settle claims against the United States caused by vessels of the Navy or in the naval service, or for towage or salvage services to such vessels, and for other purposes; to the Committee on Naval Affairs.

REPORT OF COMMITTEE ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, a report of a committee was delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LESINSKI: Committee on Immigration and Naturalization. H. R. 5595. A bill for the relief of Marjorie See; with amendment (Rept. No. 2144). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BLOOM:

H. R. 6572. A bill to provide military assistance to the Republic of the Philippines in establishing and maintaining national security and to form a basis for participation by that Government in such defensive military operations as the future may require; to the Committee on Foreign Affairs.

By Mr. RANKIN:

H. R. 6573. A bill to amend the Servicemen's Readjustment Act of 1944; to the Committee on World War Veterans' Legislation.

By Mr. ROBINSON of Utah:

H. R. 6574. A bill relating to the sale of electric power and lease of power privileges under the Reclamation Act of 1939; to the Committee on Irrigation and Reclamation.

By Mr. SUMNERS of Texas:

H. R. 6575. A bill to allow costs against the United States; to the Committee on the Judiciary.

By Mr. VOORHIS of California:

H. R. 6576. A bill to amend the Federal Unemployment Tax Act and the Social Security Act so as to authorize any State to use amounts contributed by employees to the unemployment fund of such State to pay cash benefits to individuals with respect to their unemployment by reason of their disability; to the Committee on Ways and Means.

H. R. 6577. A bill to amend the Federal Unemployment Tax Act and the Social Security Act so as to authorize any State to use amounts in its unemployment fund to pay cash benefits to individuals with respect to their unemployment by reason of their disability; to the Committee on Ways and Means.

By Mr. McCORMACK:

H. R. 6578. A bill to provide on a temporary basis during the present period of emergency for the prompt settlement of industrial disputes vitally affecting the national economy in the transition from war to peace; to the Committee of the Whole House on the State of the Union.

By Mr. WICKERSHAM:

H. R. 6579. A bill to correct certain inequities applicable to former prisoners of war; to the Committee on World War Veterans' Legislation.

By Mr. PACE:

H. J. Res. 359. Joint resolution relating to peanut-marketing quotas under the Agricultural Adjustment Act of 1938, as amended; to the Committee on Agriculture.

By Mr. PITTENGER:

H. Con. Res. 154. Concurrent resolution against adoption of Reorganization Plan No. 3 of May 16, 1946; to the Committee on Expenditures in the Executive Departments.

H. Con. Res. 155. Concurrent resolution against adoption of reorganization plan No. 1 of May 16, 1946; to the Committee on Expenditures in the Executive Departments.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. CHELF:

H. R. 6580. A bill for the relief of F. L. McGary, of Breckinridge County, Ky.; to the Committee on Claims.

By Mr. KEEFE:

H. R. 6581. A bill for the relief of Leonard J. Siegmann; to the Committee on Claims.

By Mr. VORYS of Ohio:

H. R. 6582. A bill for the relief of Ruth A. Hairston; 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:

1912. By Mr. COLE of Missouri: Petition of W. J. Senden and P. J. Darling of North Kansas City, Mo., and 136 others, who are all of the employees of the shop and yard force of the Frisco Railroad at Kansas City, Mo., offering an amendment to House bill 1737 and protecting pension amendment Senate bill 293 and House bill 1362; to the Commitee on Interstate and Foreign Commerce.

1913. By Mr. Voorhis of California: Petition of Robert R. Elsner, Jr., and 180 other students of Brown University, urging that legislative or executive action be taken to insure the immediate fulfillment of our obligation to feed the starving peoples of the world; to the Commitee on Foreign Affairs.

SENATE

MONDAY, MAY 27, 1946

(Legislative day of Tuesday, March 5, 1946)

The Senate met at 11 o'clock a. m., on the expiration of the recess.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

Eternal God who turnest not Thy face away from those who work Thy will, as in the morning we take anew the cup of our freedom crimsoned with great cost, may we be mindful of its sacred meaning and reverent in its use. Make more worthy in faith and uprightness the hands of those who hold it high in trust for all, that its healing balm may be denied to none beneath the spangled flag of this favored land. Grant that even when the rights of all are mocked and betrayed for power or gain we may still labor on with valor for the enthronement on earth of Thy reign of law and love, of equity and righteousness, nor ever doubt the final triumph of Thy great purposes for all men. 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 Saturday, May 25, 1946, was dispensed with, and the Journal was approved.

TRANSACTION OF ROUTINE BUSINESS

By unanimous consent, the following routine business was transacted:

EXECUTIVE COMMUNICATIONS, ETC.

The PRESIDENT pro tempore laid before the Senate the following communication and letter, which were referred as indicated:

SUPPLEMENTAL ESTIMATE, COAST GUARD, TREASURY DEPARTMENT (S. Doc. No. 188)

A communication from the President of the United States, transmitting a supplemental estimate of appropriation for the Coast Guard, Treasury Department, amounting to $1,020,000, fiscal year 1947, in the form of an amendment to the Budget for that fiscal year and a draft of a proposed provision pertaining to an appropriation for the fiscal years 1946 and 1947 (with an accompanying paper); to the Committee on Appropriations and ordered to be printed.

RELIEF OF CERTAIN POSTMASTERS

A letter from the Acting Postmaster General, transmitting a draft of proposed legislation for the relief of certain postmasters (with an accompanying paper); to the Committee on Post Offices and Post Roads.

PETITION AND MEMORIAL

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

By the PRESIDENT pro tempore:

A telegram in the nature of a petition from F. E. Ulrich, of Valley Stream, N. Y., praying for the prompt enactment of legislation to curb strikes; ordered to lie on the table.

A letter from J. R. FARRINGTON, Delegate from Hawaii, transmitting telegrams in the nature of memorials from Carpenters' Union Local No. 745, Boilermakers' Union No. 204, Central Labor Council, American Federation of Labor, and International Association of Machinists, all of Honolulu, P. I., remonstrating against the enactment of antilabor legislation (with accompanying telegrams); ordered to lie on the table.

ANTISTRIKE LEGISLATION—PETITIONS

Mr. CAPPER. Mr. President, I have received telegrams from chambers of commerce in cities of Eureka, Liberal, Great Bend, Manhattan, Beloit, and Abilene, all in the State of Kansas, appealing to the Congress to enact legislation that will stop strikes. I ask unanimous consent to present these telegrams for appropriate reference and that they be printed in the RECORD.

There being no objection, the telegrams were received, ordered to lie on the table, and to be printed in the RECORD, as follows:

EUREKA, KANS., *May 27, 1946.*

Senator ARTHUR CAPPER,
Washington, D. C.:

We believe in the principles of collective bargaining and in union responsibility for its acts. We believe that individuals should be free to join or not join labor organizations. That organized labor should be protected in its rights by laws which equally protect other citizens, organized or unorganized. That the best interests of all citizens are best served by a minimum of regulative legislation. We are opposed to violence, intimidation and coercive methods on part of labor or management. Interests, rights of public in continuity of production goods and services must not be subordinated in disputes of labor and management or in disputes between or within labor unions. To achieve these ends, to effectuate prompt settlement of current strikes, to establish effective precedent for future disputes we urge your prompt and united action.

Board of Directors, Eureka Chamber of Commerce: F. A. Smethers, J. W. Bayless, W. E. Marshall, H. F. Brenton, George S. Stright, H. M. Marriott, P. L. Braden, L. C. Baird.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

GREAT BEND, KANS., *May 25, 1946.*

Hon. ARTHUR CAPPER,
United States Senator,
Senate Office Building,
Washington, D. C.:

Lack of adequate national labor policy has resulted in widespread suffering and stifling of Kansas industries despite meritorious conduct of labor in Kansas. We believe in principles of collective bargaining and in union responsibility for its actions. Laws which protect labor ought to equally protect other citizens organized or unorganized. Interests and right of public must not be subordinated in disputes of labor and management or in disputes between or within labor unions. Temporary settlement of current railroad and coal strikes will not protect country against future serious paralyzing effects of strikes. We urge enactment of proper legislation to establish effective precedent for future disputes. Country expects prompt and united action.

CREAT BEND CHAMBER OF COMMERCE,
DON C. MCILRATH, *President.*

MANHATTAN, KANS., *May 24, 1946.*

Hon. SENATOR ARTHUR CAPPER,
Senate Office Building,
Washington, D. C.:

Realizing the desperate situation which has been facing this country because of labor troubles—intensified now by the paralysis caused by the railroad strike—we strongly urge you to exert every effort to secure action and legislation which will stop strikes against the welfare of the general public, and make the parties to such strikes—industry and labor—equally responsible for violation of their contracts and for actions deleterious to the public good. The essentials of this statement were unanimously approved today by the board of directors of the Manhattan, Kans., Chamber of Commerce and the members of the governmental affairs committee.

MANHATTAN CHAMBER OF COMMERCE,
E. L. WILSON, *President.*

BELOIT, KANS., *May 25, 1946.*

Senator ARTHUR CAPPER,
United States Senate,
Washington, D. C.:

We believe in the principles of collective bargaining and in union responsibility for its acts. We believe that individuals should be free to join or not join labor organizations; that organized labor should be protected in its rights by laws which equally protect other citizens organized or unorganized; that the best interests of all citizens are best served by a minimum of regulative legislation. We are opposed to violent intimidation and coercive methods on part of labor or management. Interests and rights of public in continuity of goods and services must not be subordinated in disputes of labor and management or in disputes between or within labor unions. To achieve these established effective precedents for future disputes we urge your prompt and united action.

BOARD OF DIRECTORS OF BELOIT
CHAMBER OF COMMERCE,
W. J. CONSIDINE, *Secretary.*

LIBERAL, KANS., *May 25, 1946.*

Senator ARTHUR CAPPER,
Washington, D. C.:

We believe in the principles of collective bargaining and in union responsibility for its acts. We believe that individuals should be free to join or not to join labor organizations; that organized labor should be protected in its rights by laws which equally protect other citizens organized or unorganized. That the best interests of all citizens are best served by a minimum of regulative legislation. We are opposed to violence, intimidation, and coercive methods on part of labor or management. Interests and rights of public in continuity of production of goods and services must not be subordinated in disputes of labor and management or in disputes between or within labor unions. To achieve these ends, to effectuate prompt settlement of current strikes, to establish effective precedent for future disputes, we urge your prompt and united action.

LIBERAL CHAMBER OF COMMERCE,
N. S. LEPLEY.

ABILENE, KANS., *May 25, 1946.*

Senator ARTHUR CAPPER,
Senate Office, Washington, D. C.:

We believe that if the unions are to receive the benefits of collective bargaining they should also accept the responsibility that goes with their privileges. We are opposed to the closed shop principle, the check-off. We believe that every worker should have the right to join or not join a union. That when organized labor is protected in rights, that the consumer and those who are not organized have a right to the same protection. We object to a minority movement such as organized labor using intimidation and coercive methods to force their demands. We believe that capital and management should play fair with both organized labor and the public who pays the bill. It is time for the enactment of a labor bill that gives right and justice to the unions, the management, the stockholder, and the public. Congress should draft reasonable and fair legislation now.

THE ABILENE CHAMBE OF COMMERCE,
C. W. WHEELER, *President.*

THE JEWISH PALESTINE PROBLEM

Mr. WALSH. Mr. President, I ask unanimous consent to present and to have inserted in the RECORD a public letter to the President, dated May 21, 1946, sent to him by the Political Action Committee for Palestine, Inc., whose national headquarters are at 104 West Seventieth Street, New York, and by the congressional advisory board of this committee, of which I am a member.

This 3,000 word letter is one of the most adequate summaries for the case of a Jewish Palestine. The letter is unbiased in its approach, and beyond that, an excellent presentation of facts to guide our policy in the Middle East. It expresses an overwhelming sentiment and hope that the State Department will take cognizance of the case for a Jewish Palestine, as set forth in that letter.

It should be noted that this letter was personally delivered to the President by my colleague, the Honorable JOHN W. MCCORMACK, majority leader, House of Representatives.

I ask that the letter be treated as a petition and referred to the Committee on Foreign Relations.

There being no objection, the letter was received, referred to the Committee on Foreign Relations, and ordered to be printed in the RECORD, as follows:

POLITICAL ACTION COMMITTEE
FOR PALESTINE, INC.,
May 20, 1946.

Hon. HARRY S. TRUMAN,
The White House, Washington, D. C.

DEAR MR. PRESIDENT: We call on you, the most potent leader of a great, proud, and victorious Nation, the most powerful in the world today, to stand firm by your pledges, as set forth in the very platform of your party during the last national convention; by the pledges of many former national administrations; by the numerous other official declarations of the United States. We call on you to use every form of diplomatic, economic, and moral suasion in your power to prevent Great Britain, the cosignatory of the Anglo-American Convention of December 3, 1924, and the author of the Balfour Declaration, from repudiating her commitments and from perpetrating a most shameful betrayal of a long-suffering and persecuted people.

Our British cousins are pursuing their interests along the lines of British imperial policy in utter disregard of the unparalleled sufferings of a homeless race. The rescue of the survivors of the most infamous carnage the world has ever inflicted upon a defenseless people, threatened as they are with extinction in a Europe impregnated with anti-Semitism by a decade of nazism, is not another file in the British archives.

It is incontrovertible that anti-Semitism is rampant in Europe today. Its victims, to a man, long to return to their historic homeland; there, to rehabilitate their lives. They wish to leave forever the cursed and bloody soil of Europe, those lands which brought them nothing but disaster. The Anglo-American Committee of Inquiry has recommended that 100,000 Jews be admitted to Palestine as quickly as possible. To condemn the remaining 1,400,000 (14 out of 15) Jews to perpetual exile; to deny repatriation to Palestine to all but 100,000, would be a cruel mockery of the great principles for which the war was fought and a denial of life, liberty, and opportunity to the Jewish people, nay, a death sentence to Israel.

Aside from the humane approach of the "Jewish problem," the Jews are by every concept of justice and international law the heirs to Palestine. The legal grounds for Jewry's claim to Palestine are well known. They are to be found in the Bible, and in Israel's unbroken connection with the Holy Land since the dawn of recorded history. Nowhere can be found any intimation that Palestine was ever under Arab sovereignty.

The foremost authorities on international law pointed out, as far back as the nineteenth century, that since the Jews never relinquished their title to Palestine, the general "law of dereliction" could not be applied for their case, "for," as Blackstone says, "they never abandoned the land. They made no treaty; they didn't even surrender. They simply succumbed, after the most desperate conflict, to * * * overwhelming power * * * and were captured or enslaved. * * * Since then they have disputed the possession of the land by continued protests."

According to the compelling precedents established by such authorities as Boswell, Wheaton, Clifford, Phillimore, and others the forcible manner by which the Jewish nation had been ejected and has since been kept out of Palestine, with no means of redress, is equivalent in principle to a continuous state of war, and therefore prescription should in no event run against them until they have had the opportunity to present their claim at the bar of the only possible mundane court, an international conference. This was at last accomplished when the historical claim of the Jewish people to its land, Palestine, was officially recognized by the great powers in a series of international documents and conventions, i. e., the Balfour Declaration (November 2, 1917, the mandate (July 24, 1922), and the American British convention of December 3, 1924. The mandate, as well as the American-British convention, stipulate explicitly:

"Recognition has thereby been given to the historical connection of the Jewish people with Palestine and to the grounds of reconstituting their national home in that country."

Furthermore, all this was substantiated in the treaty of "racial kinship" signed by King Feisal, representing and acting on behalf of the Arab Kingdom of Hejaz. The following words are from Feisal's own treaty:

"In the establishment of the constitution and administration of Palestine all such measures shall be adopted as will afford the fullest guaranty for carrying into effect the British Government's declaration of November 2, 1917 (the Balfour Declaration)," and that

"All necessary measures shall be taken to encourage and stimulate immigration of Jews into Palestine on a large scale, and as quickly as possible to settle Jewish immigrants on land through close settlement and intensive cultivation of the soil."

When the great powers pledged the return of Palestine to Jewry, they were not motivated by benevolence but rather by atonement. Neither was Palestine placed in trust for Jewry on humanitarian grounds. Palestine was not construed as a refuge or a habitation, but as a Jewish state with all its political connotations.

We can perhaps best illustrate to you Palestine's ability and capacity for the absorption of Europe's 1,500,000 Jews—and more—through facts and figures when compared with the density of other countries of similar resources:

The heir presumptive is the Arab League, allegedly speaking for six Arab states: Saudi Arabia with 350,000 square miles and a population of 5,250,000; Yemen with 75,000 square miles and a population of 3,500,000; Iraq with 140,000 square miles and a population of 3,560,000; Egypt with 386,000 square miles and a population of 17,287,000; Syria and Lebanon with 57,900 square miles and a population of 3,630,000—making the staggering total of 1,008,900 square miles for a population of only 29,727,000, a density of a little over 20 per square mile.

The area of Palestine is 44,850 square miles, the size of the State of New York or Pennsylvania.

Palestine has a population of 2,000,000, of which 700,000 are Jews, 1,250,000 Arabs, and 50,000 inhabitants of other national and racial origin, a density of less than 50 per square mile.

Belgium with its 11,785 square miles has a population of 8,159,185. Palestine's population, by the same ratio, would swell to 31,027,230.

England, with an area of 50,874 square miles, has a population of 37,350,917. Palestine, by the same ratio, could care for 32,933,355.

The State of Rhode Island, with its 1,248 square miles, has a population of 702,000. Palestine, with its 44,850 square miles, could sustain, by comparison, a population of 25,228,125—not the mere handful of 2,000,000 it now has.

It has been established by the foremost authorities that Palestine at this time can sustain more than four times its present population when given the opportunity under article 2 of the mandate, which reads in part:

"The mandatory shall be responsible for placing the country under such political, administrative and economic conditions as will secure the establishment of the Jewish National Home, as laid down in the preamble, and the development of self-government institutions and also for safeguarding the civil and religious rights of all the inhabitants of Palestine, irrespective of race and religion."

On the basis of past performances, the Jewish colonists have proved with their blood, sweat, and tears the numerous possibilities for large scale industrialization in Palestine. The country's natural resources, when cultivated, and the technical skill of the Yishauv hold even greater promise for the future of Palestine.

Nobody wants to oust the Arabs of Palestine. There is room within historic Palestine for millions of additional settlers. To speak, as the Arab propagandists do, under British tutelage, of expropriation and expulsion is a wilful misrepresentation. Far from expelling Arabs, Jewish immigration has, according to official figures, attracted some 260,000 Arab immigrants in the last 15 years from other vast thinly settled Arab lands.

Mr. President, the foregoing statistics more than justify the humane stand which you took, on August 31, 1945, in your request to the British Government, that 100,000 European Jews be admitted to Palestine immediately.

You persisted in your request irrespective of the creation of the Joint Anglo-American Committee of Inquiry. As a matter of record, you reiterated your demand on November 13, 1945, the day London and Washington announced their agreement to form such a committee.

In applause of your position, this committee, through its executive vice chairman, Rabbi Baruch Korff, on November 19, 1945, wrote to you, predicting that your request would surely be acceded to by Great Britain, but only after interminable delays in accordance with empire paraphernalia, and unsavory attempts to involve the unsullied honor of the United States in the crimes committed by Great Britain against a long-martyred people. His predictions have come to pass with prophetic certainly.

Now we foresee that perfidious Albion's demands for American military aid in Palestine is but a further scheme by the Colonial Office to have American soldiers hurt or killed in riots incited by British agents in Palestine in order to alienate the cause of the Jews in the eyes of public opinion in this country.

We urge you to reject this dastardly and callous ruse of British foreign policy. We urge you to insist in turn on the recognition by the British of the Jewish defense forces in Palestine and the Jewish brigade still detained outside the country they helped to defend, as the proper agencies to keep order in Palestine and to protect the vanguard of the 100,000 European Jews. Were the propagandists of the British Colonial Office to cease to incite the Arab masses in accordance with their classic formula of "divide and rule," the necessity for such armed protection would never have arisen.

The Arab common man is no enemy of the Jews. Nowhere in the Middle East does the Arab worker fare so well as in Palestine, where western civilization has been introduced by the Jews. This development, however, is deemed by Great Britain against her economic interests. She would rather have a primitive, uninhabited country guarding her shipping lanes—the life line to India—so, through Arab oil barons, effendis, and self-appointed leaders, the British Colonial Office instigates a war of nerves as well as the much exploited so-called holy wars. One such holy war was declared against Britain herself in 1914 by the spiritual head of Islam—its effect was not even noted by historians.

Who are these self-appointed Arab leaders? A few will indicate the quality of all. In the forefront is Jamal el Husseini, who in his testimony before the Anglo-American committee of inquiry, justified the Nazi activities of his cousin, Haj Amin el Husseini, the former Grand Mufti of Jerusalem. In the group, we also find Abu Bakr whom the British have now returned to the Holy Land (for obvious reasons), arch fomenter of the Palestine riots of 1936–39, and his confrere, Fawzi Bey el Kaw Kadzi, who led those riots. These gentlemen have more than one thing in common, they were all Axis agents. Not one of them but prayed for a Nazi victory.

When the Arab propagandists speak of Arab support to the war effort they omit to state which side they supported. Are they referring to the Moslem regiments recruited for the Axis by the ex-Mufti? Do they have in mind the armed rising in Iraq in 1941? Do they allude to the Egyptian ally who did not send a single soldier in support of Britain but had to be coerced into uneasy neutrality by a show of force? Have they forgotten the large sums in gold with which Arab benevolence had to be bought in north Africa?

We ask you, Mr. President, to compare the Arab contribution to the allied war effort with the sacrifices made by the millions of Jews who fought and died for the Allied cause, not least among whom were the 136,000 Palestinian Jews, out of a population of 700,000, who volunteered for service despite their distrust of Great Britain, occasioned by repeated former betrayals.

Our committee, comprised as it is of members of all faiths, feels that the report of the Anglo-American committee has ignored the fundamental principles involved in a Palestine solution and has adroitly circumvented the basic problem. We earnestly petition that so much of that report as recommends the repudiation by this Government of the principle respecting the establishment of the self-determination by the Jewish people in the Jewish homeland of Palestine be summarily rejected by the Government of the United States. We further petition that this Government reject the introduction of new conditions by the British requiring United States military aid; and the disarming of the Jewish people of Palestine which would leave them at the mercy of the unprincipled inciters of riot as a prerequisite to admitting the 100,000 European Jews.

We also petition that this Government take the lead in a final solution of the Jewish problem by adopting the following program:

(a) The recognition by the UN of European and Palestinian Jewry as an ethno-political entity.

(b) The recognition of Palestine as the national territory of this ethno-political entity.

(c) The immediate repatriation of the Jews in Europe to Palestine.

(d) Since it is apparent that Great Britain must withdraw her imperial military bases from Egypt, Syria, and Lebanon, it must be recognized that transferring such bases to Palestine would violate the letter and spirit of the mandate, lest Palestine be transformed into a British colony with the burden of maintaining these bases resting primarily upon the Jews through grinding taxation.

In the interim we respectfully request your intervention in a situation which is nothing less than scandalous. We refer to the oppression, persecution, and imprisonment by the mandatory power of Jews in Palestine because of their political views. The immediate release of the thousands of such Jews now held in concentration camps in Palestine and elsewhere, is of deep concern to every liberty-loving American.

May we take the liberty, Mr. President, of ending this letter by expressing our deep esteem and gratitude for your good will and humanitarianism in sponsoring the repatriation of the first 100,000 displaced Jews to Palestine.

Very respectfully yours,

Political Action Committee for Palestine, Inc.: For the Congressional Advisory Board: Senator David I. Walsh, Senator Milton R. Young; for the Executive Board: Representative Thomas J. Lane, Senator James M. Mead, Murray K. Josephson, Representative John W. McCormack, Michael Potter, cochairmen.

NOTE.—This letter was handed to the President by Representative JOHN W. MCCORMACK, House majority leader and cochairman of PAC for Palestine on May 21, 1946.

BILLS AND JOINT RESOLUTION INTRODUCED

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

By Mr. GEORGE:

S. 2256. A bill to amend the Servicemen's Readjustment Act of 1944; to the Committee on Finance.

By Mr. O'MAHONEY:

S. 2257. A bill granting to the State of Wyoming certain public lands in such State for the use and benefit of the University of Wyoming; to the Committee on Public Lands and Surveys.

By Mr. DOWNEY:

S. J. Res. 164. Joint resolution creating a joint congressional committee to conduct a study of Federal salary and wage schedules; to the Committee on Civil Service.

SETTLEMENT OF INDUSTRIAL DISPUTES AFFECTING THE NATIONAL ECONOMY—AMENDMENTS

Mr. MILLIKIN submitted three amendments intended to be proposed by him to the bill (H. R. 6578) to provide on a temporary basis during the present period of emergency, for the prompt settlement of industrial disputes vitally affecting the national economy in the transition from war to peace, which were severally ordered to lie on the table and to be printed.

PRINTING OF REVIEW OF REPORT ON OUACHITA RIVER AND TRIBUTARIES ON BAYOU LAFOURCHE, LA. (S. DOC. NO. 191)

Mr. OVERTON. Mr. President, I present a letter from the Secretary of War, transmitting a report dated August 1, 1945, from the Chief of Engineers, United States Army, together with accompanying papers and illustrations, on a review of report on the Ouachita River and its tributaries, with respect to flood control and drainage on Bayou Lafourche, La., and I ask unanimous consent that it may be printed as a Senate document, with illustrations.

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

PRINTING OF REVIEW OF REPORTS ON THE MISSISSIPPI RIVER BETWEEN THE MISSOURI RIVER AND MINNEAPOLIS (S. DOC. NO. 192)

Mr. OVERTON. Mr. President, I present a letter from the Secretary of War, transmitting a report dated April 24, 1946, from the Chief of Engineers, United States Army, together with accompanying papers and an illustration, on a review of reports on the Mississippi River between the Missouri River and Minneapolis, with a view to improvement of a harbor for small craft at Lansing, Iowa, and I ask unanimous consent that it may be printed as a Senate document, with an illustration.

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

PRINTING OF REVIEW OF REPORT ON THE FRANKLIN CANAL, ST. MARY PARISH, LA. (S. DOC. NO. 189)

Mr. OVERTON. Mr. President, I present a letter from the Secretary of War, transmitting a report dated April 8, 1946, from the Chief of Engineers, United States Army, together with accompanying papers and an illustration, on a review of report on Franklin Canal, St. Mary Parish, La., and I ask unanimous consent that it may be printed as a Senate document, with an illustration.

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

PRINTING OF REVIEW OF REPORTS ON LAKE CHARLES DEEP WATER CHANNEL, SHIP CHANNEL, AND CALCASIEU RIVER AND PASS, LA. (S. DOC. NO. 190)

Mr. OVERTON. Mr. President, I present a letter from the Secretary of War, transmitting a report dated March 18, 1946, from the Chief of Engineers, United States Army, together with accompanying papers and an illustration, on a review of reports on Lake Charles Deep Water Channel, Ship Channel, and Calcasieu River and Pass, La., and I ask unanimous consent that it may be printed as a Senate document, with an illustration.

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

POSTPONEMENT OF HEARINGS ON COLUMBIA VALLEY AUTHORITY BILL

Mr. OVERTON. Mr. President, hearings were scheduled on Senate bill 1716, the Columbia Valley Authority bill, for Tuesday, June 25, to Friday, June 28. These hearings are indefinitely postponed. I am sending to the desk and asking to have printed as part of my remarks at this point a letter I received from the author of the bill, the Senator from Washington [Mr. MITCHELL], and my reply thereto.

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

UNITED STATES SENATE,
May 24, 1946.

Hon. JOHN H. OVERTON,
Chairman, Commerce Committee,
United States Senate,
Washington, D. C.

DEAR SENATOR OVERTON: You have kindly agreed to hold hearings on S. 1716, my bill to create a Columbia Valley Authority, and have scheduled them for June 25 through the 28th.

Since the public announcement of the hearing dates, I have had so many requests from people of the Pacific Northwest who desire to be heard on behalf of the proposal that it appears the 4 days assigned to S. 1716 from your heavy schedule will be inadequate.

Because I know how congested is the general Senate committee calendar and because I recognize how many are the calls upon you for work on both Appropriations and Commerce Committee problems, I hesitate in making this request for additional time. However, in fairness to both CVA proponents and opponents, I am forced to request that hearing time be at least doubled, allowing four hearing days to each side. In the event this cannot be done, I believe the hearing should be postponed.

With cordial personal regards,

Sincerely yours,

HUGH B. MITCHELL.

UNITED STATES SENATE,
Washington, D. C., May 27, 1946.

Hon. HUGH B. MITCHELL,
United States Senate,
Washington, D. C.

MY DEAR SENATOR MITCHELL: Receipt is acknowledged of your letter of the 24th instant wherein you, as author of the bill S. 1716, to create a Columbia Valley Authority, request that I, as acting chairman of the Commerce Committee and chairman of the subcommittee handling the bill referred to, either double the days of hearings or postpone the hearings.

In answer thereto, it is, as I have heretofore explained to you, quite impossible for me to extend the time of the hearings.

It is contemplated that the Congress will adjourn by not later than the middle of July. I have the following hearings scheduled on bills that I have to handle in the Senate:

Beginning May 28, the Navy Department appropriation bill.

Beginning June 10, the river and harbor bill.

Beginning June 17, the McCarran all-American-flag-line bill.

The flood-control bill as soon as possible after it passes the House.

Interspersed with these are other hearings on sundry bills referred to the Senate Commerce Committee, some of which are extremely important.

It is quite impossible, therefore, for me to give approximately 2 weeks hearings on the Columbia Valley Authority bill; and I am directing that the hearings be indefinitely postponed. I shall probably use the time heretofore allotted for the CVA bill to conduct hearings on the flood-control bill, this being about the only time left available for this very important measure that affects the whole Nation.

Sincerely yours,

JOHN H. OVERTON,
United States Senator.

EXPLANATION OF SO-CALLED BYRD AMENDMENT TO THE CASE BILL

Mr. BYRD. Mr. President, in view of the misrepresentations that were made on the floor of the Senate of the so-called Byrd amendment to the Case bill, I ask permission to incorporate in the body of the RECORD a statement of what this amendment really means.

I want to say emphatically that neither the original amendment offered by me nor any subsequent modifications outlawed, as has been stated on the floor of the Senate, the expenditure of funds for welfare purposes, whether such funds were contributed solely by the employer or jointly by the employer and the employees. I ask that the amendment be printed first and then the explanation.

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

The amendment as adopted by the Senate, by a vote of 48 to 30, is as follows:

Proposed by Mr. BYRD to the bill (H. R. 4908) to provide additional facilities for the mediation of labor disputes, and for other purposes, viz: On page 28, strike out section 8 and insert in lieu thereof the following:

"SEC. 8. (a) It shall be unlawful for any employer to pay or deliver, or to agree to pay or deliver, any money or other thing of value to any representative of any of his employees who are engaged in commerce or in the production of goods for commerce.

"(b) It shall be unlawful for any representative of any employees who are engaged in commerce or in the production of goods for commerce to receive or accept, or to agree to receive or accept, from the employer of such employees any money or other thing of value.

"(c) The provisions of this section shall not be applicable (1) with respect to any money or other thing of value payable by an employer to any representative who is

an employee or former employee of such employer, as compensation for, or by reason of, his services as an employee of such employer (2) with respect to any amounts deducted from the compensation of any employee and paid to a labor organization by an employer in payment of dues or other membership fees payable by such employee to such labor organization; 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 shall also contain provisions for an annual audit of the trust fund, a statement of the results of which shall be available for inspection by interested persons at the principal office of the trust fund and at such other places as may be designated in such written agreement; 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.

"(d) Any person who willfully violates any of the provisions of this section shall upon conviction thereof be subject to a fine of not more than $10,000 or to imprisonment for not more than 6 months, or both.

"(e) The district courts of the United States and the United States courts of the Territories and possessions shall have jurisdiction, for cause shown, and subject to the provisions of section 17 (relating to notice to opposite party) of the act entitled 'An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, as amended (U. S. C., title 28, sec. 381), to restrain violations of this section, notwithstanding the provisions of sections 6 and 20 of such act of October 15, 1914, as amended (U. S. C., title 15, sec. 17, and title 29, sec. 52), and the provisions of the act entitled 'An act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes,' approved March 23, 1932 (U. S. C., title 29, secs. 101-115).

"(f) As used in this section—

"(1) 'Goods' means goods, wares, products, commodities, merchandise, or articles or subjects of commerce of any character, or any part or ingredient thereof.

"(2) 'Produced' means produced, manufactured, mined, handled, or in any other manner worked on in any State; and for the purposes of this section an employee shall be deemed to have been engaged in the production of goods if such employee was employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on such goods, or in any process or occupation necessary to the production thereof, in any State.

"(3) 'Representative' means any labor organization which, or any individual who, is authorized or purports to be authorized to deal with an employer, on behalf of two or more of his employees, concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work; and any other organization or fund of which a majority of the officers are representatives or are members of a labor organization or are elected or appointed by a representative.

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

EXPLANATION OF AMENDMENT

The amendment is designed to do one thing, and that is to prohibit an employer from paying or agreeing to pay any money or anything of value to a labor union or to its representatives, the expenditure of which would be controlled solely by the labor union or its representatives. It specifically provides for the establishment of health and welfare funds under joint control.

The necessity for this legislation at this time is completely obvious. John L. Lewis, acting as head of the United Mine Workers, is demanding a production tax to the extent of 7 percent of the gross pay roll paid for the production of coal. The effect of this demand is exactly the same as a royalty on coal production, as the amount of coal produced is in exact ratio to the amount of labor employed to produce the coal. As a matter of fact, on a basis of 7 percent of the gross pay roll, this, in effect, establishes a royalty which would make an average of approximately 20 cents a ton on national production instead of the first suggested tax of 10 cents a ton.

It would have a disastrous effect on the so-called high-production-cost mines and would give a great advantage to the low-cost-producing mines, which, in the main, are the mines controlled by the more wealthy coal corporations. This 7 percent on the gross pay roll may be as low as 10 cents a ton in the lowest-cost district and would probably be as high as 40 cents a ton in the highest-cost district. So it is obvious that the imposition of such a tax would create a disorganization of the coal industry, which would be disastrous in the competitive field to the highest-cost producers. In fact, to impose a 7-percent gross pay-roll tax on the mines, in addition to the social-security taxes now imposed, would place the coal business in a position where it could not compete with its competitors—for example, oil—unless the same gross tax were collected from the oil producers.

This tax will produce $100,000,000.

At the wage conference on May 13, Mr. Lewis stated in unequivocal language that this fund must be paid wholly by industry and the administration of the fund wholly by his union. In other words, what Mr. Lewis wants is to have the coal operators pay to him and his organization $100,000,000, and he will spend this fund as he and his associates desire. There will be no provisions for an accounting of this vast fund, and it may be used for purposes other than those Mr. Lewis now says he desires to use it for.

The result is that this $100,000,000 will be passed on to the consumers. This is inevitable, as the coal operators could not absorb it. In fact, this is greater than all the profits made by the mine owners. In this, therefore, the people of the United States have a very direct interest.

Mr. Lewis is not asking for this in the ordinary course of negotiations. He has precipitated a great national crisis, one of the most serious this country has ever been faced with. He closed the mines completely for more than 40 days, losing a coal production of at least 80,000,000 tons. Then, just as the railroads were being forced to discontinue their trains, and public utilities about to shut down, with great distress and suffering immediately confronting the people, he gave the coal operators and the country 12 days of grace in order to agree to his demands. In plain language he held up the Government and the people of America at the point of a gun, taking advantage of the fact that he, one man, had the power of life and death over the business activity of America, and, further than that, the power to deny the people the very necessities of existence, because he controlled the production of perhaps the greatest single necessity in our daily life.

Should this 7-percent gross pay-roll tax be applied to all compensation paid employees, it would amount to approximately $8,000,000,000, as the total of wages and salaries paid out for the year 1945 was $114,000,000,000. The total annual yield of the social-security tax is approximately $2,500,000,000. The balance in old-age and survivors insurance reserve accounts as of April 15 was seven billion three hundred and one million.

If John L. Lewis succeeds in his demand, it will mean that other unions will make the same demand. It will mean another renewal of an epidemic of strikes all through the country, because the labor leaders of other unions cannot afford to permit John Lewis to succeed in this without obtaining the same benefits. It will establish a standard and still further increase the unrest, the interruptions in work, and the strikes that have reached such a disastrous peak in recent months.

I want to emphasize clearly, Mr. President, that I do not oppose the establishment of welfare funds, if such funds may be needed, providing that the disbursement of these funds, which after all are in the nature of a public contribution, because they are added to the cost of living, put in the hands of a joint trust fund such as is provided by the pending amendment. We already have a vast fund in unemployment compensation aggregating approximately $8,000,000,000 for relief in the event of unemployment. We have a large old-age insurance account and other funds for social security established both by the Federal Government and the States. If additional funds are necessary, such can be provided under the amendment now pending without giving the control of these vast sums to labor unions.

FEED FOR DAIRY HERDS AND POULTRY IN CONNECTICUT

Mr. HART. Mr. President, I have a letter from Mr. Henry B. Mosle, food administrator of Connecticut, a highly efficient man in that capacity. The letter, which is addressed to an official of the Department of Agriculture, sets forth the situation in regard to feed supplies for dairy herds and poultry. I ask that the letter be printed in the body of the RECORD.

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

MAY 22, 1946.

Mr. LEE SMITH,
Director, Grain Division, United States Department of Agriculture,
Washington, D. C.

DEAR MR. SMITH: It is my understanding that you are the Director of the Grain Branch of the Production and Marketing Administration of the United States Department of Agriculture. For this reason I wish to refer to you a request that some explanation be given us as to how the Federal Government proposes to meet the feed supply crisis from which we are suffering. The steps which have been taken to date have not supplied an effective remedy. We are now slaughtering our laying hens. Dairy herds are being

liquidated at a rate hitherto unknown, although we are at the height of the pasture season when presumably it should be possible to carry our dairy cattle if some assurance of a continuing grain supply were available. Already egg receipts at local auctions have fallen sharply. What will happen later unless this disastrous liquidation of laying flocks and dairy herds is immediately halted you can well imagine.

Connecticut annually produces poultry and dairy products with a retail value of $90,000,000. Since what is happening here is being duplicated with more or less severity in neighboring feed deficit areas, we are concerned about obtaining the equivalent of these supplies in the months ahead. We are also beginning to experience serious difficulties in obtaining flour. I anticipate that bread will be short here within the month. You will agree, I think, that this is a very bad state of affairs. The people of this State, with whom I meet daily to discuss food matters, are beginning to suffer from a sense of outrage. They are well aware that food is needed for those abroad and that, in supplying those unfortunates, we must naturally take away from our own supplies. The tide of gifts to the UNRRA, in which one Connecticut town led the Nation, and the reduction of our poultry population well below that suggested by the Department of Agriculture is proof positive of our cooperative spirit. But people here are beginning to wonder whether they are expected to bear the whole burden of the sacrifices asked of the Nation. They do not think this is either just or politic. Aware that we are living under a managed economy, they now are beginning to wonder what sort of management this is.

Since 1943 at any meeting of responsible persons conversant with the grain situation, the Federal Government in all its branches has been warned and memorialized on this matter by Connecticut people. Countless suggestions, some better and some worse, have been offered to the Government for consideration. But the problem has not been solved and this critical situation, which we have feared so long, has now at last come home to roost.

No one in Connecticut that I know of wishes to receive more than a fair share of the feed stocks or flour supplies available in the Nation. The reduction of animal numbers called for by the Federal Government's goals program has been cheerfully accepted. How much more must be given up? Is it the intention of the Federal Government to force the whole reduction of animals and flour to fall upon food and feed deficit areas? If so, what arrangements have been made to sustain people in these areas later on? These are questions the answers to which we must have.

We have been informed that responsibility for these things is lodged with your division of the Department of Agriculture. You, therefore, will know that the newly announced ceiling prices on grain have not relieved our situation. We feel that these changes are months, if not years, too late to affect our situation this year. Something more is needed. Either we must do away with ceiling prices entirely so that we can bid in to meet our requirements, a procedure which would undoubtedly raise feed and food prices but would, nevertheless, readmit us to the company of those who are permitted access to supplies; or else the Federal Government must itself take title to enough feed grain and flour and by allocation assure some supplies to feed and food deficit areas. This course has been urged on you by our feed grain committee, and more recently by our bakers. We are disposed to wonder whether anyone in Washington realizes the gravity of our situation. Please let me have some explanation, or else some indication of the plans which have been made to meet the present crisis. We, too, must make plans, first, to insure, if possible, the orderly liquidation of our laying flocks and dairy herds and, second, to provide as best we can for supplementary food supplies to take the place of our home-grown eggs, milk, and poultry meat later on.

Very truly yours,

HENRY B. MOSLE,
State Food Administrator.

THE OPA—STATEMENT OF WISCONSIN IMPLEMENT DEALERS' ASSOCIATION

Mr. WILEY. Mr. President, last week I placed in the RECORD information which came from the Cheddar-cheese manufacturers of the State of Wisconsin which indicated that they would no longer sell their cheese at a loss because of the OPA lack of understanding of their problem. Today there was placed in my hands by two very outstanding and representative citizens of our State, Mr. Joseph Walsh and Mr. George A. Martiny, representatives of the Wisconsin Implement Dealers' Association, a statement from the association. In the statement there is to be found this language:

We are representing a group of about 975 loyal American implement dealers scattered in every hamlet and town throughout the State of Wisconsin who cannot continue to serve the Nation as law-abiding citizens under the OPA-regulated amendment of May 10.

Then they ask:

Should we, as small business, close our doors? Are we to cut our services accordingly or shall we hide our self-respect and join the ever-increasing ranks as black marketeers or shall we openly defy the regulations?

They conclude with this statement:

We have submitted the facts and are not going to operate under this amended regulation because we cannot.

They call attention to the fact that it means loss of business; it means they will not be able to service the farmers.

I ask that the entire statement be printed in the RECORD following my remarks.

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

A STATEMENT FROM THE DEALERS OF THE WISCONSIN IMPLEMENT DEALERS' ASSOCIATION

According to information received, OPA, on May 10, 1946, amended MPR 246 and MPR 133, changing the pricing of farm equipment, which gives the manufacturer a 10¼-percent increase and increases the selling price 5 percent, thereby reducing the trade discount from manufacturer to dealer from 20 to 16 percent, which is actually forcing a dealer to operate on 14.4-percent basis, or an absorption of 5.6 percent on new machines, and reduces the trade discount on extra repair parts from 35 to 28 percent, and, according to actual figures, 16 to 22 percent is the dealer's overhead cost on an average normal volume of business—this depending on the season and efficiency of the individual operation. This figure is based on the fact that most dealers are operating as individuals and not as corporations, so does not include salary of owner-operator.

The manufacturer's increase was justified and we feel sure that farmers today are able and willing to pay the extra price if they could get the equipment through legitimate channels. They need this equipment so badly in their short-handed fight to increase the world's food supply.

Most dealers would endeavor to continue as they have done during the war years, if the price increase was a dollar-for-dollar pass-on, but with this drastic reduction, how can they continue?

We are representing a group of about 975 loyal American implement dealers scattered in every hamlet and town throughout the State of Wisconsin who cannot continue to serve the Nation as law-abiding citizens under the OPA regulated amendment of May 10. This is the group who not only gave their sons and daughters, supported all bond drives, assisted with rationing, served on selective-service boards, but took time to call on every farmer during the early days of the war to put the scrap drive across that really brought the scrap into war channels. In general, they promoted all loyal American jobs which might be classed as beyond the line of duty call.

We nobly carried on and supported the Stars and Stripes in the long battle on the home front, hand in hand with the farmer in the production of food. Our job has been big brother to him in his mechanical problems. Whether it was the 10-cent spring lost from his corn planter or the broken block in his tractor, his call is for the implement dealer. The dealer by carefully planning and anticipating the parts that might be needed and working early and late has kept this equipment in operating condition. This dealer's mechanical help and personal contact with the farmer has strengthened his morale to work beyond his capacity to produce our ever increasing food supply with less physically able help on the farm than ever before in history.

It was long hours, short-handed with limited parts and no time and one-half for overtime. According to statistics, more than 20 percent could not get adjusted to the small volume and hard grind with ever increasing costs and passed out of the picture. Most dealers, however, by long hours and the liquidation of stock of obsolete and used equipment sold on a depleted market, have shown a nominal gain.

Today with the show nearing a close, stock inventories depleted, overhead, that is, labor, rent, taxes, etc., at an all-time high and with less than one-quarter of the new goods nominally available, how can we dealers possibly operate under the new OPA regulation of May 10?

The 20-percent reduction on commissions itself spells only failure for the dealer who would attempt to follow the regulations. Is this the proper reward for services rendered on the home front?

We hard-headed implement dealers of Wisconsin may not be too well versed on political affairs but we do know farm equipment. Being closely associated with the farmer we know his problems and needs and do recognize a solid stone wall which is what we are confronted with under the May 10 OPA amended regulation.

As previously stated, farmers would rather pay the dollar-for-dollar increase that the manufacturer must have and get their equipment through the legitimate channels than patronize the black market.

We are not happy to admit that we now have some black marketeers in our ranks. We are more grieved with regulations that will force good home front, fighting, loyal American citizens into illegitimate practices if they want to continue in business.

Our problem in the implement line in Wisconsin under the May 10 amendment, is probably more critical than other sections.

First, we are in the hilly, rough country with greatly diversified farming. Our unit sales are smaller and dealers' volumes normally smaller than many sections.

Second, the distribution of farm equipment is always started in the South, with deliveries made to the North last as the season progresses. We get what equipment has been left over, if any, each year from the South. Our pattern of distribution for 1941 was, therefore, not as large. We have paid

the penalty all the war years on this score, thereby making our problem to continue, under the May 10 regulation, still more impossible.

This same group of Wisconsin implement dealers probably should have but are not following the well-beaten path of labor and industry, namely, asking for higher pay, shorter hours, or making threats of strikes or suggesting other asinine actions.

After a very courteous hearing with the National Department on Farm Equipment Pricing of the OPA, we are forced to draw the following conclusions:

First, from OPA statement, they made a survey of dealers' profits through forms mailed to approximately 17,000 dealers, from which they received only 149 usable returns. Based on the information in 149 returns the regulation was amended affecting all 20,000 dealers throughout the United States. We consider the amendment very unfair, unjust, and if followed will work a definite hardship on all farm implement dealers. Prior to the amendment the officials of the National Retail Farm Equipment Association conferred with OPA and strenuously opposed it. We are led to believe that the conclusions drawn from this survey are very arbitrary, due to the fact that the reports received were only from dealers who had weathered the storm and due consideration should have been given to the fact that over 20 percent of the dealers had already failed.

Second, due consideration should have been given to the fact that in probably a majority of cases where the dealers'-report showed a nominal profit for the war years that it was as above stated, from the liquidation of obsolete machines and the reduction of inventories of used equipment sold on a depleted market. We are led to believe that the dealer was supposed to be able to survive under this drastic amendment from the greatly increased volume of merchandise that he would have to sell. This increase in farm equipment under present conditions, has not materialized and is apparently nil and in all probability is many months away and no more stock piles of used equipment are now available.

Should we, as small business, close our doors? Are we to cut our services accordingly or shall we hide our self respect and join the ever increasing ranks as "black marketeers" or shall we openly defy the regulations?

Summarizing with our volume at less than one-fourth normal and the increased cost of operating, overhead, rent, labor, taxes, etc., and a 20 percent cut in the trade discount, according to our arithmetic, this cannot be added up to anything but failure.

We have submitted the facts and are not going to operate under this amended regulation because we cannot. We are making this appeal in our own behalf as individual dealers and as representatives of the Wisconsin Implement Dealers Association and must report back to the adjourned meeting of the group we represent. The action of the group we represent will be determined by the relief that we are given.

WISCONSIN IMLEMENT DEALERS ASSOCIATION.
JOSEPH WALSH.
GEORGE A. MARTINY.
MADISON, WIS., *May 25, 1946.*

CURRENT WHEAT SUPPLIES AND FLOUR PRODUCTION

Mr. WILEY. Mr. President, during the past week I was in my home State, and I found a great deal of concern among the millers and the bakers. The problem of wheat was becoming very serious. Some bakers had a supply which would last for only about 10 days. When I returned to Washington I addressed a letter to the Production and Marketing Administration, Grain Branch, of the Department of Agriculture, asking a series of questions. Today I received a reply signed by Leroy K. Smith, and I ask that it be printed in the RECORD at this point as a part of my remarks.

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

UNITED STATES
DEPARTMENT OF AGRICULTURE,
PRODUCTION AND
MARKETING ADMINISTRATION,
GRAIN BRANCH,
Washington, D. C., May 27, 1946.

Hon. ALEXANDER WILEY,
United States Senate.

DEAR SENATOR WILEY: This is in reference to a telegram of May 21, 1946, received by you from Mr. Fred H. Laufenburg, executive secretary, Wisconsin Bakers Association, Inc., Milwaukee, Wis., in reference to current wheat supplies and flour production. Mr. Laufenburg has asked the following questions to which we have replied on the basis of present information and tentative plans:

"1. To insure millers getting wheat under War Food Order No. 144 necessary—and in turn, bakers getting flour—for milling 75 percent of the amount of wheat milled last year for domestic use for the remainder of May and for June?

"If wheat is delivered to elevators, the inventory and certificate provisions of WFO No. 144 provide for an equitable distribution of such wheat to the mills. There is no assurance that sufficient wheat to maintain 75 percent domestic flour production will be delivered to trade channels.

"2. To insure millers receiving wheat—and bakers flour—so 85 percent of the amount of wheat milled in 1945 will be milled in 1946 for domestic use after July 1?

"WFO No. 144, as amended, requires that one-half of the wheat delivered to any grain handler must be offered for sale. One-half of the wheat purchased by grain elevators and warehouses must be held for the Government until such time as 250,000,000 bushels have been set aside for export commitments. In the event there is an inequitable distribution of the wheat available for domestic milling, it is contemplated that the provisions for limited wheat inventories, certificates, and preference orders will be reinstated in WFO No. 144.

"3. Will the Department of Agriculture extend the embargo on the movement of wheat from Kansas and other States—except for export—and will the embargo continue after July 1?

"At the present time there is no embargo on the movement of wheat from Kansas. The Department of Agriculture had favored such an embargo with respect to early harvest wheat shipments from Oklahoma, Texas, New Mexico, Arkansas, and Louisiana, but the embargo has not been announced. We had not planned an embargo on Kansas wheat and had contemplated that the suggested embargo applicable to the above-named States would terminate by the time wheat was being harvested in Kansas and other winter-wheat States.

"4. If only one-quarter of the new-crop wheat sold by producers will be available for milling for domestic use until the Government obtains 250,000,000 bushels for foreign countries, what provisions are being made to keep even this one-quarter coming to mills regularly?

"As indicated in our answer to question 2, there is no present provision to assure the movement of grain to mills for domestic milling. It is hoped that present provisions will result in a continuous marketing of at least one-quarter of the new wheat crop for domestic use and that normal trade distribution will assure millers sufficient supplies to continue production at permitted limits. In the event the supplies are not distributed equitably, we will reinstate the original provisions of WFO No. 144 with respect to inventories and purchases.

"5. What provisions are being taken to insure wheat producers a price for wheat that will insure sales of wheat for human food uses rather than for animal feed?

"The ceiling price of wheat, effective May 13, 1946, reflecting an increase of 15 cents per bushel over the previous ceiling price, is expected to be maintained through the marketing year of 1946–47. Present restrictions on the use of wheat for feed contained in War Food Orders Nos. 144 and 145 shall be continued and further limitations will be imposed as soon as the general feed-grain situation improves sufficiently."

The above answers are tentative and merely indicate present consideration of the questions. It is realized that the wheat supply situation may change. The problems presented in Mr. Laufenburg's questions have been and are being studied by the Department and final solution must await future developments.

Very truly yours,
LEROY K. SMITH,
Director.

SALE OF GENEVA, UTAH, PLANT TO UNITED STATES STEEL CORP.

Mr. MURDOCK. Mr. President, during the war one of the finest and most modern steel plants in the world was constructed at Geneva, Utah, for war purposes. A few days ago, under the Surplus Property law passed by Congress, it was recommended by the War Assets Administration that that plant be sold to the United States Steel Corp. The matter is now pending before the Attorney General, as provided by the law.

The Salt Lake Tribune, Mr. President, is one of the outstanding newspapers of the United States. It is always keenly alert to any action or any proposition which will enhance the welfare of the West. On Saturday, May 25, 1946, an editorial was printed in that newspaper concerning the disposition of the Geneva steel plant. The editorial is entitled "West Applauds Decision of the WAA in Awarding Geneva Bid."

I ask unanimous consent that the editorial be printed in the RECORD, at this point, as a part of my remarks.

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

WEST APPLAUDS DECISION OF THE WAA IN AWARDING GENEVA BID

Citizens, business leaders and public officials of Utah and indeed of the entire West are loud in their praises of the War Assets Administration, its price-review board, its experts and its officials for the prompt and impartial manner in which the Geneva steel plant decision was rendered. Gen. E. B. Gregory, WAA chief; John W. Snyder, reconversion director, and W. A. Hauck, chief of the iron and steel branch of the agency, also are deserving of commendation for the efficient and expeditious way in which this difficult task has been accomplished.

The Geneva plant is the largest unit yet to be handled by the War Assets Administration in its task of reconversion and the action in this case speaks well for the soundness of the board's deliberations. The Geneva plant decision is not only of great advantage to Utah, and to the entire West, but it provides the best possible protection for the interests of the Federal Government.

While commending the governmental agency for the wisdom displayed in this case, the

important part played by Utahans and public-spirited citizens of other Western States must not be overlooked. Utah's congressional delegation, Governor Maw, Gus P. Backman of the Salt Lake Chamber of Commerce, Dr. J. R. Mahoney, chambers of commerce, and dozens of others have been tireless in their efforts to preserve this war-born steel industry for Utah and the West.

The distinct advantages of the United States Steel Corp.'s bid for the Geneva plant have already been set forth in detail. As Senator ABE MURDOCK declares, "In the hands of the United States Steel Corp., there can be little question about Geneva's successful and full-capacity operation as rapidly as it can be converted to peacetime production, which the United States Steel guarantees to do to the extent of a minimum of $18,000,000. Once it is integrated as a part of the United States Steel system, there is little question in my mind of its permanency as a great and dynamic hub of western industrialization."

Senator ELBERT D. THOMAS takes a most optimistic view of the situation when he says:

"Nothing can happen in the Department of Justice that will retard the transfer to the United States Steel Corp. If that company is breaking the antitrust law now, its acquisition of the Geneva plant would make it no more a violator. I think there is no doubt the Attorney General will affirm the award made by War Assets. Economically this is a great boon to the whole United States, and ultimately will be one to the world."

Dr. Mahoney, who has made complete and exhaustive studies of the western steel economics, sees little excuse for any fears for monopolistic strictures on industry here in the West under the control of Geneva by the United States Steel Corp. "The Department of Justice," Dr. Mahoney declares, "should be interested in lower prices for steel in the West. And the fact is that the lowest basing point prices for steel are in the Pittsburgh, Chicago, and Birmingham areas, where the bulk of United States Steel's productive capacity is located. I have made a careful study of the price pattern of steel in this country in relationship to producing companies. And the record will show that United States Steel has been a leader in providing favorable steel prices."

The Tribune joins with business leaders and industrialists of the West in applauding the prompt and decisive action taken by the War Assets Administration in approving the United States Steel Corp. bid for the Geneva plant.

THE STRIKE SITUATION—EDITORIALS FROM THE ATCHISON (KANS.) GLOBE

Mr. CAPPER. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter I have received from Al Bennett, editor of the Atchison (Kans.) Globe, calling my attention to two outstanding editorials printed by the Globe—one from Pathfinder magazine and one from the Christian Science Monitor—expressing their opinion with regard to the strike. I ask that these able editorials also be printed in the RECORD.

There being no objection, the letter and editorials were ordered to be printed in the RECORD, as follows:

THE ATCHISON DAILY GLOBE,
Atchison, Kans., May 25, 1946.

ARTHUR CAPPER,
United States Senate,
Washington, D. C.

DEAR SENATOR CAPPER: Your attention is invited to the enclosed two editorials concerning the strike situation, which appeared in this newspaper on above date, and to our suggestion that the people themselves deliver their opinions directly to your desk.

We felt such an expression of thought at this particular time from citizens of your own State might be, from your point of view, both desirable and helpful.

The Globe is ready to offer whatever assistance it can, in any way. We should be happy to have your views on the subject with permission to publish.

Very cordially,

AL BENNETT, *Editor.*

TWO OPINIONS ON THE STRIKES

The Globe herewith reprints two thoughtful opinions concerning the strike situation in which you find yourself today. We urge you to read and study them. The conditions which they described and comment upon will leave their imprint on your community, your family, and on you, no matter how they finally may be resolved. We should like to suggest that you do something about it; we should like to suggest that after reading these two articles, you write a personal letter to your congressional representatives giving them your frank and honest reaction, giving your reasons, intelligently, on your own stationery is more effective than a hundred mimeographed letters. You may be "in favor of" or you may be "against"—it makes no difference as long as you express yourself factually. Your Congressmen are: In the Senate, CLYDE M. REED, of Parsons, and ARTHUR CAPPER, of Topeka; in the House of Representatives, ALBERT M. COLE, of Holton. They will receive clippings of this article by air mail from the Globe.

(EDITOR'S NOTE.—The following article appeared recently in Pathfinder, a news weekly which because of the coal strike has dropped to four pages. Only because resourceful printers assembled Diesel engines was it possible for Pathfinder to publish even these—and the publication devoted two of these four pages to this editorial:)

"A fundamental principle of freedom is that 'one man's liberty ends where liberties of another begin.'

"The time has now come to ask whether, under freedom, one group of men shall follow as a right a course which interferes with the rights of millions of others.

"Fair-minded men have long defended the right to strike because it is one of the few weapons which labor was able to use in a contest which might otherwise be unequal, over rates of pay or conditions of work.

"The right to strike under conditions which affect only a few people for a short time is one thing. Now the Nation is confronted with something quite different.

"A Nation-wide strike in a basic industry, such as coal or steel or power production, places almost a whole people at the mercy of a few men.

"This modern civilization revolves around mechanical power. When the fires have to go out the wheels slow down or stop. Food may not be transported, or preserved, or even cooked. The lights go out. Workers may not reach their jobs. The sick in the hospitals also may be deprived of life-saving attentions. All the normal proceedings of business are threatened with interruption or stoppage.

"At this particular time the people of the United States are struggling to recover from the effects of a long, tragic, and costly war.

"They are short of countless necessities and much-desired goods needed for production and for living.

"Confronted with inflationary trends, due largely to shortage of goods, the value of their savings and incomes is threatened by production.

"In the midst of a humanitarian effort to produce and convey food to starving millions abroad, from whom death may not be far away, transportation, farm-machinery manufacture, and other vital services are threatened.

"Is it, then, consistent that the liberty of any one man or group of us, legally or not, shall invade so far the liberties of all the rest of the people?

"The Constitution itself was 'ordained and established' among other things, according to the preamble, to 'establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity'—

"This condition is the direct fruit of legislation which Congress has enacted within the last 15 years and of decisions by the Supreme Court.

"It can be corrected only by Congress. It will be corrected if the public demands corrections vigorously enough.

"The basic legislation is the Wagner Act of 1935. The Wagner Act was an attempt to increase the bargaining strength of labor organizations. It overshot the mark, because it placed weapons in the hands of labor leaders which they now hold over the Government itself.

"As the Wagner Act is written it declares in effect that the policy of Congress is that no restraints can be placed upon the organization of labor, the choice of bargaining agents, the rights to strike, to make demands, or to picket in enforcement of those demands.

"A Supreme Court decision, handed down by Justice Byrnes, now Secretary of State, went even further. It upheld the right to use violence in labor disputes.

"In the face of these laws and decisions even the President of the United States is virtually powerless. He can exercise little except moral suasion. Under the Smith-Connally Act he can seize the mines, but it has been pointed out that coal cannot be mined with bayonets.

"In plain language, the law of the United States provides that a coal strike, or any other kind of strike, can be called and can be continued indefinitely, regardless of how much it costs the people, regardless of how destructive it may become to the Nation.

"Any settlement of the miners' strike will not change this basic situation. It can arise again in the same or another industry.

"The people are without protection from the disastrous consequences. More power has been placed in the hands of a few men in private life than the Government itself retains. It has become even the right, both of labor-organization members and of millions of others, to make a living.

"Certainly now it must be clear to everyone that this great Nation cannot for long prostrate itself before an unchallenged private power.

"Where do we go from here?"

(EDITOR'S NOTE.—This article appeared recently in the Christian Science Monitor. Its author is Erwin D. Canham. Its title, "Will We Profit by the Coal Strike?")

"It was an amazing experience, crossing two-thirds of the United States by train last week. Amazing because it seemed inconceivable that so great a land, so free a people, should have been enslaved by their own failure to act. And yet, from Boston to Denver, the tragic evidences of economic waste are on every hand. Downtown Chicago was a travesty of a great city. Its lights were dim. The great stores were closed, except between the hours of 1 and 5. There were few electric lights in office buildings, and in the shady canyons of the Loop, business was done by candlelight and by lantern. Consumption of electricity—and hence of coal—had been reduced by some 48 percent.

"In other cities along the way, the effects were almost equally severe. Some of the chief industries of the land were shut down altogether; all were being choked off by stoppage of freight shipments. It was as if a great disaster had smitten the Nation, as

indeed, it had. It was as if huge fleets of bombing planes had flown over our biggest cities and knocked out half of the powerhouses and most of the freight yards.

"These were the consequences of the coal strike. It is still too early to estimate how many hundreds of millions of dollars have been needlessly lost. It is impossible to say how much useful production, which can alone bring back our economy back to normal and reduce the tragic toll of inflation, has been lost forever. It is hard to calculate how many millions of dollars of the people's savings, set aside during the war and potentially available to purchase things like refrigerators and bathtubs and new furnaces and motorcars, have now been siphoned off into subsistence buying.

"Why have we needlessly inflicted all this damage upon ourselves? Whose fault is it? It is easy to say it is John L. Lewis' fault. But we let ourselves off too easily when we say that. Who gave Mr. Lewis this power? What people elected the President and the Congresses which passed laws giving great power to labor, but refusing to place the compensatory responsibilities upon labor? What President has been sitting in the White House hoping for the best for nine long weeks? What Congress has stalled and wrangled and talked big but done nothing during all the long weeks of this economic disaster? It was the Congress we elected, and the President whom we elected as Vice President.

"The Christian Science Monitor has been demanding the broadening of the controversial Wagner Act to impose obligations on labor ever since it was first enacted. We never got to first base, though a good many other newspapers and leaders of public opinion took the same view. Why were we so unsuccessful? Because too large a part of Congress is afraid of organized labor. Because the public at large did not effectively support the demand. Because too many people have no interest in repairing the roof when the sun is shining. If, after this coal strike is settled, Congress fails to enact legislation balancing labor's so-called gains with labor's responsibilities, it will be a lasting disgrace on our legislative system.

"We know, of course, that some of the things Mr. Lewis has been seeking in this strike were desirable. Working conditions in the mines were far from right. But the establishment of a $70,000,000 welfare fund for miners, to be administered solely by Mr. Lewis' union, has outraged the Nation's sense of fairness. A welfare fund by all means, but let it be administered by some cooperative authority.

"What we have seen is, of course, a strike for power. Mr. Lewis, according to the labor experts, is seeking to lead the American Federation of Labor's organizing drive in the South. He wishes to win out over the despised CIO, of which he was once president. Mr. Lewis obviously aims to make himself the most powerful man in American labor, as an era of unprecedented labor influence continues.

"But I suggest that Mr. Lewis has made a profound miscalculation. He has hung on too long. He—and the whole labor movement—cannot now escape penalty of restrictive legislation. If the AFL elects Mr. Lewis as its president, it will be an almost unbelievable tribute to reckless, irresponsible leadership. Yet most American labor is neither reckless nor irresponsible, but moderate and patriotic. Even Mr. Lewis' own faithful miners are extremely eager to get back to work.

"The national reaction to this coal strike will be the most serious blow that labor's interests, selfishly viewed, have suffered for many years. But taking a longer range view, perhaps the prospective balancing in the Wagner Act—if it comes—will be one of the most constructive things that could happen to American labor. It is, perhaps, better to suffer this economic calamity today than some months or years hence. We will recover from the coal strike, though we shall pay a heavy price for it. But if, in the end, we get a reasonable and balanced curb on the power of labor unions as it has been growing for the past 13 years, we may feel the experience has had some value."

CARTOON IN WASHINGTON POST

Mr. PEPPER. Mr. President, I cannot put this matter in the RECORD, but I should like to call attention to a cartoon published in the Washington Post, in which Uncle Sam is shown addressing the Government, and all around him are some pieces of legislation—one is selective service, one is atom control, one is national health bill, one is minimum wage, one is FEPC, and one is OPA. And the caption is "And now, when do we get tough about these?"

THE LABOR CRISIS—ADDRESS BY SENATOR HOEY

[Mr. HOEY asked and obtained leave to have printed in the RECORD an address delivered by him at Duke University on Saturday, May 25, 1946, which appears in the Appendix.]

SENATOR PEPPER'S ATTITUDE ON LABOR LEGISLATION AND CHILD WELFARE—EDITORIALS FROM THE WASHINGTON POST

[Mr. PEPPER asked and obtained leave to have printed in the RECORD two editorials from the Washington Post, one headed "Pepper to the rescue," and the other headed "Child care program," which appear in the Appendix.]

A HISTORIC DAY—EDITORIAL IN THE LYNCHBURG (VA.) NEWS

[Mr. BYRD asked and obtained leave to have printed in the RECORD an editorial entitled "A Historic Day," published in the Lynchburg (Va.) News, which appears in the Appendix.]

SETTLEMENT OF INDUSTRIAL DISPUTES AFFECTING THE NATIONAL ECONOMY

The Senate resumed consideration of the bill (H. R. 6578) to provide on a temporary basis during the present period of emergency, for the prompt settlement of industrial disputes vitally affecting the national economy in the transition from war to peace.

Mr. BARKLEY obtained the floor.

Mr. CAPPER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Kentucky yield to the Senator from Kansas?

Mr. BARKLEY. I yield, but let me say that I do not propose to farm out the floor to any Senator who wants to make a speech. I shall yield to those who wish to have matters inserted in the RECORD.

(Mr. BARKLEY yielded to Mr. CAPPER, who asked leave to have matters inserted in the Appendix of the RECORD, which appear elsewhere under the appropriate headings.)

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

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

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

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

Mr. HILL. I announce that the Senator from North Carolina [Mr. BAILEY], the Senator from Alabama [Mr. BANKHEAD], 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 South Carolina [Mr. MAYBANK] is absent by leave of the Senate because of illness in his family.

The Senator from New Mexico [Mr. CHAVEZ] and the Senator from West Virginia [Mr. KILGORE] are detained on public business.

Mr. WHERRY. The Senator from Delaware [Mr. BUCK] is necessarily absent.

The Senator from Nebraska [Mr. BUTLER] is absent by leave of the Senate.

The Senator from Indiana [Mr. WILLIS] is necessarily absent.

The PRESIDENT pro tempore. Eighty-four Senators having answered to their names, a quorum is present.

Mr. BARKLEY. Mr. President, I wish to make a very brief statement in explanation of the bill now before the Senate, H. R. 6578, to provide on a temporary basis during the present period of emergency for the prompt settlement of industrial disputes vitally affecting the national economy in the transition from war to peace. I am not going to consume the time of the Senate to discuss the history of negotiations and labor disputes which have led up to this proposed legislation. The President in his address to the country on Friday night in a very clear-cut, concise, and very forceful way, indicated the situation which confronted the country, and in his address to the Senate on Saturday he did the same. Therefore, I do not intend to cover the ground by way of repetition which he covered in his radio address and in his message to Congress on Saturday. I wish merely to confine myself for the moment to a brief explanation of the terms of the bill.

Section 1 of the bill provides:

> That it is the policy of the United States that labor disputes interrupting or threatening to interrupt the operations of industries essential to the maintenance of the national economic structure and to the effective transition from war to peace should be promptly and fairly mediated, and brought to a conclusion which will be just to the parties and protect the public interest.

Section 2 provides for proclamation in certain circumstances by the President of the existence of a national emergency relative to the interruption of operations, whenever the United States has taken possession of facilities. The bill deals only with plants or mines or facilities which have been taken over by the President and which are in the possession of the Government of the United States. It has no application to labor relations that exist between the employer and the employee. It has no relationship to negotiations which are in progress between employers and employees in an effort to settle a dispute. It has no relationship to strikes which are engaged in by employees as between them and the employer against whom they are striking. It deals solely with plants and facilities which are now in or may hereafter be in the possession of the Government under a proclamation of the President under the provisions of the Selective Service Act of 1940 or the provisions of any other applicable law, whenever he has taken over such plants, mines, or facilities constituting a vital or substantial part of any industry, and in the event further that a strike, lockout, slow-down, or other interruption occurs or continues therein after such seizure. In such event, if the President determines that the continued operation of any such plant, mine, or facility is vitally necessary to the maintenance of the national economy, he may by proclamation declare the existence of a national emergency relative to the interruption of operations.

Mr. President, I might say that section 9 of the Selective Training and Service Act is the one which was included in the Smith-Connally Act which was passed, I believe, in 1943. There is a provision in the act passed in 1916 with respect to transportation facilities which authorizes the President to take over railroads under certain circumstances therein set forth. So that whenever such seizure has taken place or whenever it is imminent, section 2 provides that the President shall issue a proclamation declaring the existence of a national emergency with respect to the interruption of operations of the plant, mine, or facility which he proposes to take over.

In section 3 it is provided that the President shall in any such proclamation—

(1) state a time not less than 48 hours after the signature thereof at which such proclamation shall take final effect.

In other words, the President's proclamation as to the emergency which exists would take effect not less than 48 hours following the signature and promulgation of the proclamation.

He shall—

(2) call upon all employees and all officers and executives of the employer to return to their posts of duty on or before the finally effective date of the proclamation.

The President is given 48 hours after issuing such proclamation, within which to make it effective. During that 48 hours he shall call upon employees and officers and executives of employers to return to their posts of duty on or before the final taking effect of the proclamation. In other words, within the 48-hour period specified in section 3, he shall call upon them to return to their posts of duty.

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

Mr. BARKLEY. I yield.

Mr. OVERTON. As I read the bill, the President is not limited to 48 hours. It says not less than 48 hours. He may make the period a week or 10 days.

Mr. BARKLEY. I thank the Senator. Forty-eight hours is the minimum. He might make it a week or any other length of time which he might see fit to prescribe. But within the time, whatever time he fixes, he shall call upon employees and others to return to their posts of duty. I thank the Senator for the correction.

He shall—

(3) call upon all representatives of the employer and the employees to take affirmative action prior to the finally effective date of the proclamation to recall the employees and all officers and executives of the employer to their posts of duty and to use their best efforts to restore full operation of the premises as quickly as may be.

That is simply an additional authority on the part of the President, not only to call on the employees and the officers and executives of the employers to return to their posts of duty, but to call upon the representatives of both to take affirmative action prior to the finally effective date, to recall the employees and officers and executives to their posts of duty, and to use their best efforts to restore full operation of the premises as quickly as may be.

The President shall also—

(4) establish fair and just wages and other terms and conditions of employment in the affected plants, mines, or facilities which shall be in effect during the period of Government possession, subject to modification thereof, with the approval of the President pursuant to the applicable provisions of law, including section 5 of the War Labor Disputes Act, or pursuant to the findings of any panel or commission specially appointed for the purpose by the President.

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

Mr. BARKLEY. In a moment.

That, of course, makes it possible for wage conditions and terms and conditions of employment to be adjusted during the period of governmental operations. It is also sufficiently flexible to authorize the President to appoint a commission or panel to consider the difficulties which brought about the seizure.

I now yield to the Senator from New Jersey.

Mr. HAWKES. Mr. President, I am very much in sympathy with efforts to take some action which will put people back to work in the interest of the entire economy of the United States. I should like to ask the distinguished majority leader a question, so that when he comes to section 9 he will correlate these two things. Under clause (4) of section 3 the President has the right to establish fair and just wages. That could involve anything which in his mind, or the mind of his agent, was fair and just. It could involve a very substantial benefit. The language continues:

And other terms and conditions of employment in the affected plants, mines, or facilities—

We all know that if the President should change favorably to the employees the conditions of employment and the rules and regulations under which men were working, there would be a substantial benefit to the men.

I know, and I believe every other Member of the Senate knows, that new wages and conditions could not be established for a period of 3 or 4 months under governmental operation with the expectation that the employees would go back to work for their regular employer on any lesser terms than the President of the United States said were fair. I am raising the point only in connection with the later statement in section 9 that—

It is hereby declared to be the policy of the Congress that neither employers nor employees profit by such operation of any business enterprise by the United States.

In other words, neither employees nor employers shall profit through getting themselves into a situation in which the President of the United States must issue a proclamation and take over the business. I am leaving that thought with the majority leader, because I believe that the Senate will wish to consider that question.

Mr. BARKLEY. This provision of the bill seems necessary in order that, regardless of the length of time Government operation continues—and the longer the time of Government operation the more necessary it would be—there shall not be a static situation. The Government, through the President, may bring about adjustments of wages and conditions under which the plant or facility is operated by the Government.

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

Mr. BARKLEY. I yield.

Mr. HAWKES. I am in sympathy with that aim, and I understand it. The only thing I am trying to do is to be helpful in seeing if we cannot word this measure so that we shall not have two opposing statements in the bill and can avoid making it profitable to disregard the public security and welfare.

Mr. BARKLEY. If there is any conflict, naturally we wish to adjust it. However, I doubt if there is any conflict between this provision and section 9. But I shall come to that question later.

Mr. HAWKES. I thank the Senator.

Mr. BARKLEY. In section 4 of the bill it is provided that—

(a) On and after the initial issuance of the proclamation, it shall be the obligation of the officers of the employer conducting or permitting such lock-out or interruption, the officers of the labor organization conducting or permitting such strike, slow-down, or interruption, and of any person participating in the calling of such strike, lock-out, slow-down, or interruption to take appropriate affirmative action to rescind or terminate such strike, lock-out, slow-down, or interruption.

That is more or less of an amplification of the provision in the previous section. The President is authorized to call

upon the various parties to the dispute who are officers or agents to issue the necessary orders to rescind a previous order or orders resulting in either a strike, lock-out, or interruption.

Subsection (b) reads as follows:

(b) On and after the finally effective date of any such proclamation, continuation of a strike, lock-out, slow-down, or any other interruption at any such plant, mine, or facility shall be unlawful.

After the President issues his proclamation, whether it provides for a period of 48 hours, a week, or a longer period, and he has called upon the various parties to return to their posts of duty, and the officers to recall the workers to their posts of duty, and has called upon them to rescind any order bringing about the strike, lock-out, or interruption, it shall be unlawful thereafter for any such strike, lock-out, slow-down, or interruption to continue.

Subsection (c), which is the penalty clause, reads as follows:

(c) On and after the finally effective date of the proclamation, any person willfully violating the provisions of subsection (a) of this section shall be subject to a fine of not more than $5,000 or to imprisonment for not more than 1 year, or both.

Subsection (a) sets forth the obligation of officers, both of employers and employees, to recall whatever has been done with respect to the calling of the strike or lock-out.

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

Mr. BARKLEY. I yield.

Mr. DOWNEY. In reference to the provision which the Senator has just read, assessing punishment under the act, assume that a striker was drafted into the Army and refused to work in his industry, and disobeyed the orders of his commander. Would the Senator express an opinion as to whether, under the law, in addition to being subjected to penalties of court martial, imprisonment, or perhaps even death, he might also be subjected to the penalty which the Senator has just read?

Mr. BARKLEY. In my judgment, he would not. This is a penalty which is assessed for violation of subsection (a) of section 4, which applies to officers of employees and officers of labor organizations. It would apply to the officers of both.

Mr. DOWNEY. Mr. President, as I recall the bill, all the officers of the labor organization are to be drafted into the Army, as well as all the officers of the corporation, even though they resisted the strike. Am I wrong about that?

Mr. BARKLEY. Whoever was inducted into the Army under the provisions of this bill would, of course, be subject to military justice, whatever the law might provide. But this penalty does not apply to anything except a violation of section 4. It does not apply to section 7, which is the section under which the President may induct them into the Army.

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

Mr. BARKLEY. I yield.

Mr. HAWKES. I should like to emphasize that the question of when and how they may be inducted into the service lies clearly in the hands of the President.

Mr. BARKLEY. Absolutely.

Mr. HAWKES. It does not say they shall be. To me, it means that they may be, in whatever way the President deems is necessary and in the interest of the general public at the time. Is that correct?

Mr. BARKLEY. Yes. I may say that section 7 begins with the words "The President may."

Section 5 is a provision of the bill which authorizes the Attorney General to file a petition "in the District of Columbia, or the United States court of any Territory or possession, within the jurisdiction of which any party defendant to the proceeding resides, transacts business, or is found, for injunctive relief, and for appropriate temporary relief or restraining order," and so forth.

That is a provision which authorizes the Department of Justice, where a plant or facility has been taken over and is in the possession of the Government, to go into court and seek, and, if possible, secure, an injunction to carry out the proclamation of the President with respect to the situation which has been created.

Now I read from section 6:

Any affected employee who fails to return to work on or before the finally effective date of the proclamation (unless excused by the President)—

Of course, in case of sickness or other excusable situation the President could—and, of course, would—decide not to impose the penalties provided; and that language provides for the acceptance of a reasonable excuse. I read further—

or who after such date engages in any strike—

The word "lock-out" was written into the bill as passed by the House; but the committee struck out the word "lock-out" because that would not apply to employees, for as a rule they do not engage in lock-outs. Employers are largely the ones who engage in lock-outs. I read further—

slow-down, or other concerted interruption of operations while such plants, mines, or facilities are in the possession of the United States, shall be deemed to have voluntarily terminated his employment in the operation thereof, shall not be regarded as an employee of the owners or operators thereof for the purposes of the National Labor Relations Act or the Railway Labor Act, as amended, unless he is subsequently reemployed by such owners or operators, and if he is so reemployed shall be deemed a new employee for purposes of seniority rights.

That is in the nature of sort of an economic sanction against those who refuse or, without being excused by the President, fail to return to work. They will lose their status as employees. They will lose their rights of seniority. They will lose their rights under the National Labor Relations Act and under the Railway Labor Act.

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

Mr. BARKLEY. I yield.

Mr. BREWSTER. Has the majority leader given consideration to the question whether the term "facilities" would cover a ship, inasmuch as that seems to be one of the problems?

Mr. BARKLEY. I will say to the Senator from Maine that the effort to define the word "facilities" is one of the most difficult tasks that Congress ever faced. We discussed that in the committee. It is my settled judgment, for whatever it may be worth, I may say in reply to the Senator's question, that the word "facility" would include any institution such as a railroad or the merchant marine or any other form of transportation facility which might come under the proclamation of the President as creating a national emergency.

Mr. BREWSTER. The Senator from Kentucky feels, then, does he, that under his interpretation there would be no doubt that the President would have the power to seize all the ships under the American flag, if they were tied up by a strike?

Mr. BARKLEY. I have no doubt of it, and I can say to the Senator that in drawing up this legislation that situation was had in mind, as well as the railroad situation and the other situations which are calculated to bring about interruptions in the national economy.

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

Mr. BARKLEY. I yield.

Mr. SALTONSTALL. I should like to ask the Senator from Kentucky a question. On page 2, in line 20, clause (3) of section 3 permits the President to call upon employees and employers to take affirmative action. Can even the President of the United States require people to take affirmative action against their consent, without some form of martial law or without putting them into the Army, as is suggested in section 7? Can he compel them to go to work and, if they do not go to work, under our Constitution, put them in jail or subject them to an injunction as suggested in section 5?

Mr. BARKLEY. Clause (3) of section 3, mentioned by the Senator from Massachusetts, refers only to representatives of the employer and the employees. It does not refer to the employees themselves. It authorizes the President to take action with respect to representatives of employers and employees, both.

Mr. SALTONSTALL. My question also relates to clause (2) of section 3, which requires employees and employers to go to work. I wonder how effectively the President could do that under our Constitution, and if he could enforce it by criminal process or by taking away rights. I think under our Constitution a man could not be compelled to go to work if he did not want to.

Mr. BARKLEY. Of course, that matter has been a subject of discussion for a long time; namely, whether a man could be compelled to engage in what is called involuntary servitude. Section 7 attempts to deal with that problem in a way with which the Senator no doubt is familiar.

But I should say that insofar as the penalties provided in clause (3) on page 2 are concerned, they are calculated and intended to apply only to officers who are responsible, in a way, as the heads of either labor or business organizations, for bringing about a situation that calls for the proclamation provided in this

bill; and the penalties provided in subsection (c) of section 4 will apply to that.

Mr. SALTONSTALL. I should like to ask a further question. In the view of the majority leader, could a court enforce the provisions of affirmative action under clauses (2) and (3) of section 3, except through public policy or by some steps of that character, rather than through criminal proceedings in the courts? It does not seem to me that any court could enforce an affirmative action of the President of that character.

Mr. BARKLEY. The clause to which the Senator from Massachusetts is referring—clause (3)—simply says that the President shall "call upon all representatives of the employer and the employees." No means of self-enforcement is provided in that particular clause of section 3.

Subsection (b) of section 4 declares that—

(b) On and after the finally effective date of any such proclamation continuation of a strike, lock-out, slow-down, or any other interruption at any such plant, mine, or facility shall be unlawful.

And the following provision is that—

(c) On and after the finally effective date of the proclamation, any person willfully violating the provisions of subsection (a)—

Which applies, as I have said, to officers—shall be fined or imprisoned, as the case might be.

Mr. SALTONSTALL. As the Senator will see, the language in line 14, on page 3, requires that the officers of the company, the officers of the labor organization, and the employees shall "take appropriate affirmative action to rescind or terminate such strike, lock-out, slowdown, or interruption." In other words, the language provides that the men shall return to work. It is provided further that if they do not return to work, they may be put into jail.

Mr. BARKLEY. Yes; or fined, as the case may be.

Mr. SALTONSTALL. I ask the question, Can the President require a man to go to work, and if he does not go to work, may the President put him in jail?

Mr. BARKLEY. The penalty section, which is at the bottom of page 3, beginning with line 21, applies only to the provisions of subsection (a) of section 4, because it specifically says that any person "violating the provisions of subsection (a) of this section" shall be fined or imprisoned, and subsection (a) provides:

On and after the initial issuance of the proclamation, it shall be the obligation of the officers of the employer conducting or permitting such lock-out or interruption, the officers of the labor organization conducting or permitting such strike, and of any person participating in the calling of such strike, lock-out, slow-down, or interruption to take appropriate affirmative action to rescind or terminate such strike, lock-out, slow-down, or interruption.

If that is not done, they will be subject to fine and imprisonment as provided in the language of the act.

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

Mr. BARKLEY. I yield.

Mr. TAFT. Is it not true, however, that under section 5 the Government may seek injunctive relief against a violation of section 4? In other words, the Government may obtain an injunction against any strike, and the provision is broad enough to cover every employee who does not go to work. If the employee refuses to return to work he may be put into jail for contempt under section 5, it seems to me, even though the jail penalty in section 4 should not apply.

Mr. BARKLEY. I attempted to point out, when I was dealing with section 5, that the Attorney General is authorized to go into court, and if he secures an injunction which is subsequently violated, the violator would be subject to penalty and contempt of court for violating the injunction. However, that would not impinge upon the penalties fixed in subsection (c) which would require an indictment and a trial, I presume, by jury.

Mr. TAFT. It is much broader, however, because it covers section 4 (b) as well as section 4 (a). The criminal penalties in section 4 (c), as the Senator points out, apply only to the officers.

Mr. BARKLEY. The Senator is correct.

Mr. TAFT. But, as I understand, if an injunction is granted, each of the 500,000 miners becomes liable for contempt if he does not return to work, and may be put into jail. Is not that a correct interpretation of section 5?

Mr. BARKLEY. Section 5 authorizes the Attorney General to apply for an injunctive process against anyone who violates section 4, which would include paragraphs (a) and (b) of section 4, or of the War Labor Disputes Act which, by the way, except as to section 6, does not apply to railroads. So the power of the Attorney General to apply for an injunction is coextensive with the violation of the provisions of section 4.

Mr. TAFT. May I ask one further question, Mr. President?

Mr. BARKLEY. I yield.

Mr. TAFT. The Senator said that the War Labor Disputes Act does not apply to railroads.

Mr. BARKLEY. I am quite sure that it does not.

Mr. TAFT. Why not? I understand that the Government takes the position that the War Labor Disputes Act does apply to railroads.

Mr. BARKLEY. Section 6 of the War Labor Disputes Act does apply to railroads.

Mr. TAFT. Section 6 does apply?

Mr. BARKLEY. Allow me to read it.

SEC. 6. (a) Whenever any plant, mine, or facility is in the possession of the United States, it shall be unlawful for any person (1) to coerce, instigate, induce, conspire with, or encourage any person to interfere, by lock-out, strike, slow-down, or other interruption, with the operation of such plant, mine, or facility, or (2) to aid any such lock-out, strike, slow-down, or other interruption interfering with the operation of such plant, mine, or facility by giving direction or guidance in the conduct of such interruption, or by providing funds for the conduct or direction thereof or for the payment of strike, unemployment, or other benefits to those participating therein. No individual shall be deemed to have violated the provisions of this section by reason only of his having ceased work or having refused to continue to work or to accept employment.

(b) Any person who willfully violates any provision of this section shall be subject to a fine of not more than $5,000, or to imprisonment for not more than 1 year, or both.

Mr. TAFT. The Senator believes, then, that the War Labor Disputes Act does apply to railroads so far as section 6 of the act is concerned?

Mr. BARKLEY. Yes, I believe that it does.

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

Mr. BARKLEY. I yield.

Mr. OVERTON. The point has been made that this proposal would authorize the President to compel an individual employee to return to work. I do not so interpret it. I interpret it to mean that where there is something in the nature of a conspiracy, the language would apply. For example, the Government could not compel any individual employee to go to work, but it could prevent two or three or a dozen employees from conspiring together to cause an interruption in the operation of a plant. That would be in the nature of a conspiracy.

Mr. BARKLEY. Of course, the employees may be proceeded against for conspiracy, or they may be proceeded against under section 5, which gives the Attorney General the right to go into a court of equity and seek an injunction against them. Or, if the men involved are officers of either an employees' or employers' association they could be fined and imprisoned under section 4 (c).

Mr. OVERTON. In section 4 (a) the language reads:

On and after the initial issuance of the proclamation, it shall be the obligation of the officers of the employer conducting or permitting such lock-out or interruption, the officers of the labor organization conducting or permitting such strike, slow-down, or interruption, and of any person participating in the calling of such strike, lock-out, slow-down, or interruption to take appropriate affirmative action to rescind or terminate such strike, lock-out, slow-down, or interruption.

That language does not compel any individual to return to work.

Mr. BARKLEY. In section 4 (b) the languge reads:

On and after the finally effective date of the proclamation, any person willfully violating the provisions of subsection (a) of this section shall be subject to a fine of not more than $5,000 or to imprisonment for not more than 1 year, or both.

That language is a part of section (4) under which the Attorney General may go into court and ask for an injunction.

Mr. OVERTON. The provision relates to the continuance of a strike itself in the nature of a conspiracy.

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

Mr. BARKLEY. I yield.

Mr. CORDON. I invite attention to section 4, paragraphs (a), (b), and (c). Am I correct in understanding it to be the view of the majority leader that the penal provision under paragraph (c) is not applicable to members of a striking union whose participation is the result of obeying the mandate of the union when a strike has been called, but to

those who take part in violating an injunction which has been issued?

Mr. BARKLEY. No; I believe that section 4 (c) is limited in its applicability to section 4 (a). Section 4 (a) applies only to officers of labor organizations and to officers of the employer who is conducting or permitting the lock-out or interruption.

Mr. CORDON. I invite the Senator's attention to the language beginning at the end of line 12 on page 3 reading as follows:

And of any person participating in the calling of such strike, lock-out, slow-down, or interruption to take appropriate affirmative action to rescind or terminate such strike, lock-out, slow-down, or interruption.

We have already applied the section to the officers, and then we broaden it to include any person participating in the calling of a strike, lock-out, or slow-down. It would occur to me that the language is sufficiently broad to include any individual who participated in any proceeding which resulted in the strike.

Mr. BARKLEY. I do not know that I am familiar with all the details that go on within an organization of any kind that result in a strike. They usually have a vote authorizing the head of the organization upon certain conditions to call a strike. It is an officer who actually calls it, although, as a rule, he does it after the employees express their wishes and their determination with respect to it.

Mr. CORDON. Then, what is the use of having that language in the text. We have already covered officers.

Mr. BARKLEY. Because subsection (a) deals on terms of equality or attempts to deal on terms of equality with officers of labor organizations and the officers of employers, so as to put them in the same category.

Mr. CORDON. Would it not be more certain language if that section were amended to limit its applicability to officers or agents participating in calling a strike?

Mr. BARKLEY. If there is any ambiguity in the language, of course, the Senate would naturally wish to consider that point, but I think we ought to give it very careful consideration before we change it.

Mr. CORDON. I should like to ask one other question if I may.

Mr. BARKLEY. Certainly.

Mr. CORDON. The provisions of the bill are dependent upon existing law authorizing the President to take charge of an essential industry. In section 2 the language is:

SEC. 2. Whenever the United States has taken possession, under the provisions of section 9 of the Selective Training and Service Act of 1940, as amended, or the provisions of any other applicable law—

Is the Senator familiar with any other applicable law than that provision of the Selective Service and Training Act?

Mr. BARKLEY. Congress enacted, in 1916, a law which authorizes taking over the railroads under certain circumstances. There is also a provision of law with reference to communications facilities. I think it is subject to some doubt, but there has been a considerable discussion as to whether, under the Second War Powers Act, the President might act. But whatever the applicable law is, it would govern his action. Of course, if there is no applicable law to any particular plant, facilities, or mines, he could not issue his proclamation under it.

Mr. CORDON. I hope the Senator will, during his discussion or while this discussion is under way, give the Senate the benefit of a reference to what seem to be the applicable laws.

Mr. BARKLEY. I have asked for, I will say to the Senator, and I hope to have available very shortly, information as to what laws there are that are applicable, besides section 9 of the Selective Training and Service Act.

Now, Mr. President, I come to section 7 of the bill:

SEC. 7. The President may, in his proclamation issued under section 2 hereof, or in a subsequent proclamation, provide that any person subject thereto who has failed or refused, without the permission of the President, to return to work within 24 hours after the finally effective date of his proclamation issued under section 2 hereof, shall be inducted into, and shall serve in—

The words "and shall serve in" constitute an amendment reported by the committee—

the Army of the United States at such time, in such manner (with or without an oath), and on such terms and conditions as may be prescribed by the President, as being necessary in his judgment to provide for the emergency. The foregoing provisions shall apply to any person who was employed in the affected plants, mines, or facilities at the date the United States took possession thereof, including officers and executives of the employer, and shall further apply to officials of the labor organizations representing the employees.

The committee amended that section, as will be seen, because it was not the intention of the Senate committee, and, I am sure, of the House, in enacting the law to provide that those who were inducted, who must be employees of the employer at the time the plant is taken over, should enjoy, in addition to the compensation which they receive, which may under the bill be adjusted from time to time during Government operation, all the advantages, immunities, and benefits conferred upon members of the armed services of the United States. Of course, they are technically in the Army, if they are inducted, to carry on certain work, to perform the same duties which they pursued prior to their induction, and prior to the seizure of the property by the President, and they get their compensation for their work. So, in order to avoid the possibility that the bill might be interpreted as conferring upon them also all the rights and privileges enjoyed by those in the armed services, the committee added this amendment:

Provisions of law which are applicable with respect to persons serving in the armed forces of the United States, or which are applicable to persons by reason of the service of themselves or other persons in the armed forces of the United States, shall be applicable to persons inducted under this section only to such extent as may from time to time be prescribed by the President.

Inasmuch as the President is authorized to fix the terms and conditions under which these employees may be inducted into the Army for the time being the committee felt that he ought also to have the power to determine whether and to what extent when so inducted the men should enjoy the rights, privileges, and benefits conferred by law upon all those who serve in the real armed forces of the United States.

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

Mr. BARKLEY. I yield.

Mr. VANDENBERG. I should like to ask the able Senator if he does not believe in view of the utterly severe sanctions in this bill, the President could achieve every purpose of the proposed law without the necessity of a labor draft for the first time in the history of this Nation?

Mr. BARKLEY. I will say frankly that the President does not think so and did not think so when he was faced with the necessity of asking for this legislation. It is conceivable, for instance, that an injunction might be obtained against a hundred thousand men or three or four hundred thousand men, but that would be an interminable process, and it might not effectively put them back to work. The penalty in subsection (c) of section 4 applies only to officers of labor organizations and of employers. I may say to the Senator that I concede that it is a drastic provision and one which I would not support if it were simply a controversy between an employer and an employee. So long as the status was that of a controversy between a private employer and his employees I would not think for a moment of giving the President the power to induct such persons into the armed services of the United States. This bill applies only to controversies in connection with which the Government of the United States has found it necessary, under a great strain of circumstances and conditions, to take over a plant. It is felt that the necessity for exercising this power would be very rare; but without it, it might prove that the effort to get the men back to work would be ineffective and futile and would utterly fail.

Mr. VANDENBERG. Will the Senator yield further?

Mr. BARKLEY. I yield.

Mr. VANDENBERG. I realize, of course, that the Senator is correct when he says that the President would not have asked for this final sanction if he had not thought it needful to his objective. I am prepared to implement the objective to the maximum of the necessity, the objective being to stop strikes against the Government.

Mr. President, I was not asking the Senator for the President's opinion, I was asking the Senator for his own opinion, for which I have a very great respect. I wish to ask him if, in view of all the other sanctions which he has just recited in detail, he does not believe, as a matter of frankness, that the President can achieve every objective he seeks without the draft?

Mr. BARKLEY. Frankly, my answer is "No," and I shall attempt to say why.

The criminal penalties prescribed in the bill apply only to officers, as I have attempted to explain, because they apply only to subsection (a) of section 4. The Department of Justice can go into a court and seek an injunction, I assume, under all of section 4, against the continuation of a strike, and the injunction might include not only officers of employers and employees, but the employees themselves. But of course that would be subject to the delays which might occur in the court, it might be subject to appeals to be taken in the process of court procedure, and it might be a long, long time before the other sanctions to which the Senator from Michigan has alluded would become effective in the stopping of the strike itself.

If that situation arose, the objective of the President, or of the Government, or of Congress, would be immediate termination of the strike, so that if it happened to be on the railroads, as has just occurred, it would not be necessary to wait for weeks or months, during which time the entire public might suffer, to obtain a final determination, even by the Supreme Court of the United States, as to whether the injunctive process had been properly applied. So, frankly, I think that without this section, there might be grave danger of a failure to meet the objective of the proposed legislation, which is purely emergent, which is drastic, as I concede, and which is only designed to meet a national emergency which calls for action by the President in regard to both railroads and coal mines, the latter still in possession of the Government. Without this the effective use of the proposed legislation would be very seriously hampered.

Mr. VANDENBERG. Will the Senator yield further?

Mr. BARKLEY. I yield.

Mr. VANDENBERG. The Senator describes a final, ultimate emergency which might require this final reliance upon a draft. Personally, I think it is a pretty tenuous hypothesis, because I am unable to believe that with the other sanctions a situation would ever reach such a result.

Furthermore, I remind the Senator that there is another sanction which is not in the proposed law or in any law, which is the most powerful sanction of all, that is, the moral authority of the Presidency of the United States when the Chief Executive is prepared and willing to exercise it. The rail strike, according to the Senator from Kentucky, was settled at 12:30 o'clock Saturday, long before there was any request even for such legislation as is proposed.

Mr. BARKLEY. I was a little premature in announcing at 12:30 o'clock that the men had gone back to work. At that time they had made a proposal to go back to work which did not become effective. Later they went back to work, as was announced in the House Chamber, on the terms fixed by the President. It does not matter about that, they did go back.

Mr. VANDENBERG. I do not know how premature the Senator was——

Mr. BARKLEY. I was premature in announcing that they had actually gone back to work. That was the information that was handed to me by the press associations, and I took it to be true, but actually they had not physically gone back to work, and did not until about 4 o'clock Saturday afternoon.

Mr. VANDENBERG. In the present instance I think the Senator is premature in thinking that a labor draft is necessary in order to implement the proposed legislation. But, regardless of whether the Senator was premature, the fact remains that the President interrupted his own message to announce a settlement of the strike, which meant that the sanction which really produced a settlement of the strike was the moral authority of the Presidency of the United States when the Chief Executive is prepared to exercise it.

I say to the Senator that with that tremendous and paramount moral sanction available to the President of the United States at all times, plus all the other specific new sanctions written into the proposed law, it seems to me any fair-minded analysis of the situation must reach the conclusion that the objectives of the proposed act can be reached without for the first time in 150 years submitting this country to a labor draft.

Mr. BARKLEY. I appreciate the Senator's opinion, and, of course, he is entitled to it, as all other Senators are entitled to theirs, but I do not think the episode which took place Saturday, in which the President had given the railway employees until 4 o'clock p. m. to return to work, or he would use the Army of the United States to operate the trains, can be accepted as an evidence that in all cases the moral momentum of the Presidential action would bring about the result contemplated; and as a matter of fact, it has not done so in other fields.

Mr. VANDENBERG. Just one further observation, if the Senator will permit.

I cannot escape the feeling that if the President had exercised the moral authority of the Chief Magistracy of the Nation many weeks, and perhaps months, earlier, the accumulation of these crises might have been prevented. But, be that as it may, when he finally did act—and I commend him without reservation for the action he took, and I uphold his hands—I think he demonstrated what a President of the United States can do in circumstances of this nature if, as, and when he is willing to do it.

I merely submit to the Senator that there is a pretty clear demonstration at that point that the overriding sanction, when there is a strike against the Government, is the courage and affirmative position of the President himself, and when we underwrite that overriding sanction, with the specific sanctions which are written into the proposed law, I very respectfully submit to the Senator that under no conceivable stretch of the imagination, it seems to me, could we reach a necessity to turn the Army of the United States into a punitive organization.

Mr. BARKLEY. Let me comment very briefly upon the Senator's first premise, that the President should have taken such action weeks or months before.

I think any President of the United States who has a proper assessment of the responsibilities of his office would hesitate to act prematurely in such a situation. Premature action on the part of any President might be futile, and might create a situation which would make it more difficult successfully to operate in the same field later.

The President himself explained in his message why he had not taken earlier action, namely, because he was putting forth all the efforts possible to bring about an adjustment without the interposition of the Government, in the taking over of the roads, and even in asking for legislation. It was only as a last resort, when the economy and the health and the welfare of the whole Nation were involved, that he asked for legislation which would authorize him to do what he could not do, except by the exercise of his moral suasion in the situation.

I think the President was wise in waiting and exhausting all the influence he might have by reason of his office before resorting either to the possible use of the Army at 4 o'clock p. m. Saturday, if the railroads were not being operated, or asking Congress to enact special legislation authorizing him to do the things provided for in the bill now before us.

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

Mr. BARKLEY. I yield.

Mr. DOWNEY. Calling the Senator's attention to the committee amendment on the top of page 6, it seems to me that the language is so broad that the President could strip away existing rights of veterans who might be workers in a striking plant, and who were drafted into the Army.

I am not concerned about the particuluar language, but was it the intention of the committee to give to the President the power to say to a striker who had veterans' rights, "If you do not go back into the Army now and work in this industry I will forfeit all your existing veterans' privileges"?

Mr. BARKLEY. Not at all. The rights of veterans under the law were not intended to be interfered with. This language was put in the bill in order that men who refuse to go back to their work may not by reason of being inducted into the Army claim benefits to which they would otherwise not be entitled. They might never have served in the Army at all.

Mr. DOWNEY. I am merely talking about those who were veterans at the time they would be drafted into the Army.

Mr. BARKLEY. No; the committee had no such purpose.

Mr. DOWNEY. I might say to the distinguished Senator from Kentucky that perhaps my understanding of the language is not correct. The language is:

> Provisions of law which are applicable with respect to persons serving in the armed forces of the United States, or which are applicable to persons by reason of the service of themselves or other persons in the armed forces of the United States, shall be applicable to persons inducted under this section only to such extent as may from time to time be prescribed by the President.

I am not concerned with the particular language or whether my interpretation is right or wrong. I am resting upon the statement of the distinguished Senator that that was not meant to prejudice the rights of veterans who might be caught in the toils of this draft.

Mr. BARKLEY. No, not at all. It was not intended to interfere with the rights veterans had earned by reason of their services in the armed forces. It was merely intended to prevent such an interpretation of the language that those who might not have had such service would come under the provisions of the veterans' legislation.

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

Mr. BARKLEY. I yield.

Mr. DOWNEY. I ask the Senator, Could not many complications arise in relation to that? Suppose a coal miner who is a veteran refuses to be drafted to work in a coal mine, and suppose he is drafted under this bill, is court-martialed, and is confined in the penitentiary, say, for 20 years. During that period of 20 years will he have his selective-service rights because he is not employed, such as the rights to which he might be entitled because of his former Army service and his veteran's status?

Mr. BARKLEY. So far as this amendment is concerned, I would say yes.

Section 8 merely authorizes the necessary appropriation to carry out the provisions of the act.

Mr. TAFT. Mr. President——

The PRESIDING OFFICER (Mr. GEORGE in the chair). Does the Senator from Kentucky yield to the Senator from Ohio?

Mr. BARKLEY. I yield.

Mr. TAFT. I want to ask about section 7. It seems to me that even without the committee amendment these men would be inducted on such terms and conditions as may be prescribed by the President. The President could eliminate all provisions for compensation or change the compensation in any way he chose to do. In fact, if he wishes to do so under this language he could make everyone work for 10 cents a day. That seems even more clear with the committee amendment. Does the Senator think that is a possible interpretation of the section?

Mr. BARKLEY. Of course, it would be so extreme as to seem to me impossible, because under other provisions of the measure during Government operation or seizure the wage question shall be open for adjustment, not only with respect to the items or causes that brought about this dispute, but I suppose under that section of the bill the President could go into the whole wage question, and the terms of the employment, so that they might be adjusted. One can always conjure up an extreme possibility, but certainly——

Mr. TAFT. The idea is that if all the other of the provisions of the bill do not work—that is the point of the section—as a last resort, the President may draft these men. I am only asking the Senator whether, under such circumstances, this language does not give the President power to eliminate all compensation, or make anyone work for 10 cents a day, or any other compensation.

Mr. BARKLEY. No.

Mr. TAFT. I cannot see any other possible interpretation of the language.

Mr. BARKLEY. It would be utterly inconceivable and utterly inconsistent with the whole design and purpose of the measure.

Mr. TAFT. What would the Senator do if he were President? Would he pay them the compensation of the ordinary soldier or the pay they are receiving as employees of the company?

Mr. BARKLEY. If the Senator asks me what I would pay if I were in position to determine that, I would pay them the compensation to which they were entitled and received as employees of the plant, whatever it was, subject to such readjustment as might be brought about while the Government operated the plant.

Mr. TAFT. Even though they were in the Regular Army, and in the Army uniform, the Senator would pay them three times as much as the ordinary GI? Is that a correct interpretation of the Senator's statement?

Mr. BARKLEY. Even though they are in the Army, and in the Army uniform, they are still employees of a plant or facility that is being temporarily operated by the Government, and certainly they should be paid the wages which go with that employment, and not simply the wages of a soldier.

Mr. TAFT. But the Senator must admit that the President, under this provision, is free to alter the pay, or pay them nothing, or anything that he chooses to pay. Is that correct? That must be the interpretation of the measure. If the President can pay them more than the soldier's pay, surely he can pay them less than the soldier's pay.

Mr. BARKLEY. The President is no more free to do that, which would be a ridiculous performance, than he is to do a lot of other things which would be equally ridiculous if he were to perform them.

Mr. TAFT. We are merely authorizing him by this measure to do certain things, and I am asking the Senator the question whether the President would have the legal power to do it.

Mr. BARKLEY. Would the Senator from Ohio induct them under the wages of a soldier?

Mr. TAFT. I would not induct them at all.

Mr. BARKLEY. That is not the question. If they were inducted, and the Senator from Ohio had the power, as he probably hopes to have if this measure is enacted into law and it does not expire prior to such a time—if the Senator from Ohio had the authority would he pay them the wages to which the men would be entitled in the employment in which they are engaged, or would he pay them at the rate of compensation received by soldiers?

Mr. TAFT. The Senator is assuming facts which are not likely under any circumstances to exist.

Mr. BARKLEY. I agree that in part they are not.

Mr. TAFT. I would under no circumstances advise the President to exercise the power if he had it.

Mr. BARKLEY. I do not know that he would. I dare say he would not exercise it, if he had it, unless it were absolutely necessary in order to continue to operate whatever it was he had taken over for the benefit and welfare of the American people.

Mr. TAFT. Let me ask the Senator a further question. What would the Senator suggest that the President pay to the officials of the labor organizations representing the employees? What would he pay the union leaders who were not employees of the company?

Mr. BARKLEY. I do not think I am called upon to answer that question. I do not know what they are getting now.

Mr. TAFT. Would the Senator take over that matter and pay the leaders of the union the salaries the unions are paying them now, or pay them 10 cents a day? What would the Senator's position be on that question?

Mr. BARKLEY. My position——

Mr. TAFT. Would the Senator——

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

The PRESIDING OFFICER. Does the Senator from Kentucky yield, and if so to whom?

Mr. BARKLEY. I am yielding to the Senator from Ohio to ask some ridiculous questions, and I shall continue to do so.

Mr. TAFT. No; I am not asking——

Mr. LUCAS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. LUCAS. Can we have order in the Senate so that Senators may be able to hear what is going on?

The PRESIDING OFFICER. The Chair is endeavoring to secure order.

Mr. TAFT. I am asking a question about a ridiculous bill. If the Senator——

Mr. REED. Mr. President, a point of order. Could the Chair request Senators to speak one at a time so that we may hear them?

The PRESIDING OFFICER. That is not a point of order. It may be a very wise suggestion.

Mr. BARKLEY. It is very difficult for any Senator who has the floor to "talk one at a time" when the Senator from Ohio is interrupting him.

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

Mr. BARKLEY. I yield.

Mr. TAFT. What is the purpose of including the drafting of labor union leaders? Does not that make this purely a punitive measure rather than a measure in good faith intended to obtain workmen to operate the company?

Mr. BARKLEY. No; it is not. That is not the intention or the purpose, and in my judgment, it does not accomplish such a result.

Mr. TAFT. What would be the use of these labor officials in connection with the draft? What is the purpose of it then, if it is not punitive?

Mr. BARKLEY. In the first place, the bill provides that the President may do this. He does not have to do it. He is

not required to draft them or to induct any of them or all of them into the service. Under such regulations as he may prescribe from time to time, he may induct some of them. He may not induct all of them. He may not feel that any good purpose can be accomplished by inducting officers of the labor organization or any other officers. That is a matter which would be within the discretion of the President. I doubt very much whether any purpose could be served by that, but that is all within his discretion.

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

Mr. BARKLEY. I yield.

Mr. TAFT. Does not the Senator think that, in view of the very doubtful constitutionality of the whole provision of a limited draft in time of peace, it would be wise to leave out a provision which perhaps may be shown to be purely punitive in character?

Mr. BARKLEY. No; I do not think it has a purely punitive purpose. It is intended to effectuate the effort of the President to get whatever it is that is idle, or in which there is a strike or lockout, into operation.

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

Mr. BARKLEY. I yield.

Mr. TAFT. It is assumed that when the President drafts men into the Army they must go, and take the jobs assigned to them. But what is the ultimate sanction? Suppose that engineers are drafted, and they refuse to carry out the order to operate the engines. What does the Senator suggest? Would that make them traitors and subject them to being shot?

Mr. BARKLEY. That line of questioning is utterly inappropriate. The Senator is seeking to inject an offensive word with respect to a great number of men. But if it happened to be the engineers, the firemen, the conductors, the clerks, or anyone else employed by the employer whose property was taken over, and they would not obey the orders of the President of the United States, and were inducted into the service by reason of that disobedience, they would be subject to the penalties involved by reason of their induction into the service.

Mr. TAFT. My question is asked in perfectly good faith. I am only trying to find out what the ultimate sanction is. The ultimate sanction is not drafting. It is punishment for disobedience of orders as a soldier.

Mr. BARKLEY. I believe that the ultimate object is not simply induction. The ultimate object is resumption of work in the facility or plant which is seized. This is one of the methods by which it is expected that the President will secure the operation of the plant—and promptly, without waiting for weeks or months, while the whole Nation might be compelled to suffer by reason of shortages and various other things which might occur. This is only one of the methods by which to accomplish a return to operations while the plant or facility is in the hands of the Government.

Mr. TAFT. Then what is the ultimate sanction? What happens if the workers will not work even as soldiers?

Mr. BARKLEY. They would be subject to whatever penalties might be involved in refusing to obey orders as such.

Mr. TAFT. As soldiers?

Mr. BARKLEY. Yes.

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

Mr. BARKLEY. I yield to the Senator from Vermont.

Mr. AIKEN. I think my question will be rather mild in comparison with some of the others.

Mr. BARKLEY. We are used to that, I will say to the Senator.

Mr. AIKEN. I was about to ask the Senator from Kentucky if the workmen's compensation laws of the several States would apply to men who were employed in occupational work while they were draftees of the Government.

Mr. BARKLEY. I do not see anything in the bill, or in any interpretation to be placed upon it, which would in any way affect State laws with respect to compensation.

Mr. AIKEN. Do soldiers of the United States come under the State laws when they are employed as soldiers, and not as private employees?

Mr. BARKLEY. Not necessarily. By reason of being inducted under this provision, they would not be divested of their status as employees, so far as any compensation that the State might award is concerned.

Mr. AIKEN. Then, they would remain under the workmen's compensation laws of the States, rather than being discharged as disabled members of the United States Army, if they were hurt?

Mr. BARKLEY. If they were employed in a local plant, or in a number of plants which were large enough in their output and in their effect upon our economy to create a crisis which would justify taking them over, and they were employed under conditions which would entitle them to workmen's compensation under the laws of the State, I do not think they would be deprived of that benefit by reason of this legislation.

Mr. REVERCOMB and Mr. SALTONSTALL addressed the Chair.

The PRESIDING OFFICER (Mr. GEORGE in the chair). Does the Senator from Kentucky yield, and if so, to whom?

Mr. BARKLEY. I yield first to the Senator from West Virginia.

Mr. REVERCOMB. The question has been asked the able Senator from Kentucky as to what would be done to the worker if he were inducted and refused to obey an order. Suppose he were inducted into the Army? Would he not be subject to the same punishment as any other member of the Army who refused to obey the order of his superior officer?

Mr. BARKLEY. Yes; I think that is true.

Mr. REVERCOMB. Therefore he would be subjected to general court martial for refusing to obey orders.

Mr. BARKLEY. He might be.

Mr. REVERCOMB. The punishment for refusal to obey an order may be death, or confinement in the penitentiary, as the history of courts martial shows. Would not the worker be subjected to such punishment as might be decreed by the court martial for refusal to carry out an order?

Mr. BARKLEY. If he were inducted into the armed services of the United States, under the provisions of this bill or any other legislation with which I am familiar, he would be subject, for violation of the orders of the Government, to the same penalties to which he would be subject if he were a member of the armed forces under other conditions.

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

Mr. BARKLEY. I yield.

Mr. SALTONSTALL. I should like to ask one question along the line of the questions asked by the Senator from Ohio and the Senator from West Virginia. I wonder how the answer of the Senator from Kentucky can be correct if a man is taken into the Army under the provisions of lines 19 and 20 on page 5, section 7, without an oath. My question is, Can he be subjected to court martial without having previously taken an oath as a soldier?

Mr. BARKLEY. That depends upon the Presidential discretion. He is taken in under such circumstances and conditions as the President may prescribe. The President may, in the order of induction or in the proclamation, prescribe regulations for the induction, providing that a man may be inducted not only without an oath, if necessary or thought desirable, but without the conditions of punishment fixed for ordinary soldiers in the Army of the United States. The President could control those conditions by reason of the authority given him to fix the terms and conditions under which a man shall be inducted.

Mr. SALTONSTALL. If that is so, then we fall back on the civil or criminal penalties of the law, and section 7 becomes valueless. Why is section 7 necessary?

Mr. BARKLEY. If in the proclamation of the President he should say that under certain circumstances laws applicable to soldiers regularly inducted and regularly in the Army shall not be applied so far as the penalties are concerned, under such orders and regulations, he has the power to do so. But we are bound to assume that in issuing a proclamation, or in the induction of men into the service under the proposed act, he would necessarily include in his terms and conditions such provisions as would make the act effective. He would have it entirely in his discretion to determine that question.

Mr. SALTONSTALL. Frankly, I do not see how a man can be a soldier for some purposes and not be a soldier for other purposes.

Mr. BARKLEY. We must assume that the President of the United States, in the act of inducting men into the service, would operate under the provisions of lines 19 and 20 on page 5—

> In such manner (with or without an oath), and on such terms and conditions as may be prescribed by the President, as being necessary in his judgment to provide for the emergency.

If the Senator can imagine that the President, in dealing with the situation, would not exercise the discretion conferred upon him, the Senator is entitled to his opinion.

Mr. SALTONSTALL. The words to which I refer are "with or without an oath." I do not see how a man could be a soldier in the United States Army and subject to court martial unless he had taken an oath.

Mr. BARKLEY. Congress may prescribe the terms under which men may be inducted into the Army of the United States; and it may prescribe that all of them may be taken in without an oath. It has not done so.

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

Mr. BARKLEY. I yield.

Mr. McCLELLAN. I should like to hear the able leader discuss the provisions of section 9.

Mr. BARKLEY. I have not come to that. I am about to discuss it now.

Mr. McCLELLAN. I thought we were discussing section 9 a moment ago.

Mr. BARKLEY. No; I have not discussed section 9. I shall do so now.

Mr. McCLELLAN. It occurs to me that there is an inconsistency between the provisions of section 9 and subsection 4 of section 3. The last sentence of section 9 reads as follows:

It is hereby declared to be the policy of the Congress that neither employers nor employees profit by such operation of any business enterprise by the United States and, to that end, if any net profit accrues by reason of such operation after all the ordinary and necessary business expenses and payment of just compensation, such net profit shall be covered into the Treasury of the United States as miscellaneous receipts.

In view of the declaration of policy that neither management, the owners, nor employees shall profit, I do not understand that that would be true in the case of the employees, if the President is authorized at the time of taking over a plant to raise the salary or wages of the employees, because certainly that would be profiting. That is the only way employees do profit—by their wages—and an increase in wages would be a profit to the employees, whereas it is declared in that provision I have read that it is not the policy that either shall profit.

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

Mr. BARKLEY. I yield.

Mr. HAWKES. That is the same question which I propounded a few minutes ago. I imagine the Senator was not then in the Chamber.

From my point of view and my understanding of the measure, the two things are diametrically opposed to each other, and I have asked the majority leader to clear up that matter when he comes to section 9 because certainly if provision is made by the Government for increasing wages or for a 6-hour day or for a change in the rules in other ways—there are any number of rules which might be changed in the case of the railroads, or any other business—the employees would profit.

But I have suggested, I may say for the information of the Senator from Arkansas, that from my experience in life I doubt very much whether the employees would ever go back to work for their old employer, at the end of 3 or 4 or 5 months of Government operation, if during that time the Government had raised the wages or had changed the rules. In other words, I doubt whether the employees would go back to work for their old employer under less favorable wages or rules than the ones prescribed by the President.

Mr. McCLELLAN. Yes.

Mr. President, if the Senator from Kentucky will further yield, I call the attention of the Senator from New Jersey and also the attention of the distinguished majority leader to the first sentence in section 9, which carries with it an implication of authority, at least, for the President to fix the compensation to the owners. There is no other authority in the bill, as I see it, directing the President to fix compensation. But section 9 provides:

SEC. 9. In fixing just compensation to the owners of properties of which possession has been taken by the United States under the provisions of section 9 of the Selective Training and Service Act of 1940, as amended, or any other similar provision of law, due consideration shall be given to the fact that the United States took possession of such properties when their operations had been interrupted by a work stoppage—

And so forth. In other words, it is ambiguous, to say the least, when reading the two sections together.

In short, if there is in the law, as it is now written, authority or direction for the President to fix the compensation to the owner, this provision requires that the President must take into account the fact that if the plant had remained idle under a strike, the owner would not have been entitled to any compensation.

Therefore, I think that matter should be studied and worked out in order to do equity and justice not only to the employees, but to the employers, as well.

Mr. BARKLEY. Mr. President, I say to the Senator from New Jersey and also the Senator from Arkansas that this section of the bill was discussed rather fully in the committee, and at least an attempt was made to arrive at its interpretation. Nothing in the bill authorizes the President to take over a plant or facility or anything else. It provides that whenever under existing law he takes over a plant under section 9—and all the laws provide that in the taking of property he shall provide for the payment of just and equitable compensation to the owner—payment is to be made out of the Treasury of the United States, regardless of the income resulting from the operation of the plant.

We all recall that in connection with taking over the railroads during World War I, there was a large deficit, which had to be made good by the Government of the United States out of the Treasury, because the receipts of the railroads as a whole during that period did not pay the expenses of their operation. But the Government was obligated to give just compensation, regardless of that. And that comes out of the Treasury of the United States.

The bill provides:

SEC. 9. In fixing just compensation to the owners of properties of which possession has been taken by the United States under the provisions of section 9 of the Selective Training and Service Act of 1940, as amended, or any other similar provision of law, due consideration shall be given to the fact that the United States took possession of such properties when their operations had been interrupted by a work stoppage, and to the value the use of such properties would have had to their owners during the period they were in the possission of the United States in the light of the labor disputes prevailing.

In other words, in fixing the just compensation to which the owners of these properties would be entitled, consideration may be given to the fact that they were idle, that there was a stoppage, and also to the value of the properties to the United States or to the people of the United States while under operation by the Government.

In other words, there might be offsets to what ordinarily would be just compensation in the event there was no strike or shut-down at all; and in considering how much just compensation should be paid—and that has no relationship, necessarily, to the income of the plants—consideration shall be given to the fact that when the Government took them over, they were idle and not operating, and therefore not earning, presumably, any compensation at all.

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

Mr. BARKLEY. Yes.

Mr. McCLELLAN. As I understand, the Senator's explanation is that under existing law, when property or plants are taken over, there is an obligation on the part of the Government to pay just compensation to the owners of the plant or facility, as the case may be, and that that is irrespective of whether a profit is made or is not made out of the operation of it while under Government control.

Mr. BARKLEY. That is true as to every law authorizing the Government to take over property. As I said, under the act authorizing the Government to take over the railroads in World War I, the Government paid just compensation; and, as I have said, the amount paid by the Government for the use of the properties was greater than the profits of the companies which were taken over.

Mr. McCLELLAN. In other words, in the determination of any profits to be paid, if any are earned during the Government's operation, that provision does not preclude the owners from being paid any compensation at all?

Mr. BARKLEY. Not at all. Of course, it would be highly improper for the Government to be required to pay just compensation to the owners of the company while the Government had it, and, in addition, be required to pay whatever profit was made by reason of that operation.

Mr. McCLELLAN. Of course.

Mr. BARKLEY. In other words, it is felt that the profit which might accrue while the Government was operating it should go into the Treasury, because it has no just relationship to the amount of compensation which should be paid.

Mr. McCLELLAN. I appreciate the Senator's explanation. It is very helpful to me.

Mr. BARKLEY. I will say to the Senator that the last sentence is a declaration of policy. It may sound, superficially, to be inconsistent with the provision in the bill which authorizes the

payment of wages while the Government has possession. But it is not inconsistent. It is merely a declaration of policy:

It is hereby declared to be the policy of the Congress that neither employers nor employees profit by such operation of any business enterprise.

And so forth. In other words, the Government is required to give just compensation to the owners of the property. It is required to deal with the men and see that they are paid proper compensation while the property is in the possession of the Government. But by reason of the operation by the Government, when the owners have been given just compensation, and when the employees have been given just compensation, any profits which may accrue from Government operation of the enterprise shall accrue to the Government of the United States.

Mr. McCLELLAN. In other words, under existing law, supplemented by this proposal, the obligation of the Government, after it had taken over the operation of a plant, would be to fix fair wages and just compensation for the employees, and also to fix just compensation for the owners of the property. All such compensation will come out of either profits resulting from the operation of the enterprise, or out of the Treasury of the Government. On the other hand, any profits or earnings from the operation of the enterprise will go into the Treasury.

Mr. BARKLEY. Yes. Primarily, the Government is obligated, through its Treasury, to give just compensation. I believe that under such circumstances, whatever profits may be made would necessarily go into the Treasury of the United States.

Mr. McCLELLAN. I thank the Senator.

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

Mr. BARKLEY. I yield.

Mr. HAWKES. I should like to ask the distinguished majority leader if it is not a new philosophy in American life to cover into the Treasury the profits to which he has referred. The able Senator will remember that in the Interstate Commerce Committee the other night I suggested that, in my opinion, we would not be getting away from the American tradition against confiscation without compensation if we were to provide in this bill that any net profits made during the operation by the Government should be applied to the payment of just compensation, and not covered into the Treasury. My purpose was not to confiscate profits, but to use the money in the payment of just compensation.

Mr. BARKLEY. There is no provision which could be interpreted as an attempt to confiscate profits. Take, for example, the railroads. Some of them may make profits and some may not. That fact would not alter the obligation of the Government of the United States to give compensation to all the railroads, whether they made a profit or not. When the Government shall have discharged its obligation to give just compensation to all, without regard to whether they are in the red or in the black, it has complied with the Constitution in its requirement that property shall not be taken for public use without due compensation, and so forth. I may say that during the former period of operation of the railroads by the Government during World War I, we had a Railroad Administration, and a bookkeeping arrangement was provided whereby profits or incomes of railroads were turned into the Treasury, and expenses of the railroads were paid out through the Railroad Administration.

Mr. HAWKES. I believe that the majority leader could answer my question for me at this point. During World War I, when the Government took over the railroads, did the Government take any profits which were made and put them into the Treasury and, under a separate and distinct arrangement, fix just compensation for the railroads?

Mr. BARKLEY. As I recall, the Government controlled all income of the railroads and was under obligation to give to the railroads just compensation. The Government operated the railroads for 2 or 3 years. When the operation ceased, or when the President ordered the railroads to be turned back to their owners, the question of compensation during the period of Government ownership was a matter of adjustment between the Government and the railroads. So the income derived from the operation of the roads was taken by the Government, accounted for, and when the final adjustment and settlement was made with reference to the question of what was just compensation, the Government adjusted the compensation according to its obligation under the act of Congress and under the Constitution, whether it involved a profit on the part of a railroad, in case it had been privately operated, or whether it involved a net loss. In many cases the Government paid compensation to railroads and the officers, and directors of the corporation distributed the money among stockholders, or in any other way in which it saw fit.

Mr. HAWKES. If the Senator could give me this information it would settle my question. During World War I, when the Government operated the railroads, were there any instances of the profits of a particular road, for example, being considerable, or even in excess of the amount subsequently determined to be just compensation?

Mr. BARKLEY. I am unable to answer the Senator's question, but I might be able to ascertain the facts.

Mr. HAWKES. I would appreciate very much having the information.

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

Mr. BARKLEY. I yield.

Mr. REVERCOMB. I understand the able majority leader to say that if section 7 remains in the bill and becomes law, and a worker becomes inducted into the Army and subsequently refuses to obey an order, he may be subjected to a court martial and severe penalties for insubordination, mutiny, or for disobeying an order.

Mr. BARKLEY. That statement is subject to modification. In connection with the power to induct persons into the service, the President is given full authority to fix the terms and conditions under which such persons may be inducted. In fixing those terms he may release them from some or even all of the obligations which they might otherwise assume as soldiers.

Mr. REVERCOMB. Yes; but if we adopt section 7, and it becomes law, a worker could be made subject to a court martial. Am I correct in that statement?

Mr. BARKLEY. If the President so prescribed in the terms of induction, that would be possible.

Mr. REVERCOMB. Does not the majority leader believe that that would be going too far, and that we would be giving too much power to the President?

Mr. BARKLEY. I said at the outset that if the President were to be given any such power in connection with a controversy between merely a private employer and his employees, my answer would be "yes." But we are dealing here with the question of whether the Government of the United States shall take over the operation of property under certain conditions. When, in the interest of the welfare of the Nation, the Government finds it necessary to take over the operation of property, it is to be determined whether the President of the United States shall be given all the authority which he may need in order that the objectives of the seizure of the property may be realized. In such a situation, I do not believe that we would be going too far in giving to the President the powers to which the Senator refers.

Mr. REVERCOMB. I may say further to the able majority leader, that when we come to the final analysis of what section 7 means, we will find that we are granting to the President of the United States the power to say that these men may be subjected to Army court martial for disobedience of an order which we all know might occur, and, if such a court martial desired to inflict the death penalty, or a long term in prison, it could do so. I feel that we cannot justify giving such power to the President, even when the controversy is between the United States and the individual. We have never given power to the President to punish a citizen of this country because he refused to obey a law of the country, or an order of the Chief Executive. When we pass laws which inflict severe punishment, we place the punishment directly in the law. But if we enact section 7 of this bill we will give power to the President to subject these men to Army court martial which may result in the imposition of even a death penalty for refusal to obey an order.

The able Senator has modified his statement with reference to the necessity of a court martial by saying that the President may prescribe the rule which will determine whether or not a man who disobeys an order shall be tried by a court martial. It is not unusual in the Army to make disobedience to rules or orders subject to court martial. But the able Senator said that there is language in the bill which would permit the President to provide differently.

Mr. BARKLEY. Section 7 reads in part:

The President may, in his proclamation issued under section 2 hereof, or in a subsequent proclamation, provide that any person subject thereto who has failed or refused, without the permission of the President, to return to work within 24 hours after the finally effective date of his proclamation issued under section 2 hereof, shall be inducted into, and shall serve in, the Army of the United States at such time, in such manner (with or without an oath), and on such terms and conditions as may be prescribed by the President, as being necessary in his judgment to provide for the emergency.

Mr. REVERCOMB. He is inducted under such conditions, and serves under such conditions as the President may prescribe. Does the able Senator think that goes so far as to say that the President may make special terms or may require special rules for his trial for infractions after he is in the Army?

Mr. BARKLEY. The amendment, if adopted, would give the President complete discretion and determination for how long they would be inducted, under what terms and conditions they would be inducted, and under what terms and conditions they would serve.

Mr. REVERCOMB. To get back to the point I had raised, does the able Senator feel that we should give to the Chief Executive such broad discretion that he may subject a worker after he is once inducted into the Army to the powers and authority of a military court martial?

Mr. BARKLEY. Of course, if the President could not do that by his regulations, it would be utterly futile to say that he would be able to exercise the authority we are giving him in the remainder of this legislation. Of course, the committee and the Congress are bound to recognize that there are certain rigidities about service in the Army of the United States which ought to be modified, which the President is given authority to modify, and which no doubt he would modify in the proclamation inducting them into the service or prescribing the terms and conditions under which they would serve and of course those terms and conditions would include punishment, or modifications of the rigidities of existing law with reference to Army trials, which in his judgment he might wish to include in such a proclamation. Otherwise the words "under terms and conditions" would be without meaning.

Mr. REVERCOMB. Mr. President, will the Senator from Kentucky yield for a further question?

Mr. BARKLEY. I yield.

Mr. REVERCOMB. If the able Senator says section 7, putting a man into the Army and subjecting him to the rigidity and the extreme punishments of the Army court martial and is power which must be given and enforced, then may I point out that in section 6, just preceding, there is a very clear penalty placed upon a man who will not work. He loses all his rights of seniority, and he loses his status as a worker under the National Labor Relations Act as well as the Railway Labor Act.

Mr. BARKLEY. That is true.

Mr. REVERCOMB. Is not that sufficient punishment

Mr. BARKLEY. There is a question about that.

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

Mr. BARKLEY. I yield, but I should like to conclude.

Mr. McCLELLAN. In connection with the discussion of this section is it the Senator's interpretation of it that, for instance, an officer of a railroad company or a plant or business or someone occupying a position representing management would also be drafted into the service under this provision?

Mr. BARKLEY. If he failed to comply with the proclamation of the President, he would be just as subject to the provisions of section 7 as would an employee.

Mr. McCLELLAN. In other words, if management was designing a lock-out or a shut-down and refusing to continue operations of a plant or an industry which the President deemed vital or essential, and the President took over the plant on account of the lock-out or shut-down, then would the management, the personnel of the management, be subject to the same treatment under this bill as would employees who might refuse to work or who might be out on strike?

Mr. BARKLEY. The language of the section reads:

SEC. 7. The President may, in his proclamation issued under section 2 hereof, or in a subsequent proclamation, provide that any person subject thereto who has failed or refused, without the permission of the President, to return to work within 24 hours after the finally effective date of his proclamation issued under section 2 hereof, shall be inducted into, and shall serve in, the Army of the United States.

Mr. McCLELLAN. That is what I wanted to have cleared up.

Mr. BARKLEY. It applies to management and employers not less than to employees.

Mr. McCLELLAN. In other words, management and employees are treated alike under the severe terms of this bill.

Mr. BARKLEY. That is correct.

Mr. WHERRY. Mr. President, will the Senator from Kentucky yield?

Mr. BARKLEY. I yield.

Mr. WHERRY. As I understand the explanation given by the majority leader, there is this difference between inducting men into the military service under the Selective Service Act and under the provisions prescribed by the bill, namely, that the President may, with or without oath, induct men under such terms and conditions as may be prescribed by him. There is a difference between inducting employees into the armed forces and regularly inducting men under the selective service. I think it should be clearly understood that, in the absence of limitations in the proclamation, one who might be inducted under this bill would go into the military service exactly as does an inductee.

Mr. BARKLEY. In the proclamation issued by the President, in the first instance, he will under this language, of course, prescribe the terms and conditions and even the length of time, within the operation of the law, for which they shall serve; but, of course, if he inducted them without any conditions or terms they would come in as other men are inducted.

Mr. WHERRY. So that, if I understand the explanation correctly, unless limitations are written to the law we leave it to the judgment of the President, and if the President wants to use that extraordinary method of induction there is no limitation on him placing men in the armed forces exactly on the same basis as any other inductee under the selective service.

Mr. BARKLEY. We leave it to the President in the first place to decide whether there shall be an induction and we leave it to him to decide the conditions and terms under which there shall be an induction.

Mr. WHERRY. One more question. If limitations are provided on inductions into the service, I should like to ask the distinguished majority leader if the limitations would also apply to the sanctions that might be used against one who is a violator, and who has been inducted into the military service, say, to operate a railroad. Being inducted and subject to whatever terms the President may prescribe with reference to his induction would the other sanctions of the bill apply?

Mr. BARKLEY. Yes. Undoubtedly, unless the President himself in his proclamation should modify them.

Mr. WHERRY. The majority leader misunderstood me. What I mean is this: If one is inducted under the provisions of this act with the limitations the President might place in his proclamation, then would the sanctions used in the military service be limited because of the fact that the man who is inducted is only in for limited service. Would he be subject to court martial, if he were a violator?

Mr. BARKLEY. If the President in his proclamation fixing the terms and conditions should so provide he would have the authority to do it. Whether he would do it, I would not attempt to predict; but I am bound to assume that in inducting a man into the service in order to operate any facilities or any industry he would take over in a national emergency the President would consider carefully and seriously the extent to which the rigidity of service in the Army as carried on and is compelled under the law should be modified. As to the extent he would modify that rigidity, of course, I would not be able to say.

Mr. WHERRY. One more question. If we dropped out the sanction for the punishment of a violator inducted into the service, there would be less than is intended to be accomplished. For example, the very argument advanced by the Senator from West Virginia relative to court martials is significant. If we drop out the sanctions, or if we modify the sanctions, would the President be able to get the result desired, namely, resumption of the operation of the railroads?

Mr. BARKLEY. That is speculative, but I think if we took away all sanctions and all penalties which accrue because of the President's induction of men into the service, including inability to punish

them if they refuse, of course we would make it absolutely impossible for the President to bring about the objective of taking men into the Army, that is, the operation of the plants or facilities, whatever it may be.

Mr. WHERRY. I thank the majority leader. That is my interpretation of the provision, that if we did not include sanctions which are comparable to the sanctions of punishment in the Selective Service, the law would lose its force. Regardless of whether we leave it to the President to prescribe in his proclamation any limitations, it seems to me the sanctions of military service must be employed in order to get the inductees into the service, and accomplish the purpose for which the emergency legislation is set up.

In view of that fact, it seems to me that it is an extreme punishment, and that the sanctions would have to be the ones which are employed in the military service. I do not see how the President can limit the induction into the service without limiting the sanctions, unless the men are taken, on a basis comparable with that of any other inductee, into the military service to accomplish what he is taken in to do.

Mr. BARKLEY. I have been asked questions about what the President may do, and I have tried to show that under the language he could modify existing terms of enlistment and of induction in any way he might think wise. But if we take away all the sanctions which are involved in induction, we create merely a voluntary army to operate plants which the workers have already refused to operate, either before or after the Government has taken them over, and we absolutely nullify the theory upon which the President can continue to operate the plants by reason of inducting men into the Army.

Mr. WHERRY. I have one more question, which may have been covered. I am quite sure, interpreting the answers of the majority leader, that section 7 is the one section in which we provide the sanctions which will force men into the Army and have them work. If we strike section 7 entirely out of the bill, does the Senator feel the sections which would remain in the bill would be of sufficient force to accomplish the desired purpose?

Mr. BARKLEY. Frankly, my answer is that I do not think so, because it is the other sections which vest in the Attorney General power to get an injunction and power in the court to punish for violation of an injunction in contempt proceedings, which is a long drawn-out process. The emergency might drag on indefinitely while that legal process was being pursued.

The only other sanction is the punishment of officers of labor unions or employer organizations, whatever they might be, by fine or imprisonment.

Mr. SALTONSTALL. Mr. President, will the Senator from Kentucky yield?

Mr. BARKLEY. I yield.

Mr. SALTONSTALL. I wish to ask a question which may seem irrelevant, but I hope the Senator from Kentucky will consider it a fair question, because it is one which bothers me very much.

Today the distinguished Senator from Kentucky is asking us to pass the pending bill, including section 7. Probably one of the next measures to come before the Senate for consideration is a bill providing for a continuation of the Selective Service Act in some form or other.

What bothers me is this, and I should like to ask the Senator if it does not bother him, or if it is a fair question to ask him: In one breath we are making induction into the Army a punitive affair, and in the next breath we are asking young boys of 18 and 19 to go into the Army to help make it a strong Army, and to make our country respected in other sections of the world. It bothers me much to have prospect of having those two absolutely contradictory matters before us in a brief space of time.

Mr. BARKLEY. I do not see any inconsistency between the two situations any more than there is inconsistency between the provisions of section 7 and existing law with respect to the existing Army already in service. The mere fact that we are to extend the draft law for a period, under such circumstances and conditions as Congress may itself prescribe, puts the men in no different situation after they are inducted from that which surrounds other men already in the service. Therefore I see no inconsistency between the proposed law and the existing law, either as it is already administered, or as it may be administered under any extension of the draft act.

Mr. SALTONSTALL. This is a punitive affair.

Mr. BARKLEY. It is only punitive to the extent and in the event that the President shall call upon men to return to work, and call upon their officers to rescind orders for their quitting work, there is final resort to the essential power of the Government of the United States as between it and those who refuse to comply in a national emergency with the proclamation of the President.

Mr. SALTONSTALL. I thank the Senator.

Mr. BARKLEY. It is only where the workers refuse to work.

Mr. SMITH. Mr. President, will the Senator from Kentucky yield?

Mr. BARKLEY. I yield.

Mr. SMITH. I feel that we all at this time desire to give the President every assistance we can possibly extend him in the difficult situation in which he finds himself. I feel also we should make it perfectly clear that a strike against the Government cannot be tolerated. But I am troubled by section 7, and I should like to ask the distinguished majority leader whether he would not be expressing what we really want to have by a different approach to this section.

Clearly, to me, this is a punitive measure. It provides for punishment of someone who has gone out on strike and is going to be put in the Army, and, as the Senator from Massachusetts has just said, it is going to make the Army a place where people who have done wrong are inducted. I do not like that feature of it.

It is provided in section 7 that in certain circumstances a man may be inducted into the Army, "and on such terms and conditions as may be prescribed by the President, as being necessary in his judgment to provide for the emergency."

That is, the emergency of work stoppage. I should like to see us reframe this section in some way to show that the President should have the authority granted by Congress to call on any citizens, not just those who have struck, to help in case of a stoppage, anybody who is qualified to do the work in the field where work has been stopped. That would include those who have gone out on strike and anyone else.

It seems to me the President needs authority to meet the emergency by calling on citizens of the country—and I would rather make it voluntary than compulsory—and I think some such expression in the section would make it far preferable to this mandatory injunction, which, I am frank to say, I cannot support. I feel that it is a totally wrong policy for us to induct men who have gone out on strike and force them to go into the Army, and keep them upon the plane of forced labor.

Mr. BARKLEY. Of course, that raises the question whether Congress would be justified in penalizing, in a way, innocent people who have not participated in a strike or lock-out, who have not been working for the company involved in the labor dispute, who may be utterly unskilled in the performance of the duties involved in such employment, whether the President should be authorized to go out on the highways and byways and summon all and sundry, whether they know anything about the work which is involved or not.

I can appreciate the Senator's feeling about section 7. Frankly, I do not like it. I am not enthusiastic about advocating that the President be under any circumstances clothed with authority to bring into play his power as President or as Commander in Chief of the Army and Navy in order that there may not be work stoppage. Of course, it would be a last resort, it would be an extreme situation which would cause any President to use the law. Yet I do not think the Senator's worries or mine could be resolved by authorizing the President just to go out everywhere and say to all, not only those who have not participated in the disobedience of the Government, but those who may be victims of that very disobedience, to come in and operate the plants for facilities, or whatever they may be.

Mr. SMITH. Will the Senator yield further?

Mr. BARKLEY. I yield.

Mr. SMITH. I would much prefer, in case the President proclaims a state of emergency, to have him call for volunteers, whom I think he would get. I think he would get volunteers from the very groups who are striking, because many men do not like to strike.

Mr. BARKLEY. It would be inconsistent to assume that those who were striking, and refused to go back to work when the President called them back, or when he had called upon their leaders to call them back, would come back just

on invitation extended to them by the President.

Mr. SMITH. It seems to me the whole spirit of this section is important. The way the section reads now, to me it seems a punitive section. If the section were framed with a view of providing for an emergency, and a calling on the people by the President, I think the whole psychology might be different. I am merely throwing that out as a suggestion.

Mr. BARKLEY. The President in the meantime has already done all of that before he reaches the point where he feels that he must induct them into the service.

Mr. SMITH. I agree; and that is why I feel that the section may well be eliminated entirely.

Mr. BARKLEY. They have finally refused. When he has gone through all the calls and taken all the necessary steps, even to the extent of calling upon their leaders to rescind or recall the strike or walk-out orders, and the men have not gone back, then only, when he has exhausted all methods he can use, it is that he invokes his powers under section 7.

Mr. SMITH. I understand, but I feel that the section is a very serious one to adopt, and I hope it will be eliminated.

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

Mr. BARKLEY. I yield.

Mr. LUCAS. I should like to ask the able Senator from Kentucky if this legislation is not based upon the fact that the Nation is in danger?

Mr. BARKLEY. Yes; it is based upon the assumption that crises may be created by work stoppages from different causes to such a point as to endanger the health, welfare, and the lives of the American people. It is based upon an extremity which cannot otherwise be solved.

Mr. LUCAS. I should like to ask the able Senator if it is not based upon the fact that Government, in the event that the emergency is not solved, might fall?

Mr. BARKLEY. It is based upon the assumption that in a dire extremity, which is contemplated as the basis for this legislation, the Government were not able to carry out its proclamations and orders, in order to rescue the Nation, if the Government did not fall it would become so impotent that it might as well fall.

Mr. LUCAS. Then, I follow that up with this question: If that be true, what good can be accomplished by us attempting to protect the civil rights in which the Senator from New Jersey is so interested, at the present time, because if that happens there will be no civil rights left for anyone? That is the true situation.

Mr. BARKLEY. I thank the Senator.

Mr. SMITH. Mr. President, will the Senator yield to me for a comment?

Mr. BARKLEY. I will do so in just a moment. I want to reply and to make a comment on what the Senator from Illinois has said. We would not be here with this legislation if it were not for the fact that the Nation faced very recently, and may at this hour face a great crisis.

Mr. LUCAS. It does.

Mr. BARKLEY. And there may be another one around the corner, according to the newspapers of today.

Mr. LUCAS. There is.

Mr. BARKLEY. And we are confronted with the question whether in the face of these recurring crises Government must be relegated to voluntary persuasion which may result in total impotence on its part, or whether we shall clothe it with such power, drastic as it may be, and unlikable and unwelcome as it may be—whether we shall clothe the Government of the United States with power to do the things that are essential to protect the American people.

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

Mr. BARKLEY. I yield.

Mr. LUCAS. Did the Senator read this morning the statement in the newspapers that Mr. Curran, the head of the maritime union, said they were going to strike irrespective of what the Government did?

Mr. BARKLEY. I saw that statement. A strike in the maritime union and the merchant marine of the United States is imminent, which may involve not only all the ports of the United States but indirectly the transportation facilities by water all over the world. The statement was made that no matter what we do here, no matter what Congress does or what the President does, the president of that union will defy the Government of the United States. Now, in the face of that statement are we to say that we are impotent, and that the Government of the United States is to be permitted to remain impotent to deal with such a situation as that, which may involve the lives and the health and the welfare of more people of the United States than are involved in the particular labor dispute growing out of the merchant-marine difficulty?

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

Mr. BARKLEY. I yield.

Mr. LUCAS. May I ask the Senator one more question? Is anything unconstitutional which is necessary to be done to save the country?

Mr. BARKLEY. The law of self-preservation is the first law of nature, and that applies to governments, I presume, as well as to me. I think there is nothing unconstitutional about this measure which we are seeking to pass in the emergency which brings it forth.

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

Mr. BARKLEY. I yield.

Mr. FULBRIGHT. With further reference to the statement made by the Senator from New Jersey concerning section 7; if I understood him correctly, he said that provision obviously is punitive. I do not understand that it is obviously punitive any more than a great many obligations which the Government has invoked upon its people. It might incidentally be a burden upon the people who are inducted, but its primary purpose is not that at all. It is simply to take advantage of a convenient way of inducting people to do necessary duties. I do not regard ordinary induction as essentially punitive. It is protective. It is like the income tax. It might be very burdensome, and it is punitive in one sense, but in another sense it is one of the basic obligations of the citizen. I do not quite see that it is proper to say that this is essentially punitive. It is simply to use machinery which we already have—that is the Army—in order to bring to bear the necessary power to meet a situation when nothing else will suffice.

Mr. SMITH. Mr. President, will the Senator yield for an observation?

Mr. BARKLEY. I will yield in a moment. Other Senators have risen to whom I must yield.

The provisions of section 7 are no more punitive than the Selective Service Law is punitive. It provides merely a way by which men can be brought together to the accomplishment of something absolutely vital to the welfare of the Nation. The mere induction is not punitive. This is a measure by which the Government can maintain an organized force of men to carry out certain policies that are necessary to the protection of the interests of the United States. It would only become punitive, and that is true of any other law, if there were a violation.

Mr. FULBRIGHT. If the men refused to obey.

Mr. BARKLEY. If there were a violation of the order under which they were inducted.

Mr. AIKEN and Mr. HAWKES addressed the Chair.

Mr. BARKLEY. I am not going to yield much longer. I will finish my remarks very soon. But I am glad to yield to Senators who are now on their feet. I yield first to the Senator from Vermont.

Mr. AIKEN. In asking for this legislation, is it the intention of the Government that the penalties of the existing legislation, the Smith-Connally Act and any other act, are not applicable to the coal miners or to the maritime workers, or is it the contention of the Government that those penalties are not sufficiently severe to secure the desired effect?

Mr. BARKLEY. It is the contention of the proponents of this legislation that, whatever those penalties may be, they are not sufficient to deal with the situation which now confronts the country. This bill does not nullify any penalty that might apply, but provides its own penalties by fine and imprisonment for violation, and by an injunctive process against all who violate.

Mr. AIKEN. Has there been any attempt made to apply the penalties of the Smith-Connally Act in any of the present strikes where men have refused to go back to work on the request of the President?

Mr. BARKLEY. I am not able to say whether that is true or not.

Mr. AIKEN. How do we know that the existing penalties will not be effective if no attempt has been made to apply them?

Mr. BARKLEY. One can always, of course, speculate on what might happen in the event something is done which has not been done. But the power to

take over the plant under the Smith-Connally Act is included in section 9, which is made a part of the Selective Service Act itself which, unless we extend it, will expire on July 1.

Mr. AIKEN. That is still in force, however.

Mr. BARKLEY. Yes, that is still in force.

Mr. SMITH. Mr. President, will the Senator yield to me just for an observation?

Mr. BARKLEY. I yield.

Mr. SMITH. My remark that this provision seems to be punitive was made because it is limited to those who are guilty of work stoppage. My remark was that when we face a crisis such as this the whole Nation has an obligation; the obligation falls on me and on you, and I am sure we would not hesitate to serve in such a crisis. It seems to me that to limit the induction merely to those who have been parties to the work stoppage, is a punitive measure. I would rather see the provision placed in the measure to provide for the emergency by calling on all our people to serve. Whether that should be compulsory or on a voluntary basis I am not clear. I was merely thinking in those terms rather than in the terms of the compulsory induction of the men who are out on strike.

Mr. BARKLEY. Of course, there are certain skilled employments, such as operating a locomotive, which could not be carried on by anyone who might be picked up on the streets in any town of the United States. We cannot compel those who have never sat in the cab of a locomotive or operated an engine or fired an engine, or who have never been conductors on trains, to perform such services. If we are to assume that those who are skilled and who have brought about the stoppage, those who are involved in the controversy, are to be shielded from any compulsion, and that we are to go out into the highways and byways and summon men, as they used to be summoned as road hands in the country, to operate these enterprises, whether they be coal mines, railroads, steamships, or whatever else they may be, it seems to me that we shall be doing a very ineffective thing, and one which might involve the country in even worse danger from the standpoint of safety than anything involved in this legislation.

Mr. SMITH. I would not exempt the strikers at all. I would include them, but I would include others as well who might be helpful in the crisis, so that it would not appear that we were merely visiting a punishment on the strikers.

Mr. BARKLEY. I think we would be spreading very thin the authority of the Government of the United States if we were to attempt to pick up raw recruits to operate the enterprises which require skill and long experience in their operation for the safety and benefit of the people.

Mr. SMITH. I have been told that many of our men who have been in the services have become skilled in operating locomotives, and that they would be delighted to help in the present crisis. I think it is worth while to mobilize that volunteer force in the country at a time when people ought to be working together instead of being divided by various influences.

Mr. BARKLEY. If we are to say that the crisis is sufficiently acute that the President of the United States is authorized to take over the plant and operate it, it ought to be operated at once. We ought not to wait to mobilize workers scattered all over the country who may at one time or another in their lives have done similar work.

Mr. SMITH. I believe that the President would have thousands of volunteers tomorrow if he were to call upon them to operate the railroads.

Mr. BARKLEY. I do not know about that. We are having some difficulty in obtaining volunteers now. That is why we are considering a draft law.

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

Mr. BARKLEY. I yield.

Mr. HAWKES. I wish to support the majority leader in what he is saying. I feel very strongly that this is not a party question. It is a question of Americanism. I do not believe that there is a Member of the Senate who realizes more fully than I do that no law which we may enact will make millions of people work. There must be voluntary cooperation in the last analysis. But let me ask the majority leader this question: Which is the greater crime—to shut down an essential mine or transportation facility, or any other kind of facility which involves the lives of millions of people, many of whom may die because of the acts of a given group of men, whether they be employers or employees, or to shoot a man in the back? I say that this is a punitive measure. It must be a punitive measure. If we make this thing soft, in my opinion the Government will not occupy the position it must occupy with its citizens in these very crucial times.

Mr. BARKLEY. If the Senator will permit me to comment, I agree that it is a potentially punitive measure.

Mr. HAWKES. It must be.

Mr. BARKLEY. But it becomes punitive only when those to whom it applies continue to defy the Government of the United States.

Mr. HAWKES. That is exactly the point.

Mr. BARKLEY. After the Government has done the thing which it regards as essential in the protection of the health, welfare, and lives of our people.

Mr. HAWKES. If, after the Congress and the President have taken action, they continue to do things which are a crime against the people of the United States.

Mr. President, I should like to read something which I think is worth while, if the Senator from Kentucky will yield to me.

Let us remember what Mr. Justice Oliver Wendell Holmes, in the Hitchman case, said:

> I have no doubt that when the power of either capital or labor is exerted in such a way as to attack the life of the community, those who seek their private interests at such cost are public enemies and should be dealt with as such.

Let us remember what President Woodrow Wilson said with respect to the general railroad strike, September 23, 1916:

> The business of government is to see that no other organization is as strong as itself. To see that no body or group of men, no matter what their private interest is, may come into competition with the authority of society.

Let us remember what the late Mr. Justice Louis Brandeis said before he became a member of the Supreme Court. No one would accuse him of being unfriendly to labor.

> The plea of trade-unions for immunity, be it from injunction or liability from damages, is as fallacious as the plea of the lynchers. If lawless methods are pursued by trade unions—

And that is what we are talking about—

> whether it be by violence, by intimidation, or by the more peaceful infringement on legal rights, that lawlessness must be put down at once and at any cost.

Mr. BARKLEY. I thank the Senator from New Jersey.

Section 10 is simply a limitation of the time during which the act shall be effective. It reads as follows:

> SEC. 10. The provisions of this act shall cease to be effective 6 months after the cessation of hostilities, as proclaimed by the President, or upon the date (prior to the date of such proclamation) of the passage of a concurrent resolution of the two Houses of Congress stating that such provisions shall cease to be effective, or on June 30, 1947, whichever first occurs.

Under that language, the life of the act could not extend beyond June 30, 1947. That provision was placed in the bill because we do not wish anyone to gain the impression that we are enacting permanent legislation. It is temporary, to deal with the emergency which has been created.

Section 11 is the separability provision. It reads as follows:

> SEC. 11. If any provision of this act, or the application of such provision to any person or circumstance, is held invalid, the remainder of the act and the application of such provision to other persons or circumstances shall not be affected thereby.

Mr. President, I apologize to the Senate for consuming so much time. I have been provoked—or encouraged, whichever word one chooses to use—by questions. I hope that I have given a reasonably fair interpretation of the provisions of the bill.

Mr. DOWNEY obtained the floor.

Mr. TUNNELL. Mr. President, will the Senator yield to me for the purpose of suggesting the absence of a quorum?

Mr. DOWNEY. I yield for that purpose.

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

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

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

Aiken	Bridges	Capper
Andrews	Briggs	Connally
Austin	Brooks	Cordon
Ball	Bushfield	Donnell
Barkley	Byrd	Downey
Brewster	Capehart	Eastland

Ellender	McCarran	Russell
Ferguson	McClellan	Saltonstall
Fulbright	McFarland	Shipstead
George	McKellar	Smith
Gerry	McMahon	Stanfill
Green	Magnuson	Stewart
Guffey	Mead	Taft
Gurney	Millikin	Taylor
Hart	Mitchell	Thomas, Okla.
Hatch	Moore	Thomas, Utah
Hawkes	Morse	Tobey
Hayden	Murdock	Tunnell
Hickenlooper	Murray	Tydings
Hill	Myers	Vandenberg
Hoey	O'Daniel	Wagner
Huffman	O'Mahoney	Walsh
Johnson, Colo.	Overton	Wheeler
Johnston, S. C.	Pepper	Wherry
Knowland	Radcliffe	White
La Follette	Reed	Wiley
Langer	Revercomb	Wilson
Lucas	Robertson	Young

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

ADMINISTRATIVE PROCEDURE ACT

Mr. McCARRAN. Mr. President, will the Senator from California yield in order that the Chair may lay before the Senate a message from the House of Representatives with respect to Senate bill No. 7?

Mr. DOWNEY. Upon condition that I shall not lose the floor, I shall be very happy to yield.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 7) entitled "An act to improve the administration of justice by prescribing fair administrative procedure," which was to strike out all after the enacting clause and insert:

TITLE

SECTION 1. This act may be cited as the "Administrative Procedure Act."

DEFINITIONS

SEC. 2. As used in this act—

(a) Agency: "Agency" means each authority (whether or not within or subject to review by another agency) of the Government of the United States other than Congress, the courts, or the governments of the possessions, Territories, or the District of Columbia. Nothing in this act shall be construed to repeal delegations of authority as provided by law. Except as to the requirements of section 3, there shall be excluded from the operation of this act (1) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them, (2) courts martial and military commissions, (3) military or naval authority exercised in the field in time of war or in occupied territory, or (4) functions which by law expire on the termination of present hostilities, within any fixed period thereafter, or before July 1, 1947, and the functions conferred by the following statutes: Selective Training and Service Act of 1940; Contract Settlement Act of 1944; Surplus Property Act of 1944.

(b) Person and party: "Person" includes individuals, partnerships, corporations, associations, or public or private organizations of any character other than agencies. "Party" includes any person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in any agency proceeding; but nothing herein shall be construed to prevent an agency from admitting any person or agency as a party for limited purposes.

(c) Rule and rule making: "Rule" means the whole or any part of any agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure, or practice requirements of any agency, and includes the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor or of valuations, costs, or accounting, or practices bearing upon any of the foregoing. "Rule making" means agency process for the formulation, amendment, or repeal of a rule.

(d) Order and adjudication: "Order" means the whole or any part of the final disposition (whether affirmative, negative, injunctive, or declaratory in form) of any agency in any matter other than rule making but including licensing. "Adjudication" means agency process for the formulation of an order.

(e) License and licensing: "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, membership, statutory exemption or other form of permission. "Licensing" includes agency process respecting the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation amendment, modification, or conditioning of a license.

(f) Sanction and relief: "Sanction" includes the whole or part of any agency (1) prohibition, requirement, limitation, or other condition affecting the freedom of any person; (2) withholding of relief; (3) imposition of any form of penalty or fine; (4) destruction, taking, seizure, or withholding of property; (5) assessment of damages, reimbursement, restitution, compensation, costs, charges, or fees; (6) requirement, revocation, or suspension of a license; or (7) taking of other compulsory or restrictive action. "Relief" includes the whole or part of any agency (1) grant of money, assistance, license, authority, exemption, exception, privilege, or remedy; (2) recognition of any claim, right, immunity, privilege, exemption, or exception; or (3) taking of any other action upon the application or petition of, and beneficial to, any person.

(g) Agency proceeding and action: "Agency proceeding" means any agency process as defined in subsections (c), (d), and (e) of this section. "Agency action" includes the whole or part of every agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act.

PUBLIC INFORMATION

SEC. 3. Except to the extent that there is involved (1) any function of the United States requiring secrecy in the public interest or (2) any matter relating solely to the internal management of an agency—

(a) Rules: Every agency shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organization including delegations by the agency of final authority and the established places at which, and methods whereby, the public may secure information or make submittals or requests; (2) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal or informal procedures available as well as forms and instructions as to the scope and contents of all papers, reports, or examinations; and (3) substantive rules adopted as authorized by law and statements of general policy or interpretations formulated and adopted by the agency for the guidance of the public, but not rules addressed to and served upon named persons in accordance with law. No person shall in any manner be required to resort to organization or procedure not so published.

(b) Opinions and orders: Every agency shall publish or, in accordance with published rule, make available to public inspection all final opinions or orders in the adjudication of cases (except those required for good cause to be held confidential and not cited as precedents) and all rules.

(c) Public records: Save as otherwise required by statute, matters of official record shall in accordance with published rule be made available to persons properly and directly concerned except information held confidential for good cause found.

RULE MAKING

SEC. 4. Except to the extent that there is involved (1) any military, naval, or foreign affairs function of the United States or (2) any matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts—

(a) Notice: General notice of proposed rule making shall be published in the Federal Register (unless all persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law) and shall include (1) a statement of the time, place, and nature of public rule-making proceedings; (2) reference to the authority under which the rule is proposed; and (3) either the terms or substance of the proposed rule or a description of the subjects and issues involved. Except where notice or hearing is required by statute, this subsection shall not apply to interpretative rules, general statements of policy, rules of agency organization, procedure, or practice, or in any situation in which the agency for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

(b) Procedures: After notice required by this section, the agency shall afford interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity to present the same orally in any manner; and, after consideration of all relevant matter presented, the agency shall incorporate in any rules adopted a concise general statement of their basis and purpose. Where rules are required by statute to be made on the record after opportunity for an agency hearing, the requirements of sections 7 and 8 shall apply in place of the provisions of this subsection.

(c) Effective dates: The required publication or service of any substantive rule (other than one granting or recognizing exemption or relieving restriction or intepretative rules and statements of policy) shall be made not less than 30 days prior to the effective date thereof except as otherwise provided by the agency upon good cause found and published with the rule.

(d) Petitions: Every agency shall accord any interested person the right to petition for the issuance, amendment, or repeal of a rule.

ADJUDICATION

SEC. 5. In every case of adjudication required by statute to be determined on the record after opportunity for an agency hearing, except to the extent that there is involved (1) any matter subject to a subsequent trial of the law and the facts de novo in any court; (2) the selection or tenure of an officer or employee of the United States other than examiners appointed pursuant to section 11; (3) proceedings in which decisions rest solely on inspections, tests, or elections; (4) the conduct of military, naval, or foreign-affairs functions; (5) cases in which an agency is acting as an agent for a court; and (6) the certification of employee representatives—

(a) Notice: Persons entitled to notice of an agency hearing shall be timely informed of (1) the time, place, and nature thereof; (2) the legal authority and jurisdiction under which the hearing is to be held; and (3) the matters of fact and law asserted. In instances in which private persons are the moving parties, other parties to the proceeding shall give prompt notice of issues controverted in fact or law; and in other instances agencies may by rule require responsive pleading. In fixing the times and

places for hearings, due regard shall be had for the convenience and necessity of the parties or their representatives.

(b) Procedure: The agency shall afford all interested parties opportunity for (1) the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment where time, the nature of the proceeding, and the public interest permit, and (2) to the extent that the parties are unable so to determine any controversy by consent, hearing, and decision upon notice and in conformity with sections 7 and 8.

(c) Separation of functions: The same officers who preside at the reception of evidence pursuant to section 7 shall make the recommended decision or initial decision required by section 8 except where such officers become unavailable to the agency. Save to the extent required for the disposition of ex parte matters as authorized by law, no such officer shall consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate; nor shall such officer be responsible to or object to the supervision or direction of any officer, employe, or agent engaged in the performance of investigative or prosecuting functions for any agency. No officer, employee, or agent engaged in the performance of investigative or prosecuting functions for any agency in any case shall, in that or a factually related case, participate or advise in the decision, recommended decision, or agency review pursuant to section 8 except as witness or counsel in public proceedings. This subsection shall not apply in determining applications for initial licenses or to proceedings involving the validity or application of rates, facilities, or practices of public utilities or carriers; nor shall it be applicable in any manner to the agency or any member or members of the body comprising the agency.

(d) Declaratory orders: The agency is authorized in its sound discretion, with like effect as in the case of other orders, to issue a declaratory order to terminate a controversy or remove uncertainty.

ANCILLARY MATTERS

SEC. 6. Except as otherwise provided in this act—

(a) Appearance: Any person compelled to appear in person before any agency or representative thereof shall be accorded the right to be accompanied, represented, and advised by counsel or, if permitted by the agency, by other qualified representative. Every party shall be accorded the right to appear in person or by or with counsel or other duly qualified representative in any agency proceeding. So far as the orderly conduct of public business permits, any interested person may appear before any agency or its responsible officers or employees for the presentation, adjustment, or determination of any issue, request, or controversy in any proceeding (interlocutory, summary, or otherwise) or in connection with any agency function. Every agency shall proceed with reasonable dispatch to conclude any matter presented to it except that due regard shall be had for the convenience and necessity of the parties or their representatives. Nothing herein shall be construed either to grant or to deny to any person who is not a lawyer the right to appear for or represent others before any agency or in any agency proceeding.

(b) Investigations: No process, requirement of a report, inspection, or other investigative act or demand shall be issued, made, or enforced in any manner or for any purpose except as authorized by law. Every person compelled to submit data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that in a nonpublic investigatory proceeding the witness may for good cause be limited to inspection of the official transcript of his testimony.

(c) Subpenas: Agency subpenas authorized by law shall be issued to any party upon request and, as may be required by rules of procedure, upon a statement or showing of general relevance and reasonable scope of the evidence sought. Upon contest the court shall sustain any such subpena or similar process or demand to the extent that it is found to be in accordance with law and, in any proceeding for enforcement, shall issue an order requiring the appearance of the witness or the production of the evidence or data within a reasonable time under penalty of punishment for contempt in case of contumacious failure to comply.

(d) Denials: Prompt notice shall be given of the denial in whole or in part of any written application, petition, or other request of any interested person made in connection with any agency proceeding. Except in affirming a prior denial or where the denial is self-explanatory, such notice shall be accompanied by a simple statement of procedural or other grounds.

HEARINGS

SEC. 7. In hearings which section 4 or 5 requires to be conducted pursuant to this section—

(a) Presiding officers: There shall preside at the taking of evidence (1) the agency, (2) one or more members of the body which comprises the agency, or (3) one or more examiners appointed as provided in this act; but nothing in this act shall be deemed to supersede the conduct of specified classes of proceedings in whole or part by or before boards or other officers specially provided for by or designated pursuant to statute. The functions of all presiding officers and of officers participating in decisions in conformity with section 8 shall be conducted in an impartial manner. Any such officer may at any time withdraw if he deems himself disqualified; and, upon the filing in good faith of a timely and sufficient affidavit of personal bias or disqualification of any such officer, the agency shall determine the matter as a part of the record and decision in the case.

(b) Hearing powers: Officers presiding at hearings shall have authority, subject to the published rules of the agency and within its powers, to (1) administer oaths and affirmations, (2) issue subpenas authorized by law, (3) rule upon offers of proof and receive relevant evidence, (4) take or cause depositions to be taken whenever the ends of justice would be served thereby, (5) regulate the course of the hearing, (6) hold conferences for the settlement or simplification of the issues by consent of the parties, (7) dispose of procedural requests or similar matters, (8) make decisions or recommend decisions in conformity with section 8, and (9), take any other action authorized by agency rule consistent with this act.

(c) Evidence: Except as statutes otherwise provide, the proponent of a rule or order shall have the burden of proof. Any oral or documentary evidence may be received, but every agency shall as a matter of policy provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence and no sanction shall be imposed or rule or order be issued except upon consideration of the whole record or such portions thereof as may be cited by any party and as supported by and in accordance with the reliable, probative, and substantial evidence. Every party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. In rule making or determining claims for money or benefits or applications for initial licenses any agency may, where the interest of any party will not be prejudiced thereby, adopt procedures for the submission of all or part of the evidence in written form.

(d) Record: The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for decision in accordance with section 8 and, upon payment of lawfully prescribed costs, shall be made available to the parties. Where any agency decision rests on official notice of a material fact not appearing in the evidence in the record, any party shall on timely request be afforded an opportunity to show the contrary.

DECISIONS

SEC. 8. In cases in which a hearing is required to be conducted in conformity with section 7—

(a) Action by subordinates: In cases in which the agency has not presided at the reception of the evidence, the officer who presided (or, in cases not subject to subsection (c) of section 5, any other officer or officers qualified to preside at hearings pursuant to section 7) shall initially decide the case or the agency shall require (in specific cases or by general rule) the entire record to be certified to it for initial decision. Whenever such officers make the initial decision and in the absence of either an appeal to the agency or review upon motion of the agency within time provided by rule, such decision shall without further proceedings then become the decision of the agency. On appeal from or review of the initial decisions of such officers the agency shall, except as it may limit the issues upon notice or by rule, have all the powers which it would have in making the initial decision. Whenever the agency makes the initial decision without having presided at the reception of the evidence, such officers shall first recommend a decision except that in rule making or determining applications for initial licenses (1) in lieu thereof the agency may issue a tentative decision or any of its responsible officers may recommend a decision or (2) any such procedure may be omitted in any case in which the agency finds upon the record that due and timely execution of its function imperatively and unavoidably so requires.

(b) Submittals and decisions: Prior to each recommended, initial, or tentative decision, or decision upon agency review of the decision of subordinate officers the parties shall be afforded a reasonable opportunity to submit for the consideration of the officers participating in such decisions (1) proposed findings and conclusions, or (2) exceptions to the decisions or recommended decisions of subordinate officers or to tentative agency decisions, and (3) supporting reasons for such exceptions or proposed findings or conclusions. The record shall show the ruling upon each such finding, conclusion, or exception presented. All decisions (including initial, recommended, or tentative decisions) shall become a part of the record and include a statement of (1) findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record; and (2) the appropriate rule, order, sanction, relief, or denial thereof.

SANCTIONS AND POWERS

SEC. 9. In the exercise of any power or authority—

(a) In general: No sanction shall be imposed or substantive rule or order be issued except within jurisdiction delegated to the agency and as authorized by law.

(b) Licenses: In any case in which application is made for a license required by law the agency, with due regard to the rights or privileges of all the interested parties or adversely affected persons and with reasonable dispatch, shall set and complete any proceedings required to be conducted pursuant to sections 7 and 8 of this act or other proceedings required by law and shall make its decision. Except in cases of willfulness or

those in which public health, interest, or safety requires otherwise, no withdrawal, suspension, revocation, or annulment of any license shall be lawful unless, prior to the institution of agency proceedings therefor, facts or conduct which may warrant such action shall have been called to the attention of the licensee by the agency in writing and the licensee shall have been accorded opportunity to demonstrate or achieve compliance with all lawful requirements. In any case in which the licensee has, in accordance with agency rules made timely and sufficient application for a renewal or a new license, no license with reference to any activity of a continuing nature shall expire until such application shall have been finally determined by the agency.

JUDICIAL REVIEW

SEC. 10. Except so far as (1) statutes preclude judicial review or (2) agency action is by law committed to agency discretion—

(a) Right of review: Any person suffering legal wrong because of any agency action, or adversely affected or aggrieved by such action within the meaning of any relevant statute, shall be entitled to judicial review thereof.

(b) Form and venue of action: The form of proceeding for judicial review shall be any special statutory review proceeding relevant to the subject matter in any court specified by statute or, in the absence or inadequacy thereof, any applicable form of legal action (including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus) in any court of competent jurisdiction. Agency action shall be subject to judicial review in civil or criminal proceedings for judicial enforcement except to the extent that prior, adequate, and exclusive opportunity for such review is provided by law.

(c) Reviewable acts: Every agency action made reviewable by statute and every final agency action for which there is no other adequate remedy in any court shall be subject to judicial review. Any preliminary procedural, or intermediate agency action or ruling not directly reviewable shall be subject to review upon the review of the final agency action. Except as otherwise expressively required by statute, agency action otherwise final shall be final for the purposes of this subsection whether or not there has been presented or determined any application for a declaratory order, for any form of reconsideration, or (unless the agency otherwise requires by rule and provides that the action meanwhile shall be inoperative) for an appeal to superior agency authority.

(d) Interim relief: Pending judicial review any agency is authorized, where it finds that justice so requires, to postpone the effective date of any action taken by it. Upon such conditions as may be required and to the extent necessary to prevent irreparable injury, every reviewing court (including every court to which a case may be taken on appeal from or upon application for certiorari or other writ to a reviewing court) is authorized to issue all necessary and appropriate process to postpone the effective date of any agency action or to preserve status or rights pending conclusion of the review proceedings.

(e) Scope of review: So far as necessary to decision and where presented the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of any agency action. It shall (A) compel agency action unlawfully withheld or unreasonably delayed; and (B) hold unlawful and set aside agency action, findings, and conclusions found to be (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (2) contrary to constitutional right, power, privilege, or immunity; (3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; (4) without observance of procedure required by law; (5) unsupported by substantial evidence in any case subject to the requirements of sections 7 and 8 or otherwise reviewed on the record of an agency hearing provided by statute; or (6) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court. In making the foregoing determinations the court shall review the whole record or such portion thereof as may be cited by any party, and due account shall be taken of the rule of prejudicial error.

EXAMINERS

SEC. 11. Subject to the civil-service and other laws to the extent not inconsistent with this act, there shall be appointed by and for each agency as many qualified and competent examiners as may be necessary for proceedings pursuant to sections 7 and 8, who shall be assigned to cases in rotation so far as practicable and shall perform no duties inconsistent with their duties and responsibilities as examiners. Examiners shall be removable by the agency in which they are employed only for good cause established and determined by the Civil Service Commission (hereinafter called the Commission) after opportunity for hearing and upon the record thereof. Examiners shall receive compensation prescribed by the Commission independently of agency recommendations or ratings and in accordance with the Classification Act of 1923, as amended, except that the provisions of paragraphs (2) and (3) of subsection (b) of section 7 of said act, as amended, and the provisions of section 9 of said act, as amended, shall not be applicable. Agencies occasionally or temporarily insufficiently staffed may utilize examiners selected by the Commission from and with the consent of other agencies. For the purposes of this section, the Commission is authorized to make investigations, require reports by agencies, issue reports, including an annual report to the Congress, promulgate rules, appoint such advisory committes as may be deemed necessary, recommend legislation, subpena witnesses or records, and pay witness fees as established for the United States courts.

CONSTRUCTION AND EFFECT

SEC. 12. Nothing in this act shall be held to diminish the constitutional rights of any person or to limit or repeal additional requirements imposed by statute or otherwise recognized by law. Except as otherwise required by law, all requirements or privileges relating to evidence or procedure shall apply equally to agencies and persons. If any provision of this act or the application thereof is held invalid, the remainder of this act or other applications of such provision shall not be affected. Every agency is granted all authority necessary to comply with the requirements of this act through the issuance of rules or otherwise. No subsequent legislation shall be held to supersede or modify the provisions of this act except to the extent that such legislation shall do so expressly. This act shall take effect 3 months after its approval except that sections 7 and 8 shall take effect 6 months after such approval, the requirements of the selection of examiners pursuant to section 11 shall not become effective until 1 year after such approval, and no procedural requirement shall be mandatory as to any agency proceeding initiated prior to the effective date of such requirement.

Mr. McCARRAN. Mr. President, some weeks ago the Senate passed Senate bill No. 7, which is known as the administrative procedure bill.

The Senator from Maine will recall that the bill passed the Senate, after a careful discussion, without a dissenting vote. Let me say that the bill has been under study and consideration for nearly 10 years. For about 2 years, while the present chairman of the Judiciary Committee and other members of that committee have had the matter in hand, a very careful and meticulous study has been made of the whole subject. The House did not in any substantial particular amend the Senate bill. The only thing which the House did was to clarify the bill in respect to a few of its provisions. I can best illustrate that by a brief statement from the Attorney General as to what the House did. Without quoting him at length, the Attorney General said that he approved the amendments which had been made by the House which were merely explanatory in nature.

For that reason, Mr. President, I move that the Senate concur in the House amendment.

Mr. WHITE. Mr. President, will the Senator yield for an inquiry?

Mr. McCARRAN. I yield.

Mr. WHITE. Were the House amendments submitted to the Judiciary Committee for its consideration, or only to individual members of the committee?

Mr. McCARRAN. Only to individual members, because we were unable to get a meeting of a quorum of the committee.

Mr. WHITE. Was there a unanimity of approval on the part of the committee members, so far as the Senator knows?

Mr. McCARRAN. So far as I personally know, yes.

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

Mr. McCARRAN. I yield.

Mr. REVERCOMB. As a member of the subcommittee which dealt with the bill, I should be very happy if the Senator from Nevada, who is chairman of the Judiciary Committee, and who has so ably steered the legislation thus far, would tell us briefly what are the amendments.

Mr. McCARRAN. Does the Senator refer to the House amendments?

Mr. REVERCOMB. Yes.

Mr. McCARRAN. I shall have to ask the Senator from California [Mr. DOWNEY] to be patient with me while I go over the amendments. They are set forth in the report of the Committee on the Judiciary of the House of Representatives.

With reference to section 1, it is provided that the measure may be cited as the "Administrative Procedure Act."

In section 2, with reference to definitions, the report states, the definitions apply to the remainder of the bill.

With reference to section 2 (a), under the title "Agency," it is said, "The word 'agency' is defined by excluding legislative, judicial, and territorial authorities" and by including any other "authority" whether or not within or subject to review by another agency. The word "other" was inserted by the House of Representatives.

In connection with section 2 (b), the word "person" and the word "party" are dealt with in the report as follows: "Person" is defined to include specific forms of organizations other than agencies. "Party" is defined to include anyone named, or admitted, or seeking, and entitled to be admitted, as a party in any agency proceeding, and so forth.

With reference to section 2 (c) the report states:

"Rule" is defined as any agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law, policy, organization, procedure, or practice requirements and includes any prescription for the future of rates, wages, financial structure, and so forth. "Rule making" means agency process for the formation, amendment, or repeal of the rule.

Does the Senator wish me to go through each amendment?

Mr. REVERCOMB. Am I to understand that all the changes which have been made were changes merely in language and do not materially affect the intent of the act?

Mr. McCARRAN. I assure the Senator that his statement is correct.

Mr. REVERCOMB. Then I shall not ask for a further explanation.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada.

The motion was agreed to.

RECONSIDERATION OF CONFIRMATION OF NOMINATION OF RICHARD B. McENTIRE, OF KANSAS, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION

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

Mr. DOWNEY. I am glad to yield if I do not lose the floor.

Mr. WAGNER. Mr. President, as in executive session I ask unanimous consent to enter a motion to reconsider the vote by which the Senate, on last Saturday, confirmed the nomination of Richard B. McEntire, of Kansas, to be a member of the Securities and Exchange Commission.

The PRESIDING OFFICER. Is there objection?

The Chair hears none.

Mr. AIKEN. Mr. President, may I make a statement without the Senator from California losing the floor?

Last Thursday I asked the majority leader if he would agree to allow consideration of the confirmation of the appointment of Admiral Smith to be a member of the Maritime Commission to go over until today, because I wanted to say something with regard to the nomination. I did not wish consideration of the nomination to be postponed for the purpose of opposing the nomination of Admiral Smith. I understood the majority leader to say that consideration of the nomination could go over until today, but evidently an executive session was held at a time when I was out of the Chamber. I have noticed in the RECORD that the nomination was confirmed. I wonder if the Senator would be willing to agree that the vote by which the nomination of Admiral Smith was confirmed may be reconsidered.

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

Mr. DOWNEY. I yield.

Mr. OVERTON. As acting chairman of the Senate Committee on Commerce, I wish to say to the Senator that an inquiry was made into the qualifications of Admiral Smith. After the hearing was completed, the Committee on Commerce voted unanimously for confirmation of the nomination. If it is the purpose of the Senator not to oppose the nomination, but to make some observations with regard to it, I believe he could make such statement without the Senate reconsidering the vote by which the nomination was confirmed.

The PRESIDING OFFICER. Does the Senator from Vermont wish to object to the motion of the Senator from New York?

Mr. AIKEN. No; I do not object. I am merely asking if the vote by which the nomination of Admiral Smith was confirmed may be reconsidered, because what I have to say concerning the Maritime Commission should be said in connection with the appointment to which reference has been made by the Senator from New York. I understood the majority leader to say that consideration of the nomination might go over until today. There are things which the Senate should know. The Senate should know some things about the Maritime Commission. It ought to know, if it does not know, that there was a discrepancy of approximately $6,000,000,000 in the accounts of the Maritime Commission up to June 30, 1943, as reported by the Comptroller General. I merely asked that consideration of the nomination of Admiral Smith go over until today. I thought it was going over, or I would have sat in the Chamber all the time the Senate was in session so as to be present when the nomination came up in the Senate.

Mr. WAGNER. That in no way relates to the nomination concerning which I have asked unanimous consent.

Mr. AIKEN. Has the Senator made a motion?

Mr. WAGNER. I asked unanimous consent.

The PRESIDING OFFICER. The Senator from New York asked for unanimous consent, and the Chair asked if there was objection. The Chair heard none.

Mr. AIKEN. No; I do not object to the request of the Senator from New York. I believe that the nomination should come back to the Senate. I believe that it was confirmed under unusual circumstances.

Mr. WAGNER. I move that the President be requested to return the resolution of confirmation to the Senate.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. AIKEN. Will the Senator from California yield, so that I may make a motion? I do not wish the Senator to lose the floor. The motion would be that the Senate reconsider the vote by which it confirmed the nomination of Admiral Smith.

Mr. DOWNEY. Mr. President, I regret, but I must say to the Senator that the motion to which the Senator has referred might precipitate a long argument which would make it necessary for me to lose the floor.

Mr. AIKEN. I thank the Senator from California.

SETTLEMENT OF INDUSTRIAL DISPUTES AFFECTING THE NATIONAL ECONOMY

The Senate resumed consideration of the bill (H. R. 6578) to provide on a temporary basis during the present period of emergency for the prompt settlement of industrial disputes vitally affecting the national economy in the transition from war to peace.

Mr. BYRD. Mr. President, the legislation which has been proposed by the President is along the pattern whereby Gov. William M. Tuck, of Virginia prevented a threatened strike in the Virginia Electric & Power Co. which would have paralyzed two-thirds of Virginia.

In fact, an agency of the Government, during the preparation of the legislation now pending, requested my office to supply the various orders that Governor Tuck issued, whereby he, as Governor of Virginia, and as commander in chief of the land and naval forces of the State, on March 29, ordered the drafting into the active service as members of the unorganized Virginia Militia the employees of the Virginia Electric & Power Co.

The action taken by Governor Tuck is nearly identical with the action now proposed by the President. In Virginia the strike was stopped and no further trouble has occurred.

The action which was taken by the Governor of Virginia is of great public interest as it bears directly on the pending legislation. I ask unanimous consent to have printed in the body of the RECORD at this point as a part of my remarks, a copy of the original orders of Governor Tuck and his various announcements, as well as an opinion of the Attorney General of Virginia.

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

COMMONWEALTH OF VIRGINIA,
GOVERNOR'S OFFICE,
Richmond, March 29, 1946.

EXECUTIVE ORDER

Pursuant to the provisions of sections 2, 3, and 4 of article VI of the Military Code of Virginia as enacted by chapter 446 of the Acts of Assembly of 1930, the undersigned, William M. Tuck, Governor of Virginia, and as such commander in chief of the land and naval forces of the State, in order to execute the laws as set out in section 4066 of the Code of Virginia requiring the Virginia Electric & Power Co. to provide electric service to the people of the State customarily served by it, does hereby order out a part of the unorganized militia of the State, said part consisting of the hereinafter designated persons:

The following named officers and employees of the Virginia Electric & Power Co., male and not over 55 years of age, residing or being in the cities and towns indicated: as shown by the accompanying document which is incorporated as a part of this order and marked exhibit 1.

All of the aforesaid persons are ordered out by draft and the draft in the various counties and cities shall be made by the officers of the Virginia State Guard whose names and addresses appear from the accompanying roster which is incorporated expressly as a part of this order, and such subordinate officers and men as they shall designate verbally or otherwise.

The persons so called out by this draft shall be organized into a unit to be known and designated as the emergency laws executing unit.

In testimony of the foregoing I have hereunto set my hand as Governor of Virginia and commander in chief of the land and naval forces of the State, and have caused

to be affixed the lesser seal of the Commonwealth this 28th day of March 1946.

WILLIAM M. TUCK,
Governor of Virginia and as Such Commander in Chief of the Land and Naval Forces of the State.

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
March 29, 1946.

ORDER

Having been drafted by the Governor of Virginia you are now in active service as a member of the unorganized Militia. You are now granted a temporary suspension of your active military duties so long as the Virginia Electric & Power Co. is conducting its operations without interruption by strike, and you may during such time continue in its employ. If and when any union of its employees calls its members out on strike, your status as an employee of such company shall thereupon cease and determine and you shall immediately thereafter be on active duty as a member of the State Militia, and assist in the operation of said company's plants and facilities which will be taken over by the Commonwealth of Virginia.

Now, therefore, as commanding officer in charge of the unorganized Militia of the Commonwealth of Virginia I hereby order you immediately following any such strike to report for duty at the same post or position which you were filling at the time said strike occurred, and at the same hour you would have reported if the strike had not occurred, and there you shall perform the same duties you have been accustomed to perform for said company or such other duties as may be assigned to you by your superior military officer.

You are informed that you are now subject to the military law of Virginia, and for disobedience to orders or other offenses against said law you are subject to such lawful punishment as a court martial may direct.

WILLIAM M. TUCK,
Governor of Virginia and as Such Commander in Chief of the Land and Naval Forces of the State.

Commonwealth of Virginia
Governor's Office
Richmond, Va.

NOTICE OF DRAFT AND ORDER TO REPORT

To ----------
Location ----------
Home Address ----------
a member of the unorganized militia of the Commonwealth of Virginia:

You are hereby notified that you have been drafted by the commander in chief of the land and naval forces of Virginia, the Honorable William M. Tuck, Governor of Virginia, into the service of the Commonwealth to execute the law which requires the Virginia Electric & Power Co. to provide electric service to the people of Virginia customarily served by it.

You are, therefore, ordered and commanded to report to the commanding officer, Virginia State Guard (in uniform) at the office of the Virginia Electric & Power Co., located at ----, ------ Va., within 24 hours after receipt of this notice and thereafter to be and remain obedient to the commands of said officer or such other officers as may be set over you.

Executed at Richmond, Va., this — day of March 1946.

WILLIAM M. TUCK,
Governor of Virginia and Commander in Chief of the Land and Naval Forces of the State.

The statement issued by Governor Tuck March 22, 1946, in full:

"In the last few days many citizens of Virginia, alarmed over the consequences of a strike by the employees of the Virginia Electric & Power Co., which strike I am now informed has been set by the labor unions for April 1, have appealed to me to intervene as governor and protect the public health and welfare of the people, if such a situation develops.

"Today, I requested Hon. John Hopkins Hall, Jr., commissioner of labor and industry, to request not more than three representatives of the union and not more than three representatives of the company involved to come to my office for a conference. Mr. Hall has just advised me that Mr. J. G. Holtzclaw of the power company expressed a willingness to send representatives, but that Mr. J. C. McIntosh, international representative of the International Brotherhood of Electrical Workers, first stated that he wished to confer with his committee. Mr. Hall advised me that Mr. McIntosh later called and said that negotiations had reached such a stage that they could not be interrupted at this time, and that inasmuch as West Virginia and North Carolina are involved, he would consent to see the Governors of all three States together.

"I am advised by the State corporation commission that approximately 94 percent of all the revenues of the Virginia Electric & Power Co. are derived from Virginia business. Inasmuch as this situation obtains, I feel that this is a problem in which I must take full responsibility.

"After talking with Mr. Hall, I conferred with a representative of the Virginia Electric & Power Co., and I am advised that a most serious situation exists."

WOULD PARALYZE INDUSTRY

"The Virginia Electric & Power Co. serves 63 counties and more than half of the population of Virginia. Industry in these sections so served will be brought practically to a standstill if such a strike develops. It is even more serious than that, however, for human health and safety facilities will be paralyzed. Hospitals, with their numerous expectant mothers, their seriously ill and their emergency patients, will be left in darkness, and physicians will be without power to carry on and administer to the needs of the suffering and the afflicted. Dairies, running full force to feed our children as well as adults, will be forced to shut down. Many homes will be unable to cook a meal or even to so much as toast a biscuit. The above constitute only a few of the most serious effects of such a tieup. In our modern way of living, we are geared to electric power and when it is cut off we are practically helpless, so that hunger, famine, pestilence and even death will be the result.

"As Governor of Virginia I shall not sit idly by and do nothing in the face of such a disaster. If a strike comes, bringing with it these attendant evils, I shall forthwith order these plants, together with all of their properties and equipments, seized by one of agencies of the Commonwealth, which will be instructed to operate them for the protection and benefit of the people.

"This is a drastic step. So far as I am able to learn, it is also unprecedented. But such a situation as will develop if a strike comes demands drastic methods.

"Faced with misfortune of this character, there is no question in my mind as to my powers, nor as to my right and duty to make full use of them in dealing with this problem. I am determined and I shall not hesitate to exert every power of the office of Governor in this emergency to prevent such a calamity.

"With our people suffering and dying, there is not time to await processes of either the legislative or judicial branches of the Government. To do so would be to lock the stable door after the horse is gone. If this threat matures, it will require immediate action. Delay may result in destruction so serious that even the Commonwealth may be powerless to function."

IMPARTIAL IN ATTITUDE

"I am absolutely impartial in my attitude toward both industry and labor. I am not unfriendly to labor nor to management. As Governor of Virginia, I am the servant and protector of all the people.

"I have no quarrel with labor strikes which do not interfere with our essential public services.

"I appeal to both parties involved in this controversy to become reconciled and to compose their differences. I urge them to continue to render these essential services upon which our people are so dependent.

"If it is necessary for the Commonwealth to intervene, I shall expect the company to surrender its property to such agents as may be designated. I also shall expect both the officials and the employees to work and to cooperate with these same agents and with each other in a way that will make certain no serious inconvenience or suffering results.

"I appeal to the people of Virginia to stand firm with me in my efforts to safeguard the welfare of all. I trust and believe they will."

MARCH 24, 1946.

Mr. J. C. MCINTOSH,
International Representative IBEW,
Murphy's Hotel, Richmond, Va.

I have just dispatched to Holtzclaw of the Virginia Electric & Power Co., Richmond, Va., the following telegram:

"I note from a statement of J. C. McIntosh, international representative of IBEW, published in the Richmond Times-Dispatch this date, that unless the Vepco meets such demands made by him upon them, the strike set by the labor union for April 1 will follow. Your company holds an exclusive franchise from the Commonwealth to serve electric power to the public in large areas of Virginia. This electricity is essential and must not be cut off. In view of the above threat, as chief magistrate of the Commonwealth, and the chosen representative of the people from whom all power is derived, I have a right to know whether or not there will be an interruption of this service.

"I also hold that no set of men are powerful enough to have a right to wield themselves together so as to wreck the Commonwealth and strike against the public interests, health, and safety of the people.

"The rights of the Commonwealth in this matter are paramount. The rights of Vepco and its employees of approximately 1,100 are important and will be protected, but these rights are subordinate to the public interest.

"It is not in the public interest for me to wait until we are enveloped by disaster before moving to protect the people. The parties involved in this controversy have been negotiating for weeks.

"I have a right to demand and must know before the deadly hour set what you propose to do with reference to this service. Therefore, unless I hear from a responsible represenative of Vepco that there will be no interruption of service by your organization not later than Thursday, March 28, at 12 noon of that date at the Governor's office at the Capitol at Richmond, I shall as chief executive forthwith declare an emergency to exist and I shall proceed as expeditiously as possible to take such action as I am advised is necessary and proper to protect and preserve the public interest and to assure to the people of the Commonwealth these essential public services and without any interruption.

"I am sending a copy of this telegram to J. C. McIntosh for his information, and I am disclosing the contents thereof to the press in order that all parties concerned may be advised of the situation and of my purposes in the premises."

Very respectfully,

WILLIAM M. TUCK,
Governor of Virginia.

MARCH 24, 1946.

Mr. J. C. HOLTZCLAW,
President, Vepco, Richmond, Va.:

I note from a statement of J. C. McIntosh, international representative of IBEW, published in the Richmond Times-Dispatch, this date, that unless the Vepco meets such demands made by him upon them, the strike set by the labor union for April 1 will follow. Your company holds an exclusive franchise from the Commonwealth to serve electric power to the public in large areas of Virginia. This electricity is essential and must not be cut off. In view of the above threat, as chief magistrate of the Commonwealth, and the chosen representative of the people from whom all power is derived, I have a right to know whether or not there will be an interruption of this service.

I also hold that no set of men are powerful enough to have a right to wield themselves together so as to wreck the Commonwealth and strike against the public interests, health, and safety of the people.

The rights of the Commonwealth in this matter are paramount. The rights of Vepco and its employees of approximately 1,100 are important and will be protected, but these rights are subordinate to the public interest.

It is not in the public interest for me to wait until we are enveloped by disaster before moving to protect the people. The parties involved in this controversy have been negotiating for weeks.

I have a right to demand and must know before the deadly hour set what you propose to do with reference to this service. Therefore, unless I hear from a responsible representative of Vepco and also a responsible representative of the employees of Vepco, that there will be no interruption of service by your organization not later than Thursday, March 28, at 12 noon of that date at the Governor's office at the Capitol at Richmond, I shall, as Chief Executive forthwith declare an emergency to exist and I shall proceed as expeditiously as possible to take such action as I am advised is necessary and proper to protect and preserve the public interest and to assure to the people of the Commonwealth these essential public services and without any interruption.

I am sending a copy of this telegram to J. C. McIntosh for his information, and I am disclosing the contents thereof to the press in order that all parties concerned may be advised of the situation and of my purposes in the premises.

Very respectfully,

WILLIAM M. TUCK,
Governor of Virginia.

MARCH 27, 1946.

Mr. J. G. HOLTZCLAW,
President VEPCO, Richmond, Va.:

I have this day dispatched to J. C. McIntosh, International Representative IBEW, the following telegram: "You are familiar with my statement of March 23, and you have my telegram of March 24. I am informed by Commissioner Rye of the United States Conciliation Service that a deadlock has occurred in negotiations between the employees and the Power Company. The situation at this time is such that I can take no part in these negotiations or in the demands made by either party. In the event that it becomes necessary for the Commonwealth of Virginia to intervene and to use its powers in operating these properties so as to avoid a cut-off in electric power, let me have a "yes" or "no" answer on or before 12 o'clock M. Thursday, March 28, at the State Capitol at Richmond whether or not these employees of the VEPCO will work at their respective essential stations for the Commonwealth of Virginia, and under the same wages and labor conditions now prevailing. This telegram is being sent you because you stated to the press that you have authority to speak for the employees of VEPCO. Very respectfully signed Wm. M. Tuck". In case the commonwealth intervenes will your company surrender to the Commonwealth the properties and equipment of the VEPCO situated within the Commonwealth of Virginia for the purposes of operating the same, and to the end that these essential electric services may be continued. Let me have a "yes" or "no" answer not later than 12 o'clock M. Thursday March 28 at the State Capitol at Richmond. Very respectfully,

WILLIAM M. TUCK,
Governor of Virginia.

MARCH 27, 1946.

Mr. J. C. MCINTOSH,
International Representative IBEW,
Murphy's Hotel, Richmond, Va.

You are familiar with my statement of March 23, and you have my telegram of March 24. I am informed by Commissioner Rye of the United States Conciliation Service that a deadlock has occurred in negotiations between the employees and the Power Company. The situation at this time is such that I can take no part in these negotiations or in the demands made by either party. In the event that it becomes necessary for the commonwealth of Virginia to intervene and to use its powers in operating these properties so as to avoid a cut-off in electric power, let me have a "yes" or "no" answer on or before 12 o'clock m. Thursday, March 28, at the State Capitol at Richmond, whether or not these employees of the VEPCO will work at their respective essential stations for the commonwealth of Virginia and under the same wages and labor conditions now prevailing. This telegram is being sent you because you stated to the press that you have authority to speak for the employees of VEPCO. Very respectfully,

WILLIAM M. TUCK,
Governor of Virginia.

MARCH 28, 1946.

For some weeks, the International Brotherhood of Electrical Workers and the Virginia Electric & Power Co. have been negotiating over matters in dispute involving both rates of pay and labor conditions. I watched this with some misgivings because I knew of electric power strikes in other, and as I thought, less fortunate States. When this notice to strike was served by the union on the power company, I became more apprehensive, but could not believe Virginians would follow such evil leadership.

As the deadline set by the labor union approached, I became less confident. It then became my duty to make certain that catastrophe would not come. On last Friday, I requested John Hopkins Hall, Jr., State commissioner of labor and industry, to summons to the Governor's office representatives from both of the disputants. The union refused to come to the Governor's office when requested. It was my purpose to ask the union to withdraw the strike order unconditionally. Had this meeting been held and the order to strike been withdrawn, I intended to inquire into the situation to determine if I could what was just and right as between the parties, to act as a mediator and to use the influence of the Governor's office to correct all injustices, if any, which might have been found to exist. In my opinion, it is not proper for a public official to negotiate or make terms with those who threaten to do violence to the public interest, and so long as I am Governor, the Commonwealth will not be coerced by threats of violence or by any other baleful influences into making any concessions or commitments of any kind.

The above is in explanation of my failure to take any part in this controversy looking to a settlement of it on its merits.

Shortly after the proposed meeting failed, I issued a statement declaring my intention, in case a settlement was not reached, to seize these properties and operate them for the public benefit so that these essential services would continue. Among other things, I pointed out that the public interest came first and that I expected both the officials and employees of the Virginia Electric & Power Co. to work and cooperate with the Commonwealth and with each other in a way that would make certain no serious inconvenience or suffering would result. I need not here again state the many forms of suffering and inconvenience which would result from such a strike.

After this statement was issued by me, the spokesman of the union continued to make references to the strike with abandon and apparently with a view to terrifying the Commonwealth and the people. I then forthwith, from my home at South Boston, on Sunday, dispatched a telegram to this leader, as well as to the company, putting them both on notice as to my purpose and my intentions, as well as my absolute determination, to protect the people of Virginia from disaster of this sort, unless I was assured by both parties not later than 12 o'clock m., March 28, that no strike would ensue. Yesterday, when negotiations between them collapsed, I sent both the union and the company telegrams requesting that each of them advise me positively whether or not they would cooperate with the State in the movement to operate these plants. Within a short time, the company replied affirmatively. The union was evasive and not responsive to my question, and its reply amounted to a negative answer.

Even though it be conceded that the union is right in its controversy with the company over hours and wages, and verily I do not know as to this, they are wrong in holding this threat to strike over the Commonwealth and its people. I champion the right of labor strikes in proper places. I shall cheerfully, as a citizen and an official, uphold them and all others in their God-given privileges and rights. But I deny that in this instance a right to strike exists, either morally or under the laws of Virginia, so long as doing so adversely affects the supply of electric current, and any effort to exercise such a so-called right on the part of anybody will be vigorously resisted. The Commonwealth will perform every act necessary to insure the continuous free flow of electric current over the wires of the company here involved.

From all the information I am able to derive from any source, I regret very much to have to say that it now appears that the International Brotherhood of Electrical Workers employed at the various essential stations of the Virginia Electric & Power Co. in this State will strike on Monday, April 1. It is difficult for me to believe that any sensible and patriotic Virginian, regardless of any organization or leadership, and knowing full well the certain consequences and dangers of his act in so doing, would refuse to remain steadfastly to his station until suitable relief is orderly obtained. But, inasmuch as the consequences of a strike so seriously affect the safety and security of such a large segment of society, and in further view of the fact that the solution of such a problem on the part of the Commonwealth will require considerable time to organize and execute its plans, I cannot assume the risk of further delay in the matter, irrespective of whatever may be my personal feelings and particularly in view of the short time remaining. The powers which I am about to invoke are not personal to me, but belong to the high office with which I have been entrusted by the people. A failure to embrace these heavy responsibilities and to act promptly would be inexcusable and would amount to shirking my duties, especially so in the face of this public exhibition of such wanton and reckless disregard of the rights and safety of others by a trucculent and irresponsible labor leader, who has heretofore claimed the right to speak the words of terror for the

employees of the Virginia Electric & Power Co. and whose leadership in so doing, so far as I am advised, no one of these employees has repudiated. That the employees have not repudiated this threat, carrying with it these awful consequences, astonishes me. Many of them I have known for years. They are my personal friends. However true these employees as individuals may be, the type of leadership they appear to have chosen is threatening and terrifying and will not be tolerated in Virginia.

In view of the foregoing circumstances and the alarming conditions now confronting us, I hereby declare that a state of emergency exists in the Commonwealth of Virginia. As Governor of the Commonwealth and as commander in chief of the State militia, I shall, after the expiration of such number of hours as may be necessary to effect and coordinate proper plans, and before the end of this week, issue a formal order declaring that an emergency exists and seizing the property and equipment of the Virginia Electric & Power Co. situated in the Commonwealth, and shall from time to time issue such order or orders as may be necessary to accomplish this objective safely and securely, to the end that these plants may be operated without any interruption or diminution of service.

At the outset of this endeavor, I must remind the people that enforcement of the law is the cornerstone of democracy. Without law enforcement, all other functions of government fail. I specially call the attention of the employees of the Virginia Electric & Power Co to the fact that, like all good citizens, their first obligation is to the Commonwealth and any obligations to unions or other organizations should be subordinated when found in conflict with the public interest. No good citizen will allow anything to interfere with his allegiance to Virginia.

When necessary, my oath requires—and it is my will—to compel compliance with all law. I shall act without fear or favor and with a firm hand and a resolute determination. In this I have the right to expect the support of all law-abiding citizens of Virginia and to demand the support of all others. This latter I shall require.

WILLIAM M. TUCK,
Governor of Virginia.

COMMONWEALTH OF VIRGINIA,
GOVERNOR'S OFFICE,
Richmond, March 29, 1946.

The action the Commonwealth is taking is for the sole purpose of guaranteeing that these power plants will be kept open. The hand of the State will be removed when this unbridled threat to strike is withdrawn and disaster thus averted, and it will not be removed until then.

I do not intend to be lulled into a false sense of security by the statements of Commissioner Rye that conciliation may be agreed upon. He holds out no hope for such a thing to happen before Saturday night. If at that time conciliation fails, it would be too late to protect ourselves and we would be at the mercy of these ruthless labor dictators from the North. I am taking no such chance.

These same dictators have known for more than a week how they can settle with the Commonwealth, and they can now do it in 2 minutes or less—simply by withdrawing the strike order.

It must be distinctly understood that the Commonwealth did not enter this situation until it was said that all of the labor negotiators except one had gone home and until both parties conceded that negotiations had collapsed.

Nothing we have done or will do interferes in the slightest with negotiations, and both parties know this. The State's only interest is to continue these power services for the people of Virginia while parties concerned in the controversy negotiate or not, as they wish.

WILLIAM M. TUCK,
Governor of Virginia.

MARCH 29, 1946.

I am pleased with the progress of our plans. Many capable and patriotic Virginians in and out of the union are sending me messages volunteering and offering me their services to the end that the power will not be cut off and the State will not be in darkness. I am happy over the response of the Virginia people.

May I repeat again in this emergency my sole concern is to see that electric power is not cut off in Virginia. I am not at this time trying to solve any social, economic, or labor problem. They can be solved in the weeks, months, and years that lie ahead. I am simply exercising my duties and the powers of the high office which I hold to see that suffering, death, and devastation do not come to Virginia. The lights in Virginia will not go off.

WILLIAM M. TUCK,
Governor of Virginia.

MARCH 30, 1946.

I am glad to learn this morning that the parties in controversy are resuming negotiations. At the time I declared this emergency on Thursday, negotiations had collapsed. This was conceded by both parties and most of the union negotiators had left Richmond.

I do hope so much that the company and the union may reach an amicable and a just settlement. Disputes, especially those of a type calculated to produce inflammation and violence between large groups of people, should always be settled if possible.

In the meantime, however, I can take no chance, and the action I have decided upon will not be relaxed until all danger of a disaster disappears. At this stage, my only interest is to avoid extraordinary misfortune to the people of Virginia and to see that the laws of Virginia are executed.

WILLIAM M. TUCK,
Governor of Virginia.

GOVERNOR'S STATEMENT

I am immensely gratified and relieved to learn that the proposed strike of the union employees of the Virginia Electric & Power Co. has been called off. I know that the two and three-quarters million of the people of this State who would have felt the disastrous consequences of an interruption in the electric service upon which they have become so dependent will be equally relieved. It was with great reluctance and only because of the tremendous responsibilities of my office as Governor, involving as they do the duty to protect the people of Virginia from the hardships, suffering, and dangers with which they are threatened, that I felt impelled to draft temporarily those members of the unorganized militia of the State who alone were able to prevent an interruption of the vital services of this utility. If the strike had occurred, it was my purpose, as soon as other personnel could be secured, to relieve from duty all drafted members who desired to be released. But securing this personnel would have taken some little time and irreparable injury would have been suffered in the meantime without their temporary help.

Let me take this occasion to extend, on behalf of the people of the State, to the members of the State guard, and also to those who were drafted, my thanks and appreciation for the splendid cooperation manifested and service rendered and to the many others who so freely volunteered their services in this crisis which has just passed.

The emergency having ended, I hereby so declare and do hereby proclaim that all persons who were drafted into the emergency are forthwith discharged honorably and are returned to their former status in the unorganized militia of the Commonwealth and my best wishes go with each of them.

It is my fervent hope that the proposed arbitration may result in a decision that is just and satisfactory to all. Now that this threat has been removed and I am free to act for the people without compulsion, I volunteer and offer the full influence of the office of the Governor to that end. The lights of Virginia will not go off.

OPINION OF THE ATTORNEY GENERAL OF VIRGINIA

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE ATTORNEY GENERAL,
Richmond, April 18, 1946.

Hon. WILLIAM M. TUCK,
Governor of Virginia, State Capitol,
Richmond 12, Va.

DEAR GOVERNOR TUCK: In discussing with your excellency the power and authority of the Governor to embody that portion of the unorganized militia composed of persons employed in the operation of the Virginia Electric & Power Co., and to direct the members so embodied, in the event of a strike of said employees, to enter into possession of such of the plants and facilities of said company as might be necessary, and to operate the same so as to prevent a shut-down of its power production, I expressed the opinion orally that the Governor does possess such power and authority. I further stated that I would later render a written opinion giving the reasons for the conclusions reached, same having been based upon then existing facts and conditions which you found to be as follows:

I

The Virginia Electric & Power Co. provides electric power and lighting service in an area comprising more than half the State and about two-thirds of its inhabitants.

Within this area are located the following State institutions and buildings, and the governmental activities therein carried on: The capitol of the State, the supreme court of appeals, the various State office buildings, 12 State institutions of higher learning, 2 State prison farms, 4 industrial schools for delinquents, numerous convict road camps, the penitentiary, the office of the State police, and its radio broadcasting station, five State hospitals, and six State mental hospitals. In addition, there are located in this area numerous municipal and county governmental institutions, agencies, functions, and activities, such as waterworks, schools, courthouses and jails, street lighting in cities and towns, which would be left in a state of black-out; police protection at night; fire alarm signals; street traffic lights and operation of sewage facilities. All of the foregoing are dependent for electric service upon continued and uninterrupted operation of the plants and facilities of said company. Any substantial interruption in said service would seriously hinder and obstruct the principal activities of the State, county, and city governments, their departments, agencies, and institutions in this area. The following nongovernmental activities or functions would either be greatly curtailed or completely eliminated if such service were discontinued: dairy and other farm activities; railway freight and passenger stations; block signal systems in train operations throughout the area; elevators in hospitals and office buildings; X-ray and other equipment in numerous hospitals, and scores of offices of physicians and dentists; cold-storage facilities containing large quantities of meat and other perishable foods; electric street railways; gasoline filling station delivery pumps; naval bases and shipyards; Army camps; veterans' hospitals, and lastly

the provision for lighting, cooking, heating, and refrigeration in the homes of a large part of about 2,000,000 private citizens. An interruption in the operation of said company, therefore, in addition to seriously obstructing the activities of State and local governments, would threaten, endanger, and imperil the health, safety, and lives of a majority of the citizens of the State. It would also paralyze the operation of numerous factories and industrial plants, throwing great masses of their workers out of employment. In other words, it would create a condition tending to disorder and unrest in about two-thirds of the State. For several weeks a labor dispute had been in progress between said company and the union of its employees and a notice had been given to the company by the union of a proposed strike to become effective April 1. The effect of such a strike would be to shut down the operation of the electric and power plants of the utility.

Because of apparently reliable information to the effect that there was serious danger the strike would occur, since the parties were unable to make any satisfactory progress in their negotiations to settle their dispute, you became apprehensive and on March 22, 1946, you requested that three representatives each of the union and of the company attend a conference in your office with a view to bringing about an accord; or at least a delay in the threatened strike. The company stated its willingness to comply with your request. The union leaders, however, expressed the view that they should not do so unless there were also present at the conference the Governors of North Carolina and West Virginia, into which States a small part of the company's service extends. About 92 percent of the revenue of the company is derived from its Virginia operations. Because of the shortness of time before the day fixed for the strike you felt it would be unwise to delay the matter by undertaking to arrange such a conference. You thereupon issued a public statement, pointing out in detail some of the disastrous consequences to the people and the government of Virginia which would result from such a strike and declared that, if same should occur, it was your intention to take possession of the company's facilities in your official capacity and operate same so as to protect the interests, safety, and lives of the people of Virginia who would be affected thereby. Receiving no further communication from either of the disputing parties, on March 24 you notified the union representatives and the company that, unless you were assured by noon of March 28 that the planned strike would not occur, you would declare an emergency to exist and would forthwith make preparations to take the steps necessary to seizure and continue the operation of the plants and facilities of the company without interruption by a strike should it occur. At the same time you requested from each party to the dispute information as to whether, in the event of a strike, each would cooperate in the State's seizure and operation of the utility so as to prevent a shut-down. The company answered that it would not oppose same. The union representatives replied that they were without authority to speak for their members in the matter. Shortly thereafter, however, you learned that these representatives had initiated a movement to secure official action of the union which would prohibit its members from cooperating in such proposal. You were satisfied that they would succeed in their efforts, and your expectations were later confirmed when you were officially advised by the authorities of the union that its members would not voluntarily work for the State. Your investigations in the meantime had developed the fact that, because of the special skill, knowledge, and familiarity with the work necessary for the personnel to have in order to operate the utility, it would be impossible to prevent an interruption in its service by the use of members of the State Guard, and that the only possible way in which continuous service to the public could be maintained was with the aid and assistance of those members of the unorganized militia who were the regular employees of the company. On March 27 both parties to the dispute indicated that their negotiations were hopelessly deadlocked and it was stated in the press that a majority of the union representatives had left the city, and that negotiations had been abandoned. Thereupon, as Governor of Virginia, on Thursday, March 28, at noon, you declared an emergency to exist threatening the public welfare, health, and security, and expressed the intention, should a strike occur, of taking possession of the company's properties on behalf of the Commonwealth and undertaking to operate same in the public interest.

You then requested my opinion upon the question whether under these circumstances, as Governor and commander in chief of the land and naval forces of the State, in order to avoid an interruption of said operations by reason of a strike, you were empowered to seize the utility and in order to accomplish such seizure draft and order into active service that part of the unorganized militia which consisted of certain of the officers and employees of said company necessary to operate same, and to assign to them temporarily, pending the organization by the State of an independent operating force, the duty should the strike occur of seizing the necessary plants and properties of the company, and of performing such duties in connection with their operation as might be assigned them by their superior officers, provided such duties were essential to prevent a shut-down of said operations. It was proposed that said plants and facilities would be seized and operated by the State in the public interest and not in the interest of the company or the union, and that the service of the said members of the militia so drafted would be performed solely for the State and not for said company.

As above stated, I expressed the view that the said facts and conditions found by you to exist as above stated constituted such an exigency as to justify the exercise of the authority and power of the Governor as proposed. Accordingly, on March 29 said members of the unorganized militia were embodied into an emergency service unit of the State militia. An order was immediately given to each member of said unit suspending his active military duties unless and until the operations of the company should be interrupted by a strike. In that event, the order stated, the State would take possession of the properties of the utility and the status of each member as an employee of the company would immediately cease and determine, and he would automatically be returned to active militia service with the duty to seize said properties in concerted action with other members of the unit, and to perform for the State the same work that he had been accustomed to perform in the usual course of his duties while he was working for the company.

I now respectfully submit the authorities and reasons upon which the opinion I then expressed is based.

II

The foregoing state of facts portrays a condition of affairs which not only constituted a grave threat to the health and safety of the people within the area affected, but also threatened to interfere with and obstruct the proper functioning of the State government itself. The situation presented a direct challenge to the power of the government to protect itself and its citizens from the happening of the impending disaster and the resulting chaos, and was apparently intended as such a challenge, because the union, instead of cooperating with the government in its proposal to operate the utility, as the chief executive invited it to do, held meetings and bound the rank and file of its members not to work voluntarily for the State should it take over the company's plants. By this action the union had deprived the Commonwealth of the voluntary services of the only persons who were able to operate the plant. The situation then posed this question: Was the State government impotent and helpless to avert the threatened disaster, or did it possess the power to compel these persons as members of the militia to render under compulsion the necessary services they were prohibited by the union from rendering voluntarily until the State could form an organization of competent workmen to carry on the operation. I hold that it did possess such power.

The general principles underlying the duty and obligation of a State government to its citizens was clearly and succinctly stated by the New York Court of Appeals in these words:

"The fundamental purpose of government is to protect the health, safety, and general welfare of the public. All its complicated activities have that simple end in view. Its power plant for the purpose consists of the power of taxation, the police power, and the power of eminent domain. Whenever there arises, in the state, a condition of affairs holding a substantial menace to the public health, safety, or general welfare, it becomes the duty of the Government to apply whatever power is necessary and appropriate to check it." (*New York* v. *Muller* (270 N. Y. 333).)

The constitutions of the several States were framed upon the theory and principle that Government, in one or the other of its several branches, should be vested with all powers necessary to protect itself from interferences and obstructions, and to shield the people who created it from any calamities or disasters which might threaten them insofar as same can be accomplished by human action. *Burrough* v. *Peyton* (57 Va. (16 Grat.) 470, 473.) Obviously it is impossible to foresee and provide by law a specific remedy for every danger and threat which may arise. To meet such unforeseen emergency situations, in most State constitutions a general reservoir of power has been created by vesting in the Chief Executive power and authority whereby he can, in emergencies, make available and utilize all the resources of the State and its people for their protection. "The prime idea of Government is that power must be lodged somewhere for the protection of the commonwealth." *Re Moyer* (Col.) (12 L. R. A. (N. S.) 979, 985.) This emergency power has been usually created by conferring upon the Governor the authority to use the entire militia (consisting in Virginia of all able-bodied male citizens of the State from the ages of 16 to 65 years [1]), if required, to enforce the execution of the laws and prevent serious obstructions thereto or interferences therewith. And so in section 73 of the Virginia Constitution we find this direct grant of residuary power in these words: "He (the Governor) shall be commander in chief of the land and naval forces of the State, have power to embody the militia to repel invasion, suppress insurrection, and enforce the execution of the laws." It is to be noted that this is a constitutional power, is absolute, and is not dependent upon any legislative delegation of power to the Governor. In fact, the exercise of this emergency power is free from legislative control of any kind. This power may be used whenever a situation arises where, on account of obstructions, or threats of obstructions to the enforcement of the laws or obedience thereto, the functioning of the Government

[1] Code of Virginia, sec. 2673 (1).

or the health and safety of the people of the State are jeopardized. No limitation is imposed upon the exercise of the power by the State constitution. The Governor is vested with absolute discretion in its use and in the selection of members of the militia he will embody, and when the power is employed in good faith the Governor's actions are not subject to challenge in either the State or Federal courts. He is the sole judge of whether an exigency exists which requires the aid of the militia, and has full discretion as to the method of utilizing that aid. On the other hand, of course, if the facts leave no room for doubt that an emergency does not exist, the power cannot be exercised under a mere pretense that it does. The foregoing principles are established by numerous cases in the Federal courts, though no case has been found involving a State Governor's use of the militia for purposes other than to suppress insurrection and disorder. In no other type of use has it ever been challenged. In such a case, *Sterling* v. *Constantin* (287 U. S. 378), the Supreme Court concluded that the Governor of Texas, under pretense that a state of insurrection existed when it did not and in violation of a Federal court injunction restraining him from so doing, attempted, through use of the militia, to regulate the quantity of oil which might be taken from the Texas oil wells. The Court held that there being no insurrection the Governor's action was without justification in fact, but Chief Justice Hughes, in delivering the opinion of the Court said (287 U. S. 399, 400):

"As the State has no more important interest than the maintenance of law and order, the power it confers upon its Governor as chief executive and commander in chief of its military forces to suppress insurrection and to preserve the peace is of the highest consequence. The determinations that the Governor makes within the range of that authority have all the weight which can be attributed to State action, and they must be viewed in the light of the object to which they may properly be addressed and with full recognition of its importance. It is with appreciation of the gravity of such an issue that the governing principles have been declared.

"By virtue of his duty to 'cause the laws to be faithfully executed,' the executive is appropriately vested with the discretion to determine whether an exigency requiring military aid for that purpose has arisen. His decision to that effect is conclusive. That construction, this court has said, in speaking of the power constitutionally conferred by the Congress upon the President to call the militia into actual service, 'necessarily results from the nature of the power itself, and from the manifest object contemplated.' The power 'is to be exercised upon sudden emergencies, upon great occasions of state, and under circumstances which may be vital to the existence of the Union.' *Martin* v. *Mott* (12 Wheat. 19, 29, 30; 6 L. ed. 537, 540, 541). Similar effect, for corresponding reasons, is ascribed to the exercise by the Governor of a State of his discretion in calling out its military forces to suppress insurrection and disorder." (Citing cases.) "The nature of the power also necessarily implies that there is a permitted range of honest judgment as to the measures to be taken in meeting force with force, in suppressing violence and restoring order, for without such liberty to make immediate decisions, the power itself would be useless. Such measures, conceived in good faith, in the face of the emergency and directly related to the quelling of the disorder or the prevention of its continuance, fall within the discretion of the executive in the exercise of his authority to maintain peace."

When the Governor's proclamation that an emergency exists which requires the use of the militia is made in good faith, the ordinary constitutional rights of personal liberty and property must yield to the public interest and to the principle that the safety of the people is the supreme law, or, as expressed in the old Roman maxim, salus populi, suprema lex. It was so stated by Mr. Justice Holmes in *Moyer* v. *Peabody*, 212 U. S. 78. In that case a strike of miners in Colorado had caused such disturbance that the Governor declared that a state of insurrection existed and called out troops to put down the trouble. He had ordered the arrest of the president of the union as a leader of the outbreak and his detention until he could be discharged without danger of his causing further disturbance. He was not released from jail until 2½ months later, and he brought suit against Governor Peabody for damages, claiming that his imprisonment deprived him of his liberty without due process of law. In denying the validity of the claim the opinion referred to the duty of the Governor to order the National Guard to suppress or repeal a threatened insurrection and continued:

"That means that he shall make the ordinary use of the soldiers to that end; that he may kill persons who resist, and, of course, that he may use the milder measure of seizing the bodies of those whom he considers to stand in the way of restoring peace. Such arrests are not necessarily for punishment, but are by way of precaution, to prevent the exercise of hostile power. So long as such arrests are made in good faith and in the honest belief that they are needed in order to head the insurrection off, the Governor is the final judge and cannot be subjected to an action after he is out of office, on the ground that he had no reasonable ground for his belief.

* * * * *

"When it comes to a decision by the head of the State upon a matter involving life, the ordinary rights of individuals must yield to what he deems the necessities of the moment. Public danger warrants the substitution of executive process for judicial process. (See *Keely* v. *Sanders*, 99 U. S. 441, 446, 25 L. ed. 327, 328.) This was admitted with regard to killing men in the actual clash of arms; and we think it obvious, although it was disputed, that the same is true of temporary detention to prevent apprehended harm."

The emphasis in the above cases was placed upon the power of the Governor to prevent the happening of disturbances to the public peace and safety, and the subordination of the liberty of the citizen to that preventive purpose. It was in furtherance of such a preventive purpose that the President seized the railroads during the present war when threatened with a strike of railroad employees. He appointed the presidents of certain railway companies as colonels of the United States Army with orders to operate the lines until the emergency passed, after which they were restored to their owners. The President also seized and operated the Elgin, Joliet & Eastern Railroad when its operations were obstructed by strikes.

It is clearly established therefore, both by judicial authority and by precedent, that the militia may properly be used to prevent the occurrence of threatened events which would cause interruption of services necessary and vital to the public interest and welfare.

There can be no doubt that under both the common law and the Virginia statutes a public service corporation is bound to render continuous service, and its patrons, on their part, are entitled to be furnished such service. (Code of Virginia, sec. 4066, *Jeter* v. *Roanoke Water Co.* (114 Va. 784–5, 43 Am. Jur., p. 586, sec. 22; id. pp. 591–596, secs. 30–36, incl. 51 C. J. pp. 6–8, incl.).) This requirement is further exemplified by code section 3810, which provides that a public service corporation cannot surrender its charter and relieve itself of the duty to discharge its public functions without the consent of the State granted by the State Corporation Commission in proceedings conducted after notice to all persons interested and opportunity to be heard. The utility may be compelled to perform its duty to provide proper service by order of the State Corporation Commission pursuant to code section 4072. In the past such action by the commission has proven effective, but, of course, it would be fruitless in a case of this kind because the company itself could not comply with the commission's order if its employees were on strike.

The State government having assumed supervision and control of electric lighting and power companies, is charged with the duty of seeing to it that the operation of their plants is continuously maintained. If by reason of threatened strikes or other obstructions there is imminent danger that they will be closed down and as a result the welfare, health, peace, safety, and lives of a vast number of the citizens of the commonwealth will be placed in jeopardy, or that the proper functioning of agencies of the government itself will be interfered with, it is unquestionably that government's duty to utilize every resource and instrumentality at its command to forestall the threatened shut-down. This same duty has been held by the Supreme Court of the United States to rest upon the Federal Government in the exercise of its constitutional powers. It was thus expressed *In re Debs* (158 U. S. 564, 586):

"The National Government, given by the Constitution power to regulate interstate commerce, has by express statute assumed jurisdiction over such commerce when carried upon railroads. It is charged, therefore, with the duty of keeping those highways of interstate commerce free from obstruction, for it has always been recognized as one of the powers and duties of a government to remove obstructions from the highways under its control."

The case from which this quotation is taken involved power of a Federal court to enjoin Debs from stirring up strikes on all railroads hauling Pullman cars following a labor dispute between his union and the Pullman Co. The opinion also stated the power of the Government to prevent such obstructions to interstate commerce in the following language:

"But there is no such impotency in the National Government. The entire strength of the Nation may be used to enforce in any part of the land the full and free exercise of all national powers and the security of all rights entrusted by the Constitution to its care. The strong arm of the National Government may be put forth to brush away all obstructions to the freedom of interstate commerce or the transportation of the mails. If the emergency arises, the Army of the Nation, and all its militia, are at the service of the Nation to compel obedience to its laws" (158 U. S. 564, 582).

The holding that the "Army of the Nation, and all its militia," may be utilized to remove the obstruction to and interference with the operation of the railroads in the discharge of the duty of the National Government is necessarily applicable to the availability of the State militia for use in the performance of the similar duty of the State government to keep in operation the vital public utility here involved. Likewise applicable to the power of the Virginia government to use the militia to actually operate the plants here involved is the rule as stated in that recently published standard authority, American Jurisprudence (Vol. 36, p. 198), where it is said:

"There is no doubt that in the event of a great national strike on the interstate railroads of the country which seriously interfered with or prevented interstate transportation or the transportation of the mails, the President, under his constitutional duty

to see that the laws are enforced, has the power to use the Army, and the militia if necessary, to prevent such interference and to operate the railroads."

The duties of the Chief Executive of Virginia with respect to the enforcement of the laws at the State level are parallel to those of the Nation's Chief Executive at the national level. Each is charged with the duty of enforcing the laws, and each is Commander in Chief of the military forces within his respective jurisdiction.

The President, being Commander in Chief of the armed forces, during the recent World War, used military personnel to manage the operation of the railroads when obstructions were threatened by strikes or for other reasons. Perhaps the most spectacular instance of seizure and operation of a business by the Army on account of a strike was that of Montgomery Ward & Co., when its president, Mr. Avery, was forcibly removed from the premises of the company by Army officers. In that case a strike of its employees was due to the company's refusal to institute a maintenance of membership in the union representing a majority of the employees in its establishments, with check-off of dues and other privileges as ordered by the War Labor Board. The company objected to the seizure on the ground that it was not conducting a business of the type contemplated by the Federal acts relating to such seizures, and there was no such exigency as would otherwise justify placing the Army in charge of its business. But the United States Circuit Court of Appeals held the acts by the President were justified. *United States* v. *Montgomery Ward and Company* (150 Fed. (2d) 369). The Army officers took possession of the company's properties and the striking employees immediately returned to their jobs to work for this military agency of the Government.

If the operation of railroads and retail stores by the militia in cases of emergency induced by strikes is a proper use of that agency by the President, a fortiori, it is true that the militia is an appropriate agency for use by the Governor of Virginia to operate a public utility as essential as one providing light and power to two-thirds of the people of the State when faced with a similar emergency.

III

It appears from the press that there are some who concede the propriety of the Governor's use of the militia for seizure and operation of the utility in the event of a strike, but deny that an emergency existed which justified embodying into an organized unit of the militia only those members of the unorganized militia who were employees of the company. They argue that no strike had actually occurred, and, further, that the Governor could not embody particular individuals into such a unit but must employ some such scheme as drawing names by lot.

First, as to the justification for preparing for seizure and operation in the event a strike should occur. It appeared highly probable that it would. The union representatives had declined an invitation to a joint conference designed to alleviate the situation; they had been unable or unwilling to give assurances of cooperation with the Governor in operating the properties to prevent a shutdown; on the contrary, they had set on foot a movement within the union to prevent such cooperation; the parties had abandoned negotiations for a settlement of their disputes or a postponement of the threatened strike; a majority of the union representatives had left the city. The company had stated that it would not oppose a seizure of its property, but had not indicated any lack of intention to adhere to its position with respect to the matters in controversy, even though a strike should result. It cannot be said that these acts of the union and company representatives were consistent with a determination on the part of either of them to yield ground in order to avoid a shut-down of the utility's operations. It cannot be fairly argued that because the parties resumed negotiations after the Governor had acted, and agreed to call off the strike and submit to arbitration of their differences, that the same thing would have happened without such action on his part. It would seem more reasonable to conclude that neither the company nor union representatives liked the idea of the State taking over the operation in the manner planned by the Governor, and for that reason they promptly resumed negotiations and made mutual concessions, with the fortunate result above indicated. In my opinion, the Governor had every reasonable ground to believe that the threatened catastrophe would probably happen.

If he had delayed action until the strike actually took place, the plants would have been shut down and the employees, who he considered the only persons capable of operating them, would have been scattered and difficult to find. There would, in all probability, have been a delay of several days in getting the operations started up again. For this reason the Governor fixed a dead line for Thursday noon to afford time to complete his plans to prevent a shut-down from happening Sunday at midnight. Only by using these precautions did he think public inconvenience and suffering could be avoided.

As to the action of the Governor in designating by name the persons to be embodied in the organization of the militia which was ordered to seize and operate the plant, the Governor had found as a fact that these persons, the company's employees, who were familiar with and possessed the skill necessary to do the required work, were the only ones who could continue the operation without interruption of the service which he regarded as so vital to the public welfare. It would have been an idle gesture to embody in the organization persons who were absolutely unfitted to carry out its purposes. It would have been but a pretense, utterly lacking in good faith to have included therein any such unqualified persons.

But, it has been argued by some, the Governor exceeded his powers because, they assert, he did not comply with the requirements of section 4 of article VI of the Military Code of Virginia (acts 1930, p. 965, Michie's Code, sec. 2673 (74)). This section is as follows:

"If the unorganized militia is ordered out by draft, the Governor shall designate the persons in each county and city to make the draft, and prescribe rules and regulations for conducting the same."

Section 4, article I, of said military code (Michie's Code, sec. 2673 (4)), thus defines the unorganized militia:

"The unorganized militia shall consist of all able-bodied males as set out in section 1 above, except such as may be included in section 2 and section 3, and except such as may be exempted as hereinafter provided."

Section 2 provides for the organization of the National Guard and section 3 the Naval Militia. The unorganized militia, therefore, consists of all other able-bodied male citizens of Virginia between 16 and 55 years of age. The exemptions referred to are here immaterial.

It is clear that the Governor did comply with these sections. He designated certain members of the State guard to make the draft in each county and city affected, and he prescribed the rules and regulations applicable by designating by name the members of the unorganized militia who should be embodied in the organization. No others were needed, and no others would have been useful or desirable. But even if it should be conceded, for the sake of the argument, that the method adopted did not comply with the quoted section, it is nevertheless clear that the Governor had ample authority to employ the method he used. As has been hereinbefore pointed out (II, supra), the power of the Governor to embody the militia to enforce the execution of the laws is derived, not from legislative enactment, but directly from the constitution itself (sec. 73). It is an emergency power coupled with that to repel invasions and suppress insurrections. Its effectiveness would be completely destroyed if it were subjected to the delay necessary to conduct complicated induction proceedings throughout the entire State, as some have contended, is required. Prompt and immediate action to meet the threat of the emergency is imperative, and the constitution grants the Governor full power to take that action. If the quoted section of the Military Code should be construed as an attempt to modify or curtail the power thus granted him, it would be obviously unconstitutional. He is not restricted as to the method he shall employ in embodying the militia, nor is he in any way limited in the particular members thereof he may select for the group embodied or in the duties to be assigned to them. This power of the Governor is, of course, far broader and more comprehensive than that of the sheriff's posse comitatus, but it is analogous thereto. Under the common law, as well as by statute in Virginia (code, sec. 4511), the sheriff may select any persons he desires and summon them to his aid in suppressing disorders or making arrests. Refusal to comply with his request subjects the offender to a fine of $100 and 6 months' imprisonment in jail. Naturally, this officer will select the persons best qualified to perform the tasks to be assigned them. Certainly the Governor cannot be said to have a narrower range of selectivity in impressing into service members of the unorganized militia to meet an emergency than a sheriff would have under similar circumstances. Unquestionably the Governor may likewise order out those militia members best qualified to meet the demands of the occasion. The emergency with which the State was confronted on March 28, 1946, clearly justified the action taken.

IV

The National Labor Relations Act (49 Stat. 449, 29 U. S. C. A. 151 et seq.) establishes a general and uniform jurisdiction over labor relations in the National Labor Relations Board with respect to businesses and industries affecting interstate commerce, but expressly excepting States and their political subdivisions. It guarantees to the employees the right of collective bargaining which may not be impaired by State laws or by State action. (*Hill* v. *Florida* (325 U. S. 538).) The Virginia Electric & Power Co. and its employees are subject to the act. (*N. L. R. B.* v. *V. E. P. Co.* (314 U. S. 476).) It is pertinent to consider, therefore, whether the embodying of that part of the unorganized militia consisting of these employees in the manner and for the purposes stated, and at a time when collective bargaining had been abandoned, constituted an impairment of their right to bargain collectively. The Governor's executive order did not interfere with the asserted right to strike, because the obligation imposed to render active service for the State in the capacity of militiamen was conditional upon, and effective only at the time of, the occurrence of the proposed strike.

Did the Governor's order impair the employee's lawful bargaining rights guaranteed by said act? The only possible effect upon the bargaining powers of the union and company representatives was to eliminate as a factor of their negotiations the threat of causing a public calamity by shutting down the operations. I have never heard of, nor can I conceive of any principle of law or justice which clothes any man or group of men with the right to insist upon inflicting such a hardship upon the great masses of

the people in order to achieve their own private purposes. The claim of such a right and that it is violated by being required to render military service to avert the threatened calamity carries with it a repudiation of the duties which both the officers and employees of the company, as citizens of Virginia, owe to their State and its government. As said by Mr. Chief Justice White in *Aver* v. *United States* (245 U. S., at p. 378), "It may not be doubted that the very conception of a just government and its duty to the citizen includes the reciprocal obligation of the citizen to render military service in time of need and the right to compel it."

Clearly neither the company not the union has a right to take advantage of its capacity to cause public misfortune by using same as a lever to force compliance by the other party with its demands.

Did the proposed taking over of the utility for operation and the use of its employees as members of the militia give the company an unfair advantage over the union in their bargaining negotiations in violation of said Federal act? Though statements have appeared in the press that the proposed action had this effect, past precedents would indicate the contrary. In the Montgomery Ward case, supra, it was the company which objected to Government seizure, not the union. Its members voluntarily went to work for the Army and operated Ward's stores. And the same has been true with respect to railroads, coal mines, and industrial plants seized by the President, and operated by the Government under his direction. The workers were not deprived of their employment and wages though the owners were divested of possession of their property. The argument that removal of the threat of public disaster was prejudicial to the union carries with it the implication that its members were less reluctant to inflict such hardships upon the people and were less patriotic and less loyal to their duties and obligations to the State than the officers of the company were. There is no evidence of the truth of any such implication. It is true that this is the only known case in which the workers and officers of a public utility have been called upon to serve as militiamen to avert a public catastrophe due to a strike or threatened strike, but it is also true that this is the only time that the utility employees have refused to work for the Government. When the Governor of New Jersey took over the operation of the gas utility a few days ago under similar circumstances, the employees voluntarily went to work for the State to keep the plant in operation. In that instance there was no necessity for the step which the Governor of Virginia was compelled to take to prevent a shut-down.

The Governor's action, therefore, did not impinge upon or impair any rights of collective bargaining guaranteed to the members of the union by the National Labor Relations Act.

V

Does the purpose for which the members of the militia were embodied, or the duties conditionally assigned to them to perform for the State the same work they had been accustomed to do in operating the utility, subject them to involuntary servitude in violation of the thirteenth amendment of the Constitution of the United States as has been asserted by some? The amendment, by its own terms, applies alike to both State and Federal Governments.

This question has been the subject of widespread judicial consideration in the last 2 or 3 years in which numerous conscientious objectors, who were drafted by the United States to perform work not related to combat service, such as cutting trees in the national forest, soil conservation, and the planting of trees in civilian camps, aids in mental and other hospitals, claimed they were forced into involuntary servitude without pay. A typical case is *Kramer* v. *United States* (147 Fed. (2) 756), in which the contention was emphatically rejected, and to which judgment the Supreme Court denied a writ of certiorari. Three hundred and twenty-fourth United States Reports, page 878. The principle is well established that the involuntary servitude prohibited by the Constitution is restricted to private relationships and does not embrace the imposition upon one of the duty to discharge the obligations of the citizen to his State or Nation which arise out of conditions which threaten the safety and security of the State and its people. Many of the cases so holding, decided by the various circuit courts of appeal, are cited in *Wolfe* v. *United States* (149 Fed. (2d) 393). *Aver* v. *United States*, supra, sustained the validity of the Selective Service Act of 1917. That act, to quote from the opinion, "while relieving from military service in the strict sense the members of religious sects as enumerated whose tenets excluded the moral right to engage in war, nevertheless subject such persons to the performance of service of a noncombatant character, to be defined by the President." It is clear from the decisions that there is no merit in the argument that the employees of the Virginia Electric & Power Co. would have been subjected to involuntary servitude in violation of the thirteenth amendment had a strike occurred and, as members of the Virginia Militia, they had been compelled to serve the State in maintaining the public service which the strike would otherwise have terminated.

It follows from the foregoing that I am of the opinion that the action of the Governor of Virginia in embodying the said members of the unorganized militia, and ordering them as militia members to perform the specified duties in connection with the operation by the Commonwealth of the plants of the said utility, was fully justified by the exigency of the occasion, and, under the circumstances, was a proper exercise of his powers as chief executive of the State and commander in chief of its land and naval forces.

Respectfully yours,

ABRAM P. STAPLES,
Attorney General.

PERSONNEL CEILING IN REFERENCE TO COMPENSATION OF GOVERNMENT EMPLOYEES

Mr. BYRD. Mr. President, I ask unanimous consent to have inserted in the body of the RECORD an explanation of the personnel ceiling which was adopted by the conferees on the part of the Senate and the conferees on the part of the House in relation to the last pay bill which was enacted into law.

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

MANDATORY REDUCTION IN EXCESS OF QUARTER MILLION

Reduction of more than a quarter of a million in classified Federal employment in the fiscal year beginning July 1 is mandatory under provisions of the 1946 Pay Act, which became law last week.

POSSIBLE WITHOUT IMPAIRMENT OF FUNCTIONS

Despite last-minute revisions in estimated War and Navy Department and Veterans' Administration requirements, evidence before the Senate-House conferees on the bill indicated clearly that this reduction could be accomplished without impairment of essential governmental functions if provisions of the law are efficiently administered in conformance with the intent of Congress.

UNDER QUARTERLY AND YEAR-END CEILINGS

Administration will be the responsibility of the Director of the Bureau of the Budget. The law spells out specific year-end and declining quarterly ceilings on over-all-total employment, and from the total force allowable under the ceilings the Budget Director must allot and from time to time reallot personnel quotas to the respective agencies based on relative needs and the prevailing policy.

FLEXIBILITY PROVIDES FOR ORDERLY PRUNING

This flexibility—under ceilings which are graduated downward over a full year—to be administered by the Presidential assistant best equipped to evaluate personnel requisitions in terms of administration program, represents a deliberate effort by Congress to force orderly pruning of the war-swollen pay roll without necessitating sudden death of any essential function, violence to competent personnel, or use of any meat-ax techniques.

HARDSHIP CASES WHOLLY OR PARTIALLY EXCEPTED

In its consideration of the statutory force-reduction mandate, Congress was aware that resistence to administration and enforcement was to be expected as a natural reaction of affected agencies and effort was made to anticipate cases in which appeal for relief might be justifiable. In view of the formative state of new programs, Veterans' Administration was excluded from all ceiling restrictions. War and Navy Department classified personnel was excluded from quarterly ceilings because the date of peak postwar requirements was uncertain, but drastic reduction is required of both on or before the year end.

TIME GIVEN FOR PROGRAM REVISION AND PERSONNEL EXAMINATION

As further concession to intelligently planned reduction and more efficient use of competent personnel, the law provides that the first quarterly ceiling will not be effective until October 1, giving a full quarter and more for revision of programs and examination of personnel. On that date, however, it is specified that total classified personnel in executive agencies, exclusive of Veterans' Administration and War and Navy Departments, shall not be greater than 528,975, and thereafter the legal ceiling drops to 501,771 on January 1 to 474,567 next April 1, and to 447,363 on and after July 1, 1947. In addition, the year-end ceilings will fall upon the War and Navy Departments, forcing War Department personnel down to 176,000 or less not later than July 1, 1947, and Navy Department to within 100,000 not later than the same date.

NET REDUCTION, 286,521

It is estimated that on June 30, 1946, total personnel (including Veterans' Administration) in categories covered by reduction terms of the law total 1,184,884.

Veterans' Administration employment on June 30, 1946, was estimated at 145,000.

Excluding Veterans' Administration employment, the total to which reductions will be applied is 1,039,884.

Under the reduction formula specified in the act, employment in the categories covered, exclusive of Veterans' Administration, on July 1, 1947, must not exceed 723,363.

Exclusive of Veterans' Administration personnel, this represents a reduction of 316,521.

Including 175,000 estimated Veterans' Administration employment July 1, 1947, total employment allowable under terms of the law on that date becomes 898,363.

Total July 1, 1947, employment of 898,363, compared with total employment (including Veterans' Administration), estimated to be 1,184,884 on June 30, 1946, leaves a net reduction of 286,521.

CEILINGS ARE MAXIMUM WITH VIOLATION PENALTIES

Believing it had been liberal with safety features, Congress specifically wrote into the law that the ceilings were to be regarded as maximum totals and that further reductions were expected whenever they are consistent with efficient and economic administration.

At the same time it was provided that the penalties of the antideficiency act are to be imposed on agency heads who allow ceiling violations. These penalties include fines, jail sentences, or dismissal.

PAY-RAISE COST ABSORBED BY REDUCTION IN FORCE

The primary purpose of the Pay Act was to increase classified personnel compensation at a rate ultimately fixed at 14 percent. It was estimated that the raise would increase the cost of Federal personal service by $321,000,000. The decision to write the reduction mandate into the law followed House adoption of an amendment by Representative E. M. DIRKSEN, of Illinois, designed to require that the increase in the cost of personal service should be absorbed by reduction in force. When it was found that technical obstructions made it difficult to accomplish the purpose of the amendment by curtailment of appropriations conferees on the bill adopted the ceiling procedure as recommended by the Joint Committee on Reduction of Nonessential Federal Expenditures.

WAGE BOARD EMPLOYMENT UNDER STUDY

The committee had recommended that ceilings be applied to all Federal personnel, both inside and outside continental United States. However, due to the nature of the pay-bill legislation, which applied principally to classified employees' compensation, application of the ceilings at this time will not embrace wage board or postal field service employees whose compensation is not affected by the law, except that wage-board personnel will be brought under quarterly ceilings largely for information purposes. Excluded also are legislative and judicial branch employees, as well as certain others employed outside the United States.

PERSONNEL LEGISLATION OVERHAUL OVERDUE

It was obvious from the study put on this bill that an overhaul of all personnel legislation, affecting not only the classified service but all other, including pay schedules, efficiency requirements, and retirement plans is overdue.

THE SURPLUS PROPERTY SITUATION

Mr. WILEY. Mr. President, from my own State and from all corners of our Nation, colleges and universities, together with veterans, have flooded Congress with complaints about the War Assets Administration's failure to properly handle the surplus-disposal program.

This failure has become a national scandal. I have pointed it out in factual and constructive presentations many times previously in the Senate. I have shown how, in particular, the WAA's disposal of surplus electronics and communications equipment has violated the law, the will and intent of Congress, because WAA has virtually completely ignored the anxious requests of priority claimants—schools and universities. In so doing, WAA has ignored the national defense needs of our country for equipment with which to train young scientists in our universities in this atomic age.

Today, I have written a letter to General Gregory of WAA. In it, I summarized the position which I have taken in my previous correspondence with him. I have weighed the serious charges which I make in this letter with the greatest of care and have found them completely justified by the terrible mess in the surplus program.

I ask unanimous consent that the text of my letter be reproduced in the RECORD at this point as a part of my remarks.

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

MAY 27, 1946.

Lt. Gen. E. B. GREGORY,
Administrator, War Assets Administration, Washington, D. C.

DEAR GENERAL: This will acknowledge receipt of your letter of May 23 adding further information to the reply of May 10 to my letter of May 4, concerning disposal of surplus electronic equipment to priority claimants.

My fundamental aim and purpose during our past interchange of letters on this subject has been to secure for veterans, educational institutions, and other priority holders a full recognition of their legislatively created preferences and a fair distribution of surplus electronic equipment to them.

THE LIE IN WAA'S ANSWER

In your letter of May 23 you make the statement that:

"I am advised that the 20 percent provision was incorporated in the form of agreement as an administrative direction to implement its operation and has enabled us to fill promptly, from the Washington office, all orders of priority claimants."

Those of your subordinates who have advised you that "all orders of priority claimants have been promptly filled" have told you a willful and deliberate falsehood, for all orders of priority claimants have not been filled, nor, if they were counted, would you find that more than 20 percent of them have been filled, either promptly or at all.

You are entitled to assume that those who advise you are honest, truthful, and competent, and I have not the slightest doubt that you have accepted in good faith and as true the lie which I have quoted from a letter to which you affixed your signature—again in good faith and by reason of your reliance on the integrity of your subordinates.

I will pass over the statements in your letter which contradict the quoted sentence in order to call your attention to a few facts which indicate that your faith in your advisers is sadly misplaced.

THE REASON FOR CONGRESS' INVESTIGATIONS

You are undoubtedly aware that there are several committees of the Congress, which have been and are now engaged in investigations of the administration of surplus-property disposal. Activities of these committees result from great numbers of complaints that have poured into the offices of Congressmen and Senators. The largest group of complaints is composed of those persons who claim to have been denied the benefits of preferences or priorities granted them by law.

To contend that these complaints are confined to Republican Congressmen and Senators would be ridiculous, because such a claim is disproved by the statements, and, what is more important, by the legislative actions of Democratic Congressmen and Senators.

Do you think, General, that the overworked gentlemen of the Congress would be adding the foregoing investigative efforts to their already over-crowded schedules, if orders of priority claimants of surplus electronic and other equipment had been filled, either promptly or belatedly?

THE FAILURE IN ELECTRONICS DISPOSAL

Attached to your letter of May 23, is a report for the month of April from your Priority Disposal Section of the Electronics Branch. I have no fault to find with the truth or accuracy of this report, but I desire to have a personal assurance from you, as to certain of its figures.

This report states that no sales were made to States during the month of April, and that only two sales were made to cities, and five sales to educational and public-health institutions during the above period. I would appreciate having your personal confirmation of the fact, if it is such, that the absence of any sale to any State was due to absence of orders, and that the above sales to the cities and institutions filled all pending orders, from these two classes of priority purchasers.

I have forwarded to you a letter recently received by me from a college in Texas. To this letter is attached a list of needed items of surplus electronic equipment, and in the letter is a lengthy recital of delays, obstacles, run-arounds, and failures encountered by this college in its struggle of the past months to obtain its required items. May I ask if this order has been promptly filled? I happen to know that it has not been. Moreover, there are unsatisfied orders of Wisconsin priority claimants for surplus electronic equipment of which I have rather full, definite, and personal knowledge. In this connection, I refer you to the order from the Appleton Vocational School for Adult Education.

And finally, General, may I recommend that you make a telephone call or a 10-minute visit to this priority-disposal section, which has "promptly filled all orders from priority claimants." You will secure enlightening information as to some 7,000 unfilled veterans' orders, and some 500 unfilled orders from educational institutions, States, cities, and other priority purchasers. I commend the call or the visit to your early consideration.

WHO IS RESPONSIBLE FOR DECEPTION?

The falsehood I have quoted from your letter of May 23 is a stupid and clumsy attempt by some of your subordinates to perpetrate a deception, and to evade their responsibility to you and to the American people to whom they owe the duty of discharging the public trust which they have failed to perform.

Statements which are false in part, are, in law and human experience most aptly to be considered wholly untrue, for as the great Sir Francis Bacon remarked: "Truth of being and knowing are one."

Knowing, therefore, that a deliberate lie has been stated regarding the most essential question involved in our correspondence, regrettably I am compelled to consider every other statement of your letter of May 23 in the same low light.

The inescapable inference to be drawn from the subject matter of your letter of May 23 is that it was prepared in large part by executives who are in close contact with your electronics branch. I am informed that Messrs. Gustav Schwarz, R. C. McCurdy, and John M. Wilkins occupy positions of responsibility which would involve the preparation of your letter of May 23 or its factual materials, or the review or approval of its contents prior to the addition of your signature.

Within the realm of motives, actions, personal interests, and allegiances of these individuals, there may exist the causes of grievances of which I have repeatedly written to you.

If these men had no share in the preparation, review, or approval of the falsehood contained in your letter, then, those who are guilty should be identified, and the truth ascertained. If the truth is not forthcoming, the Congress will be well advised to use its appropriate powers to secure the same.

CONCLUSIONS

I should like to summarize my position as follows:

1. The particular statement advised by your subordinates in your letter of May 23, and which I have quoted to you, is a lie.

2. The whole system for disposal of surplus electronic equipment to priority claimants, particularly to educational institutions, is scandalous and reeks with fouler odors than came from Teapot Dome.

3. The subordinates who advised you in preparation of this letter apparently intentionally worked a fraud upon you and upon the American public in order to cover up their own apparent dereliction of duty and possibly to serve private interests to whom they owe a great allegiance by reason of their occupancy of their office.

4. All attempts to place the administration of the surplus electronics equipment program on an honorable, truthful, and efficient basis are doomed to failure so long as the administration of this program is committed to the hands of men who either lack those necessary qualities or are unwilling to apply such principles of truth, honor, and efficiency.

5. The tactics applied by these administrators in your agency in serving their own private and selfish interests has resulted in such a failure in the surplus electronic program as to make one wonder whether the letters WAA do not stand for "Working Against America" Agency or "Wasting America's Assets" Agency.

I say this particularly in view of the national defense needs of our country for training young scientists in colleges, which needs have been shamelessly ignored by your officials.

6. Congress would do well to pursue its investigation of this whole rotten mess and I believe that you might personally look into it at your earliest convenience.

The interests of America demand that there shall be a thorough house cleaning of those personnel and those practices which have violated the law and the will of our people in this matter. The whole surplus disposal program and that of electronics equipment in particular, must be established on an honorable, truthful and efficient basis.

Sincerely yours,

ALEXANDER WILEY.

SETTLEMENT OF INDUSTRIAL DISPUTES AFFECTING THE NATIONAL ECONOMY

The Senate resumed consideration of the bill (H. R. 6578) to provide on a temporary basis during the present period of emergency, for the prompt settlement of industrial disputes vitally affecting the national economy in the transition from war to peace.

Mr. DOWNEY. Mr. President, like every other Member of Congress who has been in Washington for 5 or 10 or 15 years or more, I have had a vast variety of amazing experiences, for the world has been deluged by great and startling events as never before. But I had no trouble adapting my own state of mind to what was happening. I was startled and amazed on that Sunday when the radio informed us that the Japanese had bombed Pearl Harbor. I have been startled and amazed many other times in the last 10 years. But I had no trouble in bringing my intellect to an understanding of what was happening.

I must admit, however, Mr. President, as I have heard here seriously debated the most dictatorial and harsh law of which human mind can conceive, that I am like a person in a dream. I cannot have a sense of reality that our President has proposed such a law, and in a wild hysteria of excitement, abandoning all consideration, in an hour or two the House of Representatives placed its approval upon it.

Mr. President, I doubt if anyone can point to a single act by Mussolini or by Hitler before their war began, but when they were dictators, as extreme as this proposal.

Oh, I wonder not that our majority leader was unwilling to let his intellect go down the course of this proposal, and how it may work out if it is passed, implemented, and used. I was not amazed when he refused to go along with the discussion and consideration suggested by the Senator from West Virginia [Mr. REVERCOMB] when that Senator was asking him about the court martials and the punishments which might arise under the proposed law.

No one can deny that if we once enact this bill we will have given to the President and to the Army the power to shoot a man, after summary trial, in 24 hours, if the worker, under this bill, refuses to obey the call of the President and says, "I am unwilling to work in the coal mines under existing conditions."

Perhaps some of my colleagues may think the present strike should not take place, perhaps they think the workers are not entitled to health insurance and hospitals, perhaps they think they should work for present wages and not demand more, but are they willing to take the next step and say, "You either obey our demand and work at whatever wages we say, or your employers say, or the President says, or you will be drafted into the Army, you will be dragged out of your homes, you will be taken away from your wives and children and formed into labor battalions and sent to labor under the conditions imposed under this law, and if you refuse, you will be subject to such punishment as a court martial may assess—perhaps long imprisonment or even death itself."

I doubt that any Senator wants that kind of a law in free America. Does any Senator doubt this measure, if enacted, would be just that kind of a law?

Well, what does this law mean unless it means to bring into power the summary action of the court martial, and say to the recalcitrant worker who will not obey his Army superior, "You then shall be confined," or "You shall be shot by a firing squad." Mr. President, I do not wonder that the tender heart of our majority leader would not let his intellect consider the possible working of this measure.

Senators and other men have said to me, "We never expect this law to be used," or as one of our most distinguished Members assumes the mere enactment of it will be such a threat against workers that they will surrender their rights and against their will go back to work. I say, Mr. President, that any Senator who is voting for this proposal upon the assumption that it will never be used is indeed a naive individual, and treading upon the quicksands.

Dare we scrutinize and weigh the proposed law, and accept it or reject it except upon the assumption it will be used? Now I ask my colleagues to consider with me, and I hope calmly and fairly, the road the majority leader was unwilling to follow in his colloquy with certain Senators on the other side of the aisle when they were interrogating him on the possible effects of this measure.

Mr. OVERTON. Mr. President, will the Senator from California yield?

Mr. DOWNEY. I yield.

Mr. OVERTON. Assuming the able Senator indicates autocratic power and dictatorship, does he think it preferable to be put under the dictatorship of the President of the United States or of the Lewises, and the Whitneys, and the Johnstons? If the Senator says that some miner may be drafted, or some railroad employee may be drafted, and might be shot under court-martial law, what comparison is there between that and the death of thousands upon thousands in this land as the result of a continuance of the railroad strike or the continuance of the mine strike?

Mr. DOWNEY. Mr. President, I intend later in my address to cover fully the issue just raised by my beloved friend, the distinguished Senator from Louisiana. It may be that we have reached a condition in this Nation of complication and confusion in which perhaps a dictatorship will come. If so, then let us face it frankly and say that free government and free enterprise have finally died in the United States. But I am not willing to admit that. I, for one, am not going to open wide the door to any harsh, cruel dictatorship without at least safeguarding human rights as much as can be done. When I help to create dictatorial powers I want to do it intelligently, and I want to do it for everyone, including all the Members of this body and every other member of society. If dictatorship is coming, let us make the dictatorship universal, not applicable to union workers alone.

Mr. President, let us assume that the proposed law goes into effect and the coal miners say, "We will not return to work," and assume a proclamation is issued and those men are drafted, as far as law can draft them, into the Army of the United States. What does the President intend to do? Has he thought his way through? Perhaps he has, but if he has, we do not know it. Will he take those men out of their homes, or will he allow them to continue to live with their wives and children? Will he form them into labor battalions? Will he have them under control of Army officers? Will he place them in cantonments? None of us knows the intentions of the President.

Then, Mr. President, suppose that the spirit of Patrick Henry is still alive in America and some of those men say, "I will not go down into the coal mines against my will; I will not labor under existing conditions. I am going to assert my right as a free-born American citizen and to refuse to work when I do not think I am fairly dealt with."

Mr. President, I am speculating, perhaps I am all wrong, but I think that the great majority would sit in their homes, if they had refused to return, and after they had been drafted into the Army, and they would refuse to work.

Now, Mr. President, I ask this body, are Senators really prepared to be dictators? Are they prepared to go into the homes of those miners and drag them out, court martial them, and confine them in concentration camps, and shoot them? I say that unless they are, they have not the stuff dictators require, because that is just the meaning of the proposed law, if it is ever put to the test.

Mr. REVERCOMB. Mr. President, will the Senator from California yield?

Mr. DOWNEY. I yield.

Mr. REVERCOMB. Does the able Senator agree with me that one of the great dangers of the bill is even vesting in any individual the power that is attempted to be vested in the Chief Executive over citizens and workers of this country?

Mr. DOWNEY. I heartily agree, and I thank the Senator for that statement.

I have a deep affection for President Truman. I think he has been one of the most patient and most kindly of men. But I would not entrust this power of life and death over employers, and heads of labor organizations and the workers themselves to any man.

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

Mr. DOWNEY. I yield.

Mr. WHEELER. Even if the men were put back into the mines, how are they to be made to work after they are put back in the mines? I agree with what the Senator has to say about President Truman. I think he has been most patient. I think it is unfortunate that some of the labor leaders have gone as far as they have. But, frankly, I see no excuse for putting into effect a draft. I might say that there were six members of the committee who voted to strike out the draft feature. Frankly, I think it is going to lead to worse labor troubles in this country than anything else that has happended, and I, myself, hope that that provision will be stricken out of the bill.

Mr. DOWNEY. I thank the Senator for that statement.

Mr. President, let me say that if such a law goes into effect and the men refuse to go to work there are, of course, two alternatives. I have already discussed the less optimistic one, and that is that the men would refuse to work and subject themselves to court martial and punishment. But now suppose the men do go back to work under the prod of a bayonet, hating and despising our Government and us.

What will happen? How efficient will workers be. How much sabotage and waste will there be? What will happen to the cost of living and to American industry generally? Do Senators think that this great productive system of ours which, under free enterprise of employer and employee has produced so miraculously, will continue to do so? Why, sabotage and waste and destruction would be inevitable. You just cannot hope, Mr. President, to run coal mines or railroads successfully by men torn out of their homes by the power of the Army and forced into involuntary servitude.

Well, thanks be to God, the railroad strike ended before this proposal was made, before it could be passed and put into effect. That was well, if I know something about the railroad workers of America. To me they are one of the finest body of men I have ever known, living, many of them, in the small towns of America. But if you think that you could draft them into the Army and make them serve as soldiers, with all of the harassment and humiliation, and not have the railroads break down, then you are still optimists, even though we are now in most unhappy difficulties.

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

Mr. DOWNEY. I yield.

Mr. MORSE. Is the Senator from California aware of the fact that before noon on Saturday the White House knew that the railroad workers were willing to go back on the basis of the report of the President's own Emergency Board?

Mr. DOWNEY. Mr. President, I do not know that, but I assume that may be true.

Mr. MORSE. I tell the Senator from California that is a fact. Does the Senator from California know that when the President of the United States spoke Saturday afternoon at 4 o'clock he did not tell the American people that fact?

Mr. DOWNEY. Mr. President, the President did announce in the course of his radio speech, I think at about 4:10, that the strike had been settled.

Mr. MORSE. May I say that I think that that was one of the cheapest exhibitions of ham acting I have ever seen, because he knew full well, before he went to the rostrum, what the position of the American railroad workers was.

[Manifestations of applause in the galleries.]

The PRESIDING OFFICER (Mr. HUFFMAN in the chair). The occupants of the galleries will refrain from demonstrations. They are here as guests of the Senate.

The Senator from California will proceed.

Mr. DOWNEY. Mr. President, I should like to say——

Mr. OVERTON. Mr. President, will the Senator yield for one moment?

Mr. DOWNEY. Yes; I yield.

Mr. OVERTON. May I ask the Senator this question? Suppose it were necessary suddenly for the United States to build up a tremendous navy, much larger than it is now, would not the Congress of the United States have the authority to draft every shipwright in the country, regardless of age, in order to accomplish that purpose?

Mr. DOWNEY. Mr. President, I certainly answer that in the affirmative under the present laws and conditions existing. I am not discussing whether this law is constitutional or unconstitutional. For my argument I am assuming its constitutionality. I might say to the distinguished Senator from Louisiana that the Senator from New Jersey [Mr. SMITH], as I understand him—and I apologize if I did not hear him correctly—wants this law broadened. The Senator said in effect: "Why draft the coal miners alone? Why not go out into the highways and byways and draft other people and make them work in the coal mines?" And let me say this. Assuming this law is constitutional—and I do not say it is not; I am not expressing that opinion—you could draft anybody in America for any kind of work upon the same assumption.

Mr. OVERTON. It depends, may I say to the Senator, upon the urgent necessity. Now suppose it was absolutely necessary that we build up promptly a tremendous navy; suppose shipwrights who were capable of working were unwilling to work; that they did not like the wages or were engaged in other pursuits which they liked better; would not the necessity justify the induction of every shipwright?

Mr. DOWNEY. Let us consider how wide this door would open for future drafts of our people by the Federal Government. Out in California presently, as in many other places in the United States, the cost of feed is so high that dairymen cannot make any profit. Dairymen are selling off their herds as a consequence and looking ahead to the 1st of January. We are going to be very short in California of dairy products. Very well. Now assume the President believed that in order to get food to people we had to have the same kind of a law applied to the farmers. Clearly, under the principle of this bill we could say to the farmers, "You farmers hold essential instrumentalities of the Nation to feed our people. You are not willing to carry on your dairy work, your excuse being that you cannot make any money. We are going to take over your farms, and we are going to draft you into the Army, and you are going to run those farms as soldiers."

I say, Mr. President, again, that the passage of this law would open wide the way for a complete national dictatorship of workers, employers, farmers, and everyone else.

Mr. HATCH. Mr. President, will the Senator yield to me to interrupt him for a moment?

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

Mr. HATCH. I want to refer to the episode which occurred a moment ago.

Mr. OVERTON. I should like to follow out my thought.

Mr. HATCH. Will the Senator yield to me for a moment so I may refer to the episode?

Mr. DOWNEY. Let me yield first to the Senator from Louisiana.

Mr. McFARLAND. Mr. President, will the Senator kindly yield for the purpose indicated by the Senator from New Mexico? It is something that ought to be taken up.

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

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

Mr. DOWNEY. I yield on condition that I do not lose the floor.

The PRESIDING OFFICER. The Senator from California yields to the Senator from New Mexico.

Mr. HATCH. Mr. President, I realize that we are operating under more or less strained conditions; that the Senate of the United States and Senators are more or less stirred. We have had in our laps legislation for a few days and weeks which is straining our nerves and which is likely to excite us to say and do things which we otherwise would not do. But I am also reminded, Mr. President, that the President of the United States has been confronted with a situation a hundred times worse than that which has confronted any Senator. Upon his shoulders has rested the responsibility for guiding this Nation through most perilous waters.

I have no information as to what was told the President of the United States

before 12 o'clock on Saturday. I am not informed that the railroad workers had offered to go back to work upon the terms afterward accepted. In fact my information is to the contrary and that any offers which had been made were conditional and did not constitute a full acceptance. I do not know when the word first reached the President of the United States that the offer had been accepted, but I do know that the President of the United States did tell us in the joint session, and did tell the Nation, that the offer had been accepted, and I know it was a simple, matter-of-fact statement, coming from one of the most earnest, one of the most sincere, one of the most patriotic men in this Nation, the President of the United States. And I do not think any Senator—I care not what his party affiliation—has the right in these times to stand here on the floor and refer to the President of the United States as a ham actor.

Mr. MORSE. Mr. President——

Mr. HATCH. Mr. President, I think every Senator ought to rise and resent that statement. He is the President of the United States. I ask unanimous consent that those words be stricken from the RECORD.

Mr. MORSE. Mr. President——

The PRESIDING OFFICER. Without objection——

Mr. MORSE. Mr. President, I am asking for the floor. I will repeat those words if necessary, to put the facts in the RECORD.

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Oregon?

Mr. DOWNEY. No; I am not willing to yield at this time.

Mr. MORSE. Will the Senator yield to me for the purpose of answering the Senator from New Mexico?

Mr. DOWNEY. I will say to the distinguished Senator that I am not willing to prolong any conversation of that kind in my time. There will be ample time for Senators to discuss that question when I am through.

Mr. AIKEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. AIKEN. Is it the order of the Presiding Officer that those words be stricken from the RECORD, without permitting the Senator from Oregon to say anything more?

The PRESIDING OFFICER. No; in view of the fact that the Senator from Oregon rose at that moment to object, the words are not stricken.

Mr. DOWNEY. Mr. President, at this point I wish to make my position clear to the distinguished Senator from Louisiana [Mr. OVERTON] and to other Senators.

I freely acknowledge and realize, on my part, that we, the people of the United States, are now confronted by many alarming crises of various kinds, and that how they should be resolved, or how they can be resolved, present most difficult questions.

At the end of 150 years of development we have created an economic and farm machine of such abundance and fertility that it is almost beyond the ability of the human mind to conceive it. But in doing so we have likewise created an intricate web of business, commerce, and industry. Injury to any important part of that web may completely destroy that entire economy.

Mr. President, I do not underestimate the seriousness of the situation which confronts us. I know what Senators and Representatives are thinking. We have now developed an economic system and a labor picture in the United States by virtue of which a few laboring men in ten or fifteen industries have the power, if they wish to use it unreasonably and are not checked, to destroy the whole economy. There is no doubt of that. If the railroads stop operations, under the rule of the chiefs of the workers, or if the steel industry ceases operations, or if the automobile industry, or many other businesses in the United States, cease to operate, a disintegration and demoralization which could almost destroy the Government in 90 days or 6 months may set in. So I say to the Senator from Louisiana that I do not differ from him when he asserts that aggressive measures are necessary to save our very Government.

I will go further than the Senator from Louisiana has gone. For 3 or 4 years I have watched with increasing worry the advancement of communistic influence in certain of our labor groups. I have watched some of the leaders, whom I personally know to be communistically inclined, become more truculent and belligerent in their attitude toward Congress and toward this Nation.

Why do I particularly refer to that group, Mr. President? Because that group openly espouses the Marxian theory. What is the Marxian theory? To me it is a cruel philosophy, because it appeals to the baser instincts of humankind by preaching the philosophy that we must have a dictatorship. That that dictatorship must be achieved by violent and bloody revolution. That a few masters must ruthlessly rule the many.

Why does that worry me? Because I say that the very things which are happening in the United States today are fuel for controversy, hate, bitterness, revolution, and some kind of dictatorship. Labor leaders who believe in communism could hope for no apter law than this. It is perfectly adapted to their philosophy of dictatorship.

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

Mr. DOWNEY. I shall be glad to yield in just a moment.

So it becomes the policy of men who want revolution to advance destructive ideas and methods only for the purpose of creating disorder in the Nation.

I now yield to the Senator from Wyoming.

Mr. O'MAHONEY. I rise to clarify a statement which the Senator has just made. One listening to his statement, or reading it in the RECORD, might draw the conclusion that it is his opinion that in the United States there is a ruling class. The Senator correctly described the Marxian theory as announced in Europe and as adopted in Russia, for the liquidation of a ruling class which did exist in Russia. But does not the Senator agree with me that to this hour there has not yet developed in the United States a ruling class in the sense in which Karl Marx used the phrase? In the United States we have been endeavoring to preserve a free government by the support of all classes.

Mr. DOWNEY. Mr. President, I have no desire to enter into a discussion of whether there is a ruling class in the United States, or to what extent the communistic leaders may think there is, and mark out certain persons as members of the ruling class. I am certainly entirely in harmony with the general philosophy of the Senator from Wyoming. But so far we, the people of the United States, have been an island in the almost endless flow of time that alone has preserved freedom and independence for its people. There is certainly no ruling class here in any invidious sense. Men may pass freely from one stratum to another. There is not, except in isolated cases, injustice. On the whole, our political philosophy has worked well, although there are some unhappy exceptions. I hope they will soon be remedied. I am very glad indeed to accept the statement of the distinguished Senator from Wyoming as my own.

Yes, Mr. President, we do have this communistic philosophy impregnating certain of our leaders and certain of our unions. I do not mean to say that many of our unions are under its dominion and control, but some of them are to a greater or less extent, and I believe that these communistic advocates see the labor movements as a means of advancing their philosophy.

Mr. President, I take the position that no body of men, either employers or employees, should be gifted with such power over any great industry that they can destroy it overnight. In order that my position may be abundantly clear, let me say that in 1928 and 1929 the employers operating our big industries just as effectively shut those industries down as the workers could have done by striking. I cannot say that they did it purposely. I doubt if they knew what they were doing. But history clearly reveals that the depression of 1929 came because the owners of our great industries diverted into profits and corporate savings such tremendous sums of money that they could not be used in building more factories or other proper investments. Those tremendous sums stagnated or were drawn into the speculative stock market to such an extent that they stagnated equal amounts of wealth. In the first 6 months of 1929 our inventories increased $6,000,000,000, and the stagnant savings of the Nation increased by the same amount. There was plenty of money in the Nation to take the goods off the market place. There were plenty of people wanting those goods; but the people who wanted the goods did not have the money. Too much had been diverted away from wages and salaries into profits and corporate reserves, and the terrible depression which involved 15,000,000 men unemployed finally came upon us.

Mr. President, looking ahead 5 or 10 years, we are confronted with the same possibility of excessive capital and insufficient mass purchasing power.

Let me point out to the Senate why I think we are entering an era, during the next 6 months, year, or 18 months, fraught with tremendous danger to this Nation. It is thought by many people that the cost of living will rise from 15 to 30 percent before January 1st of next year. I ask, What is going to happen in the Nation if that occurs? Are we going to be able to stop strikes, hate, bitterness, and slow-downs if it should occur? Do you think the drafting of workers will be sufficient to do it?

As chairman of the Committee on Civil Service, for many months I engaged in an examination of budgets of workers in Washington, and talked with many workers personally. I was left with the firm impression that from 75 to 80 percent of our people were living on the ragged edge of insolvency and desperation.

I wish to assert that if the inflation that many of us talk about so easily—an inflation of 15 or 25 or 30 or 50 percent—comes, we may expect anything in this Nation, because people will not easily and quietly starve or go unclothed.

Mr. President, figure it for yourself. Eighty percent of our people receive $125, $150, or $175 a month—less than $200 a month. The average wage now paid in the steel companies is the highest average wage paid in the United States—a little over $200 a month if a man is employed and is not sick and is working at his job. A worker in a city must give up, if he has two or three or four members of his family, at least $100 a month for food and $50 or $60 a month for his rent or his home. He has to pay his income tax and his social-security exactions and his transportation; and most men with families, working at $175 or $200 a month or less, are in such straitened circumstances that an extra dental bill or medical bill or sickness is a calamity and a tragedy.

I sometimes think that we in the governing power here do not have the imaginative conception that we should have for people struggling to live on such incomes. Perhaps this kind of a law, if it is passed, will cause people to continue to work, even though the inflation takes $25 or $50 or $75 a month more out of their incomes. But I have my doubts.

So, Mr. President, let me say that I agree that difficult and controversial days and years lie ahead. I agree that we have created in this country a condition in which leaders of either the employers or the employees may wreck the economy. But I do not believe we are going to cure evils by saying, "Whenever these arguments arise, we will put a bayonet back of a man, and he will work at the amount that the Government or the President or his employer tells him, if he is in a vital industry."

I think dignity is almost the finest possession of the human heart. We in America have, as I see it, a great and a splendid body of workmen. During the recent war, with the youngest and most vigorous absent from the factories and the fields, in war goods we outproduced all the dictatorial and other nations of the world. I have had a good deal to do with these laboring men; and, Mr. President, I tell you that they have one horror in their hearts: First and foremost in their minds is a deadly fear that some day they will be drafted into labor battalions or into the Army and forced to work as soldiers.

I have not read my mail today and I have not talked to any labor leaders, but I know enough of the American workman, be he CIO or A. F. of L. or railroad brotherhood or anything else, to know that there is a hate and a bitterness in his heart against labor drafting beyond what I can describe. When we place upon the statute books a law that says that, "Under certain conditions, in these great industries, if you do not do what the President of the United States says, you will be drafted into the Army and made to work as a soldier in a labor battalion," we shall have stricken the American workers to their hearts. The mere passage of this law will, in my opinion, create a wave of controversy and hate from the men in this Nation who do the work, who make our shoes and clothing and bring us our milk and food and transport us and light and heat us.

Mr. President, by methods such as here proposed we could start slow downs and strikes and sabotage in America to an extent that would ruin our economy in 6 months or in a year. I do not believe that the pathway to peace and plenty for us lies along the road of this dictatorial bill by which a man may be shot to death in 24 hours if he does not return to his employment under what he considers unfair conditions.

Mr. President, before I sit down—and I shall do so very soon—I should like to strike a note of optimism and hope in this rather fateful, unhappy day. We are at the end of 150 years of development in America. One hundred and fifty years ago there were only two or three or four million people inhabiting a scanty area along the Atlantic coast. From the Alleghenies westward to the Pacific there was an unbroken wilderness inhabited only by the red men and the wild animals upon which they lived. From the American wilderness by ingenuity and toil and thrift and saving and effort we have made a veritable paradise out of America, whenever we want to properly use it.

Mr. President, if we could only have 2 years of peace and tranquillity, without these bitter, hateful controversies, to get our farms and our machines and our factories and our railroads again in full production, at last, for the first time in all history, we could give to every man, woman, and child in the United States a full and decent living, and we could go on from there to build here in the United States a nobler Nation for a nobler people.

But, Mr. President, how are we going to get that 2 years of peace in which to "get back to normalcy," to use that expression? I think one of the things we ought to do, before we ever vote for a bill by which we would tell a man that he might be court-martialed and shot or imprisoned if he did not work against his will, before we go into open dictatorship, would be to see whether by free and open hearings we may do something.

It may be that already today the coal strike is in process of settlement. I have heard that Mr. Krug and Mr. Lewis are very close to a settlement. But if they are not, if they have not reached a settlement, I, for one, before I vote this penalty against coal miners, would like to know something about this dispute. I do not know very much about it. I know that coal miners do probably the most disagreeable and dangerous work in the Nation. I know they live in rather miserable communities. I know they have not had proper medical and dental attention. I know that the amount of money they receive is barely sufficient to keep body and soul together. I should like to know just what all the dispute is about. I should like to know how much profits are being made by the coal mines. I am not saying those profits are exorbitant. I am not saying that men should not make profits. But if the President does not succeed in making a settlement—and I hope he will, and I believe he will—I should like to see whether there is not some way that the leaders in Congress could have some sort of public hearing which might extend over a month; and upon the intercession of Congress, and if Mr. Lewis knew there was to be a full and frank revelation of all the facts, I have no doubt he could be prevailed upon to accept a law by Congress which would continue operations for 30 days under the Smith-Connally Act. Yes, Mr. President, I think many things should be attempted before we force a military dictatorship upon the Nation.

Mr. President, approximately 10 years ago I said that I believed that the coming decades would test the strength of democracy to its enduring limit. I believe that more today than I ever did before. I believe that this is only one of the many crises which we shall have to confront within the next 5, 10, or 20 years. Mr. President, the coming of atomic energy alone, which will probably be within 10 or 20 years, may rend the fabric of every law and every economy which we now have. There are plenty of pitfalls and difficulties which clearly lie ahead.

Mr. President, while this may not be entirely apropos of the pending question, I should like to say to the Senate, and particularly to the distinguished Senator from Virginia, because he is a member of the Civil Service Committee, that today I am submitting a concurrent resolution to appoint a joint committee to be composed of members of the Civil Service Committees of the two Houses, to make a study of the Federal pay roll. The Government is the greatest employer of labor in the United States. In the bill which was recently passed by Congress, and in the one which was passed last July, we dealt with many intricate and involved propositions. The very great ability and learning of the distinguished Senator from Virginia was of great help in working out what I considered to be a very fine bill.

On that committee, Mr. President, we would have a well-balanced group of men who differ in their ideologies and social outlooks. I believe that those men, by checking against and working with each other, might work out very useful plans and data, and a program

for the solution of the problems in connection with the Federal pay roll.

I have some hope that if we were to undertake that work, Mr. President, by our hearings and investigations we might, perhaps, be able to set a model or an example for the entire Nation. I believe that if there can be a free and candid examination of this question in the Halls of Congress, with a clear understanding that wages must be based upon production, or otherwise inflation may take place, and with a clear realization on the part of the workers that they will have as quick an increase in compensation as possible, I believe that much might be accomplished.

Mr. President, I am unhappy that in opposing this bill I find myself in opposition to my President, and to my beloved and distinguished majority leader whom I am nearly always able to follow. I hope the distinguished majority leader himself may be converted to the belief that section 7 of the bill should be expunged. I understand that another distinguished Senator is prepared to offer an amendment in that connection, and when he does so it will have my fervent support.

Mr. President, in conclusion I assert that I, for one, am not willing to aid in the promotion of a dictatorship. I hope that, as we go forward with our consideration of the pending bill, the Senate, the President, and, our majority leader, may come to an agreement with some of the rest of us that the bill is not a proper and workable one and should be withdrawn.

Mr. WILEY. Mr. President, I wish to ask the majority leader one question, if I may have his attention.

Under consideration today is a bill which has been suggested by the President of the United States. I understand that between 800 and 900 notices of strikes have been served under the law. I also understand that the maritime workers have definitely stated, through their leaders, that they will go on strike within a few days. I have also understood that the purpose of the pending bill is to meet a great national crisis. The question which I wish to propound to the able majority leader is this: Are there other factors or facts involved in the present national crisis of which we should be made aware? Is there something in the picture which we should know about, but which we do not now know?

Mr. BARKLEY. Mr. President, if there is anything in the picture which is not known to the public generally, I am not aware of it. I mean that I have no secret information with respect to any impending matter which is not included in what the Senator has referred to, namely, the issuance of eight or nine hundred notices of strikes which are about to occur, and the maritime strike which is set for the 15th of June. I have no information concerning any set of facts which either the President or any one in his executive family, or any Member of the Senate, including myself, has withheld or is withholding from the Senate or from the public.

Mr. WILEY. Is there anything in the international picture which ties up with the internal picture and makes necessary the proposed legislation?

Mr. BARKLEY. Of course, every Senator, as well as every other citizen of the country, might draw his own conclusions as to what may be the effect of the present situation on the international situation. The creation of a crisis within the United States which affects not only the welfare, health, and life of the people, but also the power and authority of our own Government to deal with it, would undoubtedly have an effect on the international situation. It would undoubtedly create the impression on the part of other nations that if we cannot act adequately to deal with an internal situation which challenges our Government, we might not be able to deal adequately with an international situation which challenged the authority of our Government. That does not resolve itself around any particular domestic incident or episode. But certainly, if other nations should feel that the United States was without authority or power to deal with its own domestic problems, they would naturally question its power to deal in a broader field.

Mr. WILEY. Then, it is the judgment of the majority leader that by the proposed legislation we are to give to the President discretionary and exceptional power in order that he may meet the present grave emergency. The proposal does not necessarily mean that the President will exercise such power, but that he may exercise it if, in his judgment, he deems it necessary to do so.

Mr. BARKLEY. Precisely.

ACQUISITION OF STOCKS OF STRATEGIC AND CRITICAL MATERIALS

The PRESIDING OFFICER (Mr. GEORGE in the chair) laid before the Senate the amendment of the House of Representatives to (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, which was to strike out all after the enacting clause and insert:

That the act of June 7, 1939 (53 Stat. 811), as amended, is hereby amended to read as follows:

"That the natural resources of the United States in certain strategic and critical materials being deficient or insufficiently developed to supply the industrial, military, and naval needs of the country for common defense, it is the policy of the Congress and the purpose and intent of this act to provide for the acquisition and retention of stocks of these materials and to encourage the conservation and development of sources of these materials within the United States, and thereby decrease and prevent wherever possible a dangerous and costly dependence of the United States upon foreign nations for supplies of these materials in times of national emergency.

"SEC. 2. (a) To effectuate the policy set forth in section 1 hereof the Secretary of War, the Secretary of the Navy, and the Secretary of the Interior, acting jointly through the agency of the Army and Navy Munitions Board, are hereby authorized and directed to determine, from time to time, which materials are strategic and critical under the provisions of this act and to determine, from time to time, the quality and quantities of such materials which shall be stock piled under the provisions of this act. In determining the materials which are strategic and critical and the quality and quantities of same to be acquired the Secretaries of State, Treasury, and Commerce shall each designate representatives to cooperate with the Secretary of War, the Secretary of the Navy, and the Secretary of the Interior in carrying out the provisions of this act.

"(b) To the fullest extent practicable the Secretary of War, the Secretary of the Navy, and the Secretary of the Interior, acting jointly, shall appoint industry advisory committees selected from the industries concerned with the materials to be stock piled. It shall be the general function of the industry advisory committees to advise with the Secretary of War, the Secretary of the Navy, and the Secretary of the Interior and with any agencies through which they may exercise any of their functions under this act with respect to the purchase, sale, care, and handling of such materials. Members of the industry advisory committees shall receive a per diem allowance of not to exceed $10 for each day spent at conferences held upon the call of the Secretary of War, the Secretary of the Navy, and the Secretary of the Interior, plus necessary traveling and other expenses while so engaged.

"SEC. 3. The Secretary of War and the Secretary of the Navy shall direct the Secretary of the Treasury, through the medium of the Procurement Division of his Department, to—

"(a) make purchases of strategic and critical materials pursuant to the determinations as provided in section 2 hereof which purchases (1) shall be made, so far as is practicable, from supplies of materials in excess of the current industrial demand and (2) shall be made in accordance with title III of the act of March 3, 1933 (47 Stat. 1520), but a reasonable time (not to exceed 1 year) shall be allowed for production and delivery from domestic sources and in the case of any such material available in the United States but which has not been developed commercially, the Secretary of War and the Secretary of the Navy may, if they find that the production of such material is economically feasible, direct the purchase of such material without requiring the vendor to give bond;

"(b) provide for the storage, security, and maintenance of strategic and critical materials for stock-piling purposes on military and naval reservations or other locations approved by the Secretary of War and the Secretary of the Navy;

"(c) provide through normal commercial channels for the refining or processing of any materials acquired or transferred under this act when the Secretary of War and the Secretary of the Navy deem such action necessary to convert such materials into a form best suitable for stock piling, and such materials may be refined, processed, or otherwise beneficiated either before or after their transfer from the owning agency;

"(d) provide for the rotation of any strategic and critical materials constituting a part of the stock pile where necessary to prevent deterioration by replacement of acquired stocks with equivalent quantities of substantially the same material with the approval of the Secretary of War and the Secretary of the Navy;

"(e) dispose of any materials held pursuant to this act which are no longer needed because of any revised determination made pursuant to section 2 of this act, as hereinafter provided;

"No such disposition shall be made until 6 months after publication in the Federal Register and transmission of a notice of the proposed disposition to the Congress and to the Military Affairs Committee of each House thereof. Such notice shall state the reasons for such revised determination, the amounts of the materials proposed to be released, the

plan of disposition proposed to be followed, and the date upon which the material is to become available for sale or transfer. The plan and date of disposition shall be fixed with due regard to the protection of the United States against avoidable loss on the sale or transfer of the material to be released and the protection of producers, processors, and consumers against avoidable disruption of their usual markets: *Provided*, That no material constituting a part of the stock piles may be disposed of without the express approval of the Congress except where the revised determination is by reason of obsolescence of that material for use in time of war. For the purposes of this paragraph a revised determination is by reason of obsolescence if such determination is on account of (1) deterioration, (2) development or discovery of a new or better material or materials, or (3) no further usefulness for use in time of war.

"SEC. 4. The Secretary of War and the Secretary of the Navy shall submit to the Congress, not later than 6 months after the approval of this act, and every 6 months thereafter, a written report detailing the activities with respect to stock piling under this act, including a statement of foreign and domestic purchases, and such other pertinent information on the administration of the act as will enable the Congress to evaluate its administration and the need for amendments and related legislation.

"SEC. 5. The stock piles shall consist of all such materials heretofore purchased or transferred to be held pursuant to this act, or hereafter transferred pursuant to section 6 hereof, or hereafter purchased pusuant to section 3 hereof, and not disposed of pursuant to this act. Except for the rotation to prevent deterioration and except for the disposal of any material pursuant to section 3 of this act, materials acquired under this act shall be released for use, sale, or other disposition only (a) on order of the President at any time when in his judgment such release is required for purposes of the common defense, or (b) in time of war or during a national emergency with respect to common defense proclaimed by the President, on order of such agency as may be designated by the President.

"SEC. 6. (a) Pursuant to regulations issued by the War Assets Administration or its successor, every material determined to be strategic and critical pursuant to section 2 hereof, which is owned or contracted for by the United States or any agency thereof, including any material received from a foreign government under an agreement made pursuant to the act of March 11, 1941 (55 Stat. 31), as amended, or other authority, shall be transferred by the owning agency, when determined by such agency to be surplus to its needs and responsibilities, to the stock piles established pursuant to this act, so long as the amount of the stock pile for that material does not exceed the quantities determined therefor pursuant to section 2 hereof. There shall be exempt from this requirement such amount of any material as is necessary to make up any deficiency of the supply of such material for the current requirements of industry as determined by the Civilian Production Administration or its successor. There shall also be exempt from this requirement (1) any material which constitutes contractor inventory if the owning agency shall not have taken possession of such inventory, (2) such amount of any material as the Army and Navy Munitions Board determines (i) are held in lots so small as to make the transfer thereof economically impractical; or (ii) do not meet or cannot economically be converted to meet, stock-pile requirements determined in accordance with section 2 of this act. The total material transferred to the stock piles established by this act in accordance with this section during any fiscal year beginning more than 12 months after this act becomes law shall not exceed in value (as determined by the Secretary of the Treasury on the basis of the fair market value at the time of each transfer) an amount to be fixed by the appropriation act or acts relating to the acquisition of materials under this act.

"(b) Any transfer made pursuant to this section shall be made without charge against or reimbursement from the funds available under this act, except that expenses incident to such transfer may be paid or reimbursed from such funds, and except that, upon any such transfer from the Reconstruction Finance Corporation, or any corporation organized by virtue of the authority contained in the act of January 22, 1932 (47 Stat. 5), the Secretary of the Treasury shall cancel notes of Reconstruction Finance Corporation, and sums due and unpaid upon or in connection with such notes at the time of such cancellation, in an amount equal to the fair market value as determined by the Secretary of the Treasury of the material so transferred.

"(c) Effective whenever the Secretary of the Treasury shall cancel any notes pursuant to subsection (b) of this section, the amount of notes, debentures, bonds, or other such obligations which the Reconstruction Finance Corporation is authorized and empowered to have outstanding at any one time under the provisions of existing law shall be deemed to be reduced by the amount of the notes so canceled.

"(d) Subsection (b) of section 14 of the act of October 3, 1944 (58 Stat. 765), is hereby amended to read as follows:

"'(b) Subject only to subsection (c) of this section, any owning agency may dispose of—

"'(1) any property which is damaged or worn beyond economical repair;

"'(2) any waste, salvage, scrap, or other similar items;

"'(3) any product of industrial, research, agricultural, or livestock operations, or of any public works construction or maintenance project, carried on by such agency;

which does not consist of materials which are to be transferred in accordance with the Strategic and Critical Materials Stock Piling Act, to the stock piles established pursuant to that act.'

"(e) Section 22 of the act of October 3, 1944 (58 Stat. 765), is hereby repealed.

"*Provided*, That any owning agency as defined in that act having control of materials that, when determined to be surplus, are required to be transferred to the stock piles pursuant to subsection (a) hereof, shall make such determination as soon as such materials in fact become surplus to its needs and responsibilities.

"SEC. 7. (a) The Secretary of the Interior, through the Director of the Bureau of Mines and the Director of Geological Survey, is hereby authorized and directed to make scientific, technologic, and economic investigations concerning the extent and mode of occurrence, the development, mining, preparation, treatment, and utilization of ores and other mineral substances found in the United States or its Territories or insular possessions, which are essential to the common defense or the industrial needs of the United States, and the quantities or grades of which are inadequate from known domestic sources, in order to determine and develop domestic sources of supply, to devise new methods for the treatment and utilization of lower grade reserves, and to develop substitutes for such essential ores and mineral products; on public lands and on privately owned lands, with the consent of the owner, to explore and demonstrate the extent and quality of deposits of such minerals, including core drilling, trenching, test-pitting, shaft sinking, drifting, cross-cutting, sampling, and metallurgical investigations and tests as may be necessary to determine the extent and quality of such deposits, the most suitable methods of mining and beneficiating them, and the cost at which the minerals or metals may be produced.

"(b) The Secretary of Agriculture is hereby authorized and directed to make scientific, technologic, and economic investigations of the feasibility of developing domestic sources of supplies of any agricultural material or for using agricultural commodities for the manufacture of any material determined pursuant to section 2 of this act to be strategic and critical or substitutes therefor.

"SEC. 8. For the procurement, transportation, maintenance, rotation, storage, and refining or processing of the materials to be acquired under this act, there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $1,800,000,000: *Provided*, That not more than the sum set out opposite each of the following fiscal years shall be appropriated for such purposes during such fiscal year:

"Fiscal year 1946–47, $360,000,000.
"Fiscal year 1947–48, $360,000,000.
"Fiscal year 1948–49, $360,000,000.
"Fiscal year 1949–50, $360,000,000.
"Fiscal year 1950–51, $360,000,000.

"The funds so appropriated, including the funds heretofore appropriated, shall remain available to carry out the purposes for which appropriated until expended, and shall be expended under the joint direction of the Secretary of War and the Secretary of the Navy.

"SEC. 9. Any funds heretofore or hereafter received on account of sales or other dispositions of materials under the provisions of this act shall be deposited to the credit, and be available for expenditure for the purposes, of any appropriation available at the time of such deposit, for carrying out the provisions of sections 1 to 6, inclusive, of this act.

"SEC. 10. This act may be cited as the 'Strategic and Critical Materials Stock Piling Act'."

Mr. THOMAS of Utah. Mr. President, I move that the Senate disagree to the amendment of the House, ask a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. THOMAS of Utah, Mr. JOHNSON of Colorado, Mr. HILL, Mr. O'MAHONEY, Mr. AUSTIN, Mr. BRIDGES, and Mr. GURNEY conferees on the part of the Senate.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the House insisted upon its amendment to the bill (S. 704) to authorize the Secretary of Agriculture to continue administration of and ultimately liquidate Federal rural rehabilitation projects, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. FLANNAGAN, Mr. COOLEY, Mr. PACE, Mr. HOPE, and Mr. KINZER, were appointed managers on the part of the House at the conference.

SETTLEMENT OF INDUSTRIAL DISPUTES AFFECTING THE NATIONAL ECONOMY

The Senate resumed consideration of the bill (H. R. 6578) to provide on a temporary basis during the present period of emergency for the prompt settlement

of industrial disputes vitally affecting the national economy in the transition from war to peace.

Mr. MILLIKIN obtained the floor.

Mr. BYRD. Will the Senator yield to me to suggest the absence of a quorum?

Mr. MILLIKIN. I yield.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

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

Mr. MILLIKIN. I respectfully affirm that the proposed legislation is an ill-considered, hasty product of hysteria, is an affront to our veterans, is violative of human dignity, human decency, and fair play, is lacking in candor, is arbitrary, capricious, and brutal, is unconstitutional, and in its present form should not be enacted into law.

Mr. President, I ask unanimous consent that the bill be printed in full at this point in the RECORD.

The PRESIDING OFFICER. Is there objection?

There being no objection, the bill (H. R. 6578) to provide on a temporary basis during the present period of emergency for the prompt settlement of industrial disputes vitally affecting the national economy in the transition from war to peace, was ordered to be printed in the RECORD, as follows:

Be it enacted, etc., That it is the policy of the United States that labor disputes interrupting or threatening to interrupt the operations of industries essential to the maintenance of the national economic structure and to the effective transition from war to peace should be promptly and fairly mediated, and brought to a conclusion which will be just to the parties and protect the public interest.

SEC. 2. Whenever the United States has taken possession, under the provisions of section 9 of the Selective Training and Service Act of 1940, as amended, or the provisions of any other applicable law, of any plants, mines, or facilities constituting a vital or substantial part of an essential industry, and in the event further that a strike, lock-out, slow-down, or other interruption occurs or continues therein after seizures, then, if the President determines that the continued operation of any such plant, mine, or facility is vitally necessary to the maintenance of the national economy, the President may by proclamation declare the existence of a national emergency relative to the interruption operations.

SEC. 3. The President shall in any such proclamation (1) state a time not less than 48 hours after the signature thereof at which such proclamation shall take final effect; (2) call upon all employees and all officers and executives of the employer to return to their posts of duty on or before the finally effective date of the proclamation; (3) call upon all representatives of the employer and the employees to take affirmative action prior to the finally effective date of the proclamation to recall the employees and all officers and executives of the employer to their posts of duty and to use their best efforts to restore full operation of the premises as quickly as may be; and (4) establish fair and just wages and other terms and conditions of employment in the affected plants, mines, or facilities which shall be in effect during the period of Government possession, subject to modification thereof, with the approval of the President, pursuant to the applicable provisions of law, including section 5 of the War Labor Disputes Act, or pursuant to the findings of any panel or commission specially appointed for the purpose by the President.

SEC. 4. (a) On and after the initial issuance of the proclamation, it shall be the obligation of the officers of the employer conducting or permitting such lock-out or interruption, the officers of the labor organization conducting or permitting such strike, slow-down, or interruption, and of any person participating in the calling of such strike, lock-out, slow-down, or interruption to take appropriate affirmative action to rescind or terminate such strike, lock-out, slow-down, or interruption.

(b) On and after the finally effective date of any such proclamation, continuation of a strike, lock-out, slow-down, or any other interruption at any such plant, mine, or facility shall be unlawful.

(c) On and after the finally effective date of the proclamation, any person willfully violating the provisions of subsection (a) of this section shall be subject to a fine of not more than $5,000 or to imprisonment for not more than 1 year, or both.

SEC. 5. The Attorney General may petition any district court of the United States, in any State or in the District of Columbia, or the United States court of any Territory or possession, within the jurisdiction of which any party defendant to the proceeding resides, transacts business, or is found, for injunctive relief, and for appropriate temporary relief or restraining order, to secure compliance with section 4 hereof or with section 6 of the War Labor Disputes Act. Upon the filing of such petition, the court shall have all the power and jurisdiction of a court of equity, and such power and jurisdiction shall not be limited by the act entitled "An act to amend the Judicial Code, to define and limit the jurisdiction of courts sitting in equity, and for other purposes," approved March 23, 1932. Notice or process of the court under this section may be served in any judicial district, either personally or by leaving a copy thereof at the residence or principal office or place of business of the person to be served. Petitions filed hereunder shall be heard with all possible expedition. The judgment and decree of the court shall be subject to review by the appropriate circuit court of appeals (including the United States Court of Appeals for the District of Columbia) and by the Supreme Court of the United States upon writ of certiorari.

SEC. 6. Any affected employee who fails to return to work on or before the finally effective date of the proclamation (unless excused by the President), or who after such date engaged in any strike, slow-down, or other concerted interruption of operations while such plants, mines, or facilities are in the possession of the United States, shall be deemed to have voluntarily terminated his employment in the operation thereof, shall not be regarded as an employee of the owners or operators thereof for the purposes of the National Labor Relations Act or the Railway Labor Act, as amended, unless he is subsequently reemployed by such owners or operators, and if he is so reemployed shall be deemed a new employee for purposes of seniority rights.

SEC. 7. The President may, in his proclamation issued under section 2 hereof, or in a subsequent proclamation, provide that any person subject thereto who has failed or refused, without the permission of the President, to return to work within 24 hours after the finally effective date of his proclamation issued under section 2 hereof, shall be inducted into, and shall serve in, the Army of the United States at such time, in such manner (with or without an oath), and on such terms and conditions as may be prescribed by the President, as being necessary in his judgment to provide for the emergency. The foregoing provisions shall apply to any person who was employed in the affected plants, mines, or facilities at the date the United States took possession thereof, including officers and executives of the employer, and shall further apply to officials of the labor organizations representing the employees. Provisions of law which are applicable with respect to persons serving in the armed forces of the United States, or which are applicable to persons by reason of the service of themselves or other persons in the armed forces of the United States, shall be applicable to persons inducted under this section only to such extent as may from time to time be prescribed by the President.

SEC. 8. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this act.

SEC. 9. In fixing just compensation to the owners of properties of which possession has been taken by the United States under the provisions of section 9 of the Selective Training and Service Act of 1940, as amended, or any other similar provision of law, due consideration shall be given to the fact that the United States took possession of such properties when their operations had been interrupted by a work stoppage, and to the value the use of such properties would have had to their owners during the period they were in the possession of the United States in the light of the labor dispute prevailing. It is hereby declared to be the policy of the Congress that neither employers nor employees profit by such operation of any business enterprise by the United States and, to that end, if any net profit accrues by reason of such operation after all the ordinary and necessary business expenses and payment of just compensation, such net profit shall be covered into the Treasury of the United States as miscellaneous receipts.

SEC. 10. The provisions of this act shall cease to be effective 6 months after the cessation of hostilities, as proclaimed by the President, or upon the date (prior to the date of such proclamation) of the passage of a concurrent resolution of the two Houses of Congress stating that such provisions shall cease to be effective, or on June 30, 1947, whichever first occurs.

SEC. 11. If any provision of this act, or the application of such provision to any person or circumstance, is held invalid, the remainder of the act and the application of such provision to other persons or circumstances shall not be affected thereby.

Mr. MILLIKIN. Mr. President, the plan of the bill is to keep men at work, on the theory that one cannot strike against the Government, and therefore it would make public employees out of private employees, public operators out

of private operators, would make criminal by antecedent proclamation that which has been lawful, and would punish the crimes thus created by fine, imprisonment, injunction, loss of seniority, and involuntary servitude.

There are many defects in the bill. We notice at once the absence of decontrol standards. This defect is heightened by the fact that control under section 10 can continue until 6 months after the cessation of hostilities as proclaimed by the President. When is that going to be? How many years must a man work in the Army against his will for the offense of not working against his will?

The Allies are unable to agree among themselves, and hence they cannot make peace treaties with our enemies to end the war. The bill fails to provide that decontrol of seized mines, plants, and facilities may also be established by a resolution of Congress.

Through the bill Congress is called upon to abdicate many of its normal functions. It has no control, no check, over the startling remedies which are proposed.

The President alone proclaims the emergency. He alone determines the plants, mines, or facilities which constitute a vital or substantial part of an essential industry necessary to the maintenance of the national economy.

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

Mr. MILLIKIN. Gladly.

Mr. SMITH. In section 10 of the bill we find the language:

> The provisions of this act shall cease to be effective—

On the date when the war ends, as the Senator suggested, or, as it appears at the end of the section—

> or on June 30, 1947, whichever first occurs.

Mr. MILLIKIN. Yes.

Mr. SMITH. That final date is provided in the act.

Mr. MILLIKIN. It was not provided in the bill as introduced. It appears in the bill as a proposed committee amendment. I think it would be wise to adopt that amendment in the absence of a more definite limitation.

The President alone proclaims the emergency. He alone determines when to induct recalcitrant workers into the Army, and the terms and conditions of such induction.

Under section 3 the President, while operating private property which has been seized, takes it upon himself to adjudicate the unresolved disputes between the private operators and the private employees. Free collective bargaining as to wages and working conditions gives way to Presidential fiat.

The operator may find burdens thus imposed upon his business which it may not be able to carry if it should ever be returned to private control, and on the other hand the worker may find himself the dissatisfied recipient of wages and working conditions which would be completely unacceptable if he were a free man, and in the end, when the property is returned to the owner, may find himself with depressing precedents as to wages and working conditions impossible to overcome except by further strikes.

Political solution of disputes as to wages and working conditions is the antithesis of collective bargaining. True, there have been precedents for such solutions and these have contributed mightily to our present difficulties. When labor must compete for political favors it and its leaders have lost their freedom. They have become captive satellites of politicians and of political parties. The satesmen of labor have long been aware of this and have wanted to shorten rather than lengthen the nose of the Government in their affairs.

It is neither in the interest of labor, management, nor the public that wages and working conditions in important segments of our economy may be determined on the sole judgment or caprice of the President of the United States, no matter who he may be. The President, no matter who he may be, is also the leader of a political party, and therefore cannot be entirely insensitive to partisan political considerations.

Under section 3 of the bill the President has a discretionary right to appoint a panel or commission to determine these matters. If it should be considered inadvisable to provide for the maintenance of the status quo at the time of seizure until the return of the property with retroactive adjustments, it would be better to make mandatory the appointment of a panel or commission, and better yet if an independent agency were set up consisting of members to be confirmed by the United States Senate.

The wide-open provisions of the bill which would permit the distribution of political plums or the punishment of political enemies should be considered as a dangerous and unnecessary feature even by those who believe in legislation of the general type here proposed.

Section 4 of the bill imposes the duty on the leaders of management and labor "to take appropriate, affirmative action to rescind or terminate such strike, lock-out, slow-down, or interruption." Observe, please, that the rigor of the mandate is not limited to good-faith effort, and is not relieved by any other mitigating language. Let me repeat——

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

Mr. MILLIKIN. I yield.

Mr. PEPPER. The Senator has called attention to the expression "slow-down." I ask the Senator if there is any definition of what constitutes a "slow-down" provided in the measure?

Mr. MILLIKIN. I find no definitions as to that, and I can recall no solid definition of anything in the measure.

Let me repeat. It is provided that they shall "take appropriate, affirmative action" not to make a good-faith effort to do something, but "to rescind or terminate such strike, lock-out, slow-down, or interruption." Exactly what are the officers of the employers and of the labor organizations to do? Are they to make stirring exhortations? That would be affirmative action, but would it rescind or terminate a strike or lock-out or slow-down that had come to the point of Government seizure of the property affected? Must the leaders work out a mutually acceptable contract? Shall private coercions take place to compel men to return to work?

What are the appropriate actions to be taken, and what are the willful violations which under the same section subject the guilty to a fine of not more than $5,000 or to imprisonment for not more than 1 year, or both? They should be stated in explicit language. The citizen should not incur the jeopardy of fine or jail on failure to perform the unachievable or on failure to meet unspecified and dimensionless objectives.

Section 5 restores to the Government the hated weapon of injunction to secure compliance with the ambiguous section 4 of the bill.

As we have seen, section 4 imposes the duty on the leaders on both sides "to take appropriate affirmative action to rescind or terminate such strike, lock-out, slow-down, or interruption."

It is perfectly obvious that it takes the workers as well as the leaders to terminate any of the proscribed activities. Therefore, a strong argument may be made that when section 5 makes injunction available against the leaders to secure compliance with section 4, the remedy necessarily carries over to the workers whose cooperation with the affirmative action to be taken is indispensable if anything is to come of them.

I anticipate that it will be said that there is no such intention; that this is a strained construction of the bill. If so, the sponsors had better clarify the language.

The injunctive remedy must be considered with the other remedies provided in the bill.

If we are willing to force employees to work against their will under section 6, why cavil over the milder restraints and compulsions of injunction?

If one had to choose between conscription of recalcitrant workers and coercions under the mandates of a court of equity, one might gladly prefer the latter, for in a court of equity equitable considerations may be heard. And jail might be preferable to involuntary servitude.

But I abhor both remedies and will consent to neither until more temperate measures now available or readily procurable from the Congress have been tried and have been found wanting.

Section 6 provides a brutally sadistic punishment to be achieved by a legal lie. It is provided that if on the finally effective date of the President's proclamation a worker continues to strike, he—

> shall be deemed to have voluntarily terminated his employment in the operation thereof—

We are referring to plants, mines, or facilities in the possession of the United States—

> shall not be regarded as an employee of the owners or operators thereof for the purposes of the National Labor Relations Act or the Railway Labor Act, as amended, unless he is subsequently reemployed by such owners or operators, and if he is so reemployed shall be deemed a new employee for purposes of seniority rights.

Is it not obvious that if a man goes on strike it is not to quit his job, but to hold his job under better wages or conditions? But this plain fact is of no importance to those who drafted the bill. By legal legerdemain he is "deemed" to have done two things which in fact he has not done of his own free will. He has been "deemed" into voluntarily quitting his job, and he has been "deemed" into becoming a new employee.

Mr. THOMAS of Utah. Mr. President, will the Senator yield for a question?

Mr. MILLIKIN. I yield gladly.

Mr. THOMAS of Utah. It has been stated that the bill is undoubtedly constitutional. I wonder if the Senator is now seeking to show that punishments which would come as a result of something that has been deemed to have happened would be the sort of punishments which the Constitution itself bans.

Mr. MILLIKIN. I am coming to that point, I will say to the distinguished Senator. In my opinion it violates the due-process clause.

What does this "deeming" business mean? What is its real significance? When a railroad worker goes into railroading, one of the compensations that he is working for, and which he acquires by long service, is seniority. As he grows old in the service he gains privileges appropriate to his service and to his years. The more arduous tasks are passed, as they should be passed, to the younger men more capable of bearing them. The better runs, the runs which accommodate themselves to a man's home life, to his community life, and to his physical condition, and which require long experience and ripe judgment, are assigned to the older man because he has earned the right to them; and it is in the public interest that he have them. When he was a young man in the service he took his share of the tough tasks. He took on those tasks willingly because he knew that with time he would enjoy the perquisites and privileges of the older man.

Take a look at the men to whom we trust our lives and comfort on the trains coming into the Capital city. On a run of that kind will be found seasoned men who have come up from work on branch lines and jerk-water routes, from uncomfortable assignments, until finally, as a fitting climax to their careers, they are entrusted with the job of safely transporting passengers in the finest and most expensive railroad equipment that can be assembled.

Take a look at the men in the cab. One will find rugged, weather-beaten, undissipated faces. He will like the cut of their jibs, and the look out of their eyes. Those men know what they are doing, and they make one know that they know what they are doing. The passenger goes back to his seat or berth with full confidence that he will arrive at his destination in one piece.

This outrageous provision would have those men ranked as new men. A lifetime of devotion to duty and success with their assigned tasks would be stripped away. If those men must be punished, let the punishment have sensible and fair relation to the offense.

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

Mr. MILLIKIN. I yield.

Mr. BREWSTER. Would it be considered that those men had contractual rights in the seniority provisions?

Mr. MILLIKIN. I think it might be strongly argued.

Mr. BREWSTER. Which they have gained by their service.

Mr. MILLIKIN. I think that might be strongly argued; and this method of deprivation might also violate the due process clause.

Mr. BREWSTER. Are there any precedents for the annulment of private contracts of that character as a penalty in the law?

Mr. MILLIKIN. I am not familiar with annulments of that character. To my mind it would depend upon whether the man had acquired a vested right.

Mr. BREWSTER. It would certainly be so assumed.

Mr. MILLIKIN. I may add that under my understanding of the contract which a railroad man enters into with his employer, he does have what is or what closely resembles a vested right.

Mr. BREWSTER. Would it not also be true that the penalty for the same act would vary with every individual, since the seniority rights in all instances would be different?

Mr. MILLIKIN. That is correct.

Mr. BREWSTER. So the same act by 100 different men would have 100 different penalties.

Mr. MILLIKIN. Which points up the arbitrary and capricious character of the standard.

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

Mr. MILLIKIN. I yield gladly.

Mr. HICKENLOOPER. The point suggested by the Senator from Maine raises this question in my mind as to precedents by way of punishment. I should be glad to have the views of the Senator from Colorado as to whether or not the precedent of the denial of the right of franchise and certain prerogatives of citizenship flowing as a result of the commission of a felony might have any relationship. I think that might be a situation in which the commission of a crime is punishable in other ways than pure confinement or the assessment of a fine, or certain other penalties. The punishment may involve denial of the right of franchise.

Mr. MILLIKIN. I do not wish to give an opinion on that question offhand.

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

Mr. MILLIKIN. I yield gladly.

Mr. BREWSTER. The right of franchise is a right created by the Government, and so may well be taken away by the Government as a penalty; but this is a right secured by private contract between two individuals. For the Government to enter in and say that that private contract right is to be abolished or restricted by governmental action has no precedent, so far as I know.

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

Mr. MILLIKIN. I yield.

Mr. HICKENLOOPER. I am not prepared to argue the point. I merely raised the question as to the possibility of a similarity. However, I believe that contractual rights, as well as the right of franchise, flow from the Constitution. They all have the same origin. At the moment there would seem to be little distinction between the two, because they are based upon constitutional immunities or constitutional guaranties. However, I am not prepared to argue the question. I thought perhaps the Senator from Colorado might have thought somewhat along that line.

Mr. MILLIKIN. Let me repeat, if these men must be punished, let the punishment have sensible and fair relationship to the offense. When they were piling up their seniority, they were not guilty of anything except devotion to duty. Their seniority does not represent criminal activity which must be extirpated. Here we are providing the fatuous procedure of taking away the good in order to punish the bad. Remember that this heartlessness is sanctioned because of the two legal lies also provided in the bill, namely, that the worker has voluntarily terminated his employment, and that, therefore, he shall be deemed a new employee for purposes of seniority rights.

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

Mr. MILLIKIN. I yield.

Mr. BARKLEY. The bill which passed the Senate on Saturday night, House bill 4908, for which the Senator voted—and I do not say that in criticism, because the bill passed the House and Senate by a majority vote—contains this provision, in subsection (d) of section 3:

> (d) Any employee who fails to perform the duties imposed on him by subsection (b) of this section—

Subsection (b) is a subsection requiring that—

> (b) Whenever the Federal Mediation Board proffers its services for the purpose of aiding in a settlement of a labor dispute affecting commerce and until the Board certifies that its efforts at mediation are concluded or until 60 days have elapsed since the giving of notice asking a collective-bargaining conference between the parties regarding such dispute as provided in paragraph (2) of subsection (a) of this section, whichever date occurs first, it shall be the duty—
>
> * * * * *
>
> (2) of the employees and their representatives to refrain from any strike or concerted slow down of production.

Then subsection (d) provides:

> (d) Any employee who fails to perform the duties imposed on him by subsection (b) of this section—

And only subdivision (2) of that subsection would apply to the employees—

> shall lose his status as an employee of the employer engaged in the particular labor dispute in connection with which such employee's failure occurred for the purposes of sections 8, 9, and 10 of the National Labor Relations Act: *Provided*, That such loss of

employee status for such employee shall terminate if and when he is reemployed by such employer.

So while the language is different, the bill which the Senate passed on Saturday night undertook to penalize those who violated the provisions of subsection (b) of the section under consideration. What is the difference between an outright statement in the law that it is a violation, as in the bill passed Saturday night, that he shall cease to be an employee and lose his status as an employee, and the language in the bill now before the Senate, that he shall be deemed to have voluntarily given up his employment? What is the difference between a provision that he shall lose his employment, as provided in the bill which was passed day before yesterday, and the provision in this bill, that he shall be deemed to have given up his employment? In either case he is denied the status of an employee, and in either case he can be restored only by voluntary action of the employer.

Mr. MILLIKIN. I think that a part of the distinction is between a forthright statement to achieve a legitimate purpose and a lying statement to achieve a cruel and unconstitutional purpose. I suggest also that the "deeming" section of the bill to which the Senator has referred is for the purposes of sections 8, 9, and 10 of the National Labor Relations Act, which are not entirely comparable to what I am discussing.

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

Mr. MILLIKIN. I yield.

Mr. BREWSTER. I think the point which the Senator from Kentucky raises is made clear when we note that it is specified that he shall lose his status as an employee for the purposes of sections 8, 9, and 10 of the National Labor Relations Act. In other words, provisions which have been made for the employee's benefit by a law of this Congress are taken away from him.

That is certainly very markedly distinguished from the penalty of taking away a private contract right which he has acquired.

Mr. MILLIKIN. I think the distinction is very clear. We can have one rule of action where the Government has conferred that which it takes away, which might be very different in legal effect from a rule of action which takes away that which does not belong to the Government and has not been conferred by the Government.

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

Mr. MILLIKIN. I gladly yield.

Mr. BALL. I think there is also a further distinction; namely, that all three of the sections of the Wagner Act which are referred to in the bill the Senate passed Saturday evening are sections which compel an employer to do certain things. They have nothing to do with the employee's seniority rights or any pension benefits or other things which he may have accumulated. They simply permit the National Labor Relations Board to order an employer to do certain things about the employee in certain cases.

Mr. MILLIKIN. I thank the Senator for his clarifying contribution.

Mr. President, it seems clear to me, that this section is so patently arbitrary and capricious that it cannot be reconciled with due process.

Since under section 6 a recalcitrant worker has been "deemed" to have voluntarily terminated his employment, one would think this would end the Government's preoccupation with him. When a man voluntarily ends his employment he, according to the understanding of normal minds, no longer has any claims on the employer and the employer no longer has any claims on him. He is at liberty to seek and accept other employment. He is at liberty to loaf if he wishes to do so.

But not under this bill. Under section 7 the President may induct him into the Army, in such manner and on such terms and conditions as may be prescribed by the President as being necessary in his judgment to provide for the emergency. Perhaps the theory is that having forced the employee to terminate his employment voluntarily, we should do something for the poor devil, and that that is the best reward we can think of.

No, Mr. President, of course that is not the purpose. The unstated purpose is to induct that man into the United States Army, not to serve as a soldier in the usual sense in which such service is understood, but to force him to continue as an involuntary worker in the same employment, under the same employer, and under terms and conditions which may or may not be acceptable to him, as to which he has no voice, but which are prescribed in the judgment or the caprice of the President of the United States. Mr. President, this is Uncle Sam turned Simon Legree.

But the section does not state the purpose, and therefore it is dishonest and under its language it is senseless, arbitrary, and capricious, and it would be no less so if the purpose were frankly disclosed.

What a gross perversion of selective service. The Selective Service Act of September 16, 1940, at the outset states the theory from which it derives its validity and its support from the American people, as follows:

(b) The Congress further declares that in a free society the obligations and privileges of military training and service should be shared generally in accordance with a fair and just system of selective compulsory military training and service.

Under section 7 of the bill before us we would induct men at the will of the President—yes, perhaps at the caprice of the President—men taken from only a few occupations, and taken on standards which are not specified and are not even hinted at.

Mr. President, selective service is not a punitive system. It is not a gateway to a penitentiary or to a rock pile. Induction under the system represents an honorable way of sharing duty, not punishment. What is proposed in the bill before us is, in naked truth, nothing less than peonage, involuntary servitude. It offends the thirteenth amendment of the Constitution, which declares that—

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime—

Note the exception, please—

whereby the party shall have been—

Note this, if you please—

duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Does the provision of the bill to which I have referred come under the exception? The bill does not define a crime, so far as the worker is concerned. The bill does not provide a due-process method for duly convicting a worker of a crime. Without having committed a crime under the bill, and while a free and unemployed citizen under the bill, he is inducted into the Army by proclamation. Why? Because he "failed or refused, without the permission of the President, to return to work," within a specified time after, as I have pointed out, he had been liberated by the same bill from that very obligation.

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

Mr. MILLIKIN. I gladly yield.

Mr. GERRY. I wonder whether the Senator will make the distinction, which I think he is making, between those powers and the powers of the posse comitatus.

Mr. MILLIKIN. Mr. President, I would not wish to embark upon that subject offhand. There is an obvious distinction between those powers and the powers of the posse comitatus. I think the question is a relevant one, but, as I say, I should prefer not to try to answer it "off the cuff."

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

Mr. MILLIKIN. I gladly yield.

Mr. SALTONSTALL. At this point I should like to ask the distinguished Senator if, under the bill, the Congress does not lose all power over defining when a man becomes a member of the Army and is, therefore, subject to court martial and when he is still a civilian. As I understand, the Supreme Court, in the case of *Billings* v. *Truesdell* (321 U. S. 542), said that the Selective Service Act defined accurately when a man becomes a member of the United States Army, namely, when the oath is taken and at the time of the ceremony of the oath.

If a man may become subject to court martial and to losing his civil rights at such time and in such manner, with or without the oath, as the President may prescribe, that may be different in different cases, and a man may never know whether he is subject to court martial and to losing his civil rights. Am I correct?

Mr. MILLIKIN. I think the Senator is entirely correct, and that represents another of the numerous inexplicable features of the bill.

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

Mr. MILLIKIN. I yield.

Mr. FERGUSON. It may mean that under this provision an employee could be put into the Army merely by act of the President, without any specific personal notice to the employee.

Mr. MILLIKIN. I think that is correct.

Mr. FERGUSON. And, therefore, he would be liable, from that point on, under court martial, for disobedience, even though he had no knowledge that he was in the service of the United States.

Mr. MILLIKIN. That is correct. And he could wear the uniform of a United States soldier without having taken an oath to support the Government.

Mr. FERGUSON. And he would be subject to court marital, without taking the oath, or without being, as others have been in the past, a member of the armed forces.

Mr. MILLIKIN. That is correct.

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

Mr. MILLIKIN. I gladly yield.

Mr. REVERCOMB. I do not want the Senator to go back to a point which he has covered, but I should like to know whether I correctly understood his reply to a question propounded by the Senator from Maine [Mr. BREWSTER] as to whether the contract rights of the employees gain a certain status and a certain advancement. Of course, the Senator does not take the position that the impairment of a contract would prevent this law from being valid, because there is no inhibition upon the Federal Government, as I understand, under the Constitution, to impair contracts. That is an inhibition upon the States alone.

Mr. MILLIKIN. I did not base my own point on that. I based my own point on the arbitrary and capricious nature of what would be done.

Mr. REVERCOMB. After notice and process defined, however arbitrary it might be, would it not be due process as defined by the Constitution?

Mr. MILLIKIN. Of course, it is not safe to speculate on what a court might do with a bill of this kind, which clothes itself in the garb of war emergency. That garb can cover a multitude of what would be constitutional sins in normal times. We have an individual duty to form our own judgment—a duty which is not delegable—as to whether a bill here meets with the letter or spirit of the Constitution; and if we determine, if any individual Senator determines, that it is not constitutional, he dare not, under his oath, vote for that bill and delegate his conscience, and delegate his judgment, and delegate his oath to some court.

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

Mr. MILLIKIN. I yield.

Mr. REVERCOMB. I agree entirely with the able Senator from Colorado; he cannot wipe away his duty under his oath. But my discussion went to the subject of the constitutionality which is involved. The Senator knows that I am heartily in accord with the views which he has expressed with regard to section 7. I am so much against punishing a man for refusing to work by placing him in the Army, that I cannot agree with section 7 of the bill. The question which I asked was whether or not the Senator believes that punishment, in the form of taking away seniority rights is a violation of a contract and invalid under the Constitution for that reason. I assert that the punishment of a man by placing him in service and subjecting him to the rigid punishments which may be imposed by a court martial, is not justified, from my point of view.

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

Mr. MILLIKIN. I yield.

Mr. TOBEY. The Senator has enunciated a high principle with which I concur, namely, that if a particular measure or any part of it contravenes the Constitution of the United States under the allegiance to which he has taken his oath of office, he cannot vote for it. Have I made a correct statement?

Mr. MILLIKIN. Yes.

Mr. TOBEY. Does the Senator realize that the sound advice which he has given to Members of this body, including myself, contravenes 100 percent the advice given to the House of Representatives in 1934 by a former President of the United States in a letter which was read by the then chairman of the Ways and Means Committee? In that letter the President stated, in effect, "I hope the House of Representatives will not allow any views which they may have on the constitutionality of the bill to cause them to hesitate to vote for it." Does the Senator remember that?

Mr. MILLIKIN. I remember it very well, and take no pride in it. [Laughter.]

Mr. TOBEY. In the event that the Senator had forgotten it, I wished to refresh his recollection.

Mr. MILLIKIN. Mr. President, the failure of the workers to return to work when called upon to do so may be considered as a species of recalcitrance, but it is not defined in the pending bill as a crime, and an American citizen may not be convicted of an undefined crime by Presidential proclamation. The Constitution has some very cranky notions on that subject.

Let us not accept one misstep as a rule of conduct. Let us not forget that those who are intended to be reached by these extraordinary and terrible remedies are citizens of the United States; that they contribute their fair share to the maintenance of the Government which we all serve; that many of them are entitled to show gold stars in the windows of their homes; that they are our neighbors and our friends; that we all worship the same God; that many of them, along with millions of others, have worn with honor the uniform which this bill would degrade.

Many of our sons and some of our daughters have fallen and have been buried in that uniform. The consecrations which the uniform symbolizes are to the living veterans the most precious things in life. When God takes us and friends gather to forget the bad and speak the good, those who have worn the uniform want, above all other things, that the fact be mentioned, because it is our greatest temporal glory. You shall not desecrate that uniform by making it the garb of a felon or of a slave.

We will live to see the day when we will be ashamed that such a bill was ever introduced in the Congress. It is unnecessary. The most perilous of our strikes has been ended and those which remain will not be with us in perpetuity. We are here proposing remedies to fit disorders and the chaos of a disintegrated Government. We have not yet reached that point. And we will not reach it if our President maintains the resolution shown by him during the past few days. All we need to do is to keep the dust brushed off the doctrine of paramount public interest. The public has shown that it will support that doctrine and will support a leader who will assert it.

We need not blink the fact that we have come to the pass in which we have found ourselves because for years there has been an assiduous cultivation for political profit of class, group and industrial warfare. Powerful labor leaders figured they would not be disturbed by an obligated or compliant government. No labor leader would ever dare to call a strike aimed at the vitals of this Nation had he not believed that the governmental climate was favorable.

If remedies other than those resting on the moral power of an aroused and determined people led by a courageous and determined President are needed, then let those be used which are at hand. We can find space enough in our overcrowded jails for the labor leaders who are violating existing law and a leaderless strike does not last very long. If the existing laws are insufficient, let the President ask that they be buttressed in sane ways which accord with due process, which accord with the American way of protecting American interests, and which accord with the provisions of the Constitution of the United States. Such a request would be promptly granted.

Mr. President, later on I shall have some comments to make with reference to section 9 of the bill. I have sent amendments to the desk which are designed to amend the bill in a number of particulars to which I have referred, and I shall call them up later.

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

Mr. MILLIKIN. I yield.

Mr. SALTONSTALL. I should like to ask the distinguished Senator from Colorado if, in his opinion, the measure which was passed by this body last Saturday night would not help in the present situation in the orderly solution of collective bargaining between employer and employee and make unnecessary the enactment of the very stringent provisions which the pending bill contains.

Mr. MILLIKIN. That was one of the thoughts which induced me to support the measure to which the Senator has referred.

Mr. CAPEHART. Mr. President, I am not a lawyer. Therefore, I am unable to argue the constitutionality of the proposed legislation. Any remarks which I may make will be made as an American citizen and as a businessman. I should like to invite the attention of the Senate

to what I stated on this floor only last Thursday. I do not claim to be a prophet, but in addressing myself to the Case bill which the Senate passed last Saturday night I stated that I intended to support that bill, not because it was, in its entirety, a just measure, but because it was an expedient measure, and I thought that it should be passed.

I related some history in respect to what had happened to labor in France, England, and in other countries. I pointed out, by citing some history, that labor legislation had gone from one extreme to the other; that governments had passed legislation giving every right, regardless of the consequences to the general good of the people, to labor on the one side, and then had gone to the extreme on the other side and denied labor any rights whatsoever.

I should like to quote some of the remarks I made, because little did I realize when I made those statements last Thursday, prophesying that the pendulum in our own Nation might go to the extreme of denying labor everything, that that would happen within the course of 3 days. This is what I stated last Thursday:

> When, therefore, I cast my vote on the legislation being considered today—

I was directing my remarks to the Case bill—

> it will be solely for the purpose of stopping the dangerous swing of the pendulum.

I further stated:

> If it be sought only to reverse the swing of the pendulum, and such appears to be the motivating force of the action which now seems inevitable, we must not forget that it will swing far before it loses its momentum.

Mr. President, I call attention to the fact that within 3 days from that time the pendulum did swing, and it swung all the way, so that there is being taken away from labor, under the proposed bill, practically all its rights.

Mr. President, I could make a good case for the President's bill. I likewise feel that I could make a good case against it. I doubt if any piece of legislation coming before this body since I have been a Member has caused me as much concern as does the pending measure.

I do not hesitate to vote on bills making appropriations or routine measures, but I do feel that we should stop, think, and listen when we are talking about principles, because I have always been taught, since I was a youngster, and it has been one of my philosophies all my life, that one cannot compromise a principle; and certainly a principle is involved in the pending legislation.

On the other hand, in order to be fair, I might have asked this question prior to the time the railroad strike was settled; if the employees of the railways and the employees of the coal mines refused to work, what would be the consequences? What would have happened to this Nation had they refused to work? I might also ask this question: Did the bill the President sent to us on Saturday, which was passed by the House of Representatives, have any effect in settling the railroad strike? Will that legislation have any effect in settling the coal strike?

I do not like certain features of the pending bill. I am in hearty accord with much the able Senator from Colorado [Mr. MILLIKIN] has just said. On the other hand, if I remember correctly, most of last week practically every Senator on this floor was demanding some sort of action. Senators were asking the question, what is the President of the United States going to do? What should we do? If I remember correctly, many Senators, and I am certain the American people, were saying to themselves, what is going to happen? Will the President take action? Will the Congress take action? I received many telegrams and many letters, some of them very uncomplimentary, wanting to know what I was going to do, and wanting to know what the Congress was going to do.

I made a feeble effort Thursday night, and the President has made an effort. As I stated before, I am not a lawyer, and I do not know whether the effort he has made is unconstitutional or not. As I have said, I can only approach the problem as an individual businessman.

It seems to me as though in this instance we possibly should go along with the President, possibly correct any defects in the bill which we feel exist, or anything that is utterly opposed to our principles of government. In any event, I feel at this time that possibly we should stand behind our President in acting on the pending legislation.

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

Mr. CAPEHART. I yield.

Mr. LUCAS. The Senator from Indiana just mentioned the fact that he had offered a bill last week, while we were debating the labor legislation, which sought to help out in the emergency. Of course the able Senator knows that the Senator from Illinois had introduced a bill along the same lines sometime before that.

I am glad to hear what the able Senator has said, because a great deal of discussion has taken place here this afternoon with respect to a number of provisions in the pending bill outside of section 7, and the Senator from Indiana well knows that the bill which had been practically agreed upon for the temporary emergency included practically everything, with the exception of the injunction feature, that the President now seeks, save and except section 7, as I have indicated. I think the Senator from Indiana will agree with me in that.

Mr. CAPEHART. I am very happy to agree with the able Senator.

Mr. LUCAS. Mr. President, other Senators on both sides of the aisle had carefully worked out and studied for a long time the temporary measure which was introduced. I withdrew it after the President had given his message on Saturday last, because the President's bill embodied most of the measures I had proposed. In other words, outside of section 7, Senators on both sides of the aisle had agreed to go along with all the economic sanctions which the Senator from Colorado pointed out as a part of the labor measure last week and to which he is opposed. Section 7 is practically the only new feature that is added to the pending bill, plus, perhaps, the injunction feature.

Mr. CAPEHART. Mr. President, I think it has been noted in the newspapers that possibly the President will veto the so-called Case bill. Something has happened in America——

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

Mr. CAPEHART. I am glad to yield to the Senator from Kentucky.

Mr. BARKLEY. I think it is unfair to the President, no matter whether the statement appears in the newspapers or anywhere else, to state what the President will do with the Case bill. The Case bill passed the House of Representatives, it has been materially amended in the Senate, and whether it will go to conference I do not know. It may depend upon the House of Representatives. Neither the President nor anyone else knows what the Case bill will be when it gets to him, and it is unfair to the President to try even to commit him in advance as to what he will do in regard to that bill, or to quote speculative statements at any time as to what the President will do. I do not think the President should be required to make up his mind about the Case bill or any other bill until he has seen it and knows what its provisions will be.

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

Mr. CAPEHART. I yield.

Mr. TAFT. I have been informed that in the House of Representatives the advocates of the Case bill desire to have a rule to present directly to the House the amendments adopted by the Senate. The Case bill has many things in it. The welfare fund was the only matter which is not dealt with in the Case bill as it passed the House. Every other matter was dealt with in the House. We revised it in some respects. We attached to the Case bill the Hobbs antiracketeering bill, which had already been passed by the House of Representatives.

As to the effort made by those who desire to obtain a rule in the House, the chairman of the House Rules Committee has disappeared and is refusing to call a meeting, I understand, of the House Rules Committee. The result is that no action can be taken in the House for a period of 10 days, under the rules of the House. In other words, apparently the authorities in control of the House, the administration, are deliberately stalling the Case bill in order that the bill pending in the Senate may go first to the President, and he may consider and sign the bill, and so he may be more free to veto the Case bill if he desires to do so.

Mr. BARKLEY. Mr. President, the statement of the Senator from Ohio with reference to the official conduct of the House of Representatives is as inappropriate and offensive as the statement made earlier in the day by another Senator regarding the President of the United States.

Mr. TAFT. Mr. President, so long as the Senator does not say that what I have said is not true I do not object to his

criticism. [Laughter and manifestations of applause in the galleries.]

Mr. BARKLEY. If I were to say that it was true or untrue I would have as little information about it as has the Senator from Ohio.

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

Mr. CAPEHART. I will be happy to yield to the Senator from Maine.

Mr. BREWSTER. Mr. President, there is so interesting a parallel between the memorandum inserted in the RECORD of last Saturday and the entire procedure in relation to this situation that I cannot forbear calling attention to one of its sentences, in the second paragraph under the discussion of the Case bill. The anonymous author of this memorandum seems to have been able to anticipate practically every move that has been made, even down to the concluding passages where it suggests that after providing for a cooling-off period for the Congress and the country so that we might not legislate, as the distinguished majority leader suggested the other day, while we are frothing at the mouth, the memorandum went on to suggest that it might at the proper time be possible for a program to be presented. After that it says:

> Someone with judgment, like Senator BARKLEY, might be prepared to present the program at the appropriate time.

The situation seems to be developing strictly according to that order.

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

Mr. BREWSTER. Let me read one more sentence. Speaking of the Case bill and the tremendous embarrassment which it is to the administration, the memorandum says:

> Its approval might be politically disastrous to the administration.
>
> The congressional situation accurately reflects the present temper of the country. Positive administration action is, therefore, required for political reasons, if for no other.

Mr. BARKLEY. Mr. President, I ask the Senator from Indiana to yield to make inquiry from what document the Senator from Maine was reading?

Mr. BREWSTER. Since apparently the Senator was not paying attention, I will say that when I began I referred to the document which was inserted in the RECORD on last Saturday by the Senator from Ohio. The document is evidently by an anonymous author. The internal evidence of its authenticity seems to be abundantly borne out by the fact that every move suggested in this document has been exactly the program which has been here unfolded.

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

Mr. CAPEHART. I yield.

Mr. BARKLEY. It is an anonymous article taken from last Saturday morning's Times-Herald and inserted in the RECORD—and I presume it is the same one—by the Senator from Ohio?

Mr. BREWSTER. That is correct.

Mr. BARKLEY. Outlining a rather fictitious program, and stating that it had been circulated among a number of individuals, including me. I then denounced it as absolutely without foundation, because I had ever seen or heard of it at the time it was inserted in the RECORD. I had not even read the article in the morning newspaper. Later on I was authorized by Mr. John W. Snyder, around whom this fictitious plan seems to have revolved, to say that nothing of the kind was ever thought of. He himself never heard of it until it appeared in this newspaper, and he authorized me categorically to deny every statement in the article insofar as it referred to him or to any activity on his part.

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

The PRESIDING OFFICER. Does the Senator from Indiana yield for a question, or does he yield for continuation of the debate?

Mr. CAPEHART. I yield for a question.

Mr. BREWSTER. I shall ask the Senator from Indiana, and through him suggest to the Senator from Kentucky that if he had taken the trouble to read the article, which he apparently indicates he has not, I should be interested to know whether or not he would be as profoundly impressed, as everyone is who has read the article, with the amazing parallel between every step which has been taken, even to its passage, which I think is pretty significant, and which I am sure the Senator will definitely recall. I would be interested to ask the Senator from Kentucky to comment on the following, which appears under the heading of "Congressional tactics":

> CONGRESSIONAL TACTICS
>
> 1. Congressional tactics: These are the most difficult to devise in the present situation. Opportunity may be presented by a congressional deadlock (a filibuster in the Senate) for the President to outline the above program in a special message. It would probably be more desirable, however, to use informal methods, in terms of amendments offered in the Senate to the Case bill, or of compromise proposals presented to the conference.

I should like to inquire of any Member of the Senate whether the performance of the past 2 weeks here bears a rather deadly parallel to exactly what this anonymous adviser there suggested?

Mr. BARKLEY. Mr. President, so far as the Senator's inquiry is directed to me, I will say that I have been too busy in recent days to read fiction of any kind, and I regard the article to which the Senator referred as fiction. It was not written in the name of anybody. It has been denied by the chief culprit therein named, who was alleged to be maneuvering around with some sort of legislative legerdemain—not a Member of Congress—and therefore I do not think that any statement made in this article, so far as the legislative course of this legislation is concerned, either in the House or in the Senate, bears the earmark of authenticity or accuracy.

If there was a filibuster with reference to the Case bill I certainly did not participate in it. I made every effort which within my knowledge could be made to bring about an early conclusion of the debate and the passage of the bill, and I had obtained unanimous consent to limit debate upon it before the article referred to appeared in the public press.

Mr. BREWSTER. Will the Senator from Kentucky care to comment on the impassioned plea——

The PRESIDING OFFICER. Does the Senator from Indiana yield further?

Mr. CAPEHART. I refuse to yield any further.

The PRESIDING OFFICER. The Chair will say to the Senator from Indiana that he can yield only for a question. If he yields for debate he will lose the floor.

Mr. CAPEHART. I did not consent at the start to any long-winded argument.

Mr. President, I made mention of the fact that there was a possibility that the President might veto the Case bill. Something is wrong in America. Something is wrong with our labor industrial relations. Any 6-year-old child knows that to be true.

The Wagner Act was passed to cure conditions which existed in our labor industry relations. I should like to read——

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

Mr. CAPEHART. Yes; I will yield for a question.

Mr. TAYLOR. The Senator from Indiana has told me on different occasions of the very good labor relations existing within the plants in which he is interested. I ask the Senator if he needs the legislation contained in the Case bill to help better any labor relations in his plants or the plants in which he is interested? And does he not think that possibly if other employers were as reasonable as he is the present legislation would not be necessary?

Mr. CAPEHART. I appreciate the kind remarks of the able Senator, but I must again say that, in my opinion, something is wrong in America in respect to our labor-industry relationship, because we have work stoppages all over the Nation. We have just gone through a railroad strike, and we are in the midst of a coal strike.

Mr. TAYLOR. Mr. President——

Mr. CAPEHART. Let me finish, please. I should like to read the first and second paragraphs of section 1 of the Wagner Act entitled "Findings and Policy":

> Experience has proved that protection by law of the right of employees to organize collectively safeguards commerce from injury, impairment, or interruption, and permits the flow of commerce by removing certain recognized sources of industrial strife.

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

Mr. CAPEHART. Yes; I yield.

Mr. LUCAS. A moment ago the able Senator from Ohio rose and gave to the Senate and the country the impression that the chairman of the Rules Committee of the House had "disappeared"—I think that is the very word he used—and that therefore nobody could find him and nobody could get a rule or get him to consider a rule on the labor legislation which the Senate sent over to the House Saturday night. I merely wish to say that I talked to Mr. SABATH, the chairman of the Rules Committee, and he is in his office at the present time. He answered the roll call this morning

in the House of Representatives. He had lunch in the restaurant of the House of Representatives. Furthermore, he wanted the Senate to know that he called his Rules Committee together on last Friday and gave to the Speaker of the House a rule upon which the House of Representatives acted immediately upon the President's legislation.

Furthermore, he said that some of the members of the Rules Committee were not here. I personally know that Representative Cox is out of the city. He said that as soon as the members had an opportunity to study the labor legislation which was sent over to the House a meeting of the Rules Committee would be called to consider a rule, and he said he did not think it would take over 2 or 3 days to do it.

I merely mention these things to show what rumor and innuendo can do to a Member of the Congress of the United States.

Mr. BREWSTER. Mr. President——

Mr. LUCAS. Just a moment.

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

Mr. CAPEHART. Mr. President, I decline to yield further for anything except a question.

Mr. LUCAS. May I complete my statement?

Mr. CAPEHART. I decline to yield further.

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

Mr. CAPEHART. I decline to yield. I will yield the floor in a few moments.

Mr. President, I am hopeful that the House will concur in the Senate's version of the Case bill and that the President of the United States will sign it. I feel confident that he will, because I do not believe that the President of the United States will refuse to sign the Case bill, which was passed by this body in good faith and in the spirit of an effort to stop the strife which prevails today between labor and management, after sending to the Congress of the United States as drastic a piece of labor legislation as that which he sent us last Saturday. I am confident that the President of the United States will sign the Case bill, because it is a constructive piece of legislation which, in my opinion, will bring a semblance of peace and harmony to labor and management in the United States.

Therefore, Mr. President, I am hopeful, as a citizen, that the Case bill will be enacted into law and signed by the President. I am hopeful that we shall delete that portion of the legislation before us at the moment which calls for drafting men into the armed services, and will pass the bill. I am hopeful that after those two things have been done, the Congress of the United States will proceed to enact some more far-reaching labor legislation than that which we have before us at the moment.

I for one will support the pending bill, with the exception of one section, which I should like to see eliminated. I should like to see the section having to do with the drafting of men eliminated. I do not believe it to be necessary. I think the bill will be just as effective without it, and I am praying that the Senate will eliminate it. On the other hand, I am thoroughly convinced in my own mind that, aside from that particular section, we should uphold the President of the United States.

Mr. BARKLEY and Mr. STANFILL addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Kentucky is recognized.

Mr. BARKLEY. Mr. President, I do not intend to thresh over the questions involved in the discussion of the Case bill. It has gone back to the House of Representatives where, under the rules of the House, it will be appropriately dealt with.

I voted against the Case bill on its passage Saturday night, but I certainly would be the last man in the world to seek to commit the President of the United States in advance as to whether he would veto it or approve it. I have not attempted to do so. I know that efforts have been made to commit him as to what he will do with it, before he has seen it, before it has been certified to him under the Constitution, under the signatures of the Speaker of the House of Representatives and the President of the Senate. Before he has had an opportunity to study it, and before he knows what its provisions will be, efforts have been made to compel him to say whether he would approve it or disapprove it. Under the Constitution the President is supposed to have the right to withhold his judgment in regard to legislation particularly controversial legislation such as this. Although the President is charged with the duty of recommending legislation to Congress, in connection with a measure of this sort the President is entitled, in all fairness, and in order to uphold the dignity of his high office, to be allowed to read the bill and make such investigation of its provisions as he may see fit, in order to determine whether he will approve it or disapprove it. Under the Constitution he has 10 days from the date of its delivery to him in which to make up his mind about it. It is not fair to the President, and it has all the earmarks of some devious design, for anyone to be trying to compel the President to say, before he receives the legislation, whether he will approve it or disapprove it.

Mr. President, I rise specifically to comment briefly upon an attack made upon the President of the United States by the Senator from Oregon [Mr. MORSE].

Mr. TAFT. Mr. President, will the Senator yield to me for a moment?

Mr. BARKLEY. I yield.

Mr. TAFT. Does not the Senator remember that a short while ago the President wrote a letter to the effect that he would veto the OPA bill unless substantial changes were made in it, without waiting to see what had been certified by the Speaker of the House of Representatives and the President of the Senate?

Mr. BARKLEY. The President of the United States wrote a letter to the Senate Committee on Banking and Currency after the House had passed the bill and sent it over here, weeks after the House had passed it, and while the committee was considering it, to the effect that he could not approve the legislation as it has passed the House.

Mr. TAFT. Exactly. He did not wait until anything was certified to him.

Mr. BARKLEY. He knew what was in the House bill. But he does not yet know what will be in the OPA bill, and he cannot tell now whether he will veto or approve the OPA bill until it gets to him, because both Houses must pass on it. But he did see it as it passed the House.

Mr. TAFT. He had that opportunity at the earliest possible moment. He did not have to wait until the return of Mr. SABATH, the Chairman of the Rules Committee.

Mr. BARKLEY. If I may say so with all due respect to the Senator from Ohio, it is none of the business of the Senator from Ohio how the House conducts its business.

Mr. LUCAS. Mr. President, will the Senator yield for one observation?

Mr. BARKLEY. I yield.

Mr. LUCAS. I do not believe the Senator from Ohio was present when I started speaking a moment ago to tell him that I had just finished speaking with the chairman of the Rules Committee over the telephone. He is present in the House. He answered a roll call this morning. He has not disappeared. The Senator from Ohio wanted the truth about it, so I thought I would find out and give it to him, because apparently he did not know what he was talking about.

Mr. BARKLEY. It would have been just as easy for the Senator from Ohio to have called the chairman of the Rules Committee and obtain the truth as it was for the Senator from Illinois to do so, the difference being that the Senator from Illinois went to the trouble to find out what the truth was, whereas the Senator from Ohio did not.

Mr. WHITE. Mr. President——

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

Mr. BARKLEY. I yield to the Senator from Maine.

Mr. WHITE. In view of the Senator's suggestion that he wishes to comment on what has been said by the Senator from Oregon [Mr. MORSE], will he not withhold his observations until I have made the point of no quorum, so that the Senator from Oregon may have an opportunity to be present?

Mr. BARKLEY. Yes. I should like to have the Senator from Oregon present. I was not present when he made the charge. I make no point of that.

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

Mr. BARKLEY. Just a moment. I make no point of that. I am willing, if necessary, to have a quorum call to get the Senator from Oregon into the Chamber. I am willing to yield for that purpose.

Mr. WHITE. It seems to me that that would be an appropriate course.

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

Mr. BARKLEY. I am yielding to the Senator from Maine to make the point of no quorum.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

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

The Senator from Kentucky has the floor.

Mr. BARKLEY. Mr. President, earlier in the day, during the address of the Senator from California, the following colloquy took place:

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

Mr. DOWNEY. I yield.

Mr. MORSE. Is the Senator from California aware of the fact that before noon on Saturday the White House knew that the railroad workers were willing to go back on the basis of the report of the President's own emergency board?

Mr. DOWNEY. Mr. President, I do not know that, but I assume that may be true.

Mr. MORSE. I tell the Senator from California that is a fact. Does the Senator from California know that when the President of the United States spoke Saturday afternoon at 4 o'clock he did not tell the American people that fact?

Mr. DOWNEY. Mr. President, the President did announce in the course of his radio speech, I think at about 4:10 or something, that the strike had been settled.

Mr. MORSE. May I say that I think that was one of the cheapest exhibitions of ham acting I have ever seen, because he knew full well, before he went to the rostrum, what the position of the American railroad workers was.

The PRESIDING OFFICER—

And so forth. Mr. President, in order that the Senate and the country and the Senator from Oregon may know that the statement made by the Senator from Oregon is utterly without foundation, I wish to give a chronological history, as nearly as I can, and I take this authoritatively from Dr. Steelman, who has been involved in the negotiations in regard to the railroad and other strikes ever since their incipiency:

The President delivered his radio address on Friday evening, at 10 o'clock, to the American people, advising them of the situation which existed, and advising the railroad employees who had not been willing to enter into an agreement that unless they returned to work by 4 o'clock on Saturday afternoon, he would attempt to use the armed forces to operate the trains in the United States.

Up to that time there had been no agreement. They were as widely deadlocked as they had been during the recent negotiations. It was already known that the 18 other railroad brotherhoods were willing to accept the proposal made by the President, which was not the proposal of his fact-finding emergency committee, but was his own proposal. The 18 brotherhoods were willing to accept the President's proposal. Of course, an effort was being made to arrive at a simultaneous agreement with all the brotherhoods, by an identically similar agreement, on the ground that the terms of settlement for the 18 brotherhoods who were not out on strike and who had indicated their willingness to accept the President's proposal should be the same as those accepted by the other two brotherhoods, whose officers are Mr. Whitney and Mr. Johnston.

In view of the fact that no settlement had been reached on Saturday morning, Mr. Charles G. Ross, the President's news secretary or publicity secretary at the White House, announced that no further negotiations would be made at that time with the two brotherhoods because an effort was to be made to settle the matter with the other 18 brotherhoods; and that in order to settle that matter with the other 18 brotherhoods, conferences had to be held between representatives of the other 18 brotherhoods and the railroad carriers so as to determine whether the railroads would be willing to settle with the 18 brotherhoods, although they were not settling with the other two.

Negotiations were resumed in respect to that; and later in the day, somewhere around 1 o'clock, or 1:30 or 2 o'clock—it was certainly after lunch, afternoon—the carriers agreed with the 18 brotherhoods who were not out on strike and who were idle because of the strike of the other two brotherhoods. They agreed among themselves to accept the President's proposal which he had made to all the brotherhoods. That announcement was made—namely, that the other 18 brotherhoods had accepted the President's proposal.

Thereafter, somewhere around 2 or 2:30 o'clock in the afternoon, the suggestion was made that there be a further conference between Dr. Steelman, as the President's representative, and the carriers and the two brotherhoods which were on strike, to see if they were able to make any progress toward a settlement. In the meantime a letter had been dispatched to the President, on Saturday morning, and the letter was signed by Mr. Whitney and Mr. Johnston, making their proposal for an adjustment—not accepting the President's proposal, but making their own proposal. That letter was given to the press on Saturday, without its having been received by the President; and the proposal as outlined in that letter was not an acceptance of the President's proposal at all. It was a proposal made by Mr. Whitney and Mr. Johnston.

In the meantime, in the afternoon, it was agreed that if there was a possibility of making any progress toward settling the strike as between the carriers and these two railroad organizations, that effort might be made. They went into a further conference at, I think, around 2:30 or 3 o'clock. The final upshot of that last conference was that the two brotherhoods which in the morning had made their own proposal in the letter to the President—a letter which he had not received—agreed to accept the President's proposal which had already been accepted by the other 18 brotherhoods. The other 18 brotherhoods had signed the agreement, and it was necessary for these two to sign the agreement; because if any announcement were made about it prematurely and in the absence of a signed agreement, some other difficulty might arise which would make any announcement premature. The agreement between the carriers, which, of course, had to be considered, and the representatives of these two other brotherhoods was signed at precisely 3:57 p. m. on Saturday last.

Dr. Steelman tried to get hold of the White House, but the President had already departed from the White House to the Chamber of the House of Representatives. The Senate had also departed. We left here at approximately 3:45 p. m., to go to the joint session of the two Houses in the House of Representatives. Dr. Steelman called the office of Secretary Biffle, in order to tell him to pass on the word that there had been a signature of an agreement at 3:57, 3 minutes before the President was to address the joint session. Mr. Biffle had gone over with the rest of us to the Chamber of the House of Representatives. We assembled over there; and when the President began reading his address to the Congress, at 4 o'clock, he had not been advised that, at 3:57, 3 minutes before that, the two brotherhoods had signed an agreement accepting the President's proposition.

That message had to be relayed from Secretary Biffle's office here, over to the House Chamber. When Secretary Biffle left with us to go to the House Chamber none of us knew there had been any settlement, because it had not been made, and was not made until 3 minutes before 4 o'clock. As soon as the word came to the Secretary's office, it was relayed to Mr. Biffle on the floor of the House of Representatives; and I am sure all of us saw him step up to the rostrum and hand the President a memorandum or a note, based upon which, at about 4:10 p. m., the President announced that the settlement had been made on the terms proposed by the President.

That is an accurate and chronological statement of what took place on Saturday with respect to this situation, and I think the statement of the Senator from Oregon, however much in good faith he was in making it, with reference to the fact that Mr. Leslie Biffle, Secretary of the Senate, handed to the President a note at approximately 4 p. m. stating that the remaining two brotherhoods had agreed to return to work, and do so under the terms proposed by the President,

was one of the greatest injustices ever done to the President of the United States publicly in the CONGRESSIONAL RECORD. The Senator also made the statement that a certain announcement which was made constituted "one of the cheapest exhibitions of ham acting that was ever indulged in by a public officer of the United States."

I regret that the Senator from Oregon allowed himself to make that statement. I hope that in view of the facts which I have outlined, and which have come to me directly from the tongue of Mr. Steelman, who is involved in all this matter, that the Senator from Oregon will seek to make amends for the unjust and unfair statement which he made against the President of the United States in accusing him of pulling off in public a cheap, phony act for some dubious and unworthy purpose.

Mr. MORSE. Mr. President, I should like to make a few remarks in answer to the Senator from Kentucky.

First, I should like to read from page 5688 of the CONGRESSIONAL RECORD, of Saturday, May 25, 1946, a statement which was made by the majority leader to the Senate of the United States before we even left the Chamber to go over to the Hall of the House of Representatives to meet in joint session for the President's speech. The majority leader said:

> Mr. President, I merely wish to announce to the Senate what I am sure it will be happy to learn: That the railroad brotherhoods involved in the pending strike have agreed to go back to work immediately.

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

Mr. MORSE. I am glad to yield.

Mr. BARKLEY. I made that statement. I have already acknowledged here today that I made it. I made it prematurely. I based the statement on a dispatch which was handed to me by one of the representatives of either the Associated Press or the United Press. I came immediately into the Chamber and made the statement which the Senator has read. It turned out, however, that what the newspapers had interpreted as a settlement was evidently only a proposal made in the letter of the two brotherhoods which had sent the letter to the President. It was not a settlement, but a proposal of the brotherhoods setting forth the conditions under which they would settle the strike if the President should so agree. It was not a settlement, but it was a proposal which I referred to, and in accordance with the letter which they sent to the President. I am sorry that I was a little hasty in assuming, as the members of the press association evidently had assumed, that the letter meant a settlement of the dispute. The settlement did not come until later, as I have indicated in my remarks.

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

Mr. MORSE. I shall not yield until I complete my remarks. I shall be glad to yield when I am through.

With all due respect to the Senator from Kentucky, I do not believe that his statement was made prematurely at all. I believe that the statement which he made before we went to the Hall of the House of Representatives in order to meet in a joint session was in accordance with the facts. From the majority leader's remarks it is perfectly clear that an attempt is being made to fix the time of 3:57 o'clock on last Saturday as the first time the agreement to end the strike was reached and to the conditions under which the brotherhoods would return to work. It may be that at 3:57 an agreement was signed but the Government officials and the brotherhoods knew long before 3:57 that the strike was over and the men were going back to work.

Mr. President, signed agreements in labor controversies of this type do not fix the time that there is a meeting of the minds. In most labor controversies the parties have reached a meeting of the minds long before there is any signed statement. That was true in this case. I assert, Mr. President, that it is my honest judgment, long before 3:57 o'clock last Saturday afternoon the White House offices knew that the railroad strike was, in fact, over, and that they knew the terms and conditions under which the workers would return to work. The President should have so informed the people of this country and he should have given them all the facts and not just part of them.

I wish to say that as early as 9 o'clock last Saturday morning the brotherhoods involved in this controversy had made up their minds to return under the terms of the President's own emergency board's report, and that the President's White House advisers knew that before noon on Saturday. That is what I pointed out earlier this afternoon.

Mr. BARKLEY. Will the Senator yield?

Mr. MORSE. If the Senator will permit me to finish I should like to do so. I did not interrupt the Senator during the time when he was making his statement about me. I should like to have some continuity preserved in connection with my remarks.

Mr. BARKLEY. Very well.

Mr. MORSE. As early as 9 o'clock last Saturday morning, Mr. President, representatives of the brotherhoods had made up their minds to return to work under the President's emergency board report.

They sought consultation with me in the matter. I told them clearly that I felt—I believe that the exact language I used in one part of my conversation with them was that they did not have a leg to stand on as far as repudiating the report of the President's emergency board was concerned. I said that I believed they should show their good faith and make it perfectly clear that, upon reflection, they would return to work under the President's own emergency board report. I urged them to help the President by cooperating with him and accept at once the emergency board report. After that conference they so informed the White House.

I have every reason to believe, Mr. President, that those representatives told me the truth. They notified me before noon that the decision which they had made had been given to the advisers at the White House. The majority leader, himself, admitted in his comments that a letter also went to the White House to that effect. But I assert that not only by letter but by word of mouth the position of the brotherhoods was made known to the White House. It was a fair proposal and the White House owed it to the country to say so.

Not more than 20 minutes ago, on the floor below, in the presence of Senators who are in the Chamber now, and in the presence of representatives of labor, at a conference which was called by the Senator from Montana [Mr. MURRAY], a representative of the brotherhoods again made the representations to which I have just referred.

Mr. President, I believe it was perfectly well known by the advisers at the White House long before 4 o'clock Saturday afternoon that there was no serious danger whatsoever of the continuation of the strike after 4 o'clock. When I spoke earlier today I expressed my own personal opinion, Mr. President, as to what I thought the obligation of the President of the United States was when he addressed the country at 4 o'clock last Saturday. I repeat that I think he was under a solemn obligation to inform the people of the country of all the facts which had transpired on Saturday in connection with the railroad strike. He did not do it.

The Senator from Kentucky, and, I understand, some other Senators as well, have taken offense at my characterization of the Presidents speech of last Saturday afternoon. I am sorry it did not please them but I did not expect it to. I only wish to say that I was very much disappointed in the President's bearing and his attitude at that joint session. I believe that it was a most unfortunate appearance and speech. I felt that, in view of the fact that it was well known by his advisers that the strike would be concluded, that the greatest service and the greatest statesmanlike act which the President could have performed under those circumstances, was in either not making the address at all and informing us that he thought the matter would be settled on the basis of the emergency board report or some similar settlement, or canceling the speech entirely and letting the announcement go over the country that the matter was being settled. Instead of that he inflamed further the hysteria in the land. I hope that the time has not yet come in this country when a Member of the United States Senate may not stand upon the floor of the Senate and express his personal opinion and criticisms of the President of the United States, if that is the way he feels about some act or speech of the President. I hope that we have not yet reached the time when a Member of the United States Senate may not characterize his disappointment in the conduct of the President of the United States by such language which he believes properly characterizes and depicts the President's conduct and language.

I am sorry that the President's conduct on last Saturday afternoon was such a complete disappointment to me that I found it necessary to so characterize it. But that happened to be my own honest opinion. I felt that, with the hysteria which was sweeping this country, with almost a mob psychology, at the very time he spoke, that the President

did not act wisely in making the speech he did. As I have already said to some Senators earlier this afternoon, the great flood of antilabor feeling which was sweeping the country was so serious, Mr. President, that, judging from some of the telegrams which I have received, if the voters in my State had the power to recall me as a Member of the United States Senate, some of them would attempt to circulate recall petitions against the junior Senator from Oregon. But as I said before and now repeat, as long as I am a Member of the Senate I will continue to fight for and to vote for the preservation of what I consider to be the basic freedoms of the individual citizen as they are guaranteed to him under the Constitution of the United States. I shall fight for them even if in an hour of hysteria many citizens unthinkingly want to sacrifice or throw away those precious rights.

Mr. President, it happens to be my personal opinion that the conduct of the President of the United States on last Saturday afternoon was not in the interest of preserving those basic freedoms and liberties to which I have referred. I feel that the legislation which he proposed strikes at the very heart of some precious rights which are guaranteed in the bill of rights to all citizens of this country, including labor, employers, farmers, and every other citizen. This bill rests upon a totalitarian principle.

All I have tried to do, Mr. President, is to express my honest opinion of the type of performance which, in my judgment, the President staged before a joint session of the Congress last Saturday afternoon. There is nothing which the Senator from Kentucky could say, I am sure, which could change the impression that was formed in my mind by the observation of the President's performance.

I stress again that although I was very much saddened and disappointed in what the President did Saturday afternoon, and have criticised him for it, on the other hand, when I believe that he is right on any measure, there is no man on this floor who will fight harder to sustain his hand. But I intend to reserve to myself, as I think I have the right as a Member of this body, to criticize when I believe criticism is due, and to support the hand of the President when I believe he is entitled to that support.

The legislation which he proposes is in my judgment a violation of the clause of the Constitution that protects us from involuntary servitude. It violates the inherent constitutional right of every citizen to be safe in the possession of his property without confiscation by the Government. Every businessman in this country should rise up in protest against the confiscatory features of this bill. This bill threatens the constitutional guaranty that the person of the individual shall be protected from capricious and illegal acts of Government. It sounds of fascism irrespective of the motives behind it. I regret that my President has made such a serious blunder. I must not hesitate to criticize him severely for it. That is all I have done and I stand by it.

The President has all the power he needs under existing law to seize the mines, the railroads, or any other industry that is or may become strike-bound to the great detriment of the public welfare. I shall support his hand in carrying out those powers but I never shall vote in favor of giving him dictatorial powers that destroy liberties guaranteed by the American Bill of Rights. That is exactly what he is asking for by this legislation.

Mr. BARKLEY. Mr. President, I would not rise for the purpose of entertaining or indulging the hope that anything I may say might change the opinion of the Senator from Oregon, but I do want the record to be straight, and the Senate can be its own judge.

The Senate will recall that the President's emergency board recommended an increase of 16 cents an hour for all the railroad brotherhoods involved, plus a change in some seven rules, I think. The brotherhoods had asked for a change in some 44 rules, the railroads had asked for a change in 29 rules, and the President's emergency board recommended, in addition to the increase in wages which had been sought, an increase of 16 cents, and a change in seven rules of operation.

Subsequent to the report of that board the President recommended to all the brotherhoods an increase of 18½ cents an hour in wages, not 16 cents, but 18½ cents, together with some variations with respect to the changes in the rules.

In the letter which was sent Saturday morning, which was printed in the RECORD by the Senator from Florida [Mr. PEPPER], dated May 25, statements were made which I desire to read. I shall not read the entire letter, I shall read only two paragraphs.

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

Mr. BARKLEY. I yield.

Mr. LUCAS. Am I to understand that 18 of the 20 brotherhoods accepted the findings of the board, with an increase of 16 cents an hour, plus changes in whatever rules were to be altered?

Mr. BARKLEY. The 18 brotherhoods accepted the proposal of the President.

Mr. LUCAS. Originally did they not accept——

Mr. BARKLEY. Originally I think they agreed to accept the award of the board of 16 cents an hour, plus some changes.

Mr. LUCAS. That is correct.

Mr. BARKLEY. Two brotherhoods declined, and then the President made an identical offer to all of them, to provide for an increase of 18½ cents an hour, plus certain variations and recommendations regarding the rules.

Mr. WHEELER. Mr. President, will the Senator from Kentucky yield?

Mr. BARKLEY. I yield.

Mr. WHEELER. The 18 brotherhoods did not accept the 16 cents recommended by the board. Some of them talked with me, and I presented the President with a memorandum, and suggested that he allow them 18½ cents, the same increase given the steel workers and the automobile workers. I said to him, "After all, the 18 brotherhoods submitted to arbitration, and the board brought in a recommendation for an increase of 16 cents." I said further, "You have allowed 18½ cents to workmen who went on strike, and it seems to me that you ought to allow the others 18½ cents, and then, if there is a dispute about the rules, take that up some other time."

Mr. LUCAS. The 18 brotherhoods did accept the arbitration theory in the beginning, they agreed to arbitration?

Mr. WHEELER. They agreed to arbitration, but after arbitration they have a right to appeal to the President of the United States, and that is what they were doing. Then, after arbitration, they have a right, as a matter of fact, to go on strike, but they did not do it.

Mr. BARKLEY. As a matter of fact, the President modified the award of the Board.

Mr. WHEELER. That is correct.

Mr. BARKLEY. By offering all 20 of the brotherhoods 18½ cents an hour, and some modifications with respect to rules. The 18 brotherhoods finally accepted that, and that was the basis on which they entered into the agreement with the railroads and with the Government; but the other two brotherhoods were not willing at any time to agree to the 18½ cents an hour, but insisted on 16 cents, with apparently a wider field of negotiation with respect to the rules under which they were to work.

The 18½ cents is what the President offered as a modification of the award of his board, the emergency board, and that is what was finally accepted. That is what was accepted on Saturday by agreement, after negotiation and conference between Dr. Steelman and the carriers and representatives of the brotherhoods.

The carriers took the position that there should be a uniform wage increase. They could not deal separately with 18 and then do something else with 2. That was the matter which was hanging fire practically all day Saturday, and that is the matter about which the two brotherhoods wrote the letter to the President which was sent to the White House some time Saturday, and which was inserted in the RECORD. In order that it may be clear what their proposal was, without reading the entire letter, I shall read only two paragraphs. The letter was addressed to the President, and I read from it:

> Your suggestion of the 18.5 cents increase would deprive us of the seven rules changes recommended by the members of your emergency board.
>
> Our men await only your word that they can return to work for the Government on the basis of the award of your emergency board, that is, the seven rules changes, with appropriate interpretations, and 16 cents an hour wage increase, to be effective January 1, 1946, if you, Mr. President, will allow us to negotiate with you further concerning any other fair wage increases.

In other words, in this letter, they were saying by implication that they would not accept the President's modification of the award by giving them 18½ cents an hour, but they would accept 16 for themselves, if the President would allow further negotiations with respect to other wages and other working conditions and rules.

The suggestion in the letter to the President was not that they would accept terms which were acceptable to the

other 18 brotherhoods, not that they would accept the President's proposal, but that they would accept the award of the emergency board and leave it to further negotiations as to whether there would be other increases.

The position of the Government, and I think of all concerned, the carriers and the 18 brotherhoods who were willing to agree to the President's modification, was obvious, that it would create confusion and discrimination for 18 of them to get 18½ cents an hour increase, and 2 of them get 16 cents an hour increase, and leave open to future negotiations, as to the two, whether there should be additional increases and additional changes in the rules.

So that, regardless of the opinion of the Senator from Oregon, when the President of the United States left the White House and went to the Chamber of the House of Representatives, and when he began the delivery of his speech at 4 o'clock p. m., he did not have any knowledge whatever that the two brotherhoods who wrote this letter to him Saturday had accepted the same conditions which had been accepted by the 18 brotherhoods, that is, 18½ cents an hour, plus some variations in regard to the rules which had been the subject of negotiation. That difference may be technical, in a sense, but there is quite a difference between 16 cents an hour increase and 18½ cents an hour increase. The 16 cents an hour increase, plus the variation in rules, was what the two brotherhoods wrote the President they would accept if there could be further negotiation. The 18½ cents an hour increase, and whatever the President proposed in regard to the rules, was accepted by the 18, and 3 minutes before 4 o'clock p. m. last Saturday was accepted by the two brotherhoods, so that the President could make the announcement he made about 10 minutes after 4 that they had all accepted the settlement of the strike on the terms proposed by him.

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

Mr. BARKLEY. I yield.

Mr. WHEELER. Of course, he could not give some of the railroad workers 18½ cents and have a different agreement with reference to the others, because it would be confusing. If the Government is to settle with a part of them it has to settle with all.

Mr. BARKLEY. That is correct.

Mr. WHEELER. I wish to call attention to a fact which has not been brought out. There are 106 short-line railroads, and they, together with the American Express Co., have not accepted the new rate for the workmen engaged upon their lines and in their employ.

Mr. BARKLEY. They are short-line roads, which follow along pretty much the same course, but they are not involved with the 18 or the 2 brotherhoods.

Mr. WHEELER. Those railroads have not yet accepted. As I said, I called up and suggested that certainly the employees of the 106 short-line railroads should be given the same rate the other employees received, because if they were not it would be bound to lead to trouble.

Mr. BARKLEY. To give one set of employees an increase of 18½ cents, and another set an increase of 16 cents, even though they were willing to accept it with certain reservations, would create confusion, and the carriers were unwilling to discriminate in that way. I think the President, in all the negotiations, felt that whatever was done for one group should be done for all of them, and it was not possible for the President, prior to 4:10 p. m. Saturday, to announce that the two brotherhoods which had gone on strike had accepted the 18½-cent proposal officially, which up to that time they had not done.

Mr. WHEELER. I thank the Senator, and I think he is absolutely correct in his statement of the facts.

Mr. BARKLEY. If the President had made any statement of that sort prior to that time it would have been untrue, because the condition which justified the statement which he made during his address, when he was handed a note by the Secretary of the Senate, had not existed up to that very moment.

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

Mr. BARKLEY. I continue to yield to the Senator from Montana.

Mr. WHEELER. Not only that, Mr. President, but in their offer to the President they offered to take 16 cents, but wanted further to negotiate, which would have upset the whole situation.

Mr. BARKLEY. Of course it would have upset the whole situation. But there was no suggestion in the communication as to how long the negotiations should continue, or whether they would finally result in another cessation of employment. It was impossible to tell.

I now yield to the Senator from Florida, who has been on his feet for some time, if he wishes me to.

Mr. PEPPER. I wish to take the floor in my own right, when the Senator concludes.

Mr. BARKLEY. I am on the point of desisting.

Mr. STANFILL. Mr. President, I am the youngest Member in point of service in the United States Senate. I am profoundly concerned over the crisis which faces the country—not only that which faced it on last Saturday but which still faces it. I hold in my hand a copy of the Washington Daily News of today, which on the front page has the headline "Lewis primed for showdown with Truman." In the story on page 3 of the same newspaper, a story by the United Press, we find the following:

> John L. Lewis' United Mine Workers struck the Government-operated soft coal industry today in a defiant challenge to the Truman administration.

The words are "Truman administration." I think the writer could better have used the expression "the administration of the American people." Lewis is not striking against President Truman, but against the President of the United States.

Mr. President, on Saturday before the joint session of the Congress the President of the United States, among other things, said:

> This is no longer a dispute between labor and management. It has now become a strike against the Government itself. That kind of strike can never be tolerated. If allowed to continue, Government will break down. Strikes against the Government must stop. I appear before you to request immediate legislation designed to help stop them.

And then again he said:

> However, when the strike actually broke against the United States Government, which was trying to run the railroads, the time for negotiation definitely had passed and the time for action had arrived. In that action you, the Congress of the United States, and I, the President of the United States, must work together—and we must work fast.

It is true that the President had reference mainly, if not entirely, to the strike involving our railroads tying up our entire transportation system. I agree with these statements wholeheartedly and I should like to vote for legislation to implement these words of the President, although there are features of the present bill handed to us by the advisers of the President which I believe are unsound which I may not be able to support and which I could not support in any event except for the great emergency now facing us.

But we must not forget the coal strike which will have perhaps as far-reaching consequence in the long run as the railroad strike; for without coal the railroads cannot run, and the net result will finally be the same as if the railroad strike had continued, although it will be slower in its effect—more like a creeping paralysis of our whole economic and transportation system than the spectacular tie-up manifested in the railroad strike.

According to the story in the Washington Post Sunday, May 26, Mr. John L. Lewis is still adamant. Well, so were Mr. Alvanley Johnston and Mr. Whitney of the two striking railroad brotherhoods adamant up to 4 p. m. Saturday. Mr. Lewis has never yet told the operators or the management of the coal mines what he is demanding. Since March 12, or thereabouts, he has consistently refused to discuss with mine management any terms of settlement. He still refuses to discuss any terms of settlement until, as he says, management agrees to his health and welfare fund. He has in effect defied the mine operators and now we are witnessing the spectacle of Lewis defying the Government of the United States. Under the Wagner Act management is required to negotiate in good faith, but John L. Lewis is not required to negotiate at all. The present deadlock shows the absurdity of that provision of the Wagner Act.

Again I call attention to the words of the President of the United States:

> However, when the strike actually broke against the United States Government, which was trying to run the railroads, the time for negotiation definitely had passed and the time for action had arrived.

If that was true last Saturday of the railroads, was it not equally true of the

mines? The Government had seized the mines and placed them in the hands of the Secretary of the Interior, Mr. Krug.

Although when the railroad workers strike, the President says the time for negotiation definitely has passed, yet when John Lewis' union strikes against the Government, the Secretary of the Interior is directed to step in and negotiate with him. Wherein lies the difference in treatment? This strike by the railroad workers is the first one we have had for many, many years, yet Mr. Lewis' mine union strike is like a perennial plant; it comes up every year. The President tells the country that this railroad crisis was brought about by the obstinate arrogance of two men. Is it possible that we have at last discovered not one but two men who are more obstinately arrogant than John L. Lewis? Why does the President single out these two men and put them in a class above John L. Lewis for obstinate arrogance and relegate Lewis to treatment of utter silence? Unless some sort of deal is being made with Mr. Lewis, I am afraid he will not like to have it said that there is not just one but two men who are more obstinately arrogant than he.

While the Government could or would not negotiate with the railroad men, because of the strike, yet, nevertheless, we are told that negotiations are still going on between the Government and Mr. Lewis although there is no evident sign that Mr. Lewis has been halted in or given up any of his own obstinate arrogance. But the point I desire to make is that it is now the Government which is negotiating with Mr. Lewis and it is not management. Management, I am informed, has no voice in the matter at all. Government will bargain collectively for management, and management will have absolutely nothing to say in arriving at the bargain, if indeed the result of all this political maneuvering can be called a bargain.

It is time to give a note of warning to Secretary Krug and to the President.

The coal contract now being negotiated between the Government through the Secretary of the Interior and John L. Lewis may and is likely to be unsatisfactory to the mine owners. The owners are in no way a party to this contract and they may find it impossible to work under it.

This agreement may prove so expensive and burdensome that it will be impossible to mine and sell coal in a competitive market, and the Government may be required to expend large amounts to pay the concessions granted Lewis, and if Lewis' demands are granted, the rules under which coal is mined may prove so burdensome that the mines may not be able to produce enough coal to meet the public demand and thus our general economy may be so seriously restricted that we will run into the same kind of a serious depression from which England is now suffering as a result of her coal production declining from over 300,000,000 to under 200,000,000 tons per annum. A similar drop in our production in our reconversion period, when we need every ton of coal we can mine, would be a national disaster.

A substantial reduction in our weekly production below the 12,000,000 tons per week, which we must have for our domestic economy, would result in great suffering and great shortage of goods.

When the Government attempts to return the mines to their owners, another strike may take place. If the Government places burdens on the coal industry which the owners cannot carry, the Government will be responsible.

I mention these considerations as a note of warning to Secretary Krug and to the President that they think carefully before buying Lewis off. The price can be too high for the country to pay.

If the President will take matters concerning Lewis and his union into his own hands and publicize Lewis' attitude as he did the attitude of the two men, Johnston and Whitney, the country will support him in that crisis as it has supported him in the railroad crisis.

Mr. BARKLEY. Mr. President, in order that Members of the Senate may understand the program, I wish to advise them that while I regret, after the hard work and long hours of last week, to impose night sessions on the Senate, it is my purpose to ask the Senate to sit very late into the evening in order that we may make progress in regard to this legislation. Our experience has been that we have a better attendance and make more progress at night than we do during the daytime. I hope that will be true during the night.

RESIGNATION OF SENATOR MORSE FROM COMMITTEE ON EDUCATION AND LABOR

Mr. PEPPER obtained the floor.

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

Mr. PEPPER. I yield.

Mr. WHITE. With reluctance, but upon the insistence of the Senator from Oregon [Mr. MORSE], I ask unanimous consent that he may be relieved from further membership or further service on the Committee on Education and Labor.

The PRESIDENT pro tempore. Is there objection?

Mr. PEPPER. I object. I ask the Senator from Maine, Does that request concern the Senator from Oregon?

Mr. WHITE. Yes.

Mr. PEPPER. Mr. President, if it requires unanimous consent, I feel so strongly that the committee and the Senate need the services of the Senator from Oregon on that committee, that I should like an opportunity to discuss the matter with him further in the hope that he might withdraw his request, if that would be permitted.

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

Mr. PEPPER. I yield.

Mr. WHITE. I made the request only upon the insistence of the Senator from Oregon.

Mr. PEPPER. I am aware of that, but I still insist that the committee needs the services of the able Senator from Oregon very greatly. I heard the chairman of the committee express himself to that effect, as well as other members of the committee. I am still hopeful that he will reconsider his decision. For that reason only, so that the resignation may be deferred, I object to the present consideration of the request.

Mr. MURRAY. Mr. President——

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

Mr. PEPPER. I yield.

Mr. MURRAY. I wish to join in that request. I believe that because of the experience of the Senator from Oregon his resignation from the Committee on Education and Labor would be a great loss. I am sure that every member of the committee who has attended the executive hearings we have held holds him in very high respect and regard because of his knowledge and experience in this work; and I think it would be most unfortunate for the Senate to lose his services on that committee.

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

Mr. PEPPER. I yield.

Mr. TAYLOR. While I am not a member of the Committee on Education and Labor, nevertheless, I wish to add a word to what has been said by the Senator from Florida and the Senator from Montana. I come from the same section of the country as does the distinguished Senator from Oregon. I feel that it would be a distinct loss to the Senate if he were to resign from this committee; and I humbly beg of him to reconsider his decision and put the welfare of the great Northwest and of the Nation above his own personal desires in this matter.

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

Mr. PEPPER. I yield.

Mr. SMITH. I wish to add a word on this same subject. The Senator from Oregon is one of my best friends in the Senate. I am a fellow member with him on the Committee on Education and Labor. I agree with my colleagues on that committee that he is one of the most valuable members we have, not only because of his personality and convictions, but because of his wide experience in the labor field. I sincerely hope that he will reconsider his decision.

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

Mr. PEPPER. I yield.

Mr. AIKEN. I wish to say as a member of the Committee on Education and Labor that I hope the Senate will not consider accepting the resignation of the junior Senator from Oregon, and I hope the Senator from Oregon will reconsider his resignation from the committee.

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

Mr. PEPPER. I yield.

Mr. BARKLEY. I wish to congratulate the Senator from Oregon upon his popularity with the members of his committee. I venture the suggestion that if I were today to resign from all the committees of which I am a member, there would be no objection upon the part of any Member of the Senate. [Laughter.]

Mr. LA FOLLETTE. Mr. President, will the Senator yield?

Mr. PEPPER. I yield.

Mr. LA FOLLETTE. I wish to join with other members of the Committee on Education and Labor in stating that I hope the Senator from Oregon will reconsider his action in asking to be relieved from service on that committee. Without doubt his background and experience in the field covered by that committee is unequaled by that of any other Member of the Senate, and I think it would be a great loss to the work of the committee if he were to persist in his determination to be relieved from duty on the committee.

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

Mr. PEPPER. I yield.

Mr. DONNELL. There is nothing that I can add from a factual standpoint or in the way of an expression of opinion, to what has been stated with respect to my distinguished friend from Oregon. However, it is with great pleasure that I take this opportunity as a member of the Committee on Education and Labor to express substantially the same views as have been voiced by my colleagues who have spoken just before me.

To my mind, the Senator from Oregon is characterized first by courage and intelligence; then he is characterized by a great fund of information along the line of labor and its problems. I regard him as an exceedingly valuable member of the Committee on Education and Labor, and I would regard it as a great loss, not only to that committee but to the United States Senate and the people of the United States of America, if he were not to be upon the committee.

I very earnestly join in the suggestions made and the hopes expressed that he will reconsider the decision which he has already expressed.

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

Mr. PEPPER. I yield.

Mr. BALL. May I, as another member of the Committee on Education and Labor, make this unanimous? I quite often vote the other way from the Senator from Oregon, but with respect to his integrity, background, and knowledge in this field I think he makes a valuable contribution.

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

Mr. PEPPER. I yield.

Mr. FULBRIGHT. In order to make this unanimous, I wish to add my protest to the purpose of the Senator from Oregon in resigning, and I sincerely hope that he will reconsider his resignation.

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

Mr. PEPPER. Only for the purpose of the Senator withdrawing his request. [Laughter.]

Mr. MORSE. I should like to make a very brief statement. If my face is as red as the embarrassment I feel after these very kind remarks, it must be very red.

I shall be very glad to talk with my good friends on the committee at a later time. Saturday night I expressed myself in the RECORD as wishing to use my time to better advantage on some other committee, or to do more work for the other committees of which I am a member, in view of my feelings when this particular bill was not referred to the Committee on Education and Labor, as I think it should have been referred.

For the time being, until I can have an opportunity to closet myself with my friends and discuss the question of principle and policy which I think this incident has raised, and which I feel someone ought to raise in protest, I shall let the resignation hang in abeyance.

Mr. PEPPER. At least the Senator from Oregon will agree to enter into collective bargaining negotiations with his friends on the committee. [Laughter.] That is characteristic of his fairmindedness and his devotion to the public interest.

SETTLEMENT OF INDUSTRIAL DISPUTES AFFECTING THE NATIONAL ECONOMY

The Senate resumed consideration of the bill (H. R. 6578) to provide on a temporary basis during the present period of emergency for the prompt settlement of industrial disputes vitally affecting the national economy in the transition from war to peace.

Mr. PEPPER. Mr. President, I wish to maintain the thesis that, in the first place, the legislation proposed is not justified by circumstances.

In the second place, the legislation is dangerous and highly improper.

That leads me obviously to the conclusion that the legislation should not in any case be enacted; and, a fortiori, should not be enacted at any early date.

This has been called the greatest deliberative body in the world. I hope that by our conduct we justify the high reputation which this body has. I have heard it said in the Senate that perhaps the most important thing we can do is to preserve the character of the Senate itself.

I doubt if there is any measure that we could enact which would reflect upon the character of the Senate which would not be procured at too high a price.

We know, therefore, Mr. President, that we cannot preserve the character of the Senate, or its reputation as even a respectable deliberative body, if we pass this legislation without its having had due and proper deliberation and consideration.

It is not becoming for a Member of this body to refer, especially with any degree of disparagement, to the conduct of our sister House; but I cannot justify the action of our sister body as a deliberate assembly, as the thoughtful spokesmen of a serious people, when after the President's address, in something like an hour of elapsed time, with only——

Mr. CONNALLY. Mr. President, with all due respect to the Senator, I think he is transgressing the rules of comity between the two Houses.

Mr. PEPPER. I prefaced my remarks by saying that what I was about to say was not intended by way of disparagement.

Mr. CONNALLY. It may not be so intended, but it is.

Mr. PEPPER. If the Senator will allow me to finish the statement, if it is improper I shall suggest that it be expunged from the RECORD.

All I meant to say was that I could not consider that 20 minutes' debate——

Mr. CONNALLY. Mr. President, I make the point of order.

The PRESIDING OFFICER (Mr. JOHNSON of Colorado in the chair). The point of order is well taken. The Senator will take his seat.

Mr. PEPPER. Mr. President, a parliamentary inquiry. Is it permissible for me to emphasize or refer to the fact that the House of Representatives gave only 40 minutes' debate and time for the consideration of this measure, as exhibited by the RECORD?

Mr. CONNALLY. Mr. President, that is a rule of the House; and any reflection on that rule is a reflection on the House. I do not mind what the Senator is saying; but I do want to preserve comity between the two bodies. If the Senate can "cuss" the House out, the House can "cuss" the Senate out. It is not in conformity with good practice, and it is violative of all the legislative traditions and precedents. I hope the Senator will not indulge in such a practice. What he says does not offend me, but I do think it transgresses the rule, and I shall have to insist upon the observance of the rule.

Mr. PEPPER. I made it clear in the beginning that in what I said I was referring only to the fact that the RECORD discloses——

Mr. CONNALLY. Mr. President, I make the point of order.

The PRESIDING OFFICER. The point of order is well taken, and the Senator from Florida will take his seat.

Mr. CONNALLY. Mr. President, I move that the Senator from Florida be allowed to proceed in order.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. PEPPER. Mr. President, I am somewhat at a loss as to what to say. Certainly it would seem to me that I could refer to what was published in the newspapers, and what was in the RECORD, as to the total elapsed time of debate.

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

The PRESIDING OFFICER (Mr. JOHNSON of Colorado in the chair). Does the Senator from Florida yield to the Senator from Maine?

Mr. PEPPER. I gladly yield.

Mr. BREWSTER. We have no evidence that this measure has ever been adequately considered by anyone whom we know.

Mr. PEPPER. The Senator is thoughtful in his suggestion.

All I wish to say is that the Congress of the United States is not expected by the people of this country to act other than as a deliberative body, and to act in a manner commensurate with our responsibility to the public. I will say this, Mr. President—and I suppose it is permissible—that if the Senate of the United States did not give more than 20 minutes' opportunity for debate on this measure to one side, namely, those who favored it, and 20 minutes' debate to the other side, those who opposed it, that would not be enough time. Nor would it

be enough time if any other parliamentary body proposed to act upon it in such a limited time, whatever may be the name of the body.

So, Mr. President, what I am saying is that it is essential that the Congress of the United States continue to act as a deliberative body, and that we show, by our conduct and our deliberations, that we have a sense of the weight of the solemn responsibility which rests upon our shoulders as the constitutional representatives of the people of the United States.

Saturday night it was proposed that this measure be immediately placed upon the calendar and made the pending business, when the Senate had before it nothing except mimeographed copies which had been sent to the Senate by the Chief Executive or some other branch of the Government. We did not even have on the Clerk's desk a typewritten copy, to my knowledge, of the bill which we were expected immediately to pass. If any Senator had had any part in drafting this legislation, no notice of it was given to the Senate; and I certainly have no information of that character. Someone drafted a bill and sent it to the Congress in mimeographed form; and the Congress of the United States—not a mob on the street, Mr. President—the Congress of the United States was expected to pass that bill Saturday evening.

Mr. President, was that a declaration of war? If an enemy had been at the gates of this country, clamoring for entry, if our gallant citizenry had been holding him back by sheer force of courage and determination and if then there had been the necessity for such a measure, no Member of the Senate would have withheld his consent from the Executive's recommendation, because the Executive would have been charged with the defense and security of the United States.

But when the proposal was made that the measure immediately be made the pending business, without reference to a committee, without having Members of the Senate consult, so far as I know, about the measure, without any committee hearings, but when request was made to write a bill on the floor of the Senate, it was not the Senator from Florida, but it was the Senator from Ohio [Mr. TAFT], who objected to such a request. Other Senators would have made objection; but I commend the Senator from Ohio for making it courageously. Had he or some other Senator not made it, then this measure would have been made the pending business, and there would have been no chance for committee consideration or senatorial consultation upon it.

On the contrary, Mr. President, when the Senator from Montana [Mr. MURRAY], as chairman of the Committee on Education and Labor, said that he would hold hearings as expeditiously as possible, the very fact that he announced that he would hold hearings at all created laughter in the Chamber and, no doubt, a resolution on the part of the advocates of the measure that it be deviated from a course to the Committee on Education and Labor, the committee to which it should have gone in due course, and made them determine then to have it referred to another committee, a committee which had never exercised jurisdiction over legislation of this general character.

A little later, therefore, our distinguished leader made request that the bill be referred to the Committee on Interstate Commerce. Mr. President, that is a very distinguished committee. No one made objection to consideration of the measure by that committee. It has an able chairman and a distinguished membership. But we did not believe that the instruction given that committee by the leader's motion of reference, namely, that the committee report it back at the earliest possible hour, would be so literally followed that an hour would be the measure of its consideration by that distinguished committee.

So, Mr. President, within an hour's time after the committee meeting was called following the announcement of the chairman from the floor of the Senate, the bill was reported back to the Senate, with only two material changes. One was that those who were, under the bill, to be drafted into the armed services of the country should not get the benefits of the GI bill of rights unless the President should so determine. The other one was to change the expiration date of the measure to the end of June 1947.

I will say, to the credit and to the distinction of six members of that committee, including the chairman and able Senator who now presides over the Senate, the Senator from Colorado [Mr. JOHNSON], that an effort was made to delete section 7, the section which gives to the President authority to draft workers and executives who have disobeyed his command into the armed services of the country. But they were overwhelmingly outvoted by their colleagues, and so they were unable to make even that change in the proposed legislation.

When the measure came back to the floor of the Senate it was noised around the Senate Chamber that an effort would be made to adjourn the Senate and to commence another session and bring up the measure later the same night. I am happy to say that that purpose was desisted from, and, by common consent, the bill was made the unfinished business for this day and agreement was had that the Senate would be called into session at 11 o'clock this morning.

But the leader has already announced that we shall be kept in session until a late hour tonight. It is already manifest to the membership of the Senate that we are in for another drilling, that we are in for another discipline of duty, in order that this measure may be passed forthwith, without consideration in the Senate that is adequate to its character, without committee consideration, and without letting the public of the United States have an opportunity to be heard upon the measure.

Mr. President, I wonder whether Senators realize what that kind of senatorial deliberation does to the character and reputation of this great body, which is known all over this great land and throughout many parts of the world as one of the greatest, if not the greatest, deliberative bodies of mankind. To have those people who have that confidence in the United States Senate believe that we would rush through to passage into the law of the land a piece of legislation of such momentous significance and character will do more harm, in my opinion, in the long run to the democratic process and to the dignity and repute of the Senate than almost anything else we could do affecting this subject. I am sure I can say that it will do the cause of republican government more harm, for us to rush through this measure, with the public knowing that it has not had due consideration, than it will render a disservice to the public not to pass the measure at all. If we had a choice between passing the measure in such an unseemly way or not passing it at all, even if it were a good measure, I respectfully submit, Mr. President, that it would be better for us not to pass it at all.

What is the emergency which requires such haste in the Congress? Is it the railroad strike? We all know that the railroad strike has been settled. It was settled by the announcement of the President on Saturday afternoon, in the course of his address. Before he had completed his address directions by the leaders of the workingmen who were not at work for the railroads had gone out, and they were either at work again or were on their way to their appointed tasks. Therefore, it was not necessary to have a night session in the Senate on Saturday night, after a grueling 2 weeks of debate upon a vital piece of legislation. Surely it was not necessary, so far as the railroad strike was concerned, to have the Senate dispense with its ordinary procedures, set up as a result of long experience and wise foresight for the governance of their conduct. No, Mr. President; there was no emergency with respect to transportation in America which justified the effort which was made to rush, in an unseemly and hasty manner, this measure into law.

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

Mr. PEPPER. I yield.

Mr. BREWSTER. As the Senator from Florida knows, we have had a little discussion from time to time about the duration of senatorial debate. The thing which has puzzled me in this situation has certainly not been any lack of consistency on the part of the Senator from Florida in undertaking to see that all these matters were adequately discussed. But I am puzzled by certain other Members of the Senate, particularly by our distinguished majority leader, who begged and implored us, during the early stages of the discussion of the Case bill, not to rush into hasty legislation which would be calculated to do harm. I recall his very impassioned and earnest plea that we defer consideration, particularly while a crisis was on and while we might be angry, one man toward another. I think he even used the phrase "froth at the mouth." So he implored the Senate not to take action at that time.

Now, apparently, the tune is changed. Now we are being asked to proceed with consideration. As the Senator from Florida pointed out, Saturday night, after very extended debate and under

very pressing circumstances we now have the feeling that we are being carried into extended session for no apparently fruitful purpose, and certainly not to produce the orderly procedure which is most desirable.

It seems to me that those responsible for that change in attitude regarding the consideration of legislation should give to us some reason for the emergency which requires so great a change in front.

Mr. PEPPER. Mr. President, I thank the Senator from Maine for his observation. Of course, I cannot speak for other Senators. I appreciate the remarks of my able friend from Maine that the Senator from Florida has been consistent in both cases in insisting that these measures be given the fullest consideration.

Let me say as an aside, Mr. President, that I think the conduct of the Senator from Florida has been consistent also, since 1937, in not engaging in a filibuster and in voting for cloture every time a cloture petition to limit debate has been filed. The reason why the Senator from Florida on Saturday afternoon or evening was one of the three Senators who voted for cloture was that the Senator from Florida wanted to keep his record straight; and the Senator from Florida is profoundly grateful to the distinguished occupant of the Chair, the Senator from Colorado [Mr. JOHNSON], and the able Senator on the other side of the aisle [Mr. WILSON], who joined with him that evening, from keeping him from standing out altogether like a sore thumb in voting for cloture on debate.

In view of the fact that the charge had been made that the Senator from Florida had been engaged in a filibuster, I wanted the RECORD to be clear that when the cloture petition was voted upon I would keep my promise of the previous day, and my previously announced purpose of voting for cloture, but, Mr. President, only after I felt that there had been a fair opportunity by debate in the Senate to advise the country and the Congress as to what was involved in the legislation. I contend that that is what the Senate rules contemplate. It should be proper in a deliberative body to debate and inform the Congress itself of the character of proposed legislation. After that purpose has been accomplished, the Members of the body have a right to vote. I shall consistently agree to cloture when I think it is the consensus that there has been a fair opportunity afforded for debate upon the measure then before the body. That statement applies to the pending bill. I will say that the Senator from Florida will do everything he can do in order to prevent the pending bill from passing within the next few hours, or, for that matter, during the present week. Certainly 1 week is not too long in which to give the people of America a chance to learn whether or not their constitutional rights are about to be taken from them, or whether their property is about to be snatched from their ownership and possession by the will of a single man, even if he be the Chief Magistrate of the land.

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

Mr. PEPPER. I yield to the Senator from Arkansas.

Mr. McCLELLAN. I am very much interested in the statement which the Senator made a moment ago with regard to the attempt which he will make to prevent the Senate from voting upon the pending measure within the present week. I should like to determine the point more clearly in order to decide whether I should or should not carry out some plans which I have already made. I had planned to keep an engagement on Memorial Day in my own State. But, I do not wish to be absent when a vote is taken on a measure so important as the pending bill. I understood the Senator to say a moment ago that he would do everything possible to prevent a vote being taken on the bill during the present week. If I knew that a vote would not be taken, I would be glad to fill my engagement. If that is the plan, and those who are opposing the bill will carry out their purpose to prevent a vote being taken this week, I believe that I would be justified in being absent from the Senate. If I can not obtain such assurance, I feel that I should not be absent when the vote is taken on the pending bill.

Mr. PEPPER. I can quite understand how the Senator from Arkansas feels. I do not want him to misunderstand what I said. What I intended to say was that I feel this matter is of such gravity and momentous consequence to the country, and is so vitally related to our system of constitutional democracy, that I cannot give my consent to its immediate passage by the Senate. I certainly cannot consider that less than a week's time for debate would be fair in connection with the discussion of this measure. I do not know, of course, how many other Senators feel the same way, and I cannot speak for them. Neither can I speak for the efficacy of my effort. The Senator knows that when the steam roller begins to roll in the Senate and he dares to oppose it, he will find it almost necessary to take his life in his hands. We saw instances of that last week.

I will say further to the Senator from Arkansas that many of us are going to insist that this bill be recommitteed to the Interstate Commerce Committee, which has already considered it, or that it be referred to some other committee. If some other Senator who is better qualified does not make the motion, the Senator from Florida, in due course, will make a motion that the bill be recommitted to the Interstate Commerce Committee or referred to some other appropriate committee of the Senate, and that the public of the United States, both employer and employee, shall have an opportunity to be heard on a measure which proposes to take away their property and their civil rights.

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

Mr. PEPPER. I yield.

Mr. McCLELLAN. I appreciate the Senator being frank. Perhaps I do not agree entirely with him in the statement with reference to the premises on which he bases the importance of the bill. However, I do feel that the bill is so important that every Senator should be present to register his vote when the Senate is ready to take a vote. For that reason, I do not want to be absent when the vote is taken, and will not be absent unless I can obtain assurance that the vote will not be taken this week.

Mr. PEPPER. I am sorry that I cannot give the Senator further information.

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

Mr. PEPPER. I yield.

Mr. WHERRY. In view of the statement which the Senator made that he expects to make a motion——

Mr. PEPPER. Unless some Senator better qualified than I will make it, I shall make the motion.

Mr. WHERRY. I wonder if the Senator feels that the motion will be made soon?

Mr. PEPPER. I do not know. I believe the discussion in the Senate this evening will be general, and I do not know whether the motion will be made this evening or not.

Mr. WHERRY. There are several Senators now absent from the Chamber who would wish to be present when the motion is made.

Mr. PEPPER. An adequate opportunity will be given for all Senators to be present.

Mr. BREWSTER. Mr. President, did I hear the Senator from Florida give the latest available report with reference to the situation in connection with the coal strike? The Senator from Florida referred to the railroad strike.

Mr. PEPPER. I will come to that in a minute.

Mr. BREWSTER. Very well.

Mr. PEPPER. Mr. President, before I get away from the procedural suggestion that the pending bill be referred to some appropriate committee of the Senate, I believe it to be only fair to say that in spite of the fact that the Senate on Saturday evening bypassed the Committee on Education and Labor, it might be well to recommit the bill to the Committee on Interstate Commerce. However, Mr. President, we have many precedents in the Senate for the consideration of an important measure, the jurisdiction of which might properly attach to more than one committee, by more than one committee, one after another. I remember, for example, the Missouri Valley Authority bill. If I recall correctly, that bill was referred to the Commerce Committee, to the Committee on Agriculture and Forestry, and to the Committee on Irrigation and Reclamation. It was a far better measure when it came out of those three committees than it would have been had it been considered by only one of them.

Surely, Mr. President, the Judiciary Committee of the Senate would be a proper committee to consider this measure. The measure would change to a very large degree the very inherent system of our Government and the character of our Republic. It would change very vitally the laws respecting the power of the courts of this country to issue injunctions in labor disputes, a subject which is particularly and exclusively within the jurisdiction of the Committee on the Judiciary. Certainly, it would

be appropriate for the Committee on Education and Labor, which labored all through the long hearings, discussions, deliberations, and reports on the Case bill, to be given an opportunity to consider this measure. Many times this body has decided that it would be better to act wisely and wait, than to act hastily and regret it later. It is an old saying that "Haste makes waste." Sometimes the desire to accomplish public purposes too hastily has led to the very undermining of constitutional and responsible government in all too many lands of the world. So I am advocating, first, that the Senate discuss this measure until every Senator has burned into his head and heart every provision the bill contains, and every purpose which is behind every provision; in the second place, that at a time when the Senate thinks that it is appropriate, the measure be referred to some committee or committees, and that the first thing those committees or that committee do may be to give the American people an opportunity to be heard.

Mr. President, can any Senator recall any number of measures of any significance which have been passed by the Senate without an opportunity for the public affected to be heard? The selective-service law would draft young men into the armed services of the country for the country's defense, and we are short of men. Every newspaper report tells of the shortage of the number of volunteers as compared to the needs of the armed services. Yet we have had hearings upon the selective-service law. We have had hearings upon the selective-service law in spite of the fact that the effect of our not acting upon that measure in a timely way has made it necessary for 200,000 men, some of them fathers, some of them having already put in longer service than they were under obligation to render, to remain in the service. Yet, in spite of that disservice and that injustice being done to those men honorably wearing the uniforms of their country, we have insisted upon public hearings on selective service. We have given an opportunity to be heard not only to the Government agencies affected, but to responsible representatives of the public itself.

The same is true about the OPA legislation. In spite of the fact that we need enactment of that legislation at an early date, that, too, has been submitted to public hearings and to the closest scrutiny, and to long-time debate and consideration in the committee itself.

I could go on enumerating almost every piece of legislation which has been before this body, and we would find the same record. A bill is first introduced, then it is referred to a standing committee, then notice is given of public hearings, the public is heard, the committee deliberates, usually having the recommendation of the appropriate department of the Government before it when it acts, and then finally the committee acts and reports the measure to the Senate of the United States, and the Senate considers it in due course upon its calendar.

I recall the same practice applied to the lend-lease measure. When the world was burning up, when Hitler was marching farther and farther toward America, when totalitarianism seemed inevitable as an inundation upon the earth, when Great Britain, our gallant ally, was almost on her knees, when France was prostrate, and when Europe was largely overrun by the Nazi hordes, we took time month after month in the United States Senate to have public hearings upon the lend-lease measure.

Senators will also recall when we proposed to change the Neutrality Act to make it possible for us to make our supplies, from factory to farm, available to those who were the victims of Hitler's aggression, and when every day we withheld supplies meant that we were for all practical purposes embargoing aid to our friends who were fighting for democracy, and aiding those who were the enemies of democracy and America, yet we had public hearings upon that measure to amend the neutrality law. That, Mr. President, was when America was really in danger.

Away back in the fall of 1940, long before we had ever passed a lend-lease measure, long before we had ever been attacked by Japan, when the question arose as to the raising of an Army to defend America, and the need was imperative, yet we took the time to have public hearings. Why? Because we thought it worth while not only to defend democracy, but to preserve it in the Senate of the United States.

So even in actions directed against Hitler we did not become so hasty that we were willing to dispense with the ordinary procedures inherent and necessary in proper consideration of proposed legislation.

Mr. President, now we are in a day of peace—practically peace; I am not talking about technical peace. We know the war with Germany and the war with Japan are over, and, as the courts say, what everybody knows even the courts know. The courts of America know that, while technically the Congress has not declared the war at an end and the President has not proclaimed officially the end of the war, the war is really over; except, Mr. President, for those who are lingering in the hospitals, for whom the war will never be over as long as they live.

Here, in a day of peace, on the recommendation of the President, the Congress of the United States is expected to dispense with all ordinary safeguards for legislation and for the public interest, and in a matter of hours, if not minutes, adopt the most far-reaching legislation, as Senator after Senator has said on this floor, to be proposed in this body or in the other House of Congress.

Mr. President, I said in the first place that the emergency existing today does not justify such haste and such shunting aside of the ordinary protective procedures of the United States Senate. I said the rail strike had been settled. That was obviously a move of disastrous consequence, not only to the public and the management, but also to the workingmen whose work stoppage had stalled the trains of the country. No one claims that everybody did not lose by that stoppage of work. I have heard of no Senator, I know of no citizen, who does not in his heart's recesses lament that that circumstance ever came about. I shall not at the present time go into a discussion of the causes of that work stoppage, although I shall before I take my seat; but I will say that that work stoppage was at an end during the address of the President, according to official notice which had come to his attention.

I will say further, Mr. President, although I regret to discuss it when the able leader is of necessity not on the floor, that I cannot bring myself to the conclusion that the President could not have been satisfied that those men were going back to work before he came to address the Congress. I base that statement upon two things. The first is the uncontradicted assertion that the Government of the United States never during all the deliberations upon the rail strike requested these men to work under a contract between them and the Government, the duration of which should extend only to the end of the operation of the railroads by the Government. On the contrary, I was told, upon my own inquiry, by Dr. Steelman, when I asked him the direct question on Friday afternoon, that the Government had never proposed to these workers a contract of agreement under which they would go back to work for the United States Government.

Mr. President, I do not wish to be understood as saying that the Government did not propose a basis for a permanent contract between the workers and management. I said that, according to Mr. Steelman, and the advice of Mr. Whitney to me Friday afternoon and evening, there was never any effort made on the part of the Government to induce these workers to return to work under an agreement that would cover the period of their labor for the Government of the United States.

Senators will recall that in the Senate on Friday evening this matter was discussed, and that various Senators made the proposal that the Government should attempt to get the railroads to operate again, and that as important as the permanent settlement was in the respect of the public interest, the primary thing was to get the trains running again, and then let the parties continue their negotiations about a permanent form of contract between management and labor.

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

Mr. PEPPER. I yield.

Mr. MURRAY. Mr. President, a very important speech is being made in the Senate. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GEORGE in the chair). Does the Senator from Florida yield for that purpose?

Mr. PEPPER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PEPPER. Will the Senator from Florida lose the floor if he yields for the purpose suggested?

The PRESIDING OFFICER. The Senator from Florida will be considered as having spoken once upon the subject. If he yields for the purpose suggested he can make only one more speech upon the subject.

Mr. PEPPER. Mr. President, I thank the Senator from Montana, but I shall continue to speak.

I was saying that I conceive in every case when the Government takes over a public utility, or an enterprise, or a facility, that the first obligation of the Government should be to get it to going again. In the case, for example, of the coal mines, to get the coal miners back into the mines to mine coal. In the case of the railroads, to get the men back at their jobs running the trains and doing the work necessary to keep the trains on the move. Yet, Mr. President, somehow the Government never approached the railroad strike in that spirit. I will say that I think the Government has approached the coal-mines strike with that view, and I will say that I understand great progress is being made toward a solution of the coal strike, or the reexecution of a contract between management and labor, because the Government is directing its efforts—its able Secretary of the Interior, its able special representative, Vice Adm. Ben Moreell, and other representatives are directing their primary efforts to getting the coal to move again out of the bowels of the earth to its various uses all over the land and over the earth.

So I say, Mr. President, that in my humble opinion our Government was derelict, our Government was delinquent, in never having approached a railroad employee with a proposition to work for the Government. I knew Friday night, after talking to Mr. A. F. Whitney, that they were anxious to work for the Government, that they would gladly agree with the Government upon what would be fair working terms upon which to work for the Government, but they told me with sadness, Mr. President, that they had been rebuffed at the White House in an effort to present their petition to the President that he negotiate with them an agreement which would relate only to the period of the operation of the railroads by the Government itself.

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

Mr. PEPPER. I yield.

Mr. BREWSTER. Am I to understand, then, that the Senator feels he has it on reliable authority that the heads of the railroad brotherhoods had indicated to some responsible party in the Government that they would be willing to continue operations under an equitable arrangement with the Government, and that their suggestion of that solution was rebuffed—I think those were the words the Senator used? It seems to me that if that situation prevailed it does present a somewhat extraordinary situation.

Mr. PEPPER. Mr. President, I will say that in the letter to which I shall refer later, already referred to by the Senator from Kentucky, it is stated that on the night before the date of the letter—and the date is May 25—there had been consultations with Secretary of Labor Schwellenbach and Secretary of State Byrnes by the labor representatives, and they had suggested the negotiation of a temporary agreement to be entered into between the workers and the Government, so that in the letter that went to the President himself was the statement of these representatives of the workers that they had told two of the Cabinet officers of the President they would negotiate with the President an agreement covering the period of the Government's operation of the railroads. I further was informed by Mr. Whitney, and I saw it on the previous day in the Washington Post, that their application for an appointment to see the President to discuss the matter with him was denied.

Mr. BREWSTER. Has the Senator been able to find from any responsible Government officials the reason why this offer was not more seriously considered?

Mr. PEPPER. Mr. President, I have not heard, other than what I heard from the leader on the floor of the Senate and what I heard the President announce, that the men were back at work and the strike was settled on terms proposed by the President. I take it that the President intended to say what I understood was imputed to him, that the time for negotiation had passed, and the President did not expect to negotiate further with these workers, but to tell them what they had to take and demand unconditionally that they take it.

Mr. President, unconditional surrender, I suggest, may be appropriate for an enemy of the country, but I do not believe it is appropriate with respect to patriotic workingmen who are conscientiously offering to enter into an agreeable adjustment of a work stoppage that will send them back to work. I do not think any credit goes to the President of the United States or to the Government for the victory of unconditional surrender over any segment of the citizenry of this country who are not criminal in their conduct, who are conscientious in their desire to come to an accord with the Government in the public interest.

I said, therefore, that I thought that the emergency was not so acute as the impression was created that it was, and that the reason it was not so acute was that the Government could have gotten the railroadmen back to work if it had approached them upon the theory of working for the Government and then settling the disagreement with management in due course by negotiation.

I read from the letter of Mr. Whitney and Mr. Johnston:

> But we regret deeply the impression that our men are not willing to work for the Government. We will work for the Government. As you have by now heard, we had last evening a very constructive talk with the Honorable James F. Byrnes, Secretary of State, and the Honorable Lewis B. Schwellenbach, Secretary of Labor. It was suggested that if the Government feels that it should not enter into a permanent agreement with the engineers and trainmen we would be willing to negotiate a temporary agreement for the duration of Federal control if you would approve an increase of 18.5 cents an hour, or $1.48 a day, and the seven rules recommended by your Board, with appropriate interpretations, with the further proviso that we would be willing to arbitrate such other rules as we are unable to settle through negotiation with the railroads.

I read a little bit more to show what response that suggestion of theirs received:

> At the time, it was our understanding that this proposal would be submitted to the railways, but we were advised later that no action was taken in connection with it.

In other words, 4 o'clock Saturday afternoon was the President's deadline, and Friday night, when Mr. Whitney and Mr. Johnston told two of the President's principal Cabinet officers their terms and made their proposals in good faith, and were told that they would be transmitted to management, management never took any action upon them, never proposed to meet them half way or part of the way, and neither did the Government of the United States.

So, not having heard anything by the morning of Saturday, these two gentlemen, Mr. Whitney and Mr. Johnston, drafted this letter to the President, and gave it to the press and to the radio, so that the American people would understand that there was something to be said for their side in this controversy, notwithstanding the fact that the President himself had addressed the people the evening before. I take it, Mr. President, that nobody will deny that a citizen feeling himself aggrieved by a remark of the President should not try to correct the public misimpression about his conduct if he were able to do so.

They proceed further in the letter:

> Your suggestion of the 18½ cents increase would deprive us of the seven rules changes recommended by the members of your emergency board.

They are simply protesting against the deprivation of the recommendation made by the President's emergency board.

Now listen to this language:

> Our men await only your word that they can return to work for the Government on the basis of the award of your emergency board. That is, the seven rules changes, with appropriate interpretations, and 16 cents an hour wage increase, to be effective January 1, 1946, if you, Mr. President, will allow us to negotiate with you further concerning any other fair wage increase.

Mr. President, that was a definite proposal made by the representatives of these workingmen at noon on Saturday, that they go back to work for the Government if the President would give them the award of his own emergency board, literally, and if the President would agree to negotiate with them as to whether they were entitled to any further and fair wage increase.

Some will say, "That is a conditional proposal." Yes; it is conditional in principle. But they did not ask the Government to agree to give them any definite assurance of any particular wage increase. They did not ask the President to give them any assurance of any further wage increase at all. They merely asked the President to give them assurance that he would hear them, discuss the question with them, and negotiate with them as the head of the Government, as to whether or not they were entitled to any further wage increase.

Mr. President, having discussed this matter with these gentlemen, I understand why they wanted to put the matter in that way. In the first place, they wanted to talk with the President personally. I am informed that the President carried on these negotiations, as he tended to confirm in his address, almost exclusively through his representatives.

That is all right. I do not question the right or the wisdom of the President in doing so; but I will say this, Mr. President—and I am quoting Mr. Whitney now; I give the Senate the probity of his word. He said that in the last several acute days of these negotiations the President spent a total of approximately 18 minutes personally negotiating with these men, and he contrasted those 18 minutes with the 8 hours President Franklin D. Roosevelt spent, in the stress of war in 1943, settling the rail strike of that year.

Mr. President, I am not in any sense of the word making any personal criticism of the President. But I do respectfully submit that this matter was of such magnitude that it required the personal attention of the President of the United States to the exclusion of almost everything else. I respectfully say that the President had not exhausted every reasonable effort to put those men back to work until he had personally exhausted every effort to reconcile the differences either between them and management or between them and the Government of the United States.

I believe that it would have been perfectly proper to have done with these two railway brotherhoods what at that very time the Secretary of the Interior, Mr. Krug, and the special representative of the Government, Vice Adm. Ben Moreell, were doing with the mine workers, that is, trying to negotiate a contract to cover the period of operation of the mines by the Government itself.

A little while ago our able leader stated that there were 18 of the other railway brotherhoods. I was repeatedly informed this afternoon by Mr. Miller, a representative of the railway trainmen, that there were only 17 of the other railway brotherhoods. The number is not so important; but he did feel that the record ought to be clear, that the number is 17 instead of 18.

The second important matter is this: Contrary to what our able leader has said, it has seemed to me that the railway trainmen and the engineers were right in insisting that there were special problems involved in the rules changes which they sought, which were not common to all the brotherhoods. There were reasons why the rules changes were of special importance to those two particular brotherhoods. In their letter to the President they pointed out that fact. The matter is referred to in the letter of Mr. Whitney and Mr. Johnston to the President on the 25th day May in these words:

> In returning to work on this basis we know that we can rely also on your fairness and good will to keep the door open to further consideration of those differences regarding working rules changes which apply to the membership of our two unions, and in which the nonoperating rail unions have no interest. This would leave the matter of our contract with the carriers to be worked out in further negotiations.

They were emphasizing that these rules matters had a particular significance to those two brotherhoods. That is the reason why they felt that the settlement proposed by the Government of 16½ cents an hour should not be applicable to them, because the other brotherhoods did not have in dispute the matter of rules changes, while these two unions did have in dispute changes in their rules. They assert that for 25 years they have not had a change in their rules. Therefore, they were particularly anxious that in this controversy they gain some rules changes.

It will be noted that the emergency board of the President recommended seven rules changes, and yet the President's recommendation repudiated the recommendation of his own emergency board, and he deleted from his proposal the seven rules changes recommended by the emergency board. The President exercised his own judgment in stating that 2½ cents an hour would be the fair equivalent of the seven rule changes for those two brotherhoods recommended by the President's emergency board.

Mr. President, I respectfully submit that it is up to the men to determine whether 2½ cents an hour is the equivalent to them of the seven rule changes recommended by the President's emergency board. Surely the President of the United States cannot too severely condemn these two men and the organizations they represent for insisting upon the very thing that his own emergency board recommended. It was he who repudiated his emergency board, and not these two willful men whom the President castigated in his remarks over the radio Friday evening and in his address to the joint session on Saturday. So the matter of a change in their rules being of such special importance to them, they insisted as long as they could that they had a right to the rules changes recommended by the President's board, but they said they were willing to accept 16 cents an hour, whereas the other unions had obtained a recommendation of 16½ cents an hour. But they would accept it only upon the condition that if they could show the President that they were entitled to further wage increases while they worked for the Government, he would give them the wage increases of the merit of which they could convince him.

Was there anything wrong about that, Mr. President? Was there anything unpatriotic about that? Was there anything dictatorial about it? Was there anything arbitrary about it, or anything unreasonable? These men made a conscientious effort to right objectionable working rules and wages to the best of their ability.

Another reason why these men made the proposal to the President that the other railway brotherhoods should not be brought into this matter was the fact that the other railway brotherhoods, whether they be 17 or 18, were not on strike. They had not stopped work due to any disagreement with the Government; and the procedures under which their controversy was being considered never reached the emergency stage so that it properly should come to the attention of the President.

I say this by way of explanation: Those who are not familiar with the elaborate machinery of the Railway Labor Disputes Act would not know that that act provides a great many procedures. It goes through a labyrinth of requirements and regulations, different tribunals and boards; and there is in the statute itself a time limit in most cases for the consideration of such controversies by the various boards and tribunals. I am told by experts in this field that it would have been at least 60 days, in due course, before the controversy between the other railway brotherhoods and management reached the emergency stage which would have brought it to the personal attention of the President of the United States under the Railway Labor Disputes Act. And yet what did the President do? Instead of trying to settle this strike with the two striking brotherhoods, instead of trying to get the trains running again, instead of thinking first about the inconvenience to the public, the President determined to settle the whole railroad controversy between labor and management.

Mr. President, I realize the desirability of settling the whole railroad controversy; but again I say that I think the primary emphasis by the Government should have been put upon getting the striking men back in to their jobs and the trains of the United States running again. That was not done. So I say, in respect to the operations of the country's railroads, that the emergency was never such as suggested by the legislation which is now pending before the Senate. At the present time, with the rail strike settled, it assuredly is not of the character to demand the stringent legislation which we are now considering.

Mr. President, I cannot give the Senate any information of value about the coal strike, except to say that I believe that, now that the Government is proceeding in the way that many of us have quite respectfully suggested in the Senate that it should, in trying to work out an agreement with the coal miners covering their work for the Government, it will be only a matter of hours until the coal strike will be settled.

If our anticipation is realized, namely, that the rail strike is settled and the coal strike is settled, will Senators still contend that it is necessary or desirable that the Senate immediately enact this measure without serious debate and consideration of it by the Senate, without deliberations by a Senate committee, and without public hearings? I do not think they will. Not only do I insist that these two strikes in these two important fields either have been settled or will soon be settled, in my opinion, but I will say that the major industries in which work stoppages might occur to the detriment and inconvenience of the public have already had management-labor settlements or have already had contracts executed between management and labor which afford rather satisfactory assurance that we shall not be confronted with any other work stoppages affecting the national economy in the immediate future.

I am not forgetting about the maritime strike which has been proposed. I shall refer to it in a moment. But I will say that the railroad strike has been settled now; and if the coal strike is early settled, that will be out of the way. The steel strike has been settled. The automobile strike has been settled. The elec-

tric strike has been settled. Also the oil strike or disagreement has been settled, the farm-equipment controversy has been settled, and the packing-house controversy has been settled. Those are the major industries of the country in which work stoppages, if they occurred, would seriously inconvenience the American public.

Mr. President, it is true that a maritime strike has been proposed. There is no doubt that a maritime strike would be of serious consequence to the country, and all of us earnestly desire that one shall not occur. But does the prospect of a maritime strike justify us in passing such stringent legislation as this? A little later I shall discuss the details of the proposed legislation, but I can summarize it as other Senators have summarized it, as the most exacting proposal which in the lifetime of Senators—some have said "ever"—has been proposed to the Congress of the United States. There were many who felt that the court bill proposed by President Roosevelt struck at the very heart of American constitutional government and constitutional prerogatives and liberties. There are many of us who think that this measure as much deserves that appellation as did the court bill; and it would seem to us at least that many who so valiantly and gallantly and, in the long run, so successfully opposed the court bill should be alarmed about this measure which comes by the recommendation of another Executive. In that day, the fact that it was the President who recommended the proposal did not give it immunity from criticism, nor did that measure enjoy immunity from public hearing and protracted consideration by a committee. But now if we stand up and speak our minds about this measure, there are many who think it is an affront personally to the President, that it is an act of disloyalty, and that somehow we are culpable if we pursue such a course.

I think all of us have a right—nay, not a right, but a duty—when we consider that the public interest is imperiled, to oppose the measure in every way within our power. Because some of us believe that this measure does jeopardize the public interest and undermines our system of government and takes away essential liberties from those who own property and have essential rights, it is not only our right but our duty to oppose it to the very limit of our ability, properly exercised.

I should like Senators to look back a little with me at an earlier time than the present. I should like to begin with last fall, and to say that in making these suggestions I am leading up to a justification of a remark which I made in the Senate last week; namely, that management should share the public condemnation for the work stoppages and the public inconvenience which we have experienced in recent weeks and months since VE-day and VJ-day. Senators will recall that in the fall of last year, immediately following the end of the war, there was held, by common desire, a labor-management conference. Many looked upon that conference with high hope and with expectations of optimism. They knew that we were just emerging from a terrible war, that we had lived under a controlled economy for many years, and that the transition period from a controlled war economy to a free peace economy would be a tumultuous one, that the sheer mechanical difficulty of adapting ourselves from war to peace would be extremely demanding in its exactions upon us; and they thought—such persons as the Senator from Michigan [Mr. VANDENBERG] and others, who proposed and advocated the management-labor conference—that if management and labor would get together and, in good spirit, try to reconcile their differences, perhaps we could spare ourselves the pain and the ordeal of such work stoppages and such industrial strife as later came to pass.

Under those most favorable hopes and under great auspices, the management-labor conference convened in the city of Washington. Those at the conference began to discuss the various subjects which were likely to produce industrial strife between management and labor. In a very few days it became obvious that the conference would not get far unless it discussed the matter of wage increases, and there were some who proposed that wage increases be put upon the agenda of the conference. Management stubbornly refused, and, throughout that conference, management stubbornly refused to put wage increases upon the agenda of that conference. Some labor leaders did the like. But such men as Philip Murray—and I repeat that I consider him a statesman—earnestly and persistently advocated that wage increases be put upon the agenda, because they foresaw that prices had so risen, the cost of living had so increased, that of necessity when we came from under the restraint of a controlled economy of wages and prices, it would be necessary that working men and women receive increased compensation for their labor.

But, no, Mr. President; management and some short-sighted labor leaders turned a deaf ear to the proposal of Mr. Murray and of those associated with him. So there came about the end of the management-labor conference, and it was a failure. Management and labor had not been able to get together.

Are we going to blame labor entirely for that failure? Is management to be acquitted of any wrong? Is even the Government itself to be exculpated of responsibility for that failure? Did the Government take a strong and wise part in those deliberations, and say, "Gentlemen, we will not let you separate, we will not let you go home, until we have worked out a charter for reconversion that will assure a reasonable prospect of industrial peace?"

No, Mr. President; the Government did not do that. Management did not agree to the adjustment of these disputes and to the formulation of principles which would prevent their occurrence. That is the first thing that justified my saying what I said the other day, for the saying of which I was criticized by an editorial which was published in the Washington Post, which I read; that the fault for many of these work stoppages should lie as much at the door of management and Government as at the door of the working men and women of this country.

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

Mr. PEPPER. I yield.

Mr. AIKEN. Does the Senator believe that if the labor-management conference had worked out a formula for increased wages to meet increased living costs at that time, many of the present-day strikes could have been avoided?

Mr. PEPPER. I assuredly do. I think any fair observer will say that if that had been done, practically all the major strikes which have occurred could have been prevented and would have been prevented.

Mr. AIKEN. Practically all the strikes have been brought about by differences of opinion as to what wages should be in the various industries in which strikes have been experienced; is not that true?

Mr. PEPPER. The Senator is absolutely correct.

Mr. AIKEN. And the matter of broken contracts, about which we hear so much, has not entered the strike picture at all; has it?

Mr. PEPPER. It has not.

Mr. President, I will go a step further. Sometime after the failure of the management-labor conference there occurred a meeting of the principal industrial executives of the country in the Waldorf-Astoria Hotel in New York. What was the purpose of that meeting? I was not present, and I do not have the testimony of any witness who was present which purports to give all that occurred, but I think it is pretty clear that management was getting together to present a common front against the demands of labor in America that their wages be adjusted according to the increased cost of living.

I will go further and express it as my own opinion—I have a right to have an opinion—that the group of men to whom I have referred, which was composed of leaders of American industry, got together for the purpose fundamentally of either breaking or weakening the power of the labor unions of America.

I believe further that there was a common and concerted effort among them. There was a pattern which was substantially agreed to that industry in America would stand together in order to break labor. Industry was angry with labor because of its demands which it had made during the war, because of the power it acquired during the war, and because of the power it possessed following the war. Industry knew that there were more men in the ranks of organized labor than there had ever been before—12,000,000 or more. Industry knew also that labor had been given the right to bargain collectively under the law of the land. Industry knew that the men and women among the ranks of labor had learned how to work together in negotiation as well as in the production of matériel for war uses. Some of them merely went along with those who feared or hated labor, or those who both feared and hated it.

Mr. President, I wish to read to the Senate something about the meeting to which I have referred which was held in the Waldorf-Astoria Hotel in New York.

Mr. Charles E. Wilson, president of General Motors Corp., testified before the Committee on Education and Labor. I do not have the exact date of his testimony.

Mr. AIKEN. It was about the 18th or 19th of January.

Mr. PEPPER. The Senator from Vermont has informed me that Mr. Wilson's testimony was given on or about the 18th or 19th of January of this year. The testimony appears on page 647 of the hearings on Senate bill 1661, part II, which tock place between January 25 and February 11, 1946.

Mr. President, I ask Senators to attend these questions and answers and see the honesty and sheer fairness and candor with which the president of General Motors Corp. replied to United States Senators on this subject. The chairman of the committee, the Senator from Montana [Mr. MURRAY], was asking the questions.

The CHAIRMAN. This whole national situation, of course, has made the problem more difficult for each individual company in that respect?

Mr. WILSON. Much more.

The CHAIRMAN. Because on the part of labor they feel that they have to act as a solid body opposing management generally in the country and management feels the same way about it.

Mr. WILSON. I don't think I can go along with you, sir, that management feels the same way about it, because I have seen very little sign or evidence that management is united in fighting this labor body.

The CHAIRMAN. You don't mean to say that you haven't discussed this with other executives of corporations involved in this general controversy?

Mr. WILSON. I can say to you that I haven't discussed it with a half dozen people, if that is what you mean.

The CHAIRMAN Have you discussed it with four or five of them?

Mr. WILSON. Yes, but not to the point of coming to any agreement as to what ought to be done, because it happens that the only people I have discussed it with are people in entirely different lines of business from my own, and I still maintain that there is a very great difference as to what should or must be done in one business as contrasted with another. Take steel as an example, as opposed to automotive, and automotive as opposed to the electrical industry.

I don't think there is any common pattern here, by any means, and I am not willing to acknowledge that in any connection with the people who run these other businesses.

The CHAIRMAN. There has been some public reference to the fact that some meetings were held in the Waldorf-Astoria by the managements of some corporations with the management of the steel industry.

Mr. WILSON. That is right; I believe I have read that.

I ask Senators to listen to the president of General Motors.

I believe I have read that.

I ask Senators to remember what he later said. I continue reading:

The CHAIRMAN. That is a fact, is it not, that such meetings as that have occurred?

Mr. WILSON. I think it is.

The CHAIRMAN. And isn't there a general meeting of the minds of big business in the country, that they have to stand together in this controversy?

Mr. WILSON. I haven't seen much sign of it, but maybe there is.

The CHAIRMAN. Isn't that a natural result?

Mr. WILSON. I say, it was natural that there ought to be more of it than there is, but I haven't seen very much sign of it today.

The CHAIRMAN. Heretofore, you didn't have to do it so much, because each corporation was able to handle the situation pretty well as far as the struggle between labor and management was concerned.

Mr. WILSON. Senator, I may as well tell you the whole truth on it. Of course, it is natural there ought to be more than that, but it also must be natural that since the manufacturers involved know or think they know at least that they can't do many of the things labor is demanding and meet this national schedule of higher wages without price increases, that you just aren't going to get two manufacturers in the same line of business, or similar businesses, to sit down and talk it over, because they are afraid of that club behind them, of the Department of Justice and the antitrust laws.

You couldn't get me to sit down with one of my competitors and talk this question over, for all the tea in China.

The CHAIRMAN. That doesn't appear to be the experience of the American people with regard to corporations or industry, generally, because when they want to get together in other matters pertaining to the control of production and profits where their own private interests are concerned, they have been able to do so. They have been able to circumvent, for instance, the antimonopoly laws and we have a pretty good record in the country of how businesses get together sometimes in the country, and it is very difficult for the Government to do anything about their proceedings.

Mr. WILSON. I hear a great deal about that.

The CHAIRMAN. Is it not the truth?

Mr. WILSON. I don't think so.

The CHAIRMAN. You don't think it is?

Mr. WILSON. I certainly do not.

The CHAIRMAN. You do not think it is true that industries in the United States have gotten together at different times for the purpose of raising prices and developing monopoly practices in this country? You do not believe that has occurred?

Mr. WILSON. Oh, there have been cases which have been fought out in court, where the Department of Justice has proceeded against corporations, mine included, but when all is said and done there have been a very few of them, and I would not acknowledge for a moment that there is very much of a tendency along the lines you are hinting at in that statement.

No; I don't agree that is the case.

The CHAIRMAN. There is some feeling in the country that the antimonopoly laws are not being properly enforced and that there should be a stronger antimonopoly set-up in the Department of Justice in order to prevent the conspiracies which may develop in the country in regard to these matters.

Mr. WILSON. Yes; I read about that, too, and if there are those monopolistic tendencies, I hope, myself, that the Department of Justice will proceed against them. It is all right with me.

The CHAIRMAN. When was this meeting held in the Waldorf Hotel?

Mr. WILSON. I don't know, about a month ago.

The CHAIRMAN. Since the strikes started?

Mr. WILSON. No; I think it was—I don't know. I am not sure.

The CHAIRMAN. It was after the controversy had arisen between your company and the labor in your company?

Mr. WILSON. Well, that controversy goes back to October.

The CHAIRMAN. Do you know of any other meetings besides the Waldorf meeting?

Mr. WILSON. No; I do not.

The CHAIRMAN. You never heard of any other meeting?

Mr. WILSON. No.

The CHAIRMAN. And you never attended any other meeting except the Waldorf meeting?

Mr. WILSON. No.

The CHAIRMAN. And you never discussed the matter with representatives of other corporations?

Mr. WILSON. Never discussed what matter?

The CHAIRMAN. This strike matter, the present dispute between labor and management, with reference to the program of increasing the take-home pay of workers in the plants.

Mr. President, let me suspend the reading at that point. We all know that when the war was over the working hours were reduced for sometimes fifty-odd and forty-odd down to 40, and that that severely diminished the take-home pay of the worker. Naturally the workers were not only trying to get a wage increase they were trying to prevent a decrease in wages to meet an increase in the cost of living and that was the thing which provoked a large part of the wage controversy which led to work stoppages in most of the industries where there have been work stoppages.

Mr. WILSON. I have discussed—let us get that straight, because I do not want to be in the position of denying for a minute that I discussed with a half dozen of my friends in industry the problems which we may jointly have, because that would be far from the truth. Of course, I have.

He is getting stronger and stronger. He started off trying to deny that there had been a meeting of these big executives at the Waldorf-Astoria Hotel, of which Senators will hear more later. The chairman of the committee, the Senator from Montana [Mr. MURRAY] kept on pressing him, until he admitted that he had with half a dozen of his associates in industry discussed the whole question of what they might have to confront in demands from the workers of the country in trying to get wage adjustments.

If you say, have I attended meetings for the purpose of getting some kind of a national policy like the demand of the unions for 25 cents across the board, the answer is definitely "No." Of course, I have discussed it with many of my friends.

Let me interpolate again, Mr. President. I have no positive proof of it, although I have it directly from a representative of the steel industry, who got it from a source which he regards as reliable, that all during the war there were meetings of the big steel executives in this country, actually fixing prices, so that whenever there was a bid for steel, even to a decimal point the same bid was sent in by all the major companies. I shall give one case which I believe can be confirmed from the records of the Treasury Department.

Russia, through our Treasury Department, bought a large order of steel, and the Treasury Department sent out invitations for bids. The steel industry did bid on those invitations, and the companies bid the same to the fourth decimal point. Mr. President, how could various steel companies get together on such a large tonnage of steel and bid the same price to the fourth decimal point, without previously getting together and comparing their bids?

Mr. President, that just goes to show how hard it is to get this monopoly on the part of management under control and to prevent conspiracy on the part of management from perpetrating wrongs. Yet we do not hear many people condemning men who have done things like that.

I continue to read the discussion between the chairman of the committee and Mr. Wilson:

The CHAIRMAN. You have discussed it with the representatives of the Ford Motor Co., have you?

Mr. WILSON. I have not.

The CHAIRMAN. What corporation representatives have you discussed it with?

Mr. WILSON. I have discussed it with a representative of the steel companies.

Mind you, this is the head of General Motors talking.

I have discussed it—

Namely, a common policy to meet the demands of labor—

with just some of my friends.

Now he says with one of the steel companies. The testimony continued:

The CHAIRMAN. Mr. Philip Reed?

Mr WILSON. Who?

The CHAIRMAN. Mr. Reed.

Mr. WILSON. I don't know which Reed you are talking about. Do you mean Reed of the General Electric Co.? Did I discuss it with him?

The CHAIRMAN. Has he discussed it with you?

Mr. WILSON. Yes, of course, we have discussed our labor policy as associates of the same company.

Discussing "our" labor policy, mind you, the head of General Motors, with the representative of one of the steel companies, and if he was talking to the head of the General Motors, I take it it was one of the big steel companies, not an independent company off somewhere. Now he discloses that another one was the head of General Electric.

I am emphasizing this, Mr. President, because we will see a little later that all three of these, and perhaps some of the others later, had strikes, because they would not meet the workers half way in adjusting the workers' wages.

I read further:

The CHAIRMAN. What other concerns did you discuss it with, or representatives of big concerns involved in this labor conference?

Mr. WILSON. Oh, I have discussed the matter with a representative of one of the steel companies, other than the Steel Corporation—two of them, I think, as a matter of fact, at a dinner one night, not a meeting called for the purpose.

Mr. President, we know all about these dinners. We sometimes go ourselves, when it is under a social cloak, but it is for a business purpose. That happens not only in diplomacy, but in politics, and assuredly in business. One of the best ways to get a good order, or to get a good business deal over, is to give a fellow a good dinner. We all know that very well. So what could have been better as an occasion for discussion of a common labor policy by these heads of big enterprises than for the boys all to get together over a good dinner, with some good highballs and cocktails beforehand and some good liqueurs and coffee afterward? Then they push their chairs back and, while they smoke their cigars and sip some good wine or some good champagne, they talk about the labor policy that will have to safeguard the industry of America.

He says:

I have discussed it with some small manufacturers whom I have met.

He has mentioned the steel companies. Now he says two of the steel companies and General Electric, now he throws in a certain unspecified number of small manufacturers.

The CHAIRMAN. Did you discuss it with anybody connected with Westinghouse?

Another big electrical concern.

Mr. WILSON. Except as we have been brought together. Remember now that the Westinghouse representatives and the General Electric representatives have been brought together in a meeting by the mediators appointed by the Government, and the thing has been well discussed there, except that I refused to discuss in the presence of the Westinghouse people anything having to do with the price considerations which I was bringing before the mediators. I will not discuss what we intended to ask for in the way of prices or, indeed, anything to do with prices in the presence of the Westinghouse people, for a number of obvious reasons.

Mr. President, I may be in error, and I think I am, in saying this was Mr. Wilson, of General Motors. I believe this was C. E. Wilson, of General Electric, and that I should correct the RECORD in every respect that would indicate otherwise. They have the same name, and it probably is Mr. C. E. Wilson of General Electric rather than of General Motors.

Mr. President, I pass on from page 650, where I was reading, to page 657. It will be remembered that Mr. Wilson had been dodging and evading the Waldorf-Astoria meeting. Later the Senator from Minnesota [Mr. BALL] asked this question:

Mr. Wilson, did I understand you to say you were at this meeting at the Waldorf which has been publicized by the unions?

Mr. WILSON. I didn't say. But I do not hesitate to admit I was there.

Senators can see how long it took to get Mr. Wilson to admit that there was a meeting of these big corporate executives at the Waldorf-Astoria Hotel.

Senator BALL. Would you mind if I asked you who called it and what it was about and what was done there?

Mr. WILSON. If you ask me who called it, I could not answer you because I don't remember. I don't know who called it. I was invited to go over one lunch hour, and I went, and I heard the troubles of a group of industries. That is about all there was to it.

Senator BALL. There was no action taken?

Mr. WILSON. No. You mean did they take a concerted action about what they were going to do? By no means, because, Senator, it is just so obvious, if you get a meat packer, an automotive manufacturer, and a couple of steel fellows, and an electrical fellow like myself.

That shows that I was in error in my first statement that it was C. E. Wilson of General Motors. It was C. E. Wilson of General Electric.

Mr. HAWKES. Mr. President——

The PRESIDING OFFICER (Mr. HOEY in the chair). Does the Senator from Florida yield to the Senator from New Jersey?

Mr. PEPPER. I yield.

Mr. HAWKES. Am I to understand from the Senator now that he has been talking about Mr. C. E. Wilson of General Electric all the way through?

Mr. PEPPER. That is correct.

Mr. HAWKES. The Senator said that they attended a lunch. Does the Senator think that Mr. C. E. Wilson—if the Senator knows anything about him—drank the highballs, the champagne, these liqueurs and all the other drinks the Senator was putting into the picture to try to intimate that they went there to get drunk and try to reach a decision in a matter of this kind?

Mr. PEPPER. No.

Mr. HAWKES. I think the Senator should be very careful and retract that statement about all the liquor and other things they drank at this meeting. I think it is very unfortunate to pour bitterness and hatred into this Nation at the present moment.

Mr. PEPPER. No; Mr. President——

Mr. HAWKES. I am a little surprised that the Senator would do that, and keep on hour after hour dividing the groups of the United States which we must bring together if we are going to be successful in our efforts to solve these issues.

Mr. PEPPER. Mr. President, the witness had been testifying that there was a dinner held——

Mr. HAWKES. Will the Senator let me interrupt him for the purpose of asking him a question?

Mr. PEPPER. And the witness was submitting his imagination only as to what kind of a dinner it was, because that is the usual kind of dinner. Not only do the executives, but Senators go to the same kind of dinners—the Senator from New Jersey and the Senator from Florida.

Mr. HAWKES. And did the Senator from Florida attend any dinners of that kind in Russia while he was there?

Mr. PEPPER. Except that they had more vodka than is provided here.

Mr. HAWKES. They had a great deal of vodka and many drinks, and they extend the glasses half way across the table in Russia.

Mr. PEPPER. They do what?

Mr. HAWKES. There are so many different kinds of drinks in Russia that they put the glasses clear to the center of the table.

Mr. PEPPER. I dare say that the excellence of the table in Russia is comparable to the excellence of the table in many other parts of the world. But I do not think the Senator should be so sensitive about these gentlemen in business that if one indulges in a little levity and a little imagination as to the kind of a dinner it probably was, the Senator feels he should defend these gentlemen against the innuendo that it probably was that kind of a dinner. As a general rule that is the kind of a dinner corporate executives hold, and that is very generally the kind of dinners Senators have held.

Mr. HAWKES. Mr. President, will the Senator permit me to interrupt him for a moment?

Mr. PEPPER. I yield.

Mr. HAWKES. I take it from what the Senator read a moment ago that Mr. Wilson admitted that he was at a lunch.

Mr. PEPPER. Yes.

Mr. HAWKES. And if the Senator thinks that is the kind of lunches the able businessmen of this country hold I will tell the Senator he is very, very wrong.

Mr. PEPPER. The witness did not say that this all occurred at the lunch.

Mr. HAWKES. Will the Senator read it again?

Mr. PEPPER. He said this was at a dinner. He said he attended a dinner. There are two things, a lunch and a dinner.

Mr. HAWKES. I asked the Senator if he was talking about a lunch or a dinner, and the Senator said a lunch.

Mr. PEPPER. I am talking about both. Mr. Wilson is the witness, and I am quoting what Mr. Wilson said.

Mr. HAWKES. Let me say to the distinguished Senator from Florida, that I have attended a great many dinners, as the Senator from Florida has done, on occasions, but let me say that I have never attending business sessions or meetings that were specifically for business where there was a lot of liquor on hand, and I do not believe that was the case when any of these business meetings were held.

Mr. PEPPER. If the Senator can convince the American public, and certainly Senators, that corporate executives do not conduct considerable important business and discuss policy matters on many occasions around that kind of table, the Senator is more naive than I think him to be.

Mr. HAWKES. Let me ask the distinguished Senator from Florida if he ever attended any meetings of labor leaders?

Mr. PEPPER. I have, and many of them have been the same kind of dinners.

Mr. HAWKES. Did the Senator ever see anything different there?

Mr. PEPPER. As a general rule the best place to get the best dinner is with the rich folks. That is the way I have found it in my experience.

Mr. HAWKES. I found the best place and the easiest place to get a fine dinner and a lot to drink was with the labor leaders who were spending their money very freely.

Mr. PEPPER. Maybe it works out that way. I may do a heap of shooting with the rich and vote with the poor.

Mr. HAWKES. The Senator shoots at the rich; I know that.

Mr. PEPPER. And I think that is a good example for the Senator to take, because the rich have always got better hunting preserves, they hunt in a buggy or a carriage or on horseback, they have a pack of dogs in the back of the car, they are well trained, they have several men to look after them, they bring tea and lunch to the field, and it is real fun to go hunting with the rich. I enjoy it. But when I come back to the Senate I always try to remember the poor fellow.

Mr. HAWKES. I am in perfect agreement with the Senator that here in the Senate we should remember the poor fellow and try to better his situation, but I ask the Senator from Florida: If you tear down this great machine in the United States, how are you going to benefit the workingmen?

Mr. PEPPER. Mr. President——

Mr. HAWKES. Let me finish. Workingmen have not been benefited very much around the world elsewhere. They have been in a rather miserable condition.

Mr. PEPPER. I respect the conscientiousness and the effort of the able Senator from New Jersey to defend private enterprise. I am not attacking private enterprise. I started off to show that there had been concert of action respecting a labor policy for big business in the United States, and I was proving it, I thought, by some of the responsible leaders of industry themselves in a public hearing in the Committee on Education and Labor. Now I will say to the Senator, it is just as important to preserve the private enterprice of collective bargaining as it is to preserve the private enterprise of the right of corporate executives to get together. It is just as important to America to protect labor as it is to protect capital. I do not want to see either destroyed.

Mr. HAWKES. May I interrupt the Senator to say to him that I think it is more important to protect labor than it is to protect capital.

Mr. PEPPER. Then, we agree.

Mr. HAWKES. I go further than the Senator from Florida, because capital is only the fruit of labor.

Mr. PEPPER. Yes.

Mr. HAWKES. And labor comes before capital.

Mr. PEPPER. I thank the Senator for that statement.

Mr. HAWKES. But I am saying to the Senator that we will not protect the rights of labor if we improperly attack capital and tear down the institutions of the United States.

Mr. PEPPER. Of course not.

Mr. HAWKES. And I should like to say further, if I may finish, that a monopoly which is operated by a small group of labor leaders who misuse labor is quite as injurious to the Nation as a monopoly of capital. And we want to stop both of them.

Mr. PEPPER. Yes, Mr. President; but I dare say the Senator does not really want to destroy monopoly in the sense that I would want to destroy it, because if we are going to take away the rights of a labor leader to represent a thousand or one hundred thousand or a million men, then let us take out of one man the power to represent a billion dollars.

Mr. HAWKES. I would not take away the rights of a labor leader to conduct the affairs of a million working men if he would let those working men have their voluntary rights and would not intimidate or threaten or coerce them. The Senator from Florida would be amazed if I were to put into the RECORD the hundreds of letters I have received from fine American working people testifying and stating that they do not want to be controlled by labor leaders and they do not want dictatorship in labor any more than they want it in the Government of the United States.

Mr. PEPPER. I will give the able Senator my opinion on this matter. I believe that there is no greater minority in labor unions who do not have what they consider adequate representation in their labor leadership than there are minorities among the stockholders of the business enterprises of this country who feel that they do not have adequate representation in the business leadership of the corporations of the country, and I dare say that taking it day in and day out the labor unions are 10 times more democratically run than are big corporations of America. I say that with all kindness, but with all sincerity.

Mr. HAWKES. The Senator is always kind. I am not criticizing the Senator nor am I saying that he is unkind. But let me say that the Senator cannot prove which group is more democratic, neither can I, so there is no use in arguing it. In other words, the Senator cannot prove that one is more democratic than the other. I say to the Senator that if what he just said is true, then we ought to take steps to stop monopoly in both capital and labor, and that is the solution.

Mr. PEPPER. I thank the able Senator, for whom I have great respect.

Mr. HAWKES. And I thank the Senator from Florida.

Mr. PEPPER. Mr. President, we started in 1890 to try to stop business monopoly in the United States of America by passing the Sherman Antitrust Act; later on we strengthened it with the Clayton Act; but we have not begun to stop monopoly yet. I believe Senators know I am telling the truth. Yet, because a few labor men get together, because 100,000 or half a million or at the outside a million or two million workingmen get together and elect their representatives to speak for them, then business, which is the very epitome of monopoly, and corporate heads who are the very symbol of restraint of trade in fact, become those who howl the loudest. Maybe I will retract the word "howl" and say "who cry out the loudest" against what they call monopoly of labor in America.

Mr. HAWKES. Mr. President, will the Senator again yield for a moment?

Mr. PEPPER. Yes.

Mr. HAWKES. I am not going to carry this argument on much further, but I should like to say to the Senator that despite this terrible system, as depicted by the Senator, under which we have not been able to control monopoly in capital and management, this is the only Nation in the world to which the rest of the world could come for help to save the cause of free men.

Mr. PEPPER. Yes; and they came——

Mr. HAWKES. May I finish and then I shall be through. I wish to say to the Senator that I have been pretty much around the world, and I have seen the misery and suffering of the common man all over the world. Notwithstanding all the accusations which are made in this body against the free-enterprise system or the American system of making a living, notwithstanding that, I say, and I can prove it to anyone who will go with me, that the living conditions in this country under this terrible system the

Senator is describing, are better than they are anywhere else on the face of the earth.

Mr. PEPPER. Mr. President, I am very glad the able Senator from New Jersey brought up that point, and I should like to ask the able Senator a question. When America achieved the greatness the Senator is justly honoring, did we have the amendment we passed here last week in the law of the land to restrict and curb labor? Did we have upon the statute books of the country the bill which is now before the Senate? Were these two measures necessary in order to build a great America? No, Mr. President. Why not let the situation alone then? Why not let the America be which achieved the marvels which the Senator has properly extolled?

Mr. HAWKES. May I reply to the Senator for a moment?

Mr. PEPPER. I yield gladly.

Mr. HAWKES. We really built America up to the point where it has done these wonderful things prior to the Wagner Labor Relations Act. I want to say to the Senator that any act can go too far. It may be that we have not gone far enough in controlling monopoly in capital and ownership. Regardless of what anyone may say, I believe that the amendments which we adopted were in the interest of the working men and women of this country. If I had not thought so I would not have voted for them.

The Senator knows very well that when the Interstate Commerce Commission was created the railroads objected to it very definitely; but after a few years they would not have had it taken away for anything in the world. Whether or not the Senator believes I am sincere in what I am doing, I will say that I would not have voted for those amendments if I had not believed that they were for the betterment of the employer-employee relationship.

Mr. PEPPER. But the able Senator from New Jersey will have to admit that when America achieved the marvel of wartime production so that, as the Senator said, nations came to us from all over the world, the restrictive amendments on labor enacted last week, and this bill now before the Senate, had never been enacted into law.

Mr. MURRAY. Mr. President, I move that the Senate take a recess until 12 o'clock noon tomorrow.

The PRESIDING OFFICER (Mr. HOEY in the chair). The Chair observes that there is not a quorum present. The clerk will call the roll.

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

Aiken	Gerry	McClellan
Austin	Green	McFarland
Ball	Gurney	McMahon
Barkley	Hatch	Magnuson
Brewster	Hawkes	Mead
Bridges	Hickenlooper	Millikin
Briggs	Hill	Morse
Brooks	Hoey	Murdock
Capper	Huffman	Murray
Connally	Johnston, S. C.	Overton
Cordon	Kilgore	Pepper
Donnell	Knowland	Revercomb
Ellender	La Follette	Robertson
Ferguson	Langer	Russell
Fulbright	Lucas	Shipstead
George	McCarran	Smith
Stewart	Vandenberg	Willis
Taft	Wherry	Young
Taylor	White	
Tunnell	Wiley	

The PRESIDING OFFICER. Fifty-eight Senators have answered to their names. A quorum is present.

The question is on agreeing to the motion of the Senator from Montana [Mr. MURRAY] that the Senate take a recess until 12 o'clock noon tomorrow.

Mr. BARKLEY. Mr. President, I ask for the yeas and nays on that motion.

The yeas and nays were ordered, and the Chief Clerk called the roll.

Mr. BRIDGES (after having voted in the affirmative). I have a general pair with the Senator from Utah [Mr. THOMAS]. I transfer that pair to the Senator from South Dakota [Mr. BUSHFIELD], and let my vote stand.

Mr. HILL. I announce that the Senator from North Carolina [Mr. BAILEY], the Senator from Alabama [Mr. BANKHEAD], 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 South Carolina [Mr. MAYBANK] is absent by leave of the Senate because of illness in his family.

The Senator from Florida [Mr. ANDREWS], the Senator from Virginia [Mr. BYRD], the Senator from California [Mr. DOWNEY], the Senator from Mississippi [Mr. EASTLAND], the Senators from Pennsylvania [Mr. GUFFEY and Mr. MYERS], the Senator from Arizona [Mr. HAYDEN], the Senator from Colorado [Mr. JOHNSON], the Senator from Tennessee [Mr. MCKELLAR], the Senator from Washington [Mr. MITCHELL], the Senator from Texas [Mr. O'DANIEL], the Senator from Wyoming [Mr. O'MAHONEY], the Senators from Maryland [Mr. RADCLIFFE and Mr. TYDINGS], the Senator from Oklahoma [Mr. THOMAS], the Senator from Utah [Mr. THOMAS], the Senator from New York [Mr. WAGNER], the Senator from Massachusetts [Mr. WALSH], and the Senator from Montana [Mr. WHEELER] are necessarily absent.

The Senator from New Mexico [Mr. CHAVEZ] is absent on public business.

I also announce the following general pairs: The Senator from Alabama [Mr. BANKHEAD] with the Senator from Nebraska [Mr. BUTLER]; the Senator from Utah [Mr. THOMAS] with the Senator from New Hampshire [Mr. BRIDGES]; and the Senator from New York [Mr. WAGNER] with the Senator from Kansas [Mr. REED].

I announce further that if present and voting, the Senator from Texas [Mr. O'DANIEL] would vote "yea."

Mr. WHERRY. I announce the following general pairs:

The Senator from Nebraska [Mr. BUTLER] with the Senator from Alabama [Mr. BANKHEAD], and the Senator from Kansas [Mr. REED] with the Senator from New York [Mr. WAGNER].

The Senator from Delaware [Mr. BUCK], the Senator from Indiana [Mr. CAPEHART], the Senator from Connecticut [Mr. HART], the Senator from Oklahoma [Mr. MOORE], the Senator from Massachusetts [Mr. SALTONSTALL], the Senator from Kentucky [Mr. STANFILL], the Senator from New Hampshire [Mr. TOBEY], and the Senator from Iowa [Mr. WILSON] are unavoidably detained.

The result was announced—yeas 24, nays 34, as follows:

YEAS—24

Aiken	La Follette	Shipstead
Ball	Langer	Smith
Brewster	Mead	Taft
Bridges	Millikin	Vandenberg
Brooks	Morse	Wherry
Capper	Murray	White
Donnell	Pepper	Willis
Knowland	Revercomb	Young

NAYS—34

Austin	Hatch	McMahon
Barkley	Hawkes	Magnuson
Briggs	Hickenlooper	Murdock
Connally	Hill	Overton
Cordon	Hoey	Robertson
Ellender	Huffman	Russell
Ferguson	Johnston, S. C.	Stewart
Fulbright	Kilgore	Taylor
George	Lucas	Tunnell
Gerry	McCarran	Wiley
Green	McClellan	
Gurney	McFarland	

NOT VOTING—38

Andrews	Glass	Radcliffe
Bailey	Gossett	Reed
Bankhead	Guffey	Saltonstall
Bilbo	Hart	Stanfill
Buck	Hayden	Thomas, Okla.
Bushfield	Johnson, Colo.	Thomas, Utah
Butler	McKellar	Tobey
Byrd	Maybank	Tydings
Capehart	Mitchell	Wagner
Carville	Moore	Walsh
Chavez	Myers	Wheeler
Downey	O'Daniel	Wilson
Eastland	O'Mahoney	

So the Senate refused to take a recess.

Mr. PEPPER. Mr. President, in the testimony which I was reading occurs the statement of Mr. Charles E. Wilson, of General Electric. The following occurred:

Senator BALL. There was no action taken?

Mr. WILSON. No. You mean did they take a concerted action about what they were going to do? By no means; because, Senator, it is just so obvious, if you get a meat packer, an automotive manufacturer, and a couple of steel fellows, and an electrical fellow like myself in a room, and while they may all be faced with a problem of a national demand on wages, yet their problems beyond that are so different.

I don't know anything about the meat business, and if they talked all day about it, I would not understand what they needed in the way of a price increase in meat, for example, because they talk a margin level which is so different from my business that I would never get to understand it.

So there could not be any concerted action at that sort of thing. As to their being all faced with a national, if you please, demand for almost a uniform wage increase, 25 cents an hour, sure, we all had it. Everybody was up against it. And that was about all the meeting brought out, to my satisfaction. Their own technical problems were beyond me. I don't know anything about the automotive business or steel.

The CHAIRMAN. But as a result of the meetings, though, it was recognized that industry generally was up against this wage demand in the Nation?

Mr. WILSON. They were up against the gun. There is no question about it.

The CHAIRMAN. And it would be a very simple matter for them to develop a general understanding as to how they were going to meet the situation?

Mr. WILSON. It might have been a simple matter, but it was not simple enough to be decided at that meeting, and I have never been to another one.

Mr. President, those hearings disclosed that the heads of the big corporations considered, that they had a common problem to meet after the war—namely, wage demands from labor. I remind Senators that those wage demands grew largely out of the reduction in hours of work on the part of labor, due to the war's being over; and the cut-back in take-home pay which thus reduced the hours of work had appeared to labor. When that common situation faced the heads of the big corporations, they got together to discuss their common problem of rebutting the request for such wage increases.

Mr. President, I have before me the testimony of Mr. C. E. Wilson, this time Mr. C. E. Wilson, of the General Motors Corp., in the proceeding involving the General Motors Corp. before the National Labor Relations Board. My transcript says that Mr. Wilson testified on February 14; and the following quotations from the record of that hearing appear on pages 316 to 321:

Question (by Harold A. Cranefield, National Labor Relations Board attorney). Who attended this luncheon? (At the Waldorf-Astoria on January 9, 1946.)

Answer (S. E. Wilson). I have no list of it now, it would just be from memory. Is that important to this meeting?

Question. Is it a fact that Benjamin Fairless attended?

Answer. It is not.

Question. Mr. C. E. Wilson, of General Electric?

Answer. He was there.

Question. Philip Reed, of General Electric?

Answer. He was not there. Well, I don't know.

Question. You are not sure of him?

Answer. No; he wasn't.

Question. Mr. A. W. Robertson, from Westinghouse?

Answer. He was there.

Question. There were some gentlemen from the meat packing industry, were there not?

Answer. Yes, Mr. Holmes. The only people who were there were those who had been looking down the guns, who had been threatened with strikes or who had had strikes.

Mr. President, allow me to interject that this luncheon meeting was being held by corporate heads of companies who had been threatened with strikes or who had had strikes.

I continue reading from the testimony.

Question. With your recollection refreshed now, do you recall who else, if anyone, attended that luncheon? Was anyone there from Libbey-Owens-Ford?

Answer. Yes; Mr. Biggers was there.

Question. Do you recall anyone else?

Answer. (No response.)

Question. There were some gentlemen there who were executive officers of the United States Steel Co., were there not? How about Mr. Eugene Grace of Bethlehem, was he there?

Answer. Yes.

Question. Do you recall anybody else?

Answer. John Steel was there from the United States Steel—he was there most of the time. You see, most of these men—Charlie Hook——

Question (interposing). Of American Rolling?

Answer. Yes.

There follows some testimony which does not appear in the copy which I have before me, and the witness testified further as follows:

Question. Who else attended who was an officer and executive of the General Motors Corp.?

Answer. Most of the men who happened to be in New York on that day.

Question. That was Mr. Sloan—he is one?

Answer. Yes.

Question. Donald Brown?

Answer. Yes.

Question. How about Mr. Smith, the general counsel?

Answer. He was there.

At this point some more testimony is deleted, and the transcript continues as follows:

Question. Were there any officers or directors of Ford or Chrysler there?

Answer. No, sir.

Question. Or RCA?

Answer. No, sir.

Mr. President, that luncheon was held by executives of big corporations which had been threatened with strikes or which had had strikes. The purpose of the luncheon was to discuss, obviously, a labor policy of big business against labor which was endeavoring to protect itself following the war from a reduction in its take-home pay because of the reduction in the number of hours it was allowed to work. At this luncheon there were representatives of General Motors, United States Steel, the packing industry, General Electric, the rolling mills, and some of the other major corporations of the Nation.

Mr. President, I now have reached my second point in confirmation of what I have already said on the Senate floor, namely, that corporate management, and, I added, government, must share the responsibility for work stoppages which we have experienced in recent months instead of putting the blame entirely upon the shoulders of labor. I have contended that corporate management and the Government should share the blame with labor. I have proved it in the first place by showing that management would not agree to discuss wage increases at the management-labor conference which was held last fall; secondly, that management met in conference to discuss management's common problems and policy with respect to wage increases.

Mr. President, I now come to the third phase of the matter. After the labor-management conference, and after the big corporation executives met to discuss a common policy, there then occurred demands on the part of labor for increased wages.

As I have already said, the demands were made largely in order to offset the diminished take-home pay which had resulted from a reduction in the number of hours worked.

When labor made its demands, what was the response of management? Did management deny that labor had experienced higher living costs? Did it deny that labor had its take-home pay at the end of the week reduced because of a reduction in the number of hours worked? Did management deny that it had made great volumes of corporate profits during the war, that those profits were in the reserves of the corporations, and that they had credit in the United States Treasury against which they could draw under the carry-back provisions of the tax laws, and thereby offset to some extent any loss which they might suffer during any part of the 2-year period following the war? No, Mr. President, management made no such denials. Management turned a deaf ear to the demands of labor and refused to use its corporate profits, refused to use its reserves, and refused to take the money which it had on credit with the United States Government. Management preferred to see labor suffer rather than follow any of the courses to which I have referred. Management said, in effect, "No, we will not meet your demands except on one condition, namely, that you make the United States Government give us price increases so that we can make the American public pay for your wage increases. If you do that, we will give you wage increases. In other words, if you will support us in our effort to get price increases, we will enter into a conspiracy with you against the public and make the public pay the wage increases which you demand." Obviously, Mr. President, labor took the position that it was not its function——

Mr. TAYLOR. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. PEPPER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PEPPER. If a Senator may be required to remain on his feet, is he not entitled to the presence of a quorum in the Chamber while he is speaking? If he is entitled to a quorum, the Senator from Florida will insist upon a quorum being present during the remainder of the time he speaks. If the Senator from Florida is denied a quorum he will offer one amendment after another until the quorum is developed. I am not going to be required to stand on this floor and speak when I am recognized if the Members of the Senate, at least to the extent of a quorum, do not remain in the Chamber to hear what I have to say. Therefore, I suggest the absence of a quorum, and if I am called out of order I shall offer an amendment as soon as I get on my feet again.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

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

Aiken	Eastland	Huffman
Austin	Ellender	Johnson, Colo.
Ball	Ferguson	Johnston, S. C.
Barkley	Fulbright	Kilgore
Brewster	George	Knowland
Bridges	Gerry	La Follette
Briggs	Green	Langer
Brooks	Gurney	Lucas
Capehart	Hatch	McCarran
Capper	Hawkes	McClellan
Connally	Hayden	McFarland
Cordon	Hickenlooper	McMahon
Donnell	Hill	Magnuson
Downey	Hoey	Mead

Millikin	Robertson	Vandenberg
Morse	Russell	Wagner
Murdock	Shipstead	Wherry
Murray	Smith	White
Myers	Stewart	Wiley
O'Daniel	Taft	Willis
Overton	Taylor	Young
Pepper	Thomas, Okla.	
Revercomb	Tunnell	

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

Mr. PEPPER. Mr. President——

Mr. OVERTON. A point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. OVERTON. I make the point of order that the Senator from Florida has spoken twice upon the bill and is not entitled to the floor.

Mr. PEPPER. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PEPPER. There have been two roll calls. One was on a motion for a recess, which interrupted the speech of the Senator from Florida. In view of the business which has been transacted on the floor, is it the opinion of the Chair that the Senator from Florida has spoken twice, so that he now would not be eligible to speak upon the bill?

The PRESIDING OFFICER. That is correct, in the opinion of the Chair. When the Senator yielded to the Senator from Montana to make a motion to recess, that was yielding one time, that was the end of one speech. When the Senator spoke until the time the Senator himself called the attention of the Chair to the fact that no quorum was present, and the call was made, that was the second.

Mr. PEPPER. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PEPPER. Is that the ruling of the Chair, in spite of the fact that no point of order was made in either case?

The PRESIDING OFFICER. The point of order is made now. The Chair did not do anything about it until the point of order was made.

Mr. PEPPER. Mr. President, in the title of the bill H. R. 6578, at the end of the title, I move to strike out——

Mr. STEWART. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will wait until the Senator has made his motion.

Mr. PEPPER. I move to strike out, at the end of the title, the words "affecting the national economy in the transition from war to peace."

Mr. BARKLEY. Mr. President, I make the point of order that the title cannot be amended until the bill has been concluded and passed.

The PRESIDING OFFICER. The point is well taken.

Mr. PEPPER. Mr. President, I move to amend the pending legislation by striking out the enacting clause.

The PRESIDING OFFICER. The Senator's motion is not in order. No amendment is proper to the bill until the committee amendments have been passed upon. The clerk will state the first amendment of the committee.

Mr. BARKLEY. Mr. President——

Mr. LA FOLLETTE. A parliamentary inquiry.

Mr. BARKLEY. I feel duty bound to suggest to the Chair that he is probably in error in that ruling.

The PRESIDING OFFICER. The Parliamentarian advises the Chair that he is correct.

Mr. BARKLEY. I have not asked that the Senate committee amendments be first considered.

The PRESIDING OFFICER. There are any number of precedents.

Mr. BARKLEY. Unless automatically, committee amendments are to be first considered.

The PRESIDING OFFICER. That is correct; they come first.

Mr. BARKLEY. It is customary to ask unanimous consent that committee amendments be first considered; but, if that is not necessary, the Chair is undoubtedly correct.

The PRESIDING OFFICER. That is correct; the Parliamentarian so advises the Chair.

Mr. PEPPER. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Wisconsin has suggested that he has an inquiry to propound.

Mr. LA FOLLETTE. I do not wish to take the Senator from Florida from the floor.

Mr. PEPPER. What is the pending question before the Senate?

The PRESIDING OFFICER. The clerk will state the first amendment of the committee.

The LEGISLATIVE CLERK. The first amendment of the committee is on page 5, line 2, after the words "in any," to strike out the word "lock-out."

Mr. PEPPER. Is that committee amendment subject to amendment?

The PRESIDING OFFICER. It is debatable and subject to amendment.

Mr. PEPPER. Does the Chair consider that the Senator from Florida has already spoken twice upon the pending amendment?

The PRESIDING OFFICER. Not upon this amendment.

Mr. PEPPER. Then, I address myself to the pending amendment.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. PEPPER. Mr. President, I made the statement a moment ago that I think it is all right to hold night sessions, and I am perfectly agreeable to holding night sessions at the pleasure of the leader, but I think in equal fairness, if we are to hold night sessions, we are entitled to have a quorum of the Senate present to attend them. If Senators are going to insist that we remain in session, it is only right and proper that they should be willing to make the sacrifice and have a quorum of the Senate present during the debate. If we are discussing a matter of great moment and great national emergency, I think Senators would want to hear the debate and the discussion, and to take part in it. So the Senator from Florida said that he would suggest the absence of a quorum if he was to speak longer, as he did for about an hour to only one or two Senators in the Chamber.

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

Mr. PEPPER. I will not yield unless the nature of the Senator's statement is disclosed and it may be understood that the Senator from Florida will not lose the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none. The Senator from Montana.

Mr. RUSSELL. I did not understand the nature of the unanimous-consent request.

Mr. MURRAY. I merely wish to make the statement that a few moments ago I made a motion to recess. At the time I made that motion there were very few Senators in the Chamber, and it occurred to me that if the Senator who is now addressing the Senate was to continue his very able address, there should be a greater number of Members of the Senate on the floor. Inasmuch as the Senate has been in continuous session and having late hours for some time I thought it was very proper for me to make the motion to recess. I did not at the time feel that I was doing any injustice to the leadership of the Senate. When I learned subsequently that my action was improper in view of the circumstances, I felt very sorry about it, and I wish to apologize now for having made the motion. I have the utmost confidence in the leadership of the majority party. I have very great respect and very intense affection for our leader because he has always been so courteous and kind to me that I feel that I have done him an injustice, and I want to apologize to him.

Mr. BARKLEY. Mr. President, will the Senator from Florida yield to me without taking him from the floor?

Mr. PEPPER. I am glad to yield to the Senator from Kentucky if I may obtain unanimous consent not to lose the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. BARKLEY. I appreciate the statement made by the Senator from Montana. I suppose all of us recognize that somebody has to assume the responsibility here of trying to guide the proceedings of the Senate. Fortunately or unfortunately, that duty devolves upon me. Earlier in the evening I had announced that it would be my purpose to ask the Senate to sit until a late hour tonight in order that we might make progress. During my temporary absence the Senator from Montana moved to recess. Whether he was on the floor when I made the announcement that it would be my purpose to ask the Senate to remain in night session I do not know. But I feel that, because of my announcement and the insistence by many Senators that we go on into the night, the motion to recess, in spite of that announcement, ought not to have been made. Therefore, I felt that the Senator should have consulted me, frankly,

in view of my announcement before he made the motion. The motion was defeated and the Senator has made a very gracious statement which entirely satisfies me, and I thank him for it.

I wish to say to the Senator that on general principles he and I have agreed with respect to labor legislation. I have cooperated with him and the Senator from Florida and those who were in the majority on the Committee on Education and Labor with respect to the bill which was voted on last Saturday, and, in view of that, I felt that the effort to postpone any action and to nullify my announcement that I would ask the Senate to sit late into the night was not exactly in conformity with what I thought ought to be. Therefore, I stated to the Senator privately that I thought he ought not to have made his motion. He has been very gracious about it, and the Senate has rejected the motion, and, therefore, I have no complaint about anything. I feel as the boy felt in the story told by William Jennings Bryan. He recited the incident of a boy who had been going to see a girl for months and years and had proposed marriage, and she had always turned him down, and finally one moonlight night she accepted him and he went out into the front yard, knelt down on the grass and said, "Oh, Lord, I ain't got nothin' agin anybody."

I feel that way. [Laughter.]

Mr. MURRAY. I want to thank our very genial leader and I want to assure him that I was not acquainted with his statement. I did not know that he had made the statement that he intended to have a late session tonight. If I had, I certainly would not have made the motion.

Mr. PEPPER. Mr. President, I had been making the point that first the management-labor conference had refused the demand of labor that management and labor agree upon certain wage policies for the conversion period. Then I had emphasized, as disclosed by the record of the Senate Committee on Education and Labor hearings and also by a hearing of the National Labor Relations Board, that there had been a meeting of the heads of the enterprises that had been threatened with strikes or that had had strikes about a common policy with respect to labor's wage demands.

The next thing that occurred chronologically was the demand made by labor upon management for increased compensation due to reduction in working hours, and, therefore, diminished take-home pay. When those demands were made they were completely ignored by management. Management made no effort at all to make concessions, to make up these losses, not even, Mr. President, from many of the sources which it had available. The result was that labor, being able to have no success in dealing with management in getting wage increases, was forced to the extremity of a strike.

I desire to digress for a moment at this point, Mr. President. When working men and women quit work because they are not receiving a fair wage from management and when management is adamant in its refusal to give them a fair wage, who is more responsible for the work stoppage—management or labor? Yet, Mr. President, that is what occurred. Not only that, but, in most cases, management had gotten back from the United States Treasury the money with which to pay those wage increases. Management had profits and it had reserves which it could have employed in giving these workers a decent living wage. Moreover, taking into consideration the price increases which had been brought about during the war the workers never were able to save very much out of the wages they received even during the war.

This is the next thing that management did. It told labor it would not grant wage increases unless labor and management together could make the Government give management on its commodities or services a price increase which would really pass the wage increase on to the public.

Talk about striking, Mr. President. Management struck first. It struck against labor and it struck against the Government by refusing to give wage increases unless the Government would take the increases out of the pockets of the people. Talk about work stoppage, Mr. President. I can show that the major work stoppages were brought about by management and not by labor, if the whole truth can be known.

When management refused to give labor any wage adjustment, as I said, labor stopped work. They stopped work in, for example, General Motors, steel, the packing-house industry, the electric industry, the oil, and farm-equipment industries. They were the major industries in which the work stoppages occurred. But Mr. President, when work stoppage occurred, then what did the Government do? President Truman, after labor and management had failed to agree upon a basis for adjusting their differences was left no alternative except to appoint fact-finding committees, and, although he had no statutory authority for it, the President wisely and rightly exercised his authority as Chief Magistrate to appoint fact-finding committees to try to find the truth about these industrial disputes and to tell him and tell the public what the truth really was. So those committees went to work.

In the case of General Motors what kind of response did they receive from General Motors? Did management cooperate with the President's own committee? No. Management refused to cooperate. Management refused to disclose its books. It refused to disclose its profits, its resources, and the data requested as to its ability to pay the demands of the workers. Management claimed that it was a violation of its constitutional rights to require it to disclose its ability to pay what the worker demanded. Management said that was a transgression by labor upon capital and management; that it was none of labor's business how much management was making; that it was none of labor's concern about management's capacity to pay even enough for a man to live decently on, or to pay just compensation to a faithful worker.

Mr. President, in that case there was a strike—a strike against the Government of the United States and its President and the President's fact-finding board, and an unwillingness to cooperate with it.

Did anyone propose to legislate to make it mandatory that management disclose its books and its profits and its capacity to pay? No. I dare say, Mr. President, anyone who proposed such a thing would not have gotten very far in Congress with that kind of a proposal. No one denounced management for striking against the Government, let alone striking against men, women, and children who needed and deserved a decent wage.

So again I charge that management should bear equal responsibility with labor in every case that I know of, and I believe it is fair to say that is in most of the cases where there have been work stoppages.

Mr. President, in spite of that refusal on the part of General Motors to cooperate with the President's fact-finding committee, the President's fact-finding committee proceeded, and, from the best sources it could employ, it obtained the best facts it could obtain, and when it got those facts then the fact-finding committee made a recommendation to the President. It made a public report to the country that there be paid a given wage. Did management pay it? No. The same thing happened in the case of steel. The President appointed a fact-finding board. The board found the facts as best it could. It later made a recommendation. Did management carry out the recommendation of the President's fact-finding board? No.

Later when the President of the United States personally made a recommendation to management did management follow it? No. Yet did anyone propose to put management in jail or to draft management into the Army? Did anyone introduce legislation in the Congress to penalize management? No, Mr. President. That was considered a proper exercise of their authority as businessmen under the Constitution of the United States. There was no great public clamor against them, in spite of the fact that they had turned down the recommendation of the fact-finding board of the President of the United States, and the personal recommendation of the President of the United States. So again I charge that management should bear equal fault with labor in this country for the work stoppages which have occurred.

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

Mr. PEPPER. I yield.

Mr. LANGER. Is it not true that even when the war was on—the actual war—management refused to go ahead until it was guaranteed cost-plus?

Mr. PEPPER. I will say that it is my opinion that management was well rewarded for what it did during the war, by the profits which it was allowed to get—not only by the profits which it got during the war, but by the carry forward-carry back legislation, contract termination legislation, and other legislation which we have enacted in the Congress since the war to protect business, which obtained big profits during the war.

Furthermore, it is my understanding that labor has never had any such legislation for its benefit as the carry forward-carry backward legislation which has been provided by Congress for management and for the business enterprises of this country. If they made big profits during the war they had to pay big excess profits taxes. That money went into the Treasury. Later, if they had bad times and losses they could get that money back. But how about the worker in an airplane factory who received big wages during the war, and after the war lost his job and went unemployed? Perhaps he will get an unemployed-compensation benefit for just a little while. But the Congress did not follow President Truman by giving him substantially $25, or the other amount which was recommended by the President. No. We cut him down to what the State allowed. The Congress would not supplement the State allowances. So I say that we have not been as fair to labor in the reconversion period as we have been to management.

Yet in every one of the industries I have named—the packing houses, steel, the electric industry, General Motors, oil, and farm machinery—the President's fact-finding board made a recommendation that management pay a given wage. In every case labor accepted the recommendation of the President's fact-finding board, and in every case management refused to accept it. Now, who opposes the President and the public interest? Is it management or labor? Now, who is responsible for work stoppages? Management or labor?

Yet, Mr. President, there has been no outcry against management. There has been no public animosity against management. No one has seriously proposed diminishing the rights of management over corporate enterprise. I regret to say that since the worker who leaves his work is the man whom the public sees, without seeing the provocation which sent him from his work, most of the contumely falls upon the worker rather than the man in a corporate executive capacity whose policy drives the worker at last in protest away from his job.

I will even include in that category the mine stoppage. I will even say that in my opinion management is equally at fault with labor in bringing about the stoppage of mining in the United States today. I say that regardless of my opinion of John L. Lewis. I would not have said it before this debate began. I have looked a little into the causes of the mine-work stoppage. With all that I do not approve of about John L. Lewis—his tactics or his policies—I will say that I believe that if the truth were known, management is equally at fault with labor in bringing about the stoppage of mining in the United States. If one reads the public announcement of the coal operators, which I read on the floor of the Senate a little while ago as it appeared in the New York Times, he will see that it was essentially the unwillingness of mine management properly and freely to negotiate with labor that brought about the impasse which resulted in turn in the stoppage of work in the mines. The mine operators flatly stated—and they have not changed their position—that they would not negotiate with John L. Lewis or the miners over a health and welfare fund. They said it was a new social principle, that it had no place in negotiations between management and labor, and that if it were to be dealt with at all it should be dealt with by legislative bodies, and then only after long and thorough investigation and consideration.

Mr. President, what a different story there would have been if, when John L. Lewis raised the question of a health-and-welfare fund, the mine operators had been willing to negotiate the question, instead of standing adamantly against the proposal and saying that it was a new principle. It was not. Already there were hundreds of thousands of workingmen in America—more than 1,000,000 of them—covered by health and welfare funds negotiated by management; and more than 200,000 workers were protected by such funds, negotiated in agreements arrived at by collective bargaining, under which the workers administered their own funds. So it was not a new social principle; nor was the principle of administration proposed by Lewis a new administrative policy.

Yet the mine operators were wrong on both scores. But they refused flatly to negotiate with Mr. Lewis, because he had mentioned as a condition to the renegotiation of his contract the principle of a new health-and-welfare fund, administered by the employees. I believe that Lewis would have yielded on details. I cannot assure the Senate of that. I am not his defender, and certainly not his spokesman. But I will say that he stated in his statement that he was willing to negotiate the details of the administration and handling of the health-and-welfare fund. I am taking the statement of each side as stating its sentiments. So, Mr. President, it is my opinion that even in the mine industry, if there had been an approach on the part of management to the whole question of disputes with labor, in a free, frank, and friendly way, there would never have resulted a stoppage of work in the coal mines.

Mr. President, with that kind of a record of management and labor, I again say that labor has been discriminated against in public animosity—and, I may add, in the Congress. It was discriminated against in our reconversion program, and discriminated against in the legislation which was proposed and is today pending before this body.

I will go further. I will say that if one will examine the 21 recommendations made by the President of the United States to the Congress last year as a long-range reconversion program designed to give this Nation economic, political, and social stability and progress, he will find that more bills have been passed that were favorable to management and to business, of those recommended by the President, than were passed favorable to the public interest at large, and to labor.

The President has repeatedly had to remind the Congress of his humanitarian recommendations to the Congress. Notwithstanding his repeated and urgent recommendations to the Congress, most of those measures have made little or no progress in the Congress. I shall not mention them all. There are many of them that are readily within the knowledge of Senators.

That is something of the background which led me to say that I believe that management should share with labor the responsibility for the situation which we face today. I believe that government should share some of the responsibility, because government has not done all that it could have done and should have done to remove the differences between management and labor and to bring about industrial peace.

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

Mr. PEPPER. I yield for a question.

Mr. OVERTON. The Senator has undertaken to defend the attitude of organized labor in respect to the various controversies which have arisen within the past few months. We are legislating not with particular reference to the past, but in the light of the past; and mainly we are legislating for the future. Looking forward to the future, I should like to know whether the Senator from Florida is in a position to defend the statement of Mr. Curran, representing the CIO Seamen's Union, that, regardless of what law may be enacted by the Congress to prevent strikes, or with reference to strikes, the seamen's union will inaugurate the strike on June 15. Does the Senator defend that position?

Mr. PEPPER. I do not defend that position.

Mr. OVERTON. Does the Senator believe that the laws of the United States ought to be observed by all its citizens?

Mr. PEPPER. I do, Mr. President. However, let me say that I do not favor legislation depriving a citizen of his right to strike. If legislation of that character is enacted, then those who are the complainants against it have a right to test its constitutionality in the courts. That is a perfectly legitimate exercise of a citizen's rights. If the courts should hold that the law is not valid under our Constitution, then it would not be binding upon the citizens who might be the victims of it. If, on the other hand, the proper court should properly hold that the law is within the authority of Congress to enact and that it applies to the person complaining, then, of course, it is the duty of the citizen to observe the law, and he would be a disloyal citizen if he did not do so.

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

Mr. PEPPER. I yield.

Mr. OVERTON. That is not the position of Mr. Curran. He is not stating that he is going into any court to test the constitutionality of any law which may be enacted by the Congress of the United States; but what he is going to do, he says, is that, regardless of any law which may be enacted by the Congress of the United States, he proposes to conduct and to continue the strike, beginning on June 15.

Mr. PEPPER. No, Mr. President; in no sense of the word do I approve or encourage or uphold anyone in defying the

law of the land. I think the proper course, if a citizen complains about legislation, is for him to take it to the proper tribunal and have it determine whether the legislation is properly binding on him. That applies to Mr. Curran and to every other citizen of the country.

We here are concerned with legislation itself, and we are primarily concerned with the wisdom of legislation, as well as the policy which should be expressed in it.

We have before us the pending bill. As I said in the Senate on Saturday, I cannot but believe that our President will see the day when he will regret recommending to the Congress this proposed legislation. I say that with respect; I say it with the deference which is due from a citizen, a Senator, to the Chief Executive of our land. I believe that the President has been badly advised, and I think he will see, in time, the error of that advice. I will say that I believe that those who have advised the President to recommend this legislation will also regret that they have advocated such policies, for in my opinion it is one of the most dangerous pieces of legislation which has ever been proposed in the Congress of the United States.

Mr. President, it is proposed to this Congress, while technically we are at war; but if it is possible to enact this legislation now, it will be possible to enact it after the technical status of the war has passed. If it is possible to enact this legislation now, in the present emergency, it will be possible to enact it in another situation which the President or his advisers might think represented an emergency, but which might not be an emergency of comparable importance to the one which we face today. If it is possible to enact this kind of legislation with respect to management and labor, it will be possible to enact legislation of this kind with respect to the citizenry of the United States generally.

Therefore, I say that this measure provides for conferring upon the President an arbitrary power which no President should have. I doubt whether the President should have this power, even in wartime. I can only say that President Roosevelt never asked for it or possessed it in the war from which we have just emerged. If President Franklin D. Roosevelt, after Pearl Harbor, when the heart of this Nation for a time stood still, in the darkest days of that war, although he was confronted with work stoppages which endangered the victory itself, never allowed himself to ask the Congress for the exercise of this power, I cannot bring myself to give it to any President to exercise in peacetime.

Yet, the bill is a very logical bill and a very logical projection of the arguments which have been made in the Senate in the last 2 weeks. It is the logical answer to those who clamored for effective action, without thinking about the price we would have to pay for effective action. Yes, Mr. President; this bill is the answer to the *n*th degree to those who demanded that the Government have power to stop strikes. This bill confers such power. It probably would not confer, in practice, an effective power to get out of the people of this country the work which they would gladly yield voluntarily. I shall never believe that forced American labor can ever equal in output and accomplishment voluntary American labor. If I believed that, I would not believe in America and in Americanism. I do not believe it would be possible to get as much coal mining out of the miners with a bayonet at their backs or even by threatening to put them in the penitentiary as it would be possible to obtain by making a fair agreement with them and letting them work of their own accord in the mines.

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

Mr. PEPPER. I yield.

Mr. MILLIKIN. I venture to say that no coal mining will be obtained if an attempt is made to drive the miners to work with a bayonet at their backs.

Mr. PEPPER. Mr. President, I thank the Senator for that observation, and it is a tribute to the hardihood and character of the miners of America that the Senator from Colorado would say that.

That would not be the first time that men have died in America for something they believed right. Miners' sons died all all over the world in fighting against something that they believed wrong. Many of them died for what they believed right, and in fighting against what they believed wrong, and many others have returned home. Mr. President, I believe that the boys who used to wear the uniform of their country and who fought against a totalitarian scheme which gave the Government all power without judicial review, will fight against it in the mines, on the railroads, in the automobile factories, in the great ramifications of industrial life in America. I agree with the able Senator. The Government may shoot a lot of them; the Government may disembowel them with a soldier's bayonet, or may put them in prison. I am not predicting what they will do, but I am saying that it is impossible to force Americans in large numbers to do what they do not believe to be right. There will be a few who will yield at the threat of force, but it would not be the first time that police officers and sheriffs and soldiers have shot working men and women in America. The annals of our industrial history are replete with instances of company-hired thugs and company-paid-for deputy sheriffs and policemen shooting down American citizens in the exercise of their rights. But I thought that day had passed.

If the Senator from Wisconsin [Mr. LA FOLLETTE] could stand up on this floor and tell what his committee investigation courageously disclosed about how the workingmen of this country had been physically browbeaten and brutalized by management-paid hirelings, it would shock the sensibilities of Senators.

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

Mr. PEPPER. I yield.

Mr. MILLIKIN. I think it should be said that the miner is a very spirited man; and he, too, has shot some company police and policemen.

Mr. PEPPER. Yes; I think the Senator is correct. The miner is a pretty tough fellow, and the worker in America is a pretty tough fellow; and I would not want the job of coercing him when he felt that he was acting within the exercise of his rights as a citizen of the United States.

But, Mr. President, I said that the bill will come the nearest to stopping strikes that physical power exercised by the Government of the United States, can come, for it gives to the Government the power, first, to put in jail a man who does not work, a man who even slows down his work, a man who permits another man not to work, if he happens to be a labor leader, a man who does not bring a man back to work, if he is a labor leader.

Mr. President, it would provide a penalty for an executive who permitted a man to refuse to work in one of the industries which has been taken over by the Government. What is the penalty? I read from page 3:

> (c) On and after the finally effective date of the proclamation, any person willfully violating the provisions of subsection (a) of this section shall be subject to a fine of not more than $5,000 or to imprisonment of not more than 1 year, or both.

Yes, Mr. President; the yawning door of the jail awaits the man who does not do what the President of the United States or a representative of the President of the United States—we all know that he must act through representatives—tells him to do. That means that, although the Constitution of the United States has abolished slavery and involuntary servitude in this country, except as a punishment for a crime whereof the accused shall have been duly convicted, if a man exercises what he believes to be a constitutional right not to work for anyone for whom he does not wish to work, he may be put into prison or made to pay a fine.

Mr. President, are citizens of this country willing to hold their lives and their liberty under that kind of a law? Is the Congress of the United States willing to enact and rest its honor on that kind of legislation?

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

Mr. PEPPER. I yield.

Mr. MILLIKIN. Does it escape the distinguished Senator that before these penalties become effective under the provisions of the bill which we are discussing, the man has been liberated from his employment by a presumption of law?

Mr. PEPPER. The Senator is quite correct, and he has shown the great ability which he possesses as a lawyer by pointing out that the law itself provides that a man shall be considered a stranger to his job who has been adjudged by the law itself to be a stranger to a job. Yet, under the pending bill he may be put into the penitentiary for refusing to work.

Mr. President, I am only skimming along. On page 4 of the bill is section 5. However, allow me to go back a little before I take up section 5.

In the first place, the policy of the United States is declared in the following language:

> That it is the policy of the United States that labor disputes interrupting or threatening to interrupt the operations of industries essential to the maintenance of the national

economic structure and to the effective transition from war to peace should be properly and fairly mediated, and brought to a conclusion which will be just to the parties and protect the public interest.

I have no quarrel with that declaration of policy. Of course, we favor labor and management getting together, but, in the bill itself, there are no penalties to be imposed for the violation of that policy.

Section 2 is as follows:

SEC. 2. Whenever the United States has taken possession, under the provisions of section 9 of the Selective Training and Service Act of 1940, as amended, or the provisions of any other applicable law, of any plants, mines, or facilities constituting a vital or substantial part of an essential industry, and in the event further that a strike, lock-out, slow-down, or other interruption occurs or continues therein after such seizure, then if the President determines that the continued operation of any such plant, mine, or facility is vitally necessary to the maintenance of the national economy, the President may by proclamation declare the existence of a national emergency relative to the interruption of operations.

Mr. President, in the first place I wish to invite attention to the fact that the basic law upon which this bill operates is already the law of the land. So, it is not proposed that the President be given any new authority to compel certain acts to cease. I do not believe there has been such a failure under the Smith-Connally Act, or under the Second War Powers Act, as to require that we should abandon those possibilities and procedures, and go to other strange procedures such as those which are embodied in the pending bill.

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

Mr. PEPPER. I yield.

Mr. MILLIKIN. Is it not a fact that the Smith-Connally Act has never been tried against any important offender?

Mr. PEPPER. The Senator is absolutely correct. I also invite attention to the fact that in the absence of such a law as the one now being proposed, under the authority that he possesses under the Smith-Connally Act and as President of the United States, the President stopped the railroad strike. If the President could stop the railroad strike under the existing law, and has authority, as President, why could he not stop other strikes if he courageously exercised the power which he possesses? In the second place, I wish to point out that the President alone determines that the continuous operation of any plant, mine, or facility is necessary to the maintenance of the national economy.

Remember, Mr. President, that this is not a war bill. I would give the Commander in Chief of the Army and the Navy great power during wartime to determine what is vital to the national economy. I wonder if we wish to give to the President such uncontrolled power over the national economy during peacetime. Is a mere inconvenience to the public a national emergency? Under this bill no court determines the matter. The sole and single adjudication is to be made by the President of the United States. Moreover, the President determines whether he shall issue a proclamation. If the President does issue a proclamation he determines the conditions of the proclamation in accordance with section 3 of the bill, which I read:

SEC. 3. The President shall in any such proclamation (1) state a time not less than 48 hours after the signature thereof at which such proclamation shall take final effect; (2) call upon all employees and all officers and executives of the employer to return to their posts of duty on or before the finally effective date of the proclamation; (3) call upon all representatives of the employer and the employees to take affirmative action prior to the finally effective date of the proclamation to recall the employees and all officers and executives of the employer to their posts of duty and to use their best efforts to restore full operation of the premises as quickly as may be; and (4) establish fair and just wages and other terms and conditions of employment in the affected plants, mines, or facilities which shall be in effect during the period of Government possession, subject to modification thereof, with the approval of the President, pursuant to the applicable provisions of law, including section 5 of the War Labor Disputes Act, or pursuant to the findings of any panel or commission specially appointed for the purpose by the President.

Mr. President, if we look at section 5 of the War Disputes Act we will find that the President already has, through the National Labor Board, the power to fix wages under the same conditions in any plant which may be in the custody of the Government. If it be said that the National War Labor Board no longer exists, I believe I can show that it has been succeeded by another board which, by Executive order, possesses similar powers. So there is still authority in the law, the very authority which Mr. Krug, Secretary of the Interior, is exercising today in his negotiations with the miners, to make the necessary wage adjustments which would make it possible for work stoppages to be corrected. The President of the United States did not exercise such power during the time of the railroad strike, because I have been told by Dr. Steelman, as well as Mr. Whitney, that the Government never once negotiated with the workers as to the terms upon which they would return to work for the Government of the United States. The sole negotiations which were carried on by the Government were with reference to the conditions of the contract which should govern the private relationships between management and labor, and not between the Government and labor.

Yet, Mr. President, the strike is largely being made the excuse for the enactment of this so-called emergency legislation, and the President has asked for a power which he never endeavored to employ in the settlement of the strike, in spite of the grievous calamity which it inflicted upon the people of the United States.

Mr. MILLIKIN. Mr. President——

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

Mr. PEPPER. I yield.

Mr. MILLIKIN. The distinguished Senator has doubtless noted that although there is an imperative mandate, to the representative of the employer and the representatives of the union, to bring an end to the things that are specified, there is no specification whatever of what they shall do to accomplish that objective.

Mr. PEPPER. The Senator is absolutely correct.

Mr. MILLIKIN. If I may proceed, in some remarks this afternoon, I pointed out that surely a spirit of exhortation would not bring men back to work where the situation had gotten so grave that the Government itself had to take possession of the facility. What exactly is it that these representatives are to do to escape being fined and put in the hoosegow?

Mr. PEPPER. The Senator is absolutely correct. That is characteristic of the language of the bill all the way through, which makes something a crime by a standard which is so loose that no one can define what the standard to be observed is. I cannot believe that we wish to enact such a criminal law in this land.

Let me also point out that authority which we gave the President to fix wages and working conditions and hours in the Smith-Connally Act was really an emergency piece of legislation. That was really adopted in real war, for that was adopted in 1943. I need not remind Senators about what the military situation in that war was in 1943 when the Smith-Connally Act became the law of the land. That legislation was adopted about the summer of 1943.

Mr. President, while I voted for the Smith-Connally Act, I would have it known I spoke on the floor of the Senate for the Smith-Connally Act, I denounced John L. Lewis, and I hope that all that will not be forgotten because I have changed my policy with peace. But I did, and the RECORD, of course, will show it. That act was a war measure.

I wonder if Senators on this floor, Senators who have had wide business experience, Senators who are distinguished lawyers, Senators who are very able citizens, are willing to give to any President—and, of course, I am not distinguishing between the present distinguished President of the United States and any other President, past or future—are they willing to give to any President the power, completely and without the right of review, and without any limitations whatsoever upon his authority, to do the following:

To establish fair and just wages and other terms and conditions of employment in the affected plants, mines, or facilities which shall be in effect during the period of Government possession.

What may be the consequence of the exercise of that power? Let us suppose that the President fixes a wage which is too low in the opinion of the worker, yet he enforces it by the coercion that is provided for by the proposed law. And then suppose sometime or other, as I dare say the proponents contemplate, the President turns the industry back to the owner or owners of it, and labor then says, "All right; we worked for those wages while we were working for the Government and while the Government could put us in jail, or fine us, or put us in the Army, or take away from us our seniority rights, but we will not

work for those wages for the private employer." Just what is the Government going to do? Suppose the workers strike if the management does not give them more. Then we are right back where we started, we have not cured at all the industrial strife, we have not remedied the malady which provoked governmental possession.

On the other hand, Mr. President, suppose the Government is overliberal in fixing wages and fair standards of work, and raises the workers to a point that private enterprise could not possibly afford while the enterprise stays in the hands of the Government. Would there be any incentive on the part of labor to want to see the enterprise go back to private management? Would they not vigorously protest? Would they not say, "We will strike if you turn it back to management, because they will cut our wages, and we do not want our wages cut. If you turn it back to management we will stop work." What would that lead to? That would mean that the Government would have to keep the industry as long as it was likely that so long as it kept it there was going to be no cessation of work.

Mr. MILLIKIN. Will the Senator yield?

Mr. PEPPER. I yield.

Mr. MILLIKIN. I should like to ask the distinguished Senator whether it is not basically and viciously wrong to substitute Presidential fiat for free collective bargaining.

Mr. PEPPER. The Senator could have stated the case better. On the one hand, we have totalitarian, absolute rule by Government. It is bad under any government. It produced under some governments the spirit that bathed this world in blood, whereas, on the other hand, the right of free collective bargaining is the true spirit and genius of democracy, the kind of spirit and genius that won the war against the totalitarian states which employed in their industry exactly the kind of principle that is proposed to us here today.

Mr. MILLIKIN. May I ask the distinguished Senator if the settlement of labor disputes by governmental fiat is not the heart and soul of the syndicalism which is the characteristic of fascism?

Mr. PEPPER. Mr. President, I avoided the use of the word, as the Senate perhaps noted, in referring to the matter, because if one ever uses it he is subjected to criticism. Speaking without prejudice, but historically, fascism started, perhaps, in Hungary, and it really came to be effective first in Italy. I am told that the last law passed by the Italian Chamber of Deputies, or whatever the name of the legislative body in Italy was, was a law outlawing labor unions, and giving the government unrestrained power over the working men and women of the country.

Why did such a system grow up? It was not heinous in its beginning, except in concept and character. Fascism grew up largely because the men who were its advocates promised the country tranquillity from stoppages of work and industrial strife.

Mr. President, I am speaking now historically, and not prejudicially, and I do not want anyone to say that I am demeaning the character of the President of the United States. It has gotten here in this debate the last few days so that a Senator does not know what to say lest he be snapped off the floor, or subjected to denunciation for not being a patriot. I am beginning to be alarmed about the right of free speech even in the Senate of the United States. I today have heard a Senator upbraided and embarrassed because he made a statement in the Senate of the United States about the action of the President of the United States. I never thought I would live to see a Senator called to account by his colleagues for saying anything he wanted to say about the President of the United States, or anybody else in the United States.

Have we gotten back to the alien and sedition laws, or are we going to enforce the alien and sedition laws by custom here in the United States Senate and in the country? There have been things happening here in the last few days so that if a Senator actually availed himself of his right to speak to the best of his ability about a bill, if his physical or political life were not in danger, he certainly endangered his effectiveness as a Senator in the United States Senate. And I say that out of my heart.

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

Mr. PEPPER. I yield.

Mr. BARKLEY. Does the Senator think it is an invasion of the province of free speech for one Senator to call attention to the inaccuracy of another Senator in what he said about the President of the United States?

Mr. PEPPER. Of course not.

Mr. BARKLEY. That is all that happened here today.

Mr. PEPPER. Mr. President, while I do not agree with what the leader has said, those who were in the Chamber heard what the Senator from Oregon said. The RECORD speaks for itself. The Senator was subjected to a severe reprimand. Perhaps he was wrong, but one has a right to be wrong in a democracy.

Mr. BARKLEY. It is not a violation of free speech to call attention to the fact that he is wrong.

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

Mr. PEPPER. I yield.

Mr. McFARLAND. I am glad to hear what the Senator has said, because some days ago I thought I heard the Senator praise the British for cutting off the right of free speech.

Mr. PEPPER. Oh, no; I do not think the Senator heard the Senator from Florida make such a statement.

Mr. McFARLAND. I understood the Senator to be praising the British system.

Mr. PEPPER. The colloquy to which the able Senator refers arose when one day after we had debated the British loan for over a month, a statement was made here upon the floor of the Senate to the effect that we would not have time to deal with all the legislation on the calendar, and I rose and said we would never be able to dispatch the public business in the way it should be dispatched until we revise the Senate rules so that the leadership—and I meant of course the leadership with a concurrence of a majority of the Senate—could determine that the rules of the Senate were observed in the transaction of public business. Then I went on to say that that meant that we should revise the rules in three respects. I am sorry to bore Senators by repeating them, but one was to give the majority the right to invoke the rule of relevancy in debate. The second was to give the majority the right to determine what should be the pending business; the third when to determine a vote should be had upon a question before the Senate. I said further that it should be possible to invoke each of the rules as a privileged motion, even if a Senator were on his feet. I challenge any Senator to show any inconsistency in the action of the Senator from Florida in that respect since I participated in a filibuster in 1937. As I said here today, the reason I voted for cloture on Saturday, when only three of us voted for it, was because, without having to explain it, I wanted the RECORD to show that the Senator from Florida had voted for cloture on every cloture petition that had been filed and voted upon since 1937, when the Senator from Florida was present and a vote was had. So I think I have been consistent.

The other matter that the Senator joked me a little bit about was that some days ago I said it would be a good thing to follow the British parliamentary practice; that we would have real debate, and debate better and more effectively if we did not allow any Senator to read a manuscript in the Senate, just as in the British House of Commons no member, as I understand, aside from the Government or the leaders of the opposition, are allowed to read a manuscript, and if they do they are subject to a point of order. Some member will get up and say, "Mr. Speaker, the member is making rather full use of his notes." I said if we had more debate in the Senate and less declamation we would get along better. I still think I am right in that respect. And I shall be glad, Mr. President, when the acoustics of the Senate Chamber are improved, as I hope they will be soon, so that Senators may speak in the Chamber in a conversational way and really debate.

I agree with Mr. Winston Churchill definitely about one thing. I like the idea of having the seats facing each other; let one party sit on one side of the Chamber and the other on the other side, facing the first party, and the Speaker sit up on the Speaker's bench to keep order between the two; then let us debate in the finest tradition of the mother of parliaments and the finest tradition of the American parliament. Senators know that almost always when a Senator proceeds to read a manuscript other Senators will go over and look at the manuscript and, after judging the size of it, and finding that it is a long manuscript, will go to lunch or go to their offices. That is not the best parliamentary practice. If I have erred in suggesting that for the consideration of my colleagues, I am certainly just as

sorry as I can be, but I thought it not an impropriety to suggest it.

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

Mr. PEPPER. I yield.

Mr. McFARLAND. I have the utmost respect for Mr. Churchill and I admire him, but I am still satisfied with our American way. I think it has proven better than the British way.

Mr. PEPPER. Very well. I am certainly not going to do anything to make the Senator change his mind. I am merely making the suggestion, Mr. President, and I hope the impact of an idea is not an offense.

Mr. McFARLAND. Not at all.

Mr. PEPPER. Mr. President, as a matter of fact I am rather glad that I am being accused of being a little pro-British, because I have often been accused of being a little anti-British here lately when I have been talking about foreign policy. I am glad that this minor suggestion of mine respecting a rule in the British House of Commons or my attitude respecting the British loan, which I vigorously supported, may subject me to the charge of being pro-British, but when I think the British are following a foreign policy which I believe is not to the best interests of my country I shall oppose it even though I may be called anti-British or even pro-Russian.

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

Mr. PEPPER. I yield.

Mr. BARKLEY. I merely wish to suggest to my very dear friend, the Senator from Florida, whose ability and whose fluency and consistency I admire that much as we enjoy his dissertation upon the difference between the American legislative system and the British parliamentary system, I wonder if we could bring him back to the discussion of the amendment now under consideration, which is to strike out the word "lock-out"?

Mr. PEPPER. Yes, Mr. President. Under the rules of the Senate the Senator from Florida is obliged to confine himself exclusively to the discussion of that word "lock-out" as the pending amendment. Now further about the lock-out amendment; I had gotten to the point of dealing with section 3. I will say that this is simply preliminary to the lock-out amendment discussion, but I am going to get around to that, I want to assure my leader.

Mr. President, I have already called attention to the character of section 4. But when I branched off into a rather extraneous discussion, what I was pointing out was that if business in this country allows, without its protest, the President of the United States—and again I say any President—to have the almost authority of life and death over it, then the American businessmen are less tenacious than I believe them to be. I believe, Mr. President, that if we can debate this bill the remainder of the week—and I think 1 week is perhaps not an extraordinary time for a matter of this importance—if we can debate the measure in the Senate until the businessmen of America understand it, we need not worry about what their reaction will be. They will be against it. They do not want any government to have such power assuredly in a time of peace. They do not want any government to have the power to take their plants, their whole industry, away from them and fix the wages and hours and working conditions of every man and woman in it, and have the power to put in jail any executive or representative of the industry because he does not do what the President proclaims he should do, or what some underling of the President tells him to do.

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

Mr. PEPPER. I yield.

Mr. MILLIKIN. I feel quite certain that the businessmen of the Nation when they realize that the Government is playing with the businessmen's chips and, under the last section of the bill, making a profit that goes into the Federal Treasury—I should think that would be a matter of deep concern to the businessmen and also to the workers, because the very declaration, that the workers shall not profit implies that the Government may not raise their wages while they are on the job under Government control.

Mr. PEPPER. The Senator is absolutely correct. I was just going to consider section 3, subsection (4) in connection with section 9, as the Senator from Colorado has just suggested:

> SEC. 9. In fixing just compensation to the owners of properties of which possession has been taken by the United States under the provisions of section 9 of the Selective Training and Service Act of 1940, as amended, or any other similar provision of law, due consideration shall be given to the fact that the United States took possession of such properties when their operations had been interrupted by a work stoppage, and to the value the use of such properties would have had to their owners during the period they were in the possession of the United States in the light of the labor dispute prevailing.

Mr. President, it will be noted there who fixes the compensation. Who fixes it? The President of the United States individually, without court review or any other curb upon his finding.

Mr. MILLIKIN. And of course it has not escaped the distinguished Senator that an estimate of that kind would be so purely speculative that it would be impossible to arrive at a sound decision.

Mr. PEPPER. Of course. The President would have an arbitrary power to fix any figure he wanted to fix. And, Mr. President—have I overlooked it—if he made any mistake, is there any judicial review provided at all in the act over the President's finding? There is not the slightest suggestion of it. As the Senator from Colorado has pointed out, even if there were a judicial review, the standards the President may employ in fixing those figures are so general that that no court could say he had erred in respect to the standards.

I read further:

> It is hereby declared to be the policy of the Congress that neither employers nor employees profit by such operation of any business enterprise by the United States.

Mr. MILLIKIN. Mr. President, will the Senator be good enough to yield again?

Mr. PEPPER. Yes.

Mr. MILLIKIN. That is the only honest statement in this entire bill. Will the Senator be good enough to read it again?

Mr. PEPPER. I read:

> It is hereby declared to be the policy of the Congress that neither employers nor employees profit by such operation of any business enterprise by the United States.

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

Mr. PEPPER. I yield.

Mr. BARKLEY. After 2 weeks or 3, whichever it was, of acute difference of opinion between the Senator from Florida and the Senator from Colorado in the discussion of the Case bill, now to see the Senator from Florida coming to the rescue of the American businessman, and the Senator from Colorado coming to the rescue of the American working man, is something wonderful to behold. [Laughter.]

Mr. PEPPER. Mr. President, it is perhaps better to be right sometime than never to be right at all.

Mr. BARKLEY. Is the Senator right now, or was he right last week?

Mr. PEPPER. I shall have to leave that to the Senator's judgment; but I will say that I have never advocated a policy for the benefit of the worker that I did not believe to be also for the benefit of the employer. When we advocate genuine free collective bargaining, as we advocated it here the other day, I think we were trying to protect the interest of the employer as well as the interest of the employee.

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

Mr. PEPPER. I yield.

Mr. MILLIKIN. I do not wish to impose upon the Senator's good nature, but will he read that statement again?

Mr. PEPPER. Mr. President, I do not know whether I shall lose my position on the floor or not. It might be regarded that I should not read it, but I will read it once more; and this time with the momentum I get from the third reading of it I shall continue to the end of the sentence without stopping:

> It is hereby declared to be the policy of the Congress that neither employers nor employees profit by such operation of any business enterprise by the United States, and to that end——

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

Mr. PEPPER. I promised to finish the sentence. I shall have to decline to yield—

> and, to that end, if any net profit accrues by reason of such operation after all the ordinary and necessary business expenses and payment of just compensation, such net profit shall be covered into the Treasury of the United States as miscellaneous receipts.

I now yield to the Senator from Kentucky.

Mr. BARKLEY. I merely wish to express the fervent hope that after the

third reading of that sentence the Senator from Colorado understands it. [Laughter.]

Mr. PEPPER. I doubt very seriously whether just three readings of that sentence will impart any great meaning to it.

Mr. BARKLEY. The Senator does not mean any reflection upon the intellectual ability of the Senator from Colorado to understand a simple sentence like that, does he?

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

Mr. PEPPER. I yield.

Mr. MILLIKIN. I wish to say that I caught it the first time. As I previously stated, I regard it as the only truthful statement in the bill.

Mr. PEPPER. The able Senator from Colorado wanted it read thrice simply for emphasis, and not for clarity.

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

Mr. PEPPER. I yield.

Mr. BARKLEY. I suppose he was asking that it be read three times for my benefit. [Laughter.]

Mr. PEPPER. I am sure that if he had thought that the hearing of it might change the opinion of the able leader, he would have asked that it be read even again.

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

Mr. PEPPER. I yield.

Mr. MILLIKIN. The distinguished majority leader always requires a "close shave." [Laughter.]

Mr. PEPPER. Seriously, Mr. President, that language indicates rather clearly that the gentlemen who drafted this legislation were not all Philadelphia lawyers.

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

Mr. PEPPER. I yield.

Mr. BARKLEY. I have never in my whole life been willing to admit that all the legal intelligence was concentrated in Philadelphia.

Mr. PEPPER. Mr. President, I do not know whence these lawyers came, but I do not propose to recommend one of them for the vacant place of the Chief Justiceship. [Laughter.]

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

Mr. PEPPER. I yield.

Mr. MILLIKIN. Does not the Senator believe that we should applaud the honesty of that statement.

Mr. PEPPER. I believe that we should applaud honesty wherever we find it.

Mr. President, seriously, who determines what are the ordinary and necessary business expenses? The President of the United States. Who determines what is just compensation? The President of the United States. Who determines what is a profit for business or management? The President of the United States.

All these things, in turn, depend upon the way the Government operates the business. If the Government wishes to consume all the profit by increased wages, there will be no profit to give the Government. There will not even be any just compensation, because if there is nothing left, there is nothing with which to pay just compensation. Perhaps industry will come to the Congress with a bill. That is what happened after World War I, when the Government operated the railroads. Senators remember the great claims which railroads made as to the detriment which they suffered during the Government administration. I do not know what the amount of the claim was. I believe the able Senator from Kentucky was a Member of Congress at the time. I wonder if he can tell us, if he recalls, how much the Congress appropriated after World War I as compensation to the railroads for the time the Government had them under its operation.

Mr. BARKLEY. I cannot give the Senator that information. It has been so long ago that I have forgotten. I was in the other branch of the Congress at the time. I know that we appropriated out of the Treasury an amount to make up the deficit between the Government's agreement with the roads for just compensation and the amount of revenue and income received by the Government from the operation of the railroads; but I cannot give the Senator the figures.

Mr. PEPPER. I thank the Senator.

Mr. BARKLEY. It was quite a large sum.

Mr. PEPPER. It was many million dollars.

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

Mr. PEPPER. I yield.

Mr. WHERRY. I think this is the third time that question has arisen since the debate on this measure started. I would appreciate it if the distinguished Senator from Florida would see that those figures are given to the Senate.

Mr. PEPPER. I shall be very glad to do so. The information is very pertinent.

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

Mr. PEPPER. I yield.

Mr. MILLIKIN. The figures are important; but the end fact is also important, that the railroads were well nigh ruined.

Mr. PEPPER. Of course, that is a matter of opinion. I was a great friend and advocate of the late Senator McAdoo. I appreciate what he did to help win World War I. Yet I recall that it was said that while he was operating the railroads he put into effect his own labor policies. I have heard it stated that management had a very disagreeable time; at least, when it got the railroads back into its possession, in adapting private management to the wage scale and the working conditions which had been laid down by the Government during the time of Government operation. The Senator from Montana [Mr. WHEELER] is a better authority on that subject than I am.

Mr. MILLIKIN. I know the Senator loves to debate, so I will ask the Senator whether, while Secretary McAdoo was running the railroads, he was also running for office.

Mr. PEPPER. I hope we shall never have a time in this country when a man will be too much scrutinized and too much surrounded by restraint to do a little running for office while he is doing other things. It is true that the able Director General of Railroads was a candidate for the Presidency. Personally I should have liked to see him succeed in that aspiration.

Mr. President, I brought up that point as a factual historical statement that during the operation of the railroads under broad statutory authority, statutory authority comparable in scope to that sought to be conferred here, the United States Government had to appropriate many millions of dollars. The Senator from Colorado says that the railroads were grievously impaired, and that there was an entirely new relationship established between management and labor during the period of Governmental operation. I say that the same thing will happen respecting the railroads or any other industry if such industries are operated under this proposed law.

Not only that, Mr. President, but I can foresee countless claim bills brought to Congress by industry after industry, claiming that in one way or another the Government inflicted detriment and harm and loss upon an industry while it had it in operation. It will be claimed that the Government did this, that, and the other thing, and was responsible for all the little things that went wrong. Industries will claim incompetence; they will claim willfulness on the part of some Government agents. They will claim that the industry was allowed to fall into disrepair, or that something stupid was done, or that something was done, by omission or commission, by the Government of the United States during the time of Governmental operation, which entitles the industry to recompense out of the Public Treasury. We shall be confronted with the question time and time again if this bill ever becomes the law of the land.

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

Mr. PEPPER. I yield.

Mr. OVERTON. Did the railroads operate during World War I?

Mr. PEPPER. Yes; they operated quite effectively. But, Mr. President, again I emphasize that that was during the war, and this is peacetime.

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

Mr. PEPPER. I yield.

Mr. WHEELER. Certainly they operated during the First World War when the Government took them over; but they did not do one-half as good a job, and they did not have half as many men to move as was the case under private ownership during this war. The facts and figures show definitely that the railroads transported a far greater amount of freight and a far greater number of men backward and forward across the country during this war than they did during World War I, and it was done with a smaller number of cars and poorer equipment, proportionately, than we had the last time. I do not have the exact figures.

Mr. PEPPER. I thank the Senator from Montana, chairman of the Committee on Interstate Commerce, and an authority on this subject, for making that contribution.

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

Mr. PEPPER. I yield.

Mr. OVERTON. The situation in World War I was entirely different from that in World War II.

Mr. WHEELER. Of course, it was greatly different, but the fact of the matter is that in World War II we carried a far greater amount of freight, by many million tons, and we transported many more million men backward and forward across the country. It is really a tribute to private industry that it was able to do so much better a job than the Government did when it had the railroads under operation. There can be no denying the fact that the railroads really did a great job during this war, and a far better job than anyone expected them to do.

Mr. OVERTON. Management and labor worked together during this war.

Mr. WHEELER. They worked together the last time. There was no question that labor and management worked together the last time. It was not the fault of labor that transportation broke down in World War I. The reason it broke down was mismanagement on the part of some, whereby the docks were loaded with freight and the trains were loaded, and there was a general and complete break-down in the transportation system due, it seemed to me, to a large extent to the fact that when the railroads were in the hands of private industry there was mismanagement. But this time industry had learned its lesson, and it did a far greater job than was done under the Government the last time.

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

Mr. PEPPER. I yield.

Mr. BARKLEY. I do not know that it is pertinent to compare Government operation of railroads during World War I with private operation during World War II. But it is a fact that Congress authorized the President to take over the railroads in 1917 because there had been a collapse of transportation due to a lack of unification or coordination, and because of disagreements of various kinds between management and employees. The Government therefore took over the railroads.

When this war began there was no such difficulty. On the whole, the equipment was better than it was in 1917. There was more coordination on the part of railroad management, and greater unification of effort than there was in 1917. Lack of such coordination and unification resulted in the Government taking over the railroads in World War I. It is undoubtedly true that this time the railroads did a magnificent job because there was unity between management and labor. There was no disagreement. Equipment was utilized to the fullest extent. I believe that the fact that it was necessary for the Government to take over the railroads in 1917 operated as an incentive to the railroads to do the very best job they could do in World War II, so that they would not again find themselves in such a situation that it might be necessary for the Government to take them over.

Mr. PEPPER. I want the able leader to attend these reminders: The Senator has said that during the war there was unity, and a working together as between management and labor. Let me remind him that there was a railroad strike in 1943, during the war. Let me remind my able leader, also, that the strike was over a wage increase demanded by the workers, and the President of the United States took over the railroads.

Mr. BARKLEY. Only for a very short period.

Mr. PEPPER. I am coming to that. Let me remind my leader further that it was the present President of the United States who, as a United States Senator, introduced legislation which made this Congress go contrary to and override the Director of Economic Stabilization, Mr. Fred Vinson, who now is his Secretary of the Treasury; and, as United States Senator, he settled the railroad strike in 1943, by making possible a wage increase which had been denied by the Government of the United States and by the regularly established Director of Economic Stabilization.

Mr. BARKLEY. The Senator will realize that the resolution then known as the Truman resolution, for which I voted, as I think the Senator from Florida did——

Mr. PEPPER. I did.

Mr. BARKLEY. Was an expression of the sentiment of the United States Senate. It did not have the effect of law. It may have had some moral influence upon the Economic Stabilizer, but it did not have the effect of law. It was an expression of our viewpoint. But that does not minimize what I said—namely, that in the railroad management itself there was a degree of moral and managerial unit which was prompted to some degree by the desire not to be taken over again by the Government as a war measure; and the strike to which the Senator refers was only a temporary affair, and did not interfere with transportation, although the Government took over the railroads for a very short period; but the strike was soon settled, and the railroads soon went back to private ownership. It was largely a bookkeeping enterprise.

Mr. PEPPER. Mr. President, I hope I am not going to be subjected to bitter criticism and I hope it will not be said that I should not say this, but I think it is a matter of public knowledge and I have a right to quote my source, and I am going to quote it. Mr. A. F. Whitney told me Saturday night that President Truman spent approximately 18 minutes personally negotiating this strike with him and his employees, whereas President Franklin D. Roosevelt spent approximately 8 hours personally negotiating the railroad strike in 1943. I am not making any invidious comparisons, but I will say I do not want the Senator from Kentucky to leave the impression that the strike in 1943 all of a sudden settled itself. I think President Roosevelt did some awfully hard work, personally. I read in the Washington Post that these men sought an interview with the President, but did not get it, and their offer to go back to work lay on his desk from 12:15, and his secretary gave the impression that the President counted the matter closed and was not going to go into consultation with these men.

I say that with kindness; but we are talking about matters of public consequence, and I do not believe those men are entitled to be denounced the way they have been denounced, taking the public's interest into account, as well; and believing that, I have said it.

Mr. President, here is an editorial from today's New York Times:

> There is only one credible interpretation to be placed on what took place in Washington over the weekend.

I am reading from the New York Times of May 27th, today:

> When a President whose whole record as legislator and executive has been one of consistent partiality toward organized labor suddenly proposes the enactment of a law under which leaders of strikes against Government-seized properties may be sent to prison for a year and strikers themselves may be drafted into the Army and ordered back to work, and when a House of Representatives whose ear is always particularly close to the ground in an election year proceeds to pass this measure within 2 hours' time, there is no reasonable explanation except an immense pressure of public opinion to achieve some protection against strikes which have threatened the very life of the Nation.
>
> The leaders of organized labor in this country will read the signs of the times very badly if they fail to recognize that the great mass of unorganized Americans have lost patience with successive strikes in basic industries, by means of which powerful trade unions have attempted and are attempting to force the diversion to themselves, in a time of inflation, of a larger share of a much smaller supply of goods, at the price of a considerably smaller output of effort. It is undeniable, and the action of Mr. Truman and the House of Representatives is proof of the truth of the statement, that there is in this country at this time a strong and widespread conviction that an earlier monopoly of unregulated capital, placing group interest above national interest, has now been succeeded by a monopoly of industrial labor, which carries similar possibilities of evil and which likewise demands regulation.
>
> The regulatory measure which the House has passed, on the President's initiative, is, by the President's own description, "drastic." What should not be overlooked, however, is that it is not only drastic, so far as the rights of organized labor are concerned, but that it is also drastic from the point of view of the employer.

That is what I was saying a while ago.

> For the bill provides that the owners and managers of businesses may also go to prison for "willfully violating" the measures of the bill and failing "to take appropriate affirmative action" to end strikes or lock-outs. Moreover, whenever an industry has been seized by the Government (which can happen through no fault whatever of the owner, but solely because a strike has been called by his employees), the President shall have power to "establish fair and just wages" for the period of Government seizure—and we may be sure that such wages, fixed not at all by the process of collective bargaining, but solely by Government order, would remain at that point thereafter. Meantime, all net profits resulting from Government operation would be turned over to the Treasury.
>
> Furthermore, it seems certain that one effect of the bill, if approved without change by the Senate, must be to stimulate greatly the whole practice of Government seizure. For it is to be noted that nothing whatever happens, under the terms of the bill, until a property is seized. It is then and then only that the proposed restraints and penalties

would come into being. The result must surely be to promote Government seizure as the most effective method—and, in fact, so far as this bill is concerned, the only method—of dealing with a strike. And while the President's message promises to use this power of seizure sparingly—

Mr. President, I interpolate to ask, Did anyone ever attempt to get power that he did not intend to use sparingly when he got it? Did anyone ever give power that he expected to be abused when he granted it? Of course not.

I continue to read from the editorial:

The terms of the bill itself are broad enough to give him power to seize anything and everything, provided only that it is deemed by him to be "vitally necessary to the maintenance of the national economy."

What is not vitally necessary to the maintenance of the national economy, in this highly mechanized modern age?

Again I interpolate that we have seen half a million coal miners practically stop the economy of the country. I do not know what other key industries there are, but there may be key industries in which fewer men than that could practically stop the wheels of the American economy.

I continue to read from the editorial:

Certainly the list of vitally necessary things includes railways, coal, and steel. Does it not also include meats and other food products, textiles, automobiles, leather goods, metals, house furnishings, drugs, clothing, machine tools, petroleum, building materials, and a hundred other items? And must not the fact that the present bill proposes no grant whatever of additional authority until a factory or a mine or a mill has been seized promise vastly to accelerate the seizure process, with all of the attendant evils with which we have become familiar—the diversion of attention from the real problem, the fiction of "Government ownership" and the steady erosion of respect for the rights of private property?

These are points for the Senate to consider—

Yet we are not even going to have a committee hearing. With all deference to the committee, acting pursuant to the directive it was given to report back in a matter of hours, at the earliest hour, or something like that, the committee came back in an hour. Had not unanimous consent been denied by objection of the Senator from Ohio [Mr. TAFT], this measure would have been taken up at that time; and if the leadership had had its way, the bill would have been passed Saturday night. I say that with all respect to the leader. I think he will not deny that it was his policy to do what the House did, and to have the Senate pass the bill Saturday night.

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

Mr. PEPPER. I yield.

Mr. SHIPSTEAD. I believe the RECORD will show that the committee had instructions to bring back the bill forthwith.

Mr. PEPPER. I think the word "forthwith" was contained in the instruction.

Mr. BARKLEY. No, Mr. President; if the Senator will yield to me——

Mr. PEPPER. I yield.

Mr. BARKLEY. I originally asked that it be instructed to report forthwith, but I modified that by asking that it be instructed to report back at the earliest practicable hour.

Mr. PEPPER. At the earliest practicable hour; I think that is correct. But, Mr. President, the word "hour" is a rather suggestive one. It certainly did not indicate that they were going to stay out very long, if they were going to report back "at the earliest practicable hour" to the Senate of the United States.

Mr. President, I am emphasizing that when we look back upon what we were about to do, we shall be ashamed of ourselves. I really believe that if we look back at that time we shall find that we had lost our heads, when we were about to do that Saturday night, if individual Senators had not denied unanimous consent. Mr. President, that shows how we can become excited and wrought up, and in just a little while can lose the character of being the greatest deliberative body in the world.

These are points for the Senate to consider, along with such points as seem certain to be raised concerning the enforceability of the measure and its effect on the traditional rights of labor. And there is also this further, and more fundamental, point to be considered: Would it not be more practicable and more profitable to do something to prevent the strikes from occurring, or from being prolonged until they create a national crisis, than merely to provide a remedy which begins to work only after they have reached the crisis stage and the country is in a furor?

It would be just as easy to prevent a person from striking.

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

Mr. PEPPER. I yield.

Mr. BARKLEY. The Senator is complaining about the rapidity with which we are considering the pending bill. Does the Senator believe that the 2 weeks which were consumed in debating the Case bill resulted in any improvements in it?

Mr. PEPPER. I certainly do.

Mr. BARKLEY. In what way? What were the improvements?

Mr. PEPPER. Many amendments were offered and not adopted, but they would have been adopted if we had not had the protracted debate.

Mr. BARKLEY. All the amendments proposed by the minority members of the committee were adopted, and the Senator very vigorously and intelligently opposed them, as did I. But I cannot see that their adoption, after long debate, improved the bill over the form in which it was when reported to the Senate by the Committee on Education and Labor.

Mr. PEPPER. Mr. President, if the Senator takes that position, then he must also argue that debate in the Senate is a futility. If we do not improve legislation by debate and by discussion, we may as well not talk about it at all.

Mr. BARKLEY. The Senator has indicated that he thinks it would be well to debate the pending bill for a week or more. We debated the Case bill for 2 weeks, and he and I, instead of the Senator from Florida and the Senator from Colorado, worked together on it. It may make a difference with regard to whose ox is being gored. But if the Senator is urging that we should not act speedily on this bill, I wonder what improvement was made in the Case bill, over the objection of the Senator from Florida, the Senator from Montana [Mr. MURRAY], and myself, as well as other Senators, by the long-drawn-out debate which was participated in by many Members of the Senate.

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

Mr. PEPPER. I yield.

Mr. TAFT. The Byrd amendment, when first offered, would have outlawed all welfare funds in the United States. By amending the Byrd amendment we protected many health and welfare funds.

Mr. PEPPER. Yes; I appreciate the fact of what the Senator has said.

Mr. BARKLEY. The Senator from Ohio favored the Byrd amendment in its original form.

Mr. TAFT. I did not favor the Byrd amendment in its original form. I would have voted against it. I rewrote the Byrd amendment, or at least participated with various other Senators in rewriting it after the debate in the Senate which revealed the general situation.

Mr. PEPPER. The able Senator from Kentucky himself referred in the debate to the number of times in which the Byrd amendment had been modified, and I know that he spoke with reference to the matter on many occasions. As various Senators took part in the discussion and revealed certain possibilities in connection with the amendment, it was finally modified so that it was an entirely different amendment in character from what it was in its original inception.

Mr. BREWSTER. Mr. President, do I understand that the majority leader is now advocating the enactment in haste of legislation, after his eloquent speech of 10 days ago in which he argued that the Senate should not legislate in haste and should not froth at the mouth? [Laughter.]

Mr. BARKLEY. No; the Senator from Maine should not arrive at such understanding at all. At the time I made the remarks to which the Senator refers there was, as I stated, a foot race being staged between certain Senators in order to see who would move first to lay aside the bill which was then under consideration and take up the Case bill. That was the situation. I think that the move to have the Senate take up the Case bill was a very hasty one.

Mr. BREWSTER. Mr. President, may I be permitted to read to the Senator a few of his statements made on the occasion to which I refer?

Mr. BARKLEY. Mr. President, I remember perfectly what I said at that time. Moreover, I do not wish to take the Senator from Florida off his feet by permitting the Senator from Maine to make a speech in the time of the Senator from Florida.

Mr. BREWSTER. I understand, then, that the Senator from Kentucky objects to having the administration——

Mr. OVERTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. OVERTON. What is the parliamentary status of the Case bill?

The PRESIDING OFFICER. The Case bill has been passed by the Senate

and it is now before the House of Representatives.

Mr. OVERTON. I thank the Chair.

Mr. PEPPER. Mr. President, I thank the able Senators for their cooperation.

Mr. BARKLEY. If any. [Laughter.]

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

Mr. PEPPER. I yield.

Mr. TAYLOR. Is it not the opinion of the Senator from Florida that if there had not been strenuous opposition to the Case bill, and it had been permitted to be passed without any opposition, it would have contained many more stringent provisions than it contained when it was finally passed?

Mr. PEPPER. The Senator is correct. I will go further, Mr. President. I will venture the prediction, and will wager a bet with the able majority leader that if the Senate debates the pending bill for one more week, he will not recognize it.

Mr. BARKLEY. I do not understand what it was that the Senator was betting.

Mr. PEPPER. I was merely proposing a wager in a spirit of levity.

Mr. BARKLEY. Yes; but what was the wager?

Mr. PEPPER. I doubt very seriously if this bill will be passed in its present form if the Senate will consider it for as long as 1 week.

Mr. BARKLEY. I merely rose to ask the Senator what it was which he proposed to me in the way of a bet.

Mr. PEPPER. I was about to bet the Senator a good dinner against one in return.

Mr. BARKLEY. A good dinner.

Mr. PEPPER. In the event I lose, I shall at least enjoy the conviviality of the distinguished majority leader. [Laughter.]

Mr. BARKLEY. Mr. President, being a good Methodist and not being a betting man, I am prepared to decline the Senator's offer. [Laughter.]

Mr. PEPPER. Very well. I wish the Senator would decide what he believes to be a fair time to be consumed in debating this bill, and afford to some of us Senators that much time. If he will do that I believe I can assure him that some material changes will be made in the bill before it is passed by the Senate, or else I shall be distinctly deceived. However, before I complete what I have to say, I wish to assert that, in my judgment, it would be proper for the bill to be subjected to hearings. I believe that some Senator should, and if no Senator does I shall move that the bill be recommitted to the Committee on Interstate Commerce, or referred to some other committee of the Senate, and that the American public be given an opportunity to be heard for a reasonable length of time to be determined within the discretion of the committee.

If we deny the people of this country such privilege, Mr. President, we will be denying them a right which they should not be deprived of. I wish to emphasize that if the business people of the United States learn that they hold their businesses at the mercy of the President of the United States, no matter how able he may be, they will not favor the kind of legislation which is here being proposed. If this bill should be enacted into law, Mr. President, the business people of this Nation would never know when the President would say, for example, "Very well, if General Motors will not follow my fact-finding committee's recommendations, and you men are still out on strike 30 days from now, I will take over the plants. I will show General Motors how I will run its business." Do Senators believe that General Motors would look with favor on legislation of that character, in light of the fact that all the labor unions would have to do would be to strike to put the company's business in the hands of the Government?

Mr. President, talk about the power of labor unions. If Mr. Lewis did not like the collective bargaining conduct with reference to his miners, it is generally assumed that he would have power to call them out at any time. All he would have to say to management is, "All right, if you do not comply with my request I will call out my miners and there will be a strike. The country will need coal and the President may take over the mines. I would rather take my chance on a wage contract with the President of the United States than with you."

The President has the power now to take over the mines and to take over General Motors. But the great distinction between the President's authority and the power which would be given him under this bill is that the President's power is a nebulous one, and is not clearly defined. If it is abused, Senators may call it into review. It might be called into review in the courts. The enforcement machinery is not very distinct. Perhaps that is a good thing.

What I started to say, and tried to establish by the New York Times editorial, was that not only labor and businesses are vitally affected by this bill, but business executives may be subjected to severe penalties. The president of a corporation could be "jerked" into the Army and court-martialed if he did not do what the Government told him to do, just as quickly as could the head of a labor union. If this bill had been the law when the President took over Montgomery Ward, all he would have had to do was to issue an Executive order saying to the head of Montgomery Ward, "Mr. Sewell Avery, you are in the Army now, and as your Commander in Chief I order you to raise the wages of your workers." Yes, he could have said, "You are in the Army now." Mr. President, do you believe that Mr. Avery would like such a law as that, or that other businessmen would like management made subject to the penalties which might be imposed under this bill?

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

Mr. PEPPER. I yield.

Mr. WHEELER. I cannot speak with authority on this, but I understand that one of the news commentators made the statement this evening that Mr. Curran had stated that the strike of the maritime workers was over, with the exception of a few conditions, and he was coming to Washington with the view of working them out. Notwithstanding what is stated with reference to Lewis, I am told that the coal strike will probably be settled within the next 24 or 48 hours. If both these statements are true, we should continue debate on the pending bill until such time, at least, as we can ascertain whether or not these two strikes are settled. If they are settled, it means that practically every industry which would come under the provisions of the bill will be no longer in the way of having a threat of a serious strike, and it would be very unfortunate, in my judgment, to pass the bill with the draft provisions in it, providing the strikes of all these unions are out of the way, because all the big strikes that are likely to take place have been settled with the exception of these two.

Mr. PEPPER. Mr. President, I am glad the Senator called attention to that. At an earlier time, when there were not so many Senators present, I tried to call attention to that very thing. In the steel industry the strikes are ended, same as to the packing-house industry, the electric industry, Westinghouse and General Electric, the oil industry, and the farm equipment industry. As soon as the mine strike is settled, with the maritime strike, which is the only one that is threatening on the horizon, it looks as if we would have practically fought our way at last through the most grievous part of the painful period of reconversion, and that there had come about a greater stability in the economy of the country.

Mr. WHEELER. Of course, in the maritime situation, the President, under his war powers, could take over the ships, and it would be quite a different situation from the mines and the railroads, because he could immediately put sailors from the Navy in charge of the ships, and carry the cargoes, whereas in the railroad situation, or in the coal mine strike, quite a different proposition would be involved. The President has the power under the War Powers Act to prevent the maritime strike, or break it, if it actually takes place and threatens the Government of the United States.

Mr. PEPPER. I also call attention to the fact, Mr. President, that every one of these strikes was settled by a fact-finding committee appointed by the President, and through the President's persuasion and efforts at reconciliation, except the rail strike, and that was settled by the exercise of the powers the President already had without the enactment of the proposed legislation now before us. No one denies or doubts that the resolute exercise of the authority the President now has, as President, under the Smith-Connally Act, brought about the settlement of the rail strike.

The only strike of any consequence the Government has failed to settle so far is the mine strike, but the negotiations are going on under present law for the settlement of that strike, and everyone confidently believes there will be a settlement of it within a relatively short time. But even if it were not settled, I believe the same resolute exercise of power which the President showed in dealing with the rail strike would lead to an adjustment of the coal strike.

Mr. President, I now read the last paragraph of the editorial in the New York Times:

In our judgment Congress can both reduce the number of strikes and ameliorate their severity if it will move to restrain the monopoly power which it has given the leaders of the trade-union movement in the basic labor law of the country—the Wagner Labor Relations Act. If it wishes to deal with causes, and not merely with consequences, let Congress at once subject that statute to thoroughgoing revision—in order to make certain that it provides at every point equal responsibilities for employee and employer, equal penalties and the conditions of genuinely fair, collective bargaining.

There is a great deal of difference of opinion, Mr. President, even in the business community, as to what legislation should be enacted in this field.

Mr. President, I wish to refer to just two or three more sections, and then conclude my remarks. Section 5 gives the Attorney General the power to file a petition in any district court of the United States to enforce the duties defined under the act, and therefore modifies the Norris-LaGuardia Act of 1932.

Mr. President, we used to say of our Republican opponents that they criticized the Roosevelt administration, but we did not see any of them proposing to amend the Roosevelt administration laws, or repeal them and take them off the statute books. Only in recent weeks has the drive seriously gained momentum to begin to repeal and effectively to destroy a great deal of the labor legislation which was regarded by some as monumental achievements of the Roosevelt administration.

I wonder how the gentle George Norris would feel if he were sitting in this Chamber in the place now occupied by the able senior Senator from Wisconsin [Mr. LA FOLLETTE], when this administration itself proposed to limit the authority of the Norris-LaGuardia Act of 1932, or when it was proposed, in the legislation we disposed of Saturday night, to diminish the authority of the Norris-LaGuardia Act of 1932.

What I fear, Mr. President, is that we have already begun to undo, not merely by an effort to do it administratively but legislatively, some of those monumental achievements in the field of human relations which have been spoken of as among the great accomplishments of the Roosevelt administration.

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

Mr. PEPPER. I yield.

Mr. WHEELER. I do not believe there is a Member of the Senate who throughout the last 30 or 40 years has had any better record, so far as labor legislation is concerned, than I, because I defended all classes and all kinds of labor, both before I came to the Senate and afterward. But I think that some of the labor leaders in this country are to a large extent responsible for some of the conditions which exist at the present time. If they go too far, they are going to be held responsible for destroying the gains which labor has made in the United States.

I was in Italy just after Mussolini came into power, and I was in Germany before Hitler came into power and afterwards. Those two men came into power because they thought labor was going too far, and while some say it cannot happen in the United States, I think it should be plain to some of the labor leaders, and some of those who are making irresponsible statements for labor, that the same thing can happen in the United States that happened in Italy and in Germany. If they want to lose all the gains they have made, if they want to bring about dictatorship in the United States, the way to do it is to make irresponsible statements such as those they have made in recent weeks.

I have no sympathy with some of the unions which are dominated by Communists, who I am afraid want to tie up industry in this country. I think their activities were one of the things that caused farmers in the United States and small businessmen and big businessmen generally to fear that these people were going too far.

The leaders of labor should realize from what has been taking place in the last few days in the Congress, and throughout the country, that a great responsibility rests upon them as to whether their gains are going to be wiped out and whether we are going to have a free economy and a free enterprise system and a democracy in the United States.

Mr. PEPPER. I thank the able Senator for what he has said. He spoke with great wisdom in those remarks. There is no doubt that, just as action begets reaction, abuse begets excess. There is no doubt at all that a great many labor leaders have exercised arbitrary power. Some of them have been dishonest, some of them have been corrupt. There can be no doubt at all about that.

I will say—and I believe it would also have been said by the Senator if he had gone that far—that I am hopeful that the legislation which is now proposed, and the action of the Congress in recent weeks, has had a salutary effect on the stubbornness of both management and labor.

Frankly, I think that labor is not altogether responsible for most of the recent work stoppages, and I think both management and labor are going to have to see and appreciate that if they continue their abuses of power there is no alternative except absolute control by government, and the people will stand it just so long.

Congress will permit public excesses of power, in my opinion, in order to curb private excesses of power; it will give the President more power than Congress upon reflection would ever want to give the President, in order to meet a great national intensity of feeling and a great revolutionary sentiment in the country that the public interest must not be destroyed.

Mr. McFARLAND. How long should the Senate wait before bestowing such power?

Mr. PEPPER. I will tell the Senator when I would stop. I would stop either with nothing at all being done in respect to the passage of the proposed legislation, or shearing it down to a clarification of the President's authority to take over, and give him very limited powers in case he took over. As a matter of fact, I would not pass it at all, because I think the threat of the kind of legislation that Congress would pass has taught both management and labor a lesson which they needed to learn.

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

Mr. PEPPER. I yield.

Mr. BARKLEY. Would the Senator advocate or does he believe that we ought to be compelled to make a threat of this kind every time a crisis like this arises?

Mr. PEPPER. No; I do not. Let me say in fairness to both management and labor, that, while we have had a great deal of worry and vexation and annoyance and some inconvenience, yet after all, taking into consideration everything that has happened, we have had no more difficulty and trouble than might have been anticipated in coming out of war to peace, and it should not be considered to be an extreme experience in a free economy like the American economy, where we have dynamic forces and characters in both management and labor. It is no disgrace to America that we have even had what we have had. With our economy having been chained to Government for 5 years and then suddenly control being taken off and each one struggling to find himself, the businessman with the profit motive, the laborer trying to adjust his wages to living costs, and each one sparring for power and position, I say that all that which has happened is no disgrace to American management or labor.

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

Mr. PEPPER. I yield.

Mr. WHEELER. I entirely agree with the statement made by the Senator from Florida, that in many instances management has been as much responsible for the situation that has arisen as has labor. But we should remember that after every war—after the Civil War and after the last war and after every other war—there has been a tremendous disturbance and upset in the economy of the country, not alone among labor and industry but among the farmers, businessmen and among the people of every class. We are passing through a sort of hysteria at the present time. Certainly the Congress of the United States should not completely lose its head and pass legislation for which it will be extremely sorry. As I said to the committee, and I repeat it on the floor of the Senate, if we should pass this law to draft labor at this time, I think it would be one of the most unfortunate things that could possibly happen. Let us say that tomorrow every miner were drafted into the Army and a uniform were put on him and he were put back into the mines. Do Senators think for one moment that the miners would work and do a good job under such conditions? We have always boasted on the floor of the Senate that ours was a free economy, and that men could not be made to work, because work could not be gotten from them under compulsion. It has often been said here that we could no more get work out of men by compulsion than could be obtained in Italy, Germany, Russia, or any other country on the face of the globe. If the bill is passed with

that provision in it, and the men are sent into the mines at the point of a gun, we are not only not going to get the work done, but a great fear will have been placed in the minds of every laboring man in the United States, and we will no longer have free government and free enterprise.

Mr. PEPPER. That is true.

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

Mr. PEPPER. I yield.

Mr. McFARLAND. The Senator from Montana knows that the Senator from Arizona voted against section 7.

Mr. WHEELER. Yes.

Mr. McFARLAND. In the committee only one Republican voted against that section. But I can count five Democrats who voted against it, and I was among them.

Mr. WHEELER. I think the Senator is entirely correct.

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

Mr. PEPPER. I yield.

Mr. BARKLEY. I do not know whether it is material, but I will say that the motion to strike out section 7 was defeated by a vote of 12 to 6. I do not know what the proportion of Democrats may have been to Republicans. I did not take account of that. Some of each side voted each way. So I do not know that that is very material. But the committee voted 2 to 1 against striking it out.

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

Mr. PEPPER. I yield.

Mr. McFARLAND. I do not care to make any point about it, either, but I know that five out of the six who voted against it were Democrats.

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

Mr. PEPPER. I yield.

Mr. KILGORE. I think the RECORD could be corrected in one respect. The Senator from Montana said that after each war there has been a terrible upset in our economy. The upset really occurred during the war, and the apparent upset after the war is due to the attempt to adapt ourselves to the changed conditions. For instance, we manufactured out of whole cloth, shall I say, literally thousands upon thousands of welders. We probably have an overplus, shall we say, of welders. What now seems to be an upset is due to what occurred when we tried to adapt ourselves to war conditions. We feel that situation following the war. The big problem we face now is that of getting ourselves back into balance.

Mr. WHEELER. That is correct.

Mr. KILGORE. I merely wanted to have the RECORD straight on that point.

Mr. PEPPER. The Senator from Montana is absolutely correct in his statement. Labor must see that if they abuse their power they will be subjected to curbs and restraints. On the other hand, business must understand that if they abuse their power, they, too, will be subjected to curbs and restraints. If each is to preserve the freedom of collective bargaining, each has got to be more ready to meet the point of view of the other and exercise the true spirit of reconciliation instead of stubbornness in their disputes.

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

Mr. PEPPER. I yield.

Mr. BRIDGES. The remarks made by the distinguished Senator from Arizona [Mr. McFARLAND] as to the vote in the committee, of course, are wholly based on an unofficial report of the proceedings of the committee. The test will come when the vote comes, when an amendment is offered to strike out section 7 and a record vote is had in the Senate. Then will be a good time to take note, if we are going to bring partisan politics into this particular matter, to see how the Democrats and the Republicans vote.

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

Mr. PEPPER. I yield.

Mr. REVERCOMB. Since this point has been raised I might say that there is now on the desks of Senators an amendment offered by the able Senator from Colorado [Mr. MILLIKIN], a Republican, by the way, to strike out section 7, and I am quite sure that it will get more than one Republican vote.

Mr. PEPPER. I thank the Senator.

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

Mr. PEPPER. I yield.

Mr. DOWNEY. I should like to ask the distinguished Senator from Florida—but I look at our leader as I ask it—what would he think of the propriety of an amendment making United States Senators subject to this draft along with the workers in the Nation, but adding for their benefit, because of their generally advanced age, a provision that nobody drafted should have to work more than 12 hours a day? Would the Senator think that would be an appropriate amendment?

Mr. PEPPER. I think with the limitation upon labor suggested by the Senator, it would certainly be a wise one.

Mr. DOWNEY. Then, I wonder if the distinguished Senator from Florida would appeal to our majority leader to consider that such an amendment were now in effect; that we have been drafted, but that we are subject to human limitations and frailties, and after we have worked from 12 to 15 hours a day our minds really stop functioning.

Mr. BARKLEY. I hope that when the Senator from California desires to ask me a question he will not do it over the head of the Senator from Florida, but do it directly.

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

Mr. PEPPER. Yes; without interposing my head between the Senator from California and the Senator from Kentucky.

Mr. DOWNEY. I will not accept the yielding on that basis, because I am a bit afraid, I will say to the Senator from Florida, to approach our majority leader directly, and would prefer to do it through the Senator from Florida.

Mr. PEPPER. Was the Senator from California making a suggestion of any sort to the majority leader? If so, I know he is alert in taking up any suggestion of that sort, and he may act favorably.

Mr. BARKLEY. I have no desire to take the Senator from Florida off the floor.

Mr. PEPPER. I thank the Senator for the privilege of continuing the discussion.

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

Mr. PEPPER. I yield.

Mr. CAPEHART. I do not know whether it is germane to the general discussion to talk about who voted to strike out section 7 in committee, and who did not vote to strike it out; but inasmuch as the able Senator from Arizona has brought up the matter I think the RECORD should show that the first suggestion that section 7 be stricken from the bill came from the Republican side, and that there were at least three Republican votes to strike section 7 from the bill.

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

Mr. PEPPER. I yield.

Mr. McFARLAND. I cannot agree with the Senator from Indiana. I cannot state that he even voted for the motion to strike out section 7. I know of five Democratic votes for the motion. After the Senator from Colorado said that he intended to make the motion, the Senator from Indiana said that he would make the motion. But if my recollection serves me correctly, he did not hold up his hand when the time came.

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

Mr. PEPPER. I yield.

Mr. WHEELER. It is strange to find such a large number of Senators claiming that they voted for the motion. When I counted the hands only six held up their hands.

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

Mr. PEPPER. I yield.

Mr. McFARLAND. I know definitely that five of them were Democratic, because I counted them. I do not know whether the Senator from Indiana held up his hand, but I know that there were five Democratic hands, and I could name them for the RECORD.

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

Mr. PEPPER. I yield.

Mr. TAFT. I suggest that we might refer the bill back to the Senate Committee on Interstate Commerce, because I think there are enough votes in the committee to strike section 7 from the bill.

Mr. McFARLAND. That would be agreeable to the Senator from Arizona.

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

Mr. PEPPER. I yield.

Mr. BARKLEY. It seems to me that this debate on a serious question, at a serious time, ought not to degenerate into a controversy as to who voted for or against something in the committee. It was an executive session of the committee. There was no roll call on the question. The motion was made. I do not know who voted for it or against it. It seems to me that we should devote ourselves to the merits of the question, and not go off on the question as to who

voted for or against something in the committee.

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

Mr. PEPPER. I yield provided the Senator's remarks will contain no levity.

Mr. SHIPSTEAD. For the purpose of the RECORD, I affirm that the motion was made by a Republican.

Mr. PEPPER. Mr. President, will the Senator speak a little louder?

Mr. SHIPSTEAD. The distinguished Senator from Arizona stated that there were five Democratic votes for the motion. There were six votes, as announced by the chairman, and at least two Republicans voted for it. The Senator from Indiana made the motion, and another Republican seconded the motion, and the chairman announced six votes.

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

Mr. PEPPER. I yield.

Mr. McFARLAND. There were two Republican votes, but there were no more than two. There were six votes announced—perhaps there were seven; but at least not more than two Republicans voted for the motion.

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

Mr. PEPPER. I yield.

Mr. WHEELER. We were in executive session, but I counted six Senators who held up their hands. The motion was made by the Senator from Colorado, seconded by the Senator from Minnesota.

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

Mr. PEPPER. I yield to the Senator from New Hampshire.

Mr. BRIDGES. I simply wish to remark that we are coming up in the world. The Senator from Arizona now admits that two Republicans voted for the motion.

Mr. McFARLAND. No; the Senator is mistaken. I can say definitely that five Democrats voted for it. I concede that the Senator from Minnesota voted for it; but I looked over at the Senator from Indiana, and he did not hold up his hand. Perhaps I am mistaken, but I did not see him hold up his hand.

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

Mr. PEPPER. I yield to the Senator from Indiana.

Mr. CAPEHART. It is a little difficult for me to answer the statement made by the Senator from Arizona just a moment ago. I do not think it makes any difference; but inasmuch as he has brought up the question, I am certain that the able chairman of the Senate Committee on Interstate Commerce will vouch for the fact that I suggested that section 7 be eliminated, and voted to eliminate it when the vote came.

Mr. PEPPER. Mr. President, the arithmetic which I have heard discussed here this evening reminds me of a convention about which I heard in years gone by. It was a State convention of the ladies of a certain State. They were inexperienced in parliamentary procedure. The time finally arrived in the convention when the president called for the report of the secretary-treasurer. The secretary-treasurer rose and very solemnly gave her report, concluding with the statement that they had a $100 deficit. One of the ladies immediately arose and said, "Madam President, I am a great believer in the Red Cross. It has done more good than any other institution I know of, and I move that our deficit be given to the Red Cross." [Laughter.]

Another lady arose immediately and said, "Madam President, I wish to offer an amendment to my friend's motion. I wish to propose that our deficit be given to the Salvation Army, which is one of the greatest organizations in the world. If my friend will consider all the good the Salvation Army has done, I believe she will agree to my amendment to her motion, and let our deficit go to the Salvation Army." She looked across the chamber at the other lady, who immediately rose and very graciously said, "Madam President, I quite agree that the Salvation Army has done great good. I will accept the amendment of my friend if she will modify it so that 75 percent of our deficit will go to the Red Cross and 50 percent to the Salvation Army." [Laughter.]

Mr. President, section 6, which contains the pertinent word "lock-out" which is involved in this amendment, denies to any employee the right to retain his seniority rights, or his rights under the National Labor Relations Act or the Railway Labor Act if he does not comply with the proclamation of the President.

Remember that the conduct which may subject him to that penalty is not merely striking, but also may involve slowing down his work, because it also applies to slow-downs as well as to strikes. We would be in a bad fix in the Senate if we lost our seniority every time we slowed down a little in our work.

Seriously, I wonder if Senators have contemplated what it might mean to a faithful worker who had spent many years in becoming an engineer or a senior worker in a given industry to have a life-time of accomplishment snatched away from him by some ill-advised or rash action on his part, or even possibly by some unintentional action.

Next comes section 7, which reads as follows:

> The President may, in his proclamation issued under section 2 hereof, or in a subsequent proclamation, provide that any person subject thereto who has failed or refused, without the permission of the President, to return to work within 24 hours after the finally effective date of his proclamation issued under section 2 hereof, shall be inducted into—

I emphasize the next words, which are in italic—

> and shall serve in, the Army of the United States at such time, in such manner (with or without an oath), and on such terms and conditions as may be prescribed by the President, as being necessary in his judgment to provide for the emergency.

I wonder if any Senator would consider, 10 years from now when he might be looking back upon that section in the law, that he could look upon it with any pride in having given his assent to its enactment.

In the debate in the House of Representatives I understand that it was stated by a Member of the House who is a veteran of this war—I judge a fighting veteran—that "to have worn the uniform of the country was a badge of honor and distinction, and not a badge of criminality."

We did not put criminals in the Army. As a matter of fact, a criminal was not eligible for the Army. He was not even subject to the draft. Our Government would not take a criminal out of prison and put him in the ranks of the Army beside the honorable patriot serving his country.

Now, we are asked to use the Army of the United States as a penal institution for those whom the President may commit to it. As I have stated, that is a logical extension of the philosophy of those who demand effective action. They say, "First, we will penalize the man by the loss of his rights of seniority. If that threat is not serious enough, then we will make him pay a fine. If that is not enough, we will put him in prison. If we do not think that is enough, he will put him in the Army." If he then disobeys, what can be done except to court martial him? The President of the United States, without any restraint upon his authority, without any local draft board, without any review, simply commands him to become a member of the armed forces, and I suppose from the date of the Executive order he becomes legally subject to the discipline of the Army of the United States. He loses his rights as a citizen to a trial by jury, and becomes triable in a court martial only as a military offender.

Mr. President, I do not claim that the President of the United States would have anyone shot, but I will say that if he did not work he would have to be punished in some way. That is the intention of this authority—that men be punished if they do not comply with the President's directive, or the directive of some man away down the line, who says, "This man slowed down. This one refused to return to work. He was not sick, as he said he was. That man is still striking. I hereby certify or recommend that he be drafted into the Army." The President of the United States is not going to be there to observe the men. He will have to rely on the word of someone else. For the first time it will become possible to inflict imprisonment upon an individual by lettre de cachet, as was done during the French Revolution, when the executive had authority to issue a writ which would place in the dungeon anyone he wished to put there. For the first time the President of the United States would have the right to issue a writ to put any man in any of these industries—either management or labor—in the Army, and court martial him without any review by any court in the land. I do not believe that the Senate is going to pass that kind of legislation in peacetime when we never dared to enact it during the war. I do not believe that peace presents any emergency comparable to the dire days of war which would allow us to strip the citizenry of this country of their civil constitutional rights. In the first place, I do not believe that the final court would ever uphold the validity of such a stat-

ute. The courts know that we are not at war in that sense.

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

Mr. PEPPER. I yield.

Mr. TAFT. Can the Senator see any difference between passing this bill today and passing it a year from now?

Mr. PEPPER. None at all.

Mr. TAFT. Assuming that the coal strike is on the way to settlement, can the Senator see any emergency existing today that is not going to exist 12 months from now or that is not going to exist 24 months from now or 36 months from now? Are not we in fact considering a permanent labor policy of the Federal Government?

Mr. PEPPER. Exactly.

Mr. President, let me answer the able Senator's question in two parts. First, if we can enact this measure now, we can enact it 12 months from now or 5 years from now.

There is no distinction in respect to national emergency in this measure. If this bill is valid now, all the Congress would have to do 5 years from now, when 100,000,000 people might think there was no emergency, would be to put this language in a bill and act to give the President this power. If it will stand up now, it would stand up then, because we have laid down no criterion regarding what is the emergency. We have provided no standard of measurement of what is the calamity. We merely say that, if the President says it is an emergency, it is an emergency; that is all. There is to be no review by any court. The President has the same power that a Governor has to declare martial law; in fact, I believe the President has greater power; it is as unrestrained, at least, as the power of a governor to declare martial law; and even some of those cases are subject to review by court action. That is the first thing I wish to say; namely, that if we can pass this measure now, we can pass it at any time; and if we can take away these rights from working people now, we can take away comparable rights from other people who violate something we do not like; and then, for the first time, our country will have ceased to be a country of law, and will have become a country of men.

The second observation I wish to make is that this measure has the effect of providing for the compulsory arbitration of disputes. In the last analysis, that is what it is. That is what some of us have been so reluctant to embrace, because we knew the vices it would contain if we embraced it. The Senator from Illinois [Mr. LUCAS] and the Senator from Indiana [Mr. CAPEHART] and other Senators had here on the floor of the Senate last week amendments which provided for the compulsory arbitration of disputes. They said, "If you do not give the Government the power to act, how can you expect it to act to stop strikes?"

Some of us said then, "Yes; that power can be conferred upon the Government, but what is the price we would have to pay for it? Is any Senator willing to pay that price even for what good might be obtained? In order to be effective, such power has to be absolute in the hands of the President. Are Senators willing to pay that price for the good they expect to achieve?"

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

Mr. PEPPER. I yield.

Mr. LUCAS. What price does the Senator from Florida think we would have had to pay in the event the coal strike and the rail strike had continued for a period of 30 days?

Mr. PEPPER. In the first place, I do not think they would have continued that long.

Mr. LUCAS. Mr. President, assuming that they would have continued for 30 days, what price would the American people have had to pay as a result of those two strikes?

Mr. PEPPER. I will ask the Senator from Illinois this question: What are civil rights worth?

Mr. LUCAS. Civil rights are not paramount to the Senator from Illinois if political disintegration of the Nation is at stake.

Mr. PEPPER. Very well.

Mr. LUCAS. And that is exactly what is at stake with respect to the two strikes now before this country, and that is the reason for the emergency action we voted for.

Mr. PEPPER. Mr. President, that was the answer which the people of other countries made in authorizing the exercise of totalitarian power; namely, that the public good justified the exercise of such power. They did not start to take the people's rights away from them. They started out to get good results, but they paid for it with the civil liberties of the people.

Mr. LUCAS. Mr. President, will the Senator from Florida answer my question?

Mr. PEPPER. I started to say that, in the first place, I thought the President would have been able, with the power he now has——

Mr. LUCAS. No, no; the Senator should stick to the point. The Senator is an able debater and has an unusual command of the English language. He can talk more about nothing than almost anyone I have heard in a long time.

Mr. MURRAY. Mr. President, I think that was a very unnecessary statement for the Senator from Illinois to make. The Senator from Florida has been making a wonderful debate here, and every Member of the Senate is complimenting him for it.

Mr. LUCAS. I will say to my good friend from Montana that the Senator from Florida does not need him to come to his defense, because the Senator from Florida has been defending the Senator from Montana all the way through these debates.

Mr. MURRAY. But I think it is very improper for the Senator from Illinois to make such an insinuation about a Senator.

Mr. LUCAS. If the Senator from Florida says it is improper, I certainly will apologize to him, but not to the Senator from Montana. I wish to compliment the Senator from Florida for taking care of the Senator from Montana for the last 2 weeks on the floor of the Senate. [Laughter.]

Mr. PEPPER. Mr. President, I am sure the Senator from Illinois does not wish to say that, either. He owes me no apology. I know he does not mean anything improper by whatever is said in the give and take of debate, and I know he has great respect for the Senator from Montana.

Mr. LUCAS. I have respect for both Senators and I do not intend to reflect on either one. But I should like to have the answer of the Senator from Florida to my question as to what would have happened to this country if the coal strike and the rail strike had continued for 30 days. The Senator from Florida has answered every other question he has been asked, and I should like to have him answer that one.

Mr. PEPPER. Mr. President, the Senator from Florida tried to answer the question to the best of his ability. As a part of the answer, he said that it depends upon the value we place on civil rights. I asked the Senator from Illinois a question in connection with my answer. I asked him, "What are civil rights worth?" Then I deviated somewhat, and I said that that decision had had to be made in every country that became totalitarian.

Then, as the RECORD will show, I started to say—and I was still trying to answer the Senator's question—that I believed the power the President now has, irrespective of the power contained in this measure, could have been employed in settling the rail strike; and it was finally used, and the strike was settled, without this measure being put on statute books.

Mr. LUCAS. Will the Senator yield?

Mr. PEPPER. Let me continue, please; I should like to try to answer the Senator's question.

In the second place, Mr. President, I think the power the President had to settle the rail strike can, if he deems that the emergency justifies it, relatively be used to settle the mine strike, although I am not sure it will be as easy as it was in the case of the rail strike.

Mr. LUCAS. The Senator——

Mr. PEPPER. Just a minute, please.

But Mr. President, everything we do has to be evaluated against something else. There is a balance of interest. I am not saying that conditions in the United States could not become so bad that I would not be willing to give such powers. I am saying that the condition has not yet become that bad.

Mr. LUCAS. I thank the Senator.

Mr. PEPPER. And we are debating this matter today in the Senate of the United States.

As I said to the Senator from Illinois—and he will recall that he was really getting at the heart of this dispute—by providing for compulsory arbitration and providing absolute power on the part of the Government to act is the only way we can enforce compulsory arbitration. But I told the Senator that while he and the Senator from Indiana were getting at the heart of the problem, it was a very grievous problem, and I was not yet ready to adopt compulsory arbitration in the United States. I am prepared to say that I am willing, so far, to risk all the harm to the public interest which may

come out of leaving things as they are now rather than to give to the President of the United States the power to deprive citizens of their civil rights. That is the balance of interest I make, and my scales fall on the negative side. Perhaps the scales of the able Senator from Illinois fall on the affirmative side.

Mr. LUCAS. In other words, Mr. President, there is no difference between the Senator from Florida and myself, with the exception of the extent of the gravity of the situation of the Nation as it is affected by these strikes. In other words, the Senator from Florida says that conditions as a result of these strikes have not yet reached the point where he could go as far as the President has gone.

Mr. PEPPER. No; as far as the pending bill goes.

Mr. LUCAS. It is the President's bill. But the Senator would, in certain conditions, if conditions did reach a certain point, give the President the power which he seeks.

Mr. PEPPER. It would depend upon the extent of the emergency. I say I certainly would not give it to the President in peacetime unless there was something comparable to a calamity which threatened this country. But we have not had any experience like that.

Mr. LUCAS. The Senator will not deny, however, that if the coal strike and the rail strike continued for 30 days or even 15 days, we would have a national disaster or a national calamity in this country.

Mr. PEPPER. I would deal with that situation when I got to it, and I would want to know what powers the President had already exercised, before I would vote to give him new ones.

Mr. LUCAS. In other words, the Senator, before he would act, would wait until the crisis struck the country and until people were suffering and until the health and the welfare and safety of the Nation were at stake.

Mr. PEPPER. No, indeed.

Mr. LUCAS. He would not act in advance, as the President of the United States has done.

Mr. PEPPER. No, indeed; but I would not give the President this authority until he has exhausted and failed with all the authority he already had.

Mr. LUCAS. What authority is that?

Mr. PEPPER. The authority with which he settled the rail strike.

Mr. LUCAS. The authority with which he settled the rail strike was the speech he made over the radio on Friday.

Mr. PEPPER. It was the speech he made in saying that he would use the power he had under the law.

Mr. LUCAS. Yes; and what power is that?

Mr. PEPPER. It is the Smith-Connally Act and the power he has as Chief Executive to use the Army.

Mr. LUCAS. Oh, yes; to use the Army!

Mr. President, I have heard it said over and over again on the floor of the Senate—the able Senator from Ohio [Mr. TAFT] stood on the floor and repeated it—that the Congress of the United States could not do anything in this crisis, but that the President had the power to do what was necessary to be done to settle these strikes. They called the President weak and vacillating; and said he would not do anything. But the moment the President of the United States sends to Congress a bill on which the Congress is asked to act, then they say that the President has done too much, that he is too strong for the country.

One day he is weak and the next day he is strong. So far as I am concerned, Mr. President, in this crisis I shall follow the President of the United States because I believe he knows what he is talking about with respect to the crisis which now faces the Nation.

Mr. PEPPER. Mr. President, the Senator from Illinois may strip from the people of this country their civil rights and give them to the President, but I will not do so.

Mr. LUCAS. Of what good to the people of this country are their civil rights if men like Lewis, Whitney, Johnston, and Curran are going to defy the United States Government and instruct the members of their unions to strike against the Government's orders?

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

Mr. PEPPER. I yield.

Mr. TAFT. The Senator from Illinois referred to what I said, and he then added some other statements which perhaps someone else made, and put them together in a wholly unfair manner. Last week I said that the President could, under the Smith-Connally Act, have seized the railroads and the mines, and put the leaders of both unions in jail if he had wished to do so. Under those powers he succeeded, apparently, in settling the railroad strike without any additional powers being given to him such as those which are provided for under the pending bill. I do not see anything inconsistent in that I thoroughly approve of what the President did. I did not criticize him for doing it. What I object to is his demand for additional powers over and above the powers which he already has, powers which certainly enabled him to settle the strikes. As a matter of fact, I believe that those powers are more than the President should have in peacetime. I will vote for unusual power to be placed in the hands of the President during wartime in order to enable him to act in great national emergencies, but I object in peacetime to giving to the President power under which, during an emergency, he could requisition every industry in the United States, put every workman in the United States in the Army, and set up a Fascist state within the United States of America.

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

Mr. PEPPER. I yield.

Mr. CAPEHART. A moment ago the able Senator from Florida criticized the President of the United States for failure to use the Smith-Connally Act in settling the strikes. I believe the Senator took the position that the President had the power, under the Smith-Connally Act, to settle the strike. Yet, I sat on this floor last week and listened to the able Senator from Florida make the statement that he had voted for the Smith-Connally Act, that he was sorry that he had voted for it, and that it was a bad piece of legislation and should never have been passed.

It now develops, by his own admission, that the Senator from Florida believes that the Smith-Connally Act was the one piece of legislation by which the President could have ended the emergency, and under the Senator's admission it would appear that the Smith-Connally Act furnishes sufficient power to enable the President to settle other strikes.

Mr. PEPPER. Mr. President, allow me to say to the distinguished Senator from Indiana that President Franklin D. Roosevelt, under conditions similar to those which exist in the country today, took over business enterprises in this country and operated them before the Smith-Connally Act was ever enacted. Is that not true? By virtue of his authority as the President of the United States, and as Commander in Chief of the Army and the Navy, he took over industry before the Congress ever passed the Smith-Connally Act.

I said that I was sorry that I had voted for the Smith-Connally Act, because I do not believe in settling these controversies by force. At least, I do not believe so yet. As I said here the other day, I do not know what we shall encounter eventually. The answer may be compulsory arbitration with force. I said the other night that I hoped we would never reach that stage. I hope, as the Senator from Montana said, that labor will be so tempered by obligation to duty and restraint that it will never force us to make a choice of coercive methods.

I still do not believe in settling these questions by coercion. I would still rather worry along in the way that Franklin D. Roosevelt worried along than to demand of my Congress what has been demanded here. The problems which President Roosevelt faced shortened his great life. I know that many times they taxed his patience, and I know that sometimes they cut him to the heart, because he thought that men, in the midst of war dangers, were grabbing for profits or power. I presume that the humanitarian feelings by which he was actuated welled up within him occasionally in perhaps a violent way. I do not know how long that spirit lasted, if it ever got into his heart, but before he ever expressed it he restrained it. That is a part of the democratic process of worrying along. I would rather worry along. As I said a while ago, the situation has not been such a monstrous one.

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

Mr. PEPPER. Not until after I have completed my statement.

After all, Mr. President, the recent strikes were settled by agreements. They caused the Executive and his agents a great deal of worry. I sympathize with poor Secretary Schwellenbach. Ever since he took office as Secretary of Labor he has had to worry with strikes. But he has worried along and worried along, and even before the President spoke on the radio the other night, we had only two strikes, namely, the railroad strike and

the miners' strike. I know that they were bad; of course they were bad; but I believe that public opinion and the President's constitutional power will enable him to settle eventually both of those strikes, even without using the powers afforded under the Smith-Connally Act.

As I say, Mr. President, I would rather worry along. I would rather spend time with the problems associated with the strikes and keep many appointments of lesser importance out of my office while the situation existed. I would not expect my second- or third-rate executives to settle these national crises. I would give to the occasion the best I had.

Mr. President, sometimes constitutions are embarrassing to governments. There are many times when government feels it should have absolute power. It feels that it suffers from a limitation of power and constitutional inhibitions. I do not suppose there was ever a President who did not feel that he should have absolute power in order to meet great emergencies. But we do not give men absolute power. I shall not become so excited, even in the midst of a railroad strike or a coal strike, as to be willing to restrict the rights of citizens of America and give any President power which would enable him, by Presidential fiat, to put citizens of the United States into the Army and subject them to court martial merely because they refused to work, or because they slow down in their work, or do something else which may be contrary to the President's orders. That is the whole philosophy which is involved in this bill.

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

Mr. PEPPER. I yield.

Mr. LUCAS. The Senator was talking about how the late President worried along with these problems. Does the Senator from Florida believe that the present President of the United States has not done any worrying about these matters?

Mr. PEPPER. Of course he has, and I did not intend to say that he has not worried. But I assert that Franklin D. Roosevelt worried along and vetoed the Smith-Connally bill, and did not ask the Congress for additional powers.

Mr. LUCAS. The Senator has referred to the Smith-Connally law during the course of debate and has said that he was ashamed of having voted for it. He has used the Smith-Connally Act in supporting his arguments. But I say that the present President of the United States, Harry Truman, has been criticized and condemned—indeed, almost crucified—by certain people in this country because he has been worrying along with John Lewis, with Whitney and Johnston, in attempting to settle these strikes. The truth of the matter is that many persons believed that Truman was not Franklin D. Roosevelt. They thought they had a push-over in the White House. They thought that the little man from Missouri would yield. Those who have been condemning him because they thought he was weak and vacillating are now condemning him because they think he is too strong. Harry Truman will never yield. Thank God Harry Truman will never accept the doctrine of appeasement in this crisis, because his mind is made up.

Mr. PEPPER. Mr. President, I do not think history will say that Franklin D. Roosevelt was an appeaser.

Mr. LUCAS. I am not saying that he was.

Mr. PEPPER. Is it necessary to be an appeaser if one worries along with these problems and does not ask for the kind of legislation which is proposed in the pending bill?

Mr. LUCAS. Not at all. The Senator from Florida always moves into another channel when he does not want to answer directly the argument which is being made. [Laughter.]

Mr. PEPPER. What I was saying was that there was not any question in my mind about using any of those descriptions of the President which the Senator from Illinois has mentioned. Franklin D. Roosevelt had a coal strike with the same John L. Lewis in 1943, in wartime. We became excited here over the same John L. Lewis and passed the Smith-Connally Act, and Franklin D. Roosevelt vetoed it, and Congress passed it over his veto. He said he did not need to have the power in order to govern this country during the war. It was the same John L. Lewis, the same coal strike, but in war, I do not mean technical war, I mean war, shooting war.

The same railroad men struck under the same Whitney, in 1943, yet Franklin D. Roosevelt did not come here and ask for this kind of legislation against the same Whitney and the same railroad strikers. But he worried along with it, as I said, and eventually worked it out without asking for legislation of this character, and the railroads kept running.

Mr. LUCAS. Yes; the railroads never stopped. They might have had a strike, but the railroads never stopped running.

Mr. PEPPER. They might have had a strike, if the President had not handled it correctly.

Mr. LUCAS. The miners never stopped digging coal, either.

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

Mr. PEPPER. I yield.

Mr. DOWNEY. I wish to say to the distinguished Senator that, like almost everyone else, I have been deeply interested in his discussion here tonight, and very much edified by it.

I should like to ask him a question in relation to the question asked by the Senator from Illinois concerning how the Senator from Florida would balance his ideas of civil liberty against the passage of the pending bill and the drafting of men into the Army to work the coal mines. Is not the essential weakness of that question that it assumes that we can take unwilling and hostile workers and, by the passage of such a bill as that before us, force the mining of coal? In other words, what assurance have we that the passage of such a law and its execution would do anything more than precipitate great difficulties in the Nation?

Mr. PEPPER. Mr. President, I wish to ask Senators to contemplate what would happen if one of the miners became stubborn and a soldier somewhere should shoot him down. I want Senators to speculate whether anyone would regard that with any pride or satisfaction.

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

Mr. PEPPER. I yield.

Mr. BREWSTER. When the question is raised as to whether or not we must accept without question the conclusion of the President of the United States as to the wisest way to handle a situation of this character, is it not a historic fact that in the last rail crisis, when President Franklin D. Roosevelt was seeking to handle it, it was the one who is now President, then Senator Harry Truman, who introduced in this body a bill designed to overrule the action of the then President in the attempt to handle that rail strike, indicating that he at that time saw no impropriety in a Member of the Senate having an opinion which might be at variance with that of the President of the United States as to the correct course of action in a crisis of that character?

Mr. PEPPER. I thank the able Senator from Maine. I wish to say in conclusion, Mr. President, that what the Senator from California has just pointed out, and what was said earlier by the Senator from Colorado, show how far we have to go if once we start to force men, and how far it will take us, because once having committed ourselves we have to go through with it. If we put workers into the Army and they rebel, what are we going to do with them? Then, if the President is not to be derelict in his duty, he will have to go through with it and punish them, because the intent is that they be punished if they do not obey.

Mr. President, that indicates the vice of this whole action. We must reflect that, once we ever start down this totalitarian road there are very few who have ever had the courage to turn back before it is too late. All history proves that to be so.

The decison we must make is whether we are willing to pay the price of moderate restraints and moderate authority, willing to bear the ills we have, as Hamlet tells us, rather than fly to others we know not of. That is the issue as I see it. As grievous and onerous and burdensome as the laws are which we have, I shudder to fly, as some would insist, to others that I know not of.

Mr. BARKLEY. Mr. President, I wish to see whether it may be possible to arrive at an agreement with respect to debate.

I am sure that Senators need not be admonished that time is running against us with respect to legislation. Next Monday will be the third day of June, and it will be then only 27 days before two very important acts will expire, the draft law, which was extended temporarily, and the Stabilization Act, which will expire on the 30th day of June. It seems to me that the Senate would make itself certainly subject to criticism, if not discredit, if it allowed itself to drift into such a situation that we would come right up to that date without these two laws being acted on. Both of them will be debated in the Senate. How long it

will take to dispose of them no one can foresee, but I imagine it will take some days in each case. The two bills will have to go to conference; no one knows how long they will be in conference, nor when they will reach the President, whether they might reach him at the end of that process in time for him to act upon them favorably or unfavorably before the expiration day on June 30.

We have been debating labor legislation for more than 2 weeks. I think we all pretty well understand the principles involved not only in the legislation we have had before us, but in the pending bill, and it seems to me the Senate should be willing to restrain itself at this time in order not to find itself in a pocket 2 or 3 weeks hence. I am making an appeal earnestly to the Senate for its own sake, as well as for the sake of the country.

Therefore I ask unanimous consent that during the further consideration of the pending bill, no Senator shall speak more than once or longer than 30 minutes on the bill or any amendment thereto.

Mr. TAFT. Mr. President, this bill was introduced late Saturday afternoon. There was no opportunity to read it before that time. It proposes many novel principles of law. True, we have been debating labor legislation in general, so I think it appropriate the debate should be somewhat shorter than it otherwise would be, but during the day various Senators have been working on proposed amendments to the bill which I think they will be prepared to submit the first thing tomorrow.

I quite agree with the Senator that we must hurry the whole procedure in the Senate between now and the 30th of June, but I would not be willing to agree to a limitation of debate tonight. If the Senator will renew his request tomorrow afternoon, I think most of the Senators on this side will be agreeable to accept his suggestion, when the amendments are presented, and we have an opportunity to see what they are, and how much debate they may require. Therefore, Mr. President, I object.

Mr. BARKLEY. It seems to me that on any amendment which may be offered any Senator can say all that needs to be said within the limitation which I have proposed, which gives any Senator an hour. If he desires or chooses to use 30 minutes upon the bill and on any amendment consecutively, it gives him a half hour on the bill, even regardless of what amendment may be pending, it gives him a half hour on that amendment, and half an hour on any other amendment which may be proposed. It seems to me that, in view of the situation, of the condition of the calendar and the compulsion which must operate on the Senate, that is all the time any Senator ought really to expect. I am sorry the Senator from Ohio sees fit to object to this reasonable request of mine.

Mr. TAFT. I will say that I should like the Senator from Kentucky to make the request again tomorrow afternoon sometime, after we have had an opportunity to see what the situation is.

Mr. BARKLEY. Do I understand that the Senator would object to any limitation tonight?

Mr. TAFT. Yes; I would object to any limitation.

Mr. REVERCOMB. Mr. President, will the Senator yield for an inquiry?

Mr. BARKLEY. I yield.

Mr. REVERCOMB. Do I understand that the suggestion of the majority leader is that the time be limited to half an hour on the bill and half an hour on each amendment?

Mr. BARKLEY. Yes; that is the request.

Mr. REVERCOMB. And that no Senator speak more than once on the bill or more than once on each amendment?

Mr. BARKLEY. That is true. If a Senator speaks once on the bill under such an arrangement, he could not speak again on the bill, but he could speak 30 minutes on each amendment as it is offered.

Mr. TAFT. There is another objection to any arrangement of that kind, which is that it absolutely cuts off debate, because it is impossible to have any running debate or discussion under such an arrangement. With the limitation of half an hour, Senators naturally would refuse to yield, because they are limited in their time, and such limitation changes the whole character of the debate. I do not think we have exhausted the possibilities, and the proper discussion of the various issues here involved, and I do not think the time has come, therefore, for a limitation of debate.

Mr. BARKLEY. I appreciate that the Senator from Ohio has a right to object, and he has objected, and has served notice on me that he will object to any other request, no matter what length of time I include in it. I make no complaint respecting his objection. I think he is mistaken in his assumption. But I think that this is to be said in response to his last suggestion. Every Senator who rises to speak on an amendment or on the bill knows within a reasonable radius what he wants to say. It is also questionable whether these running debates back and forth, the arguing back and forth, contribute very much to enlighten the Senate on the subject which is under discussion, although it is within the control of any Senator not to yield. But I think that frequently more time is wasted by getting into quarrels back and forth, getting into heated animated debate, in which extraneous matters are discussed, and in which we chase rabbit tracks all over the woods, than if a Senator simply confined himself to a discussion of what he had in mind to say within the time allowed for him to say it.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. GEORGE, from the Committee on Finance:

Ralph Porges, senior assistant sanitary engineer, for temporary promotion as sanitary engineer in the Regular Corps of the United States Public Health Service.

By Mr. WALSH, from the Committee on Naval Affairs:

Sundry officers for appointment in the United States Marine Corps.

By Mr. McCARRAN, from the Committee on the Judiciary:

Philip F. Herrick, of Puerto Rico, to be United States attorney for the district of Puerto Rico; and

Maurice T. Smith, of Colorado, to be United States marshal for the district of Colorado, vice Arthur D. Fairbanks, deceased.

By Mr. LANGER, from the Committee on the Judiciary:

Powless W. Lanier, of North Dakota, to be United States attorney for the district of North Dakota.

By Mr. McKELLAR, from the Committee on Post Offices and Post Roads:

Sundry postmasters.

RECESS

Mr. BARKLEY. Mr. President, in view of the situation, and in view of the obvious impossibility of obtaining an agreement tonight on voting on any amendment, I move that the Senate take a recess until 11 o'clock a. m. tomorrow.

The motion was agreed to; and at 11 o'clock and 14 minutes p. m., the Senate took a recess until tomorrow, Tuesday, May 28, 1946, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES

MONDAY, MAY 27, 1946

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

We praise Thee, O God, for the assurance that Thou art present and art a rewarder of them that diligently seek Thee. From time immemorial the human heart has turned to Thee for help, sympathy, and guidance; we bow at Thine altar. Blessed Lord, keep us faithful to ourselves, our homes, our fellow men, and our Nation. We pray Thee to free us from bad memories, and strengthen the faith of those who doubt. Lead us to be quick of thought and slow of speech. We do not ask to see the distant scene, but we pray for the eyes of vision, for the arms of faith, and for the feet of obedience. Today make our duty our delight, with stout hearts fulfilling our obligations. Let the spirit of the only true and living God lift us above all passion and resentments, and make us responsive to every measure that is right and just in Thy sight. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of Saturday, May 25, 1946, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Gatling, its enrolling clerk, announced that the Senate had passed, with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H. R. 4908. An act to provide additional facilities for the mediation of labor disputes, and for other purposes.