also our colleague, the gentleman from Oklahoma [Mr. STIGLER], for his splendid work on behalf of this bill. It is good legislation. The Indians of Oklahoma, and especially those from the Seventh Congressional District of Oklahoma, which I represent, are highly in favor of H. R. 4497, creating an Indian Claims Commission. Likewise, other fair-minded citizens favor this legislation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington.

The amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. MONRONEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H. R. 4497) to create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent to proceed for 1 minute to make a brief announcement.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. McCORMACK. Mr. Speaker, I desire to announce that the administrative court bill will not be brought up tomorrow, but the other bill as programed will be the order of business.

I make this announcement so that the Members will be advised and govern themselves accordingly.

EXTENSION OF REMARKS

Mr. KING (at the request of Mr. MILLER of California) was given permission to extend his remarks in the RECORD.

Mr. MUNDT asked and was given permission to revise and extend the remarks he made in Committee of the Whole and include extraneous material.

Mr. CASE of South Dakota asked and was given permission to revise and extend the remarks he made in the Committee of the Whole and include excerpts.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. EDWIN ARTHUR HALL (at the request of Mr. MARTIN of Massachusetts), indefinitely, on account of death in family.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1415. An act to increase the rates of compensation of officers and employees of the Federal Government, and for other purposes.

ADJOURNMENT

Mr. SPARKMAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 19 minutes p. m.) the House adjourned until tomorrow, Tuesday, May 21, 1946, at 12 o'clock noon.

COMMITTEE HEARINGS

COMMITTEE ON WORLD WAR VETERANS' LEGISLATION

There will be a meeting of the Committee on World War Veterans' Legislation, in open session, on Wednesday, May 22, 1946, at 10:30 a. m., in the committee room, 356 Old House Office Building, on H. R. 6340.

COMMITTEE ON THE JUDICIARY

The Special Subcommittee on Bankruptcy and Reorganization of the Committee on the Judiciary has scheduled a public hearing on the bill (H. R. 4307) to amend sections 81, 82, 83, and 84 of chapter IX of the act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, as amended. The hearing will be held in the Judiciary Committee room, 346 House Office Building, and will begin at 10 a. m. on Friday, May 24, 1946.

On Monday, May 27, 1946, Subcommittee No. 4 of the Committee on the Judiciary will start public hearings on the following pending measures with respect to the cessation of hostilities and termination of the war and emergencies; House Concurrent Resolution 85, House Concurrent Resolution 86, House Concurrent Resolution 91, House Concurrent Resolution 98, House Concurrent Resolution 132, House Concurrent Resolution 133, House Joint Resolution 245, House Joint Resolution 272, House Joint Resolution 287.

The hearings will be held in the Judiciary Committee room, 346 House Office Building, beginning at 10 a. m.

COMMITTEE ON PATENTS

The Committee on Patents will begin hearings Tuesday, June 4, 1946, at 10 a. m., in the Patents Committee room, 416 House Office Building, on the following bills:

H. R. 3694 (Hartley): A bill to declare the national policy regarding the test for determining invention.

H. R. 5842 (Boykin): A bill fixing the date of the termination of World War II, for special purposes.

H. R. 5940 (Lanham): A bill to make Government-owned patents freely available for use by citizens of the United States, its Territories, and possessions.

These hearings will be continued on succeeding days until concluded or until this notice is superseded.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1315. A communication from the President of the United States, transmitting a draft of a proposed bill to provide a system of relief for veterans and dependents of veterans who served during World War II in the organized military forces of the government of the Commonwealth of the Philippines while such forces were in the service of the armed forces of the United States pursuant to the military order of July 26, 1941, of the President of the United States, and for other purposes; to the Committee on World War Veterans' Legislation.

1316. A letter from the Attorney General, transmitting a report reciting the facts and pertinent provisions of law in the cases of 99 individuals whose deportation has been suspended for more than 6 months by the Commissioner of Immigration and Naturalization Service under the authority vested in the Attorney General, together with a statement of the reason for such suspension; to the Committee on Immigration and Naturalization.

1317. A communication from the President of the United States, transmitting an estimate of appropriation submitted by the Navy Department to pay a claim for damages to or loss or destruction of property or personal injury or death, in the sum of $1,224.89 (H. Doc. No. 600); to the Committee on Appropriations and ordered to be printed.

1318. A communication from the President of the United States, transmitting supplemental estimates of appropriation for the fiscal year 1947 in the amount of $857,000, together with a draft of a proposed provision pertaining to an existing appropriation, for the Federal Trade Commission (H. Doc. No. 601); to the Committee on Appropriations and ordered to be printed.

1319. A letter from the Secretary of War, transmitting a letter from the Chief of Engineers, United States Army, dated April 12, 1946, submitting an interim report, together with accompanying papers and an illustration, on a review of the Red River and tributaries, Texas, Oklahoma, Arkansas, and Louisiana, with a view to providing proper flood protection on the main stem of the river downstream from Denison Dam, requested by a resolution of the Committee on Flood Control, House of Representatives, adopted on April 19, 1945 (H. Doc. No. 602); to the Committee on Flood Control and ordered to be printed, with an illustration.

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. RANKIN: Committee on World War Veterans' Legislation. H. R. 5907. A bill to authorize the Administrator of Veterans' Affairs to grant an easement for highway purposes to the Commonwealth of Pennsylvania, in certain lands in the reservation of the Veterans' Administration hospital, Lebanon County, Pa., and for other purposes; without amendment (Rept. No. 2075). Referred to

the Committee of the Whole House on the State of the Union.

Mr. RANKIN: Committee on World War Veterans' Legislation. H. R. 6069. A bill to amend section 100 of the Servicemen's Readjustment Act of 1944; without amendment (Rept. No. 2076). Referred to the Committee of the Whole House on the State of the Union.

Mr. SABATH: Committee on Rules. House Resolution 625. Resolution providing for the consideration of H. R. 1362, a bill to amend the Railroad Retirement Acts, the Railroad Unemployment Insurance Act, and subchapter B of chapter 9 of the Internal Revenue Code, and for other purposes; without amendment (Rept. No. 2077). Referred to the House Calendar.

Mr. SABATH: Committee on Rules. House Resolution 626. Resolution providing for the consideration of S. 752, an act to amend the act of June 7, 1939 (53 Stat. 811), as amended, relating to the acquisition of stocks of strategic and critical materials for national defense purposes; without amendment (Rept. No. 2078). Referred to the House Calendar.

Mr. COX: Committee on Rules. House Resolution 627. Resolution providing for the consideration of H. R. 6035, a bill to provide that there shall be no liability for acts done or omitted in accordance with regulations of the Director of Selective Service, and for other purposes; without amendment (Rept. No. 2079). Referred to the House Calendar.

Mr. SMITH of Virginia: Committee on Rules. House Concurrent Resolution 148. Concurrent resolution creating a joint select committee to study and recommend legislation concerning labor relations; without amendment (Rept. No. 2082). Referred to the House Calendar.

Mr. RANKIN: Committee on World War Veterans' Legislation. H. R. 6153. A bill to remove the existing limitation on the number of associate members of the Board of Veterans' Appeals in the Veterans' Administration; with amendment (Rept. No. 2083). 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. BUNKER:

H. R. 6485. A bill to amend section 3 (a) of the Securities Act of 1933, as amended, relating to exempted securities; to the Committee on Interstate and Foreign Commerce.

By Mr. BARTLETT:

H. R. 6486. A bill to authorize an appropriation for the establishment of a geophysical institute at the University of Alaska; to the Committee on the Territories.

By Mr. HAND:

H. R. 6487. A bill to amend the Internal Revenue Code, act of February 10, 1939; to the Committee on Ways and Means.

By Mr. BLAND:

H. R. 6483: A bill to amend the act to provide for the issuance of devices in recognition of the services of merchant sailors; to the Committee on the Merchant Marine and Fisheries.

By Mr. CURTIS:

H. J. Res. 355. Joint resolution extending for 7 months the period of time during which alcohol plants are permitted to produce sugars or sirups simultaneously with the production of alcohol; to the Committee on Ways and Means.

By Mr. SADOWSKI:

H. J. Res. 356. Joint resolution to provide for making available to the Veterans' Administration, for distribution to veterans' hospitals, undeliverable magazines and other periodicals held by the postal service; to the committee on the Post Office and Post Roads.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FARRINGTON:

H. R. 6489. A bill for the relief of Mrs. Keum Nyu Park; to the Committee on Immigration and Naturalization.

H. R. 6490. A bill for the relief of Mrs. Seiko Adachi; to the Committee on Immigration and Naturalization.

H. R. 6491. A bill for the relief of Kiyoichi Koide; to the Committee on Immigration and Naturalization.

By Mr. HAND:

H. R. 6492. A bill for the relief of James I. Adams; to the Committee on Claims.

H. R. 6493. A bill for the relief of Herschel W. Carlise; to the Committee on Claims.

By Mr. HAVENNER:

H. R. 6494. A bill for the relief of Chin Ta Bin; to the Committee on Immigration and Naturalization.

By Mr. HENDRICKS:

H. R. 6495. A bill for the relief of William F. Thomas; to the Committee on Claims.

PETITIONS, ETC.

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

1897. By Mr. MUNDT: Petition of Mrs. Joe Fergen and other citizens of Parkston, S. Dak., protesting against enactment of legislation providing for peacetime military conscription; to the Committee on Military Affairs.

SENATE

TUESDAY, MAY 21, 1946

(Legislative day of Tuesday, March 5, 1946)

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

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

Almighty God, who hast bidden the light of the day to shine out of the darkness of the night, we would still our hearts for this hallowed moment as we bow for the benediction of Thy loving kindness in the morning; for

"New mercies each returning day
Hover around us while we pray."

Grant us this day the grace to live on the altitudes of our aspirations. As servants of Thine and of the peoples of this shattered earth, stricken, bleeding, starving, save us from false choices and guide our hands and minds to heal and bind and build and bless. We ask it in the dear Redeemer's name. Amen.

THE JOURNAL

On request of Mr. HILL, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Monday, May 20, 1946, was dispensed with, and the Journal was approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States submitting nominations was communicated to the Senate by Mr. Miller, one of his secretaries.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had passed without amendment the bill (S. 1305) to confer jurisdiction on the State of North Dakota over offenses committed by or against Indians on the Devils Lake Indian Reservation.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1163) to provide for the appointment of one additional district judge for the northern district of California.

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

H. R. 1095. An act for the relief of the Indians of the Fort Berthold Reservation in North Dakota;

H. R. 1751. An act to authorize the course of instruction at the United States Merchant Marine Academy to be given to not exceeding 20 persons at a time from the American Republics, other than the United States;

H. R. 2033. An act authorizing Federal participation in the cost of protecting the shores of publicly owned property;

H. R. 2231. An act to authorize the Secretary of the Interior to adjust debts of individual Indians, associations of Indians, or Indian tribes, and for other purposes;

H. R. 2678. An act conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and render judgment in any and all claims which the Confederated Salish and Kootenai Tribes of Indians of the Flathead Reservation in Montana, or any tribe or band thereof, may have against the United States, and for other purposes;

H. R. 2788. An act to limit the time during which certain actions under the laws of the United States may be brought;

H. R. 3843. An act to provide for the disposition of tribal funds of the Confederated Salish and Kootenai Tribes of Indians of the Flathead Reservation in Montana;

H. R. 4497. An act to create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes;

H. R. 5911. An act to establish an Office of Naval Research in the Department of the Navy; to plan, foster, and encourage scientific research in recognition of its paramount importance as related to the maintenance of future naval power, and the preservation of national security; to provide within the Department of the Navy a single office, which, by contract and otherwise, shall be able to obtain, coordinate, and make available to all bureaus and activities of the Department of the Navy, world-wide scientific information and the necessary services for conducting specialized and imaginative research, to establish a Naval Research Advisory Committee consisting of persons preeminent in the fields of science and research, to consult with and advise the Chief of such Office in matters pertaining to research;

H. R. 6057. An act to amend the act of July 11, 1919 (41 Stat. 132), relating to the interchange of property between the Army and the Navy, so as to include the Coast Guard within its provision;

H. R. 6343. An act to authorize the Secretary of War to lend War Department equipment for use at the twenty-eighth annual national convention of the American Legion;

H. R. 6372. An act to amend the Federal Credit Union Act; and