for printing and reference to the proper calendar, as follows:

Mr. DAWSON: Committee on Expenditures in the Executive Departments. Ninth Intermediate Report of the Committee on Expenditures in the Executive Departments, a report on the flood-stricken areas of Kansas and Missouri and the necessity for appropriate Federal action to prevent similar disasters (Rept. No. 779). Referred to the Committee of the Whole House on the State of the Union.

Mr. LANE: Committee on the Judiciary. House Joint Resolution 285. Joint resolution to authorize appropriate participation by the United States in commemoration of the one hundred and fiftieth anniversay of the establishment of the United States Military Academy; without amendment (Rept. No. 780). Referred to the Committee of the Whole House on the State of the Union.

Mr. SPENCE: Committee on Banking and Currency. H. R. 3176. A bill to amend the act entitled "An act to authorize the coinage of 50-cent pieces to commemorate the life and perpetuate the ideals and teachings of Booker T. Washington," approved August 7, 1946; without amendment (Rept. No. 782). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SPENCE: Committee on Banking and Currency. Senate Joint Resolution 78. Joint resolution to make the restrictions of the Federal Reserve Act on holding office in a member bank inapplicable to M. S. Szymczak when he ceases to be a member of the Board of Governors of the Federal Reserve System; without amendment (Rept. No. 781). 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. RICHARDS:

H. R. 5020. A bill to promote the foreign policy and provide for the defense and general welfare of the United States by furnishing assistance to friendly nations in the interest of international security; to the Committee on Foreign Affairs.

By Mr. ALLEN of Louisiana:

H. R. 5021. A bill to authorize the Secretary of Agriculture to make certain requirements in the sale of national forest timber and for other purposes; to the Committee on Agriculture.

By Mr. BOLLING:

H. R. 5022. A bill to provide payment for property losses resulting from the 1951 floods in the States of Kansas, Missouri, and Oklahoma, and for other purposes; to the Committee on the Judiciary.

By Mr. JOHNSON:

H. R. 5023. A bill to prohibit the construction, operation, or maintenance of any project for the storage or delivery of water within or affecting any national park or monument; to the Committee on Interior and Insular Affairs.

By Mr. BOGGS of Delaware:

H. R. 5024. A bill to authorize the charging of tolls to cover the maintenance, repair, and operation of the Delaware Memorial Bridge and its approaches after the establishment of a sinking fund for amortization of the cost of such bridge and approaches; to the Committee on Public Works.

By Mr. GREENWOOD:

H. R. 5025. A bill to amend section 201 of the Federal Civil Defense Act of 1950, by adding thereto a new subsection authorizing financial contributions to the States for the purpose of providing compensation for injury or death sustained by any person serving in the United States Civil Defense Corps; to the Committee on Armed Services.

By Mr. MORRISON:

H. R. 5026. A bill to amend the Federal Civil Defense Act of 1950 to provide for Federal contributions to enable the States to provide compensation for members of the United States Civil Defense Corps suffering injuries or death in performing their duties; to the Committee on Armed Services.

By Mr. TAYLOR:

H. R. 5027. A bill to provide an increased penalty for the importation of narcotic drugs, and for other purposes; to the Committee on Ways and Means.

By Mr. MITCHELL:

H. R. 5028. A bill to authorize the construction of housing for workers to be employed at the Naval Shipyard, Bremerton (Puget Sound), Wash.; to the Committee on Armed Services.

By Mr. BOGGS of Louisiana:

H. R. 5029. A bill to amend title 18, United States Code, to increase the criminal penalty provided for persons convicted of gathering or delivering certain defense information to aid a foreign government in time of peace; to the Committee on the Judiciary.

H. R. 5030. A bill to prevent subversive individuals and organizations from appearing as surety for bail in criminal cases; to the Committee on the Judiciary.

H. R. 5031. A bill to require the Attorney General to compile and maintain a list of subversive organizations; to the Committee on the Judiciary.

H. R. 5032. A bill to provide for the detention and prosecution of Communists and former Communists, to provide that peacetime espionage may be punished by death, and for other purposes; to the Committee on the Judiciary.

By Mr. MULTER:

H. R. 5033. A bill to amend the Housing Act of 1950 to equalize the benefits of veterans to that of nonveterans, and for other purposes; to the Committee on Banking and Currency.

By Mr. SCRIVNER:

H. J. Res. 305. Joint resolution to provide Federal aid and financial assistance to local agencies to enable them to provide permanent housing for persons left homeless in disaster areas; to the Committee on Banking and Currency.

By Mr. COX:

H. Res. 364. Resolution creating a select committee to conduct an investigation and study of foundations and other comparable organizations; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. BYRNE of New York:

H. R. 5034. A bill for the relief of John Vassilatos; to the Committee on the Judiciary.

By Mr. CHUDOFF:

H. R. 5035. A bill for the relief of J. Hibbs Buckman and A. Raymond Raff, Jr., executors of the estate of A. Raymond Raff, deceased; to the Committee on the Judiciary.

By Mr. REED of New York:

H. R. 5036. A bill for the relief of Jacob J. Schaftenaar; to the Committee on the Judiciary.

SENATE

THURSDAY, AUGUST 2, 1951

(Legislative day of Wednesday, August 1, 1951)

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

Dr. J. Arthur Rinkel, minister, Central Methodist Church, Winona, Minn., offered the following prayer:

Almighty God, father of all mankind, deepen our sense of relationship and accountability to Thee. Instill in our hearts a great love of truth, and enlighten our minds that we may comprehend the truth. Give us a longing for righteousness, believing that "Righteousness exalteth a nation." Save us from the follies we see in others and direct us in the path of wisdom.

Bless, O God, all who guide the destiny of mankind in this trying hour, and may it please Thee to use our President, and all in authority with him, to lead our Nation and our world to peace in our time.

"Save us from weak resignation
To the evils we deplore.
* * * * *
Set our feet on lofty places,
Gird our lives that they may be
Garnered with all Christlike graces,
In our fight to make men free.
Grant us wisdom, grant us courage,
That we fail not man nor Thee!"

In the name of Christ. Amen.

THE JOURNAL

On request of Mr. MCFARLAND, and by unanimous consent, the reading of the Journal of the proceedings of Wednesday, August 1, 1951, was dispensed with.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Miller, one of his secretaries, and he announced that on August 1, 1951, the President had approved and signed the following acts:

S. 263. An act to amend section 5 of the act entitled "An act to authorize the apprehension and detention of insane persons in the District of Columbia, and providing for their temporary commitment in the Government Hospital for the Insane, and for other purposes," approved April 27, 1904, as amended; and

S. 673. An act to permit the exchange of land belonging to the District of Columbia for land belonging to the abutting property owner or owners, and for other purposes.

COMMITTEE MEETINGS DURING SENATE SESSION

On request of Mr. KEFAUVER, and by unanimous consent, the Committees on Armed Services and Foreign Relations were authorized to meet this afternoon during the session of the Senate.

On request of Mr. HOEY, and by unanimous consent, the Armed Services Committee and the Foreign Relations Committee, sitting in joint session, were authorized to meet during the session of the Senate this afternoon.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

TRANSACTION OF ROUTINE BUSINESS

By unanimous consent, the following routine business was transacted:

REPORT OF ECONOMIC COOPERATION ADMINISTRATION—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 198)

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was read and, with the accompanying report, referred to the Committee on Foreign Relations:

To the Congress of the United States of America:

I am transmitting herewith the twelfth report of the Economic Cooperation Administration created by the Foreign Assistance Act of 1948 (Public Law 472, 80th Cong.), approved April 3, 1948.

The report covers activities under the Economic Cooperation Act of 1948 (Title I of Public Law 472), as amended, as well as the programs of economic aid in the general area of China under the China Area Aid Act (title II of Public Law 535, 81st Cong.), and to the Republic of Korea under the provisions of the Foreign Aid Appropriation Act of 1949 (Public Law 793, 80th Cong.) and Public Laws 430, 447, and 535, Eighty-first Congress.

There is included in the appendix a summary of the status of the United States foreign relief program (Public Law 84, 80th Cong.) and the United States foreign aid program (Public Law 389, 80th Cong.).

This report covers the quarter ended March 31, 1951.

HARRY S. TRUMAN.

THE WHITE HOUSE, *August 2, 1951.*

EXECUTIVE COMMUNICATIONS, ETC.

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

AMENDMENT OF SECTION 5136, REVISED STATUTES, RELATING TO UNDERWRITING OF CERTAIN SECURITIES

A letter from the Acting Secretary of Agriculture, transmitting a draft of proposed legislation to further amend section 5136 of the Revised Statutes, as amended, with respect to underwriting and dealing in securities issued by the Central Bank for Cooperatives (with an accompanying paper); to the Committee on Banking and Currency.

APPOINTMENT AND EMPLOYMENT OF CERTAIN RETIRED OFFICERS

A letter from the Administrator of the Veterans' Administration, transmitting a draft of proposed legislation to extend the authority of the Administrator of Veterans' Affairs to appoint and employ retired officers without affecting their retired status (with an accompanying paper); to the Committee on Armed Services.

RESOLUTIONS OF MISSOURI RIVER STATES COMMITTEE MEETING

Mr. CARLSON. Mr. President, I present for appropriate reference and ask unanimous consent to have printed in the RECORD resolutions adopted at the Missouri River States committee meeting.

The distinguished Senator from New Mexico [Mr. CHAVEZ], chairman of the Public Works Committee of the Senate, gave an excellent report on the devastation and destruction which have occurred in the Missouri and Arkansas River basins during recent floods.

The resolutions were adopted at a meeting of 2,000 residents from the States in the affected areas.

The economic loss of more than $1,000,000,000 has vividly portrayed the damage that has occurred during the past few weeks in this area and must not be allowed to occur again.

These floods can be controlled, and proposals now before Congress must be commenced at the earliest possible date.

I wish to personally express my appreciation for the splendid support that we in the flood area have received from the Members of Congress and our citizens generally. While the destruction has been great, and the rehabilitation program will no doubt be slow, the spirit of our citizens is undaunted.

There being no objection, the resolutions were referred to the Committee on Public Works, and ordered to be printed in the RECORD, as follows:

RESOLUTIONS ADOPTED AT THE MISSOURI RIVER STATES COMMITTEE MEETING

Whereas no nation in the world is rich enough to afford the flood loss in human life and property just suffered on the rivers of Kansas and Missouri; and

Whereas we, the residents of the Missouri and the Arkansas River Basins, assembled here in Kansas City, Mo., this 25th day of July 1951, firmly believe that the tragedy of the floods of 1951 must never be repeated: Now, therefore, in order to prevent a recurrence of the flood catastrophe, be it

Resolved, That the people of the Missouri and Arkansas River Basins demand Federal appropriations to carry out the orderly and prompt completion of the authorized Pick-Sloan plan of flood control. It is further recommended that immediate appropriations should include funds sufficient to (1) start construction of the Tuttle Creek Reservoir, (2) start construction on Gavins Point Dam, (3) assure the continuance of work on the Oahe Dam and all other dams now under construction, (4) insure immediate inauguration of work on dams not under constructions, which include important flood-control features; it is further

Resolved, That adequate funds immediately should be made available to the Corps of Army Engineers for surveys and planning on authorized projects and flood hazard streams in the Missouri and Arkansas Basins as such surveys furnish necessary information for intelligent action; it is further

Resolved, That there should be an immediate start on the authorized flood-control projects at Wichita, Kans., and at Hutchinson, Kans. In addition, construction of the Toronto Dam should be started at once; be it further

Resolved, That the Kansas River Report of the Corps of Army Engineers should be immediately approved and authorized by the Congress of the United States.

Resolved, That authorization of all recommended flood-control projects, not already authorized, be forthcoming immediately, so all projects in Kansas and Missouri will be in readiness for appropriations and construction.

Resolved, That the people of the Missouri and Arkansas River Basins sincerely thank the Governors of the Missouri River States Committee for calling this meeting and the cities of Kansas City, Mo., and Kansas City, Kans., together with their respective chambers of commerce, for making facilities available for their meeting.

Resolved, That the people of the Missouri and Arkansas River Basins hereby commend the great work being done by the soil-conservation districts, the balanced-farming program, and the work by the Soil Conservation Service of the United States Department of Agriculture. We believe that this work is a very worthy and necessary soil-management practice. Further, we believe it is not a substitute for flood-control reservoirs and levees but is a most important supplementary measure; be it further

Resolved, That we earnestly recommend the immediate establishment of federally sponsored flood-protective insurance to be available at practical and reasonable cost to home owners, farmers, and all commercial institutions owning property in the flood plains of navigable rivers and their tributaries under the jurisdiction and control of the Federal Government. We believe this is imperatively essential to the prompt rehabilitation of the economic solvency of the flood-stricken valleys of Kansas, Missouri, Oklahoma, and Arkansas; be it further

Resolved, That this conference commends all governmental and voluntary relief agencies including the Congress of the United States for the interest which they have manifested in the provision of emergency relief and the rehabilitation of flood sufferers. We stress the fact that the magnitude of the problems of relief and rehabilitation cannot be adequately described or overstated. We therefore urge that every effort be made to effect a sound over-all organization of relief sources, both governmental and private, to the end that every essential need be promptly considered and available aid furnished. In that connection, we believe the provision of additional credit to flood sufferers is not an adequate answer to their essential needs and that within sound limitations the Federal flood insurance program suggested in another resolution be given retroactive effect; be it further

Resolved, That we highly commend the hundreds of individuals and communities all over the United States and Canada for their generous response to the call for help by the stricken area of Missouri and Kansas.

For the resolutions committee:

Z. R. HOOK,
Manhattan, Kans., Chairman.
LAMAR PHILLIPS,
Ottawa, Kans., Secretary.

The following resolutions were submitted from group meetings directly to the general session and adopted. Time did not permit their being submitted through the resolutions committee:

"It is petitioned that the Congress of the United States give immediate attention to increasing the aggregate amount of disaster loan funds available through the Reconstruction Finance Corporation above the present $40,000,000 limitation now provided for in the Reconstruction Finance Corporation Act. It is believed that amount is vastly inadequate to meet the requirements of this type of financing in the Kansas-Missouri flood area.

"H. GAVIN LEEDY,
"Chairman."

"As a representative committee of agricultural producers of Missouri and Kansas, we wish to emphasize these points which were developed at the sectional meeting on emergency rehabilitation of flooded farm areas:

"1. We strongly recommend that funds and equipment be made available to level farm land and remove debris in order that immediate and continued cultivation be made possible. We further urge funds be made available to the Engineers by the Con-

gress to rebuild the levees to the Engineers' specifications.

"2. We urge that funds and materials be made available immediately for the repair and rehabilitation of farm homes, farm buildings, fences and other equipment necessary to farming operations. We insist that in certain cases where necessary, this relief should be in the form of grants rather than loans.

"3. We further urge that due consideration be given to the relocation of farmsteads where the buildings and equipment have been frequently damaged because of their present hazardous location.

"4. It is of the utmost importance that emergency practices be added to the agricultural conservation dockets in each State to provide for the flood emergency situation which has developed. We recommend payment at the rate of 80 percent of cost on the basis of immediate payment to the producer who installs these emergency practices.

"5. We recommend that emergency loan programs of all types be liberalized to meet the needs of individual borrowers and amortization be based on the future earning power of the farm.

"6. We respectfully ask that the Government make an immediate survey on the prospective need of grain for livestock feed in the counties in the disaster area; and that sufficient grain be set aside from the present Government stock to make it possible to maintain our present livestock herds. These funds to purchase the grain be made available on a long-time amortized loan basis.

"7. In conclusion, because of the great importance to the Nation of the Missouri River Basin as a leading agricultural and industrial area, we urge that sufficient Federal funds be made available to meet all needs of the comprehensive program of which agriculture is an integral part."

RESOLUTIONS COMMITTEE,
H. A. PRAEGER, *Chairman.*

The above resolutions were adopted by practically unanimous vote at this conference, which was attended by more than 1,200 registered persons principally from the flooded areas of Kansas and Missouri.

GOV. VAL PETERSON,
Chairman.
DAN S. JONES, Jr.,
Secretary.

PROPOSED AMENDMENT PROVIDING INCOME-TAX DEDUCTIONS BY PROFESSIONAL MEN FOR RETIREMENT

Mr. WILEY. Mr. President, I have received today from C. H. Crownhart, secretary of the Wisconsin State Medical Society and the Wisconsin Bar Association, two telegrams conveying the views of those distinguished groups on a proposed amendment to the Income Tax Code under which self-employed business and professional men could deduct from their income tax an amount which they would set aside for purposes of retirement.

Over the years, there has been considerable discussion as to just how the self-employed can be assured equity insofar as taking care of their later years is concerned. They are not covered under the social-security system and accordingly an amendment such as the one mentioned in these wires has long been discussed.

I ask unanimous consent that the telegrams be printed in the RECORD at this point and be thereafter referred to the Senate Finance Committee for its careful consideration.

There being no objection, the telegrams were referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

MADISON, WIS., *July 31, 1951.*

Hon. ALEXANDER WILEY,
Senate Office Building,
Washington, D. C.:

During national meeting of American Medical Association the Wisconsin delegates at the request of many Wisconsin physicians, and with approval of our State society submitted a resolution to the effect that the American Medical Association support amendments to the Income Tax Code permitting self-employed business and professional men, including partners and sole proprietors to set aside specified amounts of annual income for purposes of retirement with the amount so specified to be a deduction for Federal income-tax purposes. This will eliminate present discrimination against professional people in the formulation of pension claims. We understand that Ives amendment to H. R. 4473 under consideration by Finance Committee in Senate will effectuate the position of the State medical society and we urge your cooperation in securing favorable consideration of that amendment.

C. H. CROWNHART, *Secretary.*

MADISON, WIS., *August 1, 1951.*

Hon. ALEXANDER WILEY,
Senate Office Building,
Washington, D. C.:

Urge all possible support of Ives amendment to H. R. 4473, now before Senate Finance Committee. Amendment will for first time give income-tax recognition to personal retirement programs of self-employed, including professions. Present law an increasing penalty to self-employed and severe discrimination against professions in particular.

WISCONSIN BAR ASSOCIATION.

REPORTS OF A COMMITTEE

The following reports of a committee were submitted:

By Mr. MCCLELLAN, from the Committee on Public Works:

S. 1020. A bill to authorize a preliminary examination and survey for flood control and allied purposes of Las Vegas Wash and its tributaries, Las Vegas, Nev., and vicinity; without amendment (Rept. No. 605);

S. 1710. A bill to authorize the Secretary of the Army to convey certain road right-of-way easements in De Kalb and Putnam Counties, Tenn., to the State of Tennessee; without amendment (Rept. No. 606);

H. R. 4332. A bill to authorize the city of Burlington, Iowa, to own, maintain, and operate a toll bridge across the Mississippi River at or near said city; without amendment (Rept. No. 607);

S. J. Res. 13. Joint resolution to change the name of the reservoir to be formed above Garrison Dam and known as Garrison Reservoir or Garrison Lake to Lake Thompson; without amendment (Rept. No. 608); and

S. J. Res. 19. Joint resolution to designate the lake to be formed by the McNary Lock and Dam in the Columbia River, Oreg. and Wash., as Lake Umatilla; without amendment (Rept. No. 609).

BILLS AND JOINT RESOLUTIONS INTRODUCED

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

By Mr. KNOWLAND:

S. 1948. A bill for the relief of Rodolfo F. De La Cerna; to the Committee on the Judiciary.

By Mr. CAPEHART:

S. 1949. A bill for the relief of Hattie Truax Graham, formerly Hattie Truax; to the Committee on the Judiciary.

S. 1950. A bill to amend section 1 of Public Law 2, Seventy-third Congress, so as to provide eligibility for pensions for certain widowers and for female veterans of World War I and World War II with dependent husbands; to the Committee on Finance.

By Mr. NIXON:

S. 1951. A bill for the relief of Jaroslav, Bozena, Yvonka, and Jarda Ondricek; to the Committee on the Judiciary.

By Mr. MCCLELLAN:

S. 1952. A bill to amend or repeal certain Government property laws, and for other purposes; to the Committee on Expenditures in the Executive Departments.

By Mr. MOODY:

S. 1953. A bill for the relief of Midori Sugimoto; to the Committee on the Judiciary.

By Mr. BENTON:

S. 1954. A bill for the relief of Giobatta Menegon; to the Committee on the Judiciary.

By Mr. LODGE (by request):

S. 1955. A bill for the relief of Joao Pinguel-Rodrigues; to the Committee on the Judiciary.

By Mr. BRICKER:

S. J. Res. 88. Joint resolution designating a 7-day period beginning August 19, 1951, as National Clay Week; to the Committee on the Judiciary.

By Mr. HOLLAND:

S. J. Res. 89. Joint resolution authorizing the President to proclaim January 13 of each year as Stephen Foster Memorial Day; to the Committee on the Judiciary.

AMENDMENT OF SUGAR ACT OF 1948—ADDITIONAL COSPONSORS OF BILL

Mr. ELLENDER. Mr. President, I ask unanimous consent that the names of the junior Senator from California [Mr. NIXON], the senior Senator from California [Mr. KNOWLAND], and the Senator from Washington [Mr. CAIN] be added as cosponsors on the bill (S. 1694) to amend and extend the Sugar Act of 1948, and for other purposes.

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

Mr. ELLENDER. Mr. President, there has been quite a demand for this bill. I ask unanimous consent that the bill be reprinted with the names of all the sponsors added thereto.

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

ASSISTANCE TO FRIENDLY NATIONS—AMENDMENT

Mr. AIKEN (for himself and Mr. MOODY) submitted an amendment intended to be proposed by them, jointly, to the bill (S. 1762) to promote the foreign policy and provide for the defense and general welfare of the United States by furnishing assistance to friendly nations in the interest of international security, which was referred to the Committees on Foreign Relations and Armed Services, jointly, and ordered to be printed.

REVENUE ACT OF 1951—AMENDMENT

Mr. O'MAHONEY submitted an amendment intended to be proposed by him to the bill (H. R. 4473) to provide revenue, and for other purposes, which was referred to the Committee on Finance, and ordered to be printed.

ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE APPENDIX

On request, and by unanimous consent, addresses, editorials, articles, etc.,

were ordered to be printed in the Appendix, as follows:

By Mr. HICKENLOOPER:

Address entitled "Are We Losing Friends Abroad?" delivered by Senator BENNETT at the third annual Colgate Foreign Policy Conference, Colgate University, Hamilton, N. Y., July 25, 1951.

By Mr. MUNDT:

Article entitled "Should the GOP Merge?" written by him and published in the July 28, 1951, issue of Collier's magazine.

By Mr. KEFAUVER:

Article entitled "Upward Price Trend Seen Under New Controls Act," written by Senator MOODY.

By Mr. AIKEN:

Letter from First Lt. Paul R. Teetor, Jr., an artillery officer serving in Korea.

By Mr. LANGER:

Editorial entitled "Tideland Myth," published in the Washington Post of August 2, 1951, having reference to the tideland oil question.

By Mr. JOHNSON of Colorado:

Editorial entitled "Educators Advised," published in Broadcasting magazine for July 23, 1951, with reference to the contribution of television to educational processes.

By Mr. MARTIN:

Editorial entitled "This Is a Republic; 'Democracy' a Misnomer," published in the Norristown (Pa.) Times-Herald of July 25, 1951.

By Mr. NIXON:

Article by Arthur Krock, Washington correspondent of the New York Times, on proposed tidelands legislation.

Editorial by Paul C. Smith, editor of the San Francisco Chronicle, regarding the truce in Korea.

By Mr. MURRAY:

Article entitled "Are Family Allowances on the Way Out?" written by J. Benjamin Beyrer, assistant professor of social work at the Florida State University and published in the magazine Public Welfare for April 1949.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Snader, its assistant reading clerk announced that the House had passed a bill (H. R. 3298) to amend section 503 (b) of the Federal Food, Drug, and Cosmetic Act, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H. R. 3298) to amend section 503 (b) of the Federal Food, Drug, and Cosmetic Act was read twice by its title and referred to the Committee on Labor and Public Welfare.

PRICING PRACTICES

The Senate resumed the consideration of the bill (S. 719) to establish beyond doubt that, under the Robinson-Patman Act, it is a complete defense to a charge of price discrimination for the seller to show that its price differential has been made in good faith to meet the equally low price of a competitor.

The VICE PRESIDENT. Under the unanimous-consent agreement provision is made for 4 hours of general debate, the time to be equally divided and to be controlled by the Senator from Tennessee [Mr. KEFAUVER] and the Senator from Nebraska [Mr. WHERRY].

Mr. McFARLAND. I suggest the absence of a quorum, and ask unanimous consent that the time consumed in the calling of the roll be charged to each side equally.

The VICE PRESIDENT. Without objection, it is so ordered. The Secretary will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McFARLAND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded, and that further proceedings under the call be dispensed with.

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

Fourteen minutes were consumed in the quorum call, which time will be equally divided, 7 minutes to a side.

Mr. KEFAUVER. Mr. President, I yield myself 3 minutes.

In the debate on the pending bill the sponsors are repeatedly stressing that they are in favor of hard competition, and that they oppose the soft competition which the Robinson-Patman Act allegedly encourages. They keep saying that in the course of competition someone must get hurt. They keep saying that unless someone gets hurt, there is no competition.

Mr. President, I think those arguments are specious and misleading. Certainly competition means that some individuals get hurt occasionally. That is a fact not subject to dispute. But that is not the real question here involved. The question is whether we shall permit competitors to be driven out of business on a vast scale; whether we shall permit one or a handful of competitors to destroy, not individual competitors, but the whole competitive structure of an industry; and whether we shall permit them to hurt others, not by fair, but by foul means.

Furthermore, when the sponsors of the bill say that in competition someone must get hurt, the question arises as to who shall get hurt. If the Senate should have to choose—and I do not believe it does—between the thousands of independently owned and operated service stations in Detroit, on the one hand, and the Standard Oil Co. of Indiana on the other, what would the Senate's choice be? Do the sponsors of Senate bill 719 really believe that we have to worry about the Standard Oil Co. of Indiana? Or can we safely assume that the Standard Oil Co. of Indiana is perfectly capable of taking care of itself?

Do the sponsors really believe that the giants in our economy will be hurt if we prevent them from using unfair price discrimination as a means of driving out their smaller competitors?

No, Mr. President, I am convinced that Standard of Indiana will survive even if S. 719 is defeated; and I am equally convinced that thousands of independents will die—or rather be murdered through predatory price discrimination—if S. 719 is passed. Again I say, by all means let us have competition, but let us not permit big business, in the course of that competition, to drive out the small-business man on grounds other than superior efficiency. Again I say there is nothing in the law, as presently written, to prevent a firm from taking advantage of its superior efficiency, but there are safeguards in the law to protect the small-business man from being victimized by unjust and unfair price discrimination not based on demonstrable savings in cost.

Mr. President, the choice before us is the same as that which faced Congress in 1936. The choice is simple: What kind of competition do we want, fair or unfair? Which competitor should we be concerned about protecting? The big fellow who can take care of himself or the little fellow who depends on the protection of Congress and who cannot hire high-priced and high-powered lobbyists to promote his interests?

I yield 30 minutes to the junior Senator from Connecticut [Mr. BENTON].

Mr. WHERRY. Mr. President, I wonder whether the proponents could use some time, perhaps 20 or 30 minutes, after the Senator from Connecticut has concluded his remarks?

Mr. KEFAUVER. Does the Senator from Nebraska wish to use some time now before the Senator from Connecticut makes his address?

Mr. WHERRY. No; it is perfectly agreeable to me for the Senator from Connecticut to speak now, and then have the proponents take 30 minutes.

Mr. BENTON. Mr. President, while the language of Senate bill 719 is simple and while its effect may sound not only harmless but sweetly reasonable, yet it would work one of the most profound changes in our antitrust laws dreamed of in recent years.

The bill has many implications which were ably and fully brought out in debate yesterday. I do not propose to elaborate further on the major points thus developed, but I shall stress some fundamental questions which the bill raises about the future of free competitive enterprise—the future of the industrial and economic system which has made America in industrial productivity the marvel of the modern world. My efforts are modest, as the subject is very broad and my time is limited. I shall principally stress points which interested me most in my brief period as acting chairman of the Small Business Committee's subcommittee which has been holding hearings on this bill.

If the lawyers who have guided me and in whom I have full confidence are correct, this bill is a dagger aimed at the heart of the Nation's antitrust legislation. It is not even a sheathed dagger. It is an open invitation to collusive action among competitors to fix prices—and to fix them high and handsome—at the expense of the public, and, if charged with conspiracy under the antitrust laws, with making deals to raise prices and eliminate competition, to avoid the penalties of the antitrust laws by pleading good faith.

Mr. President, it is the results and consequences of such legislative action that I wish to discuss briefly, or shall I say two or three of the more important facets or consequences.

Arnold Toynbee remarks in his monumental work, A Study of History, that there is not a single instance in the history of the world where a civilization has been murdered; civilizations always commit suicide. Even when a civilization's downfall has apparently come

from outside forces, Toynbee shows that external pressures merely revealed internal weaknesses which antedated the crisis.

Within our free-enterprise system, businessmen hold key positions. It is their actions which determine the rate of technical progress, the scale of operations, what will be produced, and how our resources are to be employed. They are not merely interpreters of market forces. They may be a creative force—imaginative, forward looking and enterprising—or they may be a force of reaction looking to the past, to stability, to safety, to conservation, to escape from competitive pressure.

Few of our businessmen are conscious of the great responsibility which rests upon the business community. This responsibility grows from the sum total of its collective action. Our businessmen must learn to understand that history teaches us that if capitalism is destroyed, it is far more likely to be extinguished by a force from within than by an aggressor from abroad.

Mr. President, the fate which the British businessman has suffered is a flaming lesson for us all. Once before on the Senate floor I commented on Karl Marx's telling observation that "a businessman will commit suicide for a short-term profit." The bill we are discussing today is a perfect illustration of this dictum of Marx, and particularly applicable to my own area of New England. My own immediate political problem in New England is a short-term one, as I run for office again next year, but I judge it to be my duty and indeed my privilege in this great office I hold—to fight against the suicide road of the short-term profit in spite of the urgings which have come to me from certain segments of the business community in New England and Connecticut. I shall continue to fight for the long-term survival of the greatest system ever evolved for the encouragement of the productivity and the wealth which may indeed ultimately make every man a king—or feel like one. I shall fight for long-term goals even if they mean the sacrifice of short-term profits. That is what is involved in the pending bill.

The last time I discussed British socialism was in the debate on the floor on the Defense Production Act. I shall now seize this chance to discuss it at some length because it is an illustration of what lies at the end of the road should this bill be passed.

British capitalism did not succumb when the Socialists took office in 1945 but long before that. When I visited England in 1943, on a most memorable mission, the death rattle was in its throat. British capitalism started going under when competition ceased to be the driving and motivating force to stimulate efficiency and productivity; when competition was replaced by monopoly; when collusion, conspiracy and restraint of trade were allowed to take the place of individual initiative and independent competitive enterprise.

As the distinguished Conservative, British economist Keith Hutchison, has pointed out, in contrasting the American and British varieties of private enterprise:

> In the United States, the passionate public resentment aroused by the great trusts led to remedial legislation which served as a check on monopoly even though it proved far from wholly effective. In Britain, perhaps because its industrialists were rather less blatant in their methods than their American counterparts, restrictive practices were subjected only to the mild curb of occasional public inquiry and criticism. Thus, British capitalism was permitted to become increasingly dependent on monopoly, a soothing drug but one that is both habit-forming and debilitating. In those years before World War I, in that glorious "normalcy," private interprise, which to the outward eye was never more flourishing, was actually in many cases ceasing to be enterprising and thereby depriving itself of its economic raison d'etre. All unwittingly, company directors in their board rooms, seeking hot-house shelter from the cold winds of competition, were preparing a favorable seed-bed for socialism.

That quotation is from a distinguished and conservative British economist.

Mr. President, upon my return from England in the fall of 1943 I wrote an article for Life magazine. I dug up the article yesterday because in my argument today I prefer my own quotations even to those of such an eminent British economist as Dr. Hutchison. The editors of Life, in explaining the article in a box which accompanied it, made the following statement:

> Britons and Americans have talked war problems together; they have talked some about postwar relations. But few of them have talked about business—the ordinary, everyday business on which the future of the two countries is going to have to depend. Eric Johnston's and WILLIAM BENTON'S visit to Britain, therefore, has unusual significance. As men representing American business, they were invited to England—by Britain's United States Ambassador, Lord Halifax—for the sole purpose of talking over postwar business problems with British businessmen. The visit was the first of its kind.

I may say that Eric Johnston was at that time president of the United States Chamber of Commerce, and I was the vice chairman of the board of trustees of the Committee for Economic Development, the war-born business organization founded by Secretary Jesse Jones on the advice of the Business Advisory Council and dedicated to the postwar problems of stimulating employment and production.

By coincidence, today the former Executive Director of the Committee for Economic Development, Mr. Scott Fletcher, is in the gallery. Mr. Fletcher is now president of the newly created Ford Foundation, in the field of adult education.

I am going to read, Mr. President, some paragraphs from the article to which I have just referred. I never would have thought of writing the article except for Mr. Henry R. Luce. Although I often disagree with him—indeed the word "disagree" is sometimes far too mild—I embrace him as one of my oldest friends; and, manifestly, for all to see, he is one of the greatest editors of all time. Shortly after my return from this trip we visited and he, in his customary and, I may say, somewhat annoying way, asked all the questions and forced me into much too much of the talking. Then he said, "Write it down; I'll publish it in Life."

In this article, Mr. Luce prompted me to be more prophetic than I knew I could be, and, I am sure, more than he thought I would be. I spotted, back in 1943, the glacier-like force that was driving the British economy inevitably into the arms of socialism. This was the first article in a major magazine in this country which called the turn.

This trend, Mr. President, was fostered by the great private monopolies and cartels. The very headline of my Life article reads, "Britain's industrial leaders, driving on the left side of the economic road." I led off the article with an account of Eric Johnston's and my visit with Lloyd George. I should like to read one paragraph of Lloyd George's comments at that time about the Conservative and Labor Parties. This is something which is not at all understood by the American business community. Lloyd George told us:

> Many of you Americans make a mistake when you come to England in thinking that there is any basic difference between our Conservative Party and our Labor Party. Both parties look forward to a rapidly expanding role for the state in the economy. The Conservatives are reconciled to it and think they can control it. Labor is pledged to it. Only the Liberal Party has stood against it.

As the Senate knows, England has never had antitrust legislation. Many Englishmen cannot comprehend ours. If I had more time, I would like to elaborate on this point at length, including the current antimonopoly commission set up by the Parliament under the talented Lady Meynel.

The British do not understand how our antitrust laws are aimed at the preservation of individual rights and the fostering of free enterprise. They have never thought about them in that way; nor has that idea occurred to the French, the Germans, or other of our European allies. Last year in Rome I spoke to the American Chamber of Commerce. I dwelt on this idea and this idea only. No one openly disagreed with my thesis that the practices of the Italian cartels hamstring industrial progress in Italy. At that time 90 percent of the mayors of northern Italy were Communist; 52 percent of the vote in the last election in Milan was Communist. How would the people of the United States react if we had never had antitrust laws and had given power over prices and indeed over our very lives to private monopolists?

At one of Eric Johnston's and my early luncheons on the 1943 visit Lord McGowan, chairman of the great British chemical monopoly, Imperial Chemical Industries, spoke directly to the point when he openly addressed to me a statement and a single question:

> I see no hope for collaboration between British and American business unless the United States repealts its Sherman Anti-Trust Act. Can we in England look forward to that?

Lord McGowan argued for the cartels with great dignity and persuasiveness.

Unrestricted competition—

He pointed out—

is no longer a method which generally commends itself; the alternative road is by cooperation and agreement.

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

Mr. BENTON. I am glad to yield.

Mr. LONG. The kind of cooperation of which the Senator from Connecticut is speaking is that which this bill would legalize, for all the companies could charge the same price and could discriminate in price in all sorts of ways, so long as what they did would not result in price competition among themselves. Is that correct?

Mr. BENTON. This query gives me the chance to congratulate the Senator from Louisiana for taking the lead in the fight against this bill some weeks ago and for insisting that the vote on the bill be postponed. At that time I myself did not see the issue clearly. I congratulate the Senator from Louisiana upon insisting then upon a halt before the vote was taken on the bill. He headed off the stampede for quick action. That delay gave an opportunity for the Committee on Small Business to hold hearings. As we know, no hearings at all have been held by the Judiciary Committee on this bill, which, if enacted, would revolutionize the American economy.

Mr. LONG. I thank the Senator. I feel most humble and grateful for the very high compliment he has paid me.

I should like to state that the junior Senator from Connecticut has been a strong advocate of true and effective competition from the very highest level of American business down to the lowest level; and he should be congratulated for the stand he has taken on this question.

Mr. BENTON. I may say that there are more men in the business community who share my view than one would think, to judge from the nature of the statements which have been made by some of the Members of the Senate.

Mr. President, to revert to my observations on my English visit in 1943, Lord McGowan advocated regulated production and prices, claiming that "internecine competition and eventual chaos are the fruits of a system of unrestricted competition."

Most of the businessmen we met not only approved of monopoly as a business device but of Government as a business partner. Many of them had given up hope, if they ever consciously had any, of national reliance on the initiative of the individual citizen. They looked to the State to control competition and thus provide security. One prominent business organization had even suggested that membership in trade associations be made compulsory so that business practices could be better controlled.

British businessmen were using the Government, as they had been doing so for years, to remove the loss from the profit-and-loss system. It seemed normal in England for the Government to step in and, by the use of Government money and Government-appointed directors, to prevent the bankruptcy of substantial employers of labor.

The tendency was to turn to the Government when the going was hard. So in England, in 1943, Mr. Johnston and I saw the background, as developed by British business practices, which made the ultimate election of a Socialist government inevitable.

The bill we are discussing today is a step down that same road; and, of course, in my judgment, the end of the road for business, the end of the road for private monopoly in this country, would be greater and greater Government control, ending up in some form of what we now call socialism.

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

Mr. BENTON. I am glad to yield.

Mr. KEFAUVER. I think the Senator from Connecticut is making a very forceful argument which should be considered by all Americans who are interested in our free competitive economy, since the concentration of economic influence necessarily leads to larger labor unions, larger Government bureaus, and, eventually, to socialism. That, it seems to me, is the point the Senator is making.

Was not the same thing true with respect to Germany during Hitler's regime, namely, that economic influence, with the control of the country in the hands of a few, made it very much easier for a dictator of the type of Hitler to take over the government and the economy of the German Nation?

Mr. BENTON. There can be no doubt that concentrated economic power played an important role in Germany in the rise of Hitler, but, in my judgment, not to the same extent, and not in so clear-cut a manner as in the case of the development of Socialist power in Britain. Unquestionably it was a major factor in Hitler's rise, and I would even go so far as to say that, without the big German cartels and monopolies, it is perfectly possible there never would have been a Hitler. I put this in the negative, rather than in the positive, as I am making my charge applied to England. The British cartel system and the absence of antitrust laws culminated in a Socialist government in England.

Mr. KEFAUVER. Has the Senator not found that where there is a cartel system and control of the economy in the hands of a few persons in the larger cities, the rest of the people of the nation, to a considerable extent working as clerks and employees with no control over their economic future, soon lose control over their political future?

Mr. BENTON. In the case of such a development in our economy, I believe that the American people would keep sufficient control over their political future to enable them to move in and demand regulation in the public interest to take the place of the competition which, at the present time, provides the regulator throughout large areas of our economy. If competition has been eliminated, I believe our people will see to it that some form of government regulation or ownership be instituted.

Mr. KEFAUVER. But this bill seeks to take away one of the regulators which the people have it within their power to use in order to prevent the concentration of economic influence in the hands of a few people to the detriment of a great number of people. Is that not correct?

Mr. BENTON. There can be no question about that. This bill drives a bulldozer right through the Clayton Act; it nullifies the Clayton Act. The minority views signed by the distinguished Senator from Tennessee pointed out that discussion on the floor of the Senate today would be much more honest and open if the bill were to read, "The Robinson-Patman Act is forthwith repealed and abolished." The Robinson-Patman Act was, of course, enacted in order to put teeth into the Clayton Act and to make it function as it was originally intended that it should.

Mr. KEFAUVER. Does the Senator from Connecticut not feel that, while this is a very technical subject, and while it is difficult to convey the meaning of the bill generally to the people within such a short time as has been available, nevertheless, if they understood that it would jeopardize the economy of the Nation, and result in a return to the conditions which prevailed between 1914 and 1936, prior to the enactment of the Robinson-Patman Act, the small-business people would truly be up in arms about the proposal which is now before the Senate?

Mr. BENTON. If they knew what was happening and what is implicit in this proposed legislation, there would be no question of their vehement opposition.

Mr. KEFAUVER. I thank the Senator.

Mr. LONG. Mr. President, will the Senator from Connecticut yield for a question at that point?

Mr. BENTON. Before I yield, I should like to address a question to the Senator from Tennessee. Is he prepared to yield me more time, if I now yield to the Senator from Louisiana and other Senators who may desire to question me as I proceed?

Mr. KEFAUVER. I assure the Senator that any colloquy between him and the Senator from Louisiana will be so valuable that I know I would yield further time.

Mr. BENTON. I am extremely grateful, because I am eager to yield to the Senator from Louisiana; but I do not want to use up my 30 minutes, to find that I have not reserved sufficient time to enable me to complete the statement which I sat up and worked to prepare until early morning hours today. I yield to the Senator from Louisiana.

Mr. LONG. It may support the argument of the Senator from Connecticut, to state that the junior Senator from Louisiana yesterday placed in the RECORD a study made by the National City Bank of New York, published in November 1949, which showed that in 1949 of the retail business, not including the gasoline retailer, the 100 largest retailers, numbering among others Sears,

Roebuck & Co., R. H. Macy & Co., Atlantic & Pacific Co., and Safeway Stores, had 15 percent of the Nation's retail business in 1938; and that is exactly the same percentage they had in 1948. I would suggest to the Senator that one of the reasons for that was that during those 10 years, the independent merchants, small-business men, had the protection of what is known as the Robinson-Patman Act, through which Senate bill 719 would seek to strike a tremendous loophole.

Mr. BENTON. Would not the Senator agree that, as I have said, it would repeal and nullify the Robinson-Patman Act?

Mr. LONG. Yes.

Mr. BENTON. As further confirmation of what the Senator from Louisiana has just said, the minority views point out that there are on file with the committee letters from the National Association of Retail Druggists, the National Federation of Independent Business, the National Association of Wholesale Grocers, all opposing the enactment of the pending bill.

Commissioner Spingarn, of the Federal Trade Commission, when he testified before the subcommittee of the Select Committee on Small Business, which was conducting hearings on this subject, said it was the passage of the Robinson-Patman Act which halted the trend toward greater and greater concentration in the hands of the chain stores. The Senator from Louisiana's figures bear that out.

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

Mr. BENTON. I yield to the Senator from Minnesota.

Mr. HUMPHREY. In order to clarify properly the point which is now being discussed, I should like to ask this question: Is it not true that if the provisions of Senate bill 719 are enacted into law, we shall return to the essential language of the Clayton Act, insofar as good faith is concerned?

Mr. BENTON. That is correct.

Mr. HUMPHREY. It was that language in the Clayton Act which was found to be faulty, defective, and deficient, was it not?

Mr. BENTON. That is correct.

Mr. HUMPHREY. Therefore, it was necessary to amend the Clayton Act by the passage of the Robinson-Patman Act, was it not?

Mr. BENTON. The Senator is entirely correct.

Mr. HUMPHREY. Therefore, if the Senate passes Senate bill 719 and it is passed by the House and signed by the President—which I hope it will not be—we shall be going back to the former position, which was untenable and deficient in the terms of protecting private interests?

Mr. BENTON. Undoubtedly that is so.

Mr. HUMPHREY. That is why I characterize all the talk about competition, discriminatory prices, and so forth, as so much window dressing.

What we are really talking about is whether there shall be competition in good faith, with the kind of price and good faith which does not in any way lessen competition or tend to promote monopoly. Is not that the issue?

The VICE PRESIDENT. The time of the Senator from Connecticut has expired.

Mr. KEFAUVER. How much more time would the Senator from Connecticut like?

Mr. BENTON. I request 15 minutes.

Mr. KEFAUVER. I yield 15 additional minutes to the Senator from Connecticut.

The VICE PRESIDENT. The Senator from Connecticut is recognized for 15 additional minutes.

Mr. WHERRY. Mr. President, I do not want to interfere with the Senator from Connecticut, of course, but I hope I may soon have recognition. I trust the Senator will not yield for any further interruptions.

Mr. BENTON. I shall follow that suggestion.

Mr. WHERRY. Of course, I am not trying to tell the Senator what to do.

Mr. BENTON. I shall follow the Senator's suggestion.

I thank the Senator from Tennessee for yielding additional time.

Mr. President, in England, as I have said, the tendency was to turn to the government when the going was hard, and in hazardous areas of economic activity, such as broadcasting and aviation, for instance, to expect the state to take the risks once assumed by individual operators.

Here we have the end of the road for business, the end of the road for private monopoly. Here is the classic and traditional alliance of the extreme left and the extreme right. Only in Britain, of course, there are no extremes and this is indeed one of the many facets of the genius of the British people. I use this illustration only as a warning concerning a condition we are observing every day, everywhere, namely, the common interest of the far right and the far left, causing them to join together, each hoping to win, at the expense of all other segments of the population.

One interesting fact about our 1943 visit was the encouragement given to monopoly by the Labor Party leaders. The British businessmen, of course, expected to continue indefinitely in control of their monopolies. But the labor leaders were looking forward to their own ultimate political victory. They knew that monopoly business was easier to take over. It is far easier to socialize one chemical company than 5 or 10 or 50. Thus the labor leaders joined hands with business leaders to entrench monopoly practices.

Here we have a classic example of the all-too-common alliance of the left and the right, although in Britain there is no extreme right and no extreme left, as Lloyd George pointed out. This is one of the many facets of the genius of the British people.

Mr. President, I think that my review of British business attitudes and practices, written for Life in 1943, has sufficient bearing on the debate on the bill we are now discussing today that I ask unanimous consent that the article may be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. HUNT in the chair). Without objection, it is so ordered.

(See exhibit 1.)

Mr. BENTON. I may say that in 1943 this article was reprinted serially in one of the British business journals under the heading "The amazing impressions of Mr. Benton," and readers were invited to send in their comments. The very idea that British business was "driving on the left-hand side of the economic road" came as a terrific shock to many of my friends in the British business community, which, according to American standards, had been so nursed on the soothing sirup of monopoly that it could not tolerate the thought of the strong drink of competition.

Mr. President, during the heyday of British Conservative rule it was standard practice for manufacturers to belong to trade associations whose operations extended to other European countries and at times even throughout the world. Manufacturers would report their price quotations to fellow members of the "club" through the association secretary. The United States Senate has sometimes been called the most exclusive club in the world." The word "club" implies respect for fellow members, even if not affection or admiration. But, believe me, the activities of the Senate Club constitute open jungle warfare compared to the delicacy and respectful attention bestowed on each other by competitors via the European Trade Association. Price competition cannot develop under such conditions. No manufacturer would venture to bring upon himself the retaliation of other members of the group.

Members of the association would hold meetings to agree upon reasonable prices which would thenceforth be quoted by all of them. Perhaps the most significant aspect of such arrangements—and this shows the gulf between them and us—is that they were and are openly proclaimed and publicly defended. As Mr. Geoffrey Crowther, the editor of the London Economist once remarked: "In England we put a man in the House of Lords for the very same reasons you in America put him in Sing Sing."

Mr. President, I hope my comments have indicated that the term "free enterprise" has a wholly different meaning in Europe than in the United States. In Europe, there is all too little enterprise, in part because the business community is seldom competitive or free. In Europe, the phrase "free enterprise" is negative and merely means the absence of Government ownership. Here, I submit, is a key to the decline of free enterprise in Europe, as we understand it, and to the rise of socialism.

It was against the mass of countless restrictions in Europe, which were fostered not only by the business trade associations and the private cartels but buttressed by Government action, restrictions which hamstring European productivity, that Paul Hoffman inveighed when he called for European integration. That word summarized his demand that the market of Europe be

opened up to competition and free enterprise. General Eisenhower was pleading for the same thing, in his recent and remarkable speech in London. General Eisenhower has discovered, as did Paul Hoffman before him, that higher and still higher levels of productivity in Europe cannot be achieved without the virtual annihilation of the enormous mass of monopoly practices and restrictions.

I am personally of the opinion that strong antitrust laws for England and the Continent, vigorously enforced—and by this I mean the sending of a few hundred European businessmen to jail—could do more to stimulate European productivity, during the next decade, than all the billions of dollars which we have invested in the Marshall plan. Of course, the problem is intensely complex, and I am the first to admit that in this time of crisis it is impossible suddenly in a week or a month or a year to pass and enforce laws designed to revolutionize European economy through integration and competition. However, through integration we must never lose sight of the goal. We should advocate it in our relations with our allies in Europe far more vigorously than in the past.

I point to Europe today as an example close to us, of which we should be mindful as we consider the pending bill today, to dramatize the evils of monopoly in business. Instead of debating today a bill aimed to confer monopoly power on great private corporations, I wish we were debating a measure to double the appropriations of the Antitrust Division of the Department of Justice or the Federal Trade Commission, or perhaps to treble or quadruple them so that they could do a far more effective job of enforcement of the Sherman and Clayton Acts on behalf of the American people. These acts should be strengthened, not weakened. They should be enforced, not torpedoed. This innocent-sounding bill today proposes to sabotage them.

I submit, Mr. President, that just as the British people finally rebelled against private monopolies, and voted in the Socialist Government, so would the American people—and even more quickly—if given the same provocation. The American people are not by temperament willing to turn over great monopoly power to private hands. They will insist upon some kind of regulation, in the public interest, as they have again and again insisted on regulation in fields where private monopoly power has developed in our economy as in the case of public utilities, railroads, insurance, and so forth.

For this reason among others, wherever possible, we in Congress should seek to help provide a climate which will encourage competition in our economy. Competition is the kind of regulation which we prefer. The bill we are considering today proposes to lessen competition, and thus in turn to open the door for other types of regulation—types we do not like and which can lead even us down the road to socialism.

I remind the Congress of the work of my late friend, Prof. Henry Simons, who was one of the country's most distinguished economists, and an apostle of the American brand of free enterprise. He said that a people who are not willing to submit to the discipline of competition will sooner or later find themselves under the discipline either of private monopoly or government authority.

Mr. President, in order to keep some teeth in our antitrust laws and to help encourage free and open competition in America, we should reject S. 719. This bill legalizes a vicious and sophisticated system of price fixing, namely, the basing-point system, as used to entrench monopoly power.

Mr. President, in the balance of my remarks I should like to devote my time largely to the basing-point system. This bill, if passed, legalizes the vicious practices of the old basing-point system which was invalidated by the Supreme Court's Cement decision.

Mr. President, I should like to have the attention of the Senator from Nebraska for a moment. Yesterday the Senator from Nebraska and I were discussing the subject I am about to cover and about which there is a great deal of misunderstanding. The proponents of the bill under debate say that if the bill is not enacted the absorption of freight is without basis in law. Yesterday the distinguished minority leader advanced that theory to me.

I told him I sold the Encyclopedia Britannica, of which I am publisher, in San Francisco and in Boston at the same price as in Chicago where it is printed. I absorb the freight, and no one had ever previously suggested that I was breaking the law. Last night I secured two legal opinions which confirmed my view on this point.

The small-business man does not need the bill which we are debating today. He can absorb all the freight he wants to and so can the big-business man if he is not doing it to create or foster monopoly.

This bill legalizes "good faith" as a defense for the large operator who cuts his prices to knock his small or financially weak competitor out of business, or who conspires with others to fix and maintain prices.

Mr. President, let me illustrate the evils of the basing-point system with an example cited by the distinguished Senator from Illinois [Mr. DOUGLAS] last year.

He said that his State of Illinois, in 1947, had advertised for—I think it was 50,000 barrels of cement. That was before the 1948 Cement decision of the Supreme Court. The barrels of cement were to be laid down in each of the 102 counties in the State.

The State received eight bids. They were sealed bids; in theory no company knew what any other company was bidding. Yet, Mr. President, the prices offered in each bid were identical to the fourth decimal point in the case of every one of the 102 counties. The bids differed as among counties, of course, but at each delivery point the prices were identical to the fourth decimal point in each of the eight sealed bids for each of the 102 counties.

The Senator from Illinois, an economist himself, and a very able one, went to a professor of mathematics at Haverford College and said: "I would like you to tell me, mathematically, what the chances are that this could have happened by mere haphazard chance." The mathematician came up with the following: The possibility this could have happened by mere chance was one in eight followed by 214 zeros. There are only 9 zeros in a billion, Mr. President, so I ask you to imagine what 214 would look like. The mathematician said the possibility of chance in this situation would be very much less than the possibility of picking, by mere haphazard chance, one predetermined electron out of the entire universe.

Yet, the Judiciary Committee report on this bill says that apparently no adverse inference of conspiracy could be drawn from that combination of facts. Under this bill any of the cement companies referred to could plead good faith as a defense. All the companies did, in good faith, was meet the price of a competitor.

Mr. President, at this point let me again emphasize that there is nothing now in our laws, as interpreted by the Supreme Court, which forbids a seller to absorb freight.

Let us clearly understand that this is a bill for the price fixer, for the monopolist. It is the enemy of the small-business man.

I am not defending the small-business man because he is small. I like him for that, but I hope he is good enough to get bigger. I am defending him because he is competitive. He is the yeast in our economy. He is the policeman. I am defending him because he is a friend of the consumer. I do not want a bill passed which makes it impossible successfully to prosecute and convict those who use their economic power to control prices and drive him out of business.

I repeat, freight absorption per se is now absolutely lawful. Let us lay that ghost. Any businessman can absorb freight as he can any other cost. It is his right. If he absorbs too many costs, of course, he will go bankrupt.

But no producer has been prosecuted for absorbing freight unless he did so pursuant to a conspiracy with someone else—it is the conspiracy angle that is important—or unless he cut prices below costs so as to kill off competition or achieve a monopoly position. All the witnesses at our committee hearings were agreed on that point. This is not generally understood. It is of high importance.

Mr. President, it has often been argued that while the basing-point system has been bad for the Nation as a whole, it has been good for New England. Many New England firms today absorb freight, as they have a right to do. They do so with an individualism which is characteristic of the New England businessman, but they do so by employing methods which are not conspiratorial. They do not make deals with other firms in their industry to absorb freight in order to drive out of business a man in Indianapolis or Cleveland. They have not been prosecuted because their actions have been legal and have not served substantially to lessen com-

petition. Their actions have not been a part of any collusive basing-point formula.

The harmful effect of the basing-point system in New England is not in any practices of our own manufacturers, but rather in the iron and steel industry outside New England and upon which our industry is so largely dependent. The largest single category in employment of labor in Connecticut is the metallurgical industry. It needs steel. Yet as you know, Mr. President, New England has never been allowed to develop a steel mill of its own. Under the basing-point system it has been forced to "import" its steel from Pittsburgh, Buffalo, Bethlehem, Sparrows Point, and other distant points.

Is this because New England offers no market for steel? Certainly not. The many durable-goods industries located in New England consume about three or four times as much steel as the area produces. New England is within and adjacent to an enormous domestic market for the products made from steel. Furthermore, New England is nearer, transportation-wise, not only to United States markets, but to the markets of Europe and South America, than many competing areas. New England has the ports and the cheap transportation facilities to take advantage of foreign and coastal markets.

One of the country's most important industrial engineers, who at one time or another has served as consultant to many of the largest steel companies, and who is now living in Washington, Conn., recently reported to the New England Council:

> The New London plant site has the great advantage of being located on deep water at the Long Island Sound from where transport by means of barges into the metropolitan markets will cost about $1 per ton, giving New London a freight advantage over Morrisville, Pa. The rail freight from Morrisville to New York City lighterage is $3.80 per ton on 80,000 pounds minimum carloads, or $5.20 on 40,000 pounds minimum carload.
>
> It is clear that Sparrows Point, Morrisville, and Camden are not favorable for water transportation of steel over the open ocean around Cape May to New York as is New London which can ship its steel to the metropolitan area in barges and down the Long Island Sound without going into the open sea.

Mr. President, I use this only as an illustration to show that the basing-point system, which the pending bill proposes to reinflict on the American economy, has proved a handicap in the industrial development of my own region of the country, as it has to many other areas throughout the United States.

Has steel production failed to take root in New England because of lack of adequate labor supply? Again the answer is "No." We have in New England the type of workingmen considered most desirable for steel-mill operations. Moreover, in New England we have perhaps the greatest concentration of engineering and scientific research talent to be found anywhere.

Do we in New England lack the capital for the construction of steel plants? Obviously not. Hartford, Conn., is the richest city, per capita, in the world. Furthermore, the engineer to whom I have just referred estimates the earnings on a projected New London mill at $21,278,500.

Is New England unfavorably located in respect to iron-ore supplies? New England generates so much scrap iron that it exports, at times, twice as much scrap as its industries consume. Moreover, New England has a competitive advantage of from $3 to $4 a ton on scrap as compared to Pittsburgh. Finally, New England is closer to the great new iron-ore deposits of Quebec and Labrador than any other area in the United States. The industrial engineer I am quoting estimates the cost of Labrador ore, laid down in New London, at $7.50 a ton.

Mr. President, my tentative conclusion is—and what I am saying is merely by way of illustration to show the evil effects of the basing-point system—and this conclusion is supported by the findings of the Federal Reserve Bank of Boston—that steel capacity has never developed in New England primarily because of the artificial restrictions of the basing-point system; primarily because the mills in the older producing areas could, under the basing-point system, hold their steel monopoly through their potential power to control prices and put a newcomer out of business. There was not any room for a potential producer who did not belong to the club.

It is a sophisticated system—possibly even with a trick or two for the Europeans—and I suggest that we Americans have done well in spite of it, and not because of it. We have done well in spite of it, because of our great market, our tremendous vitality, and the constant possibility, even in the steel industry, that new men and strong men may be coming on. But most of all we have done well, in spite of the basing-point system, because of our antitrust laws.

Other areas, particularly the South, have experienced a retardation of their industries, similar to steel in New England, and for the same reasons.

Mr. President, it is against the national interest for the Senate to pass the bill which is pending today. It legalizes the worst feature of the basing-point system as an instrument of monopoly power. It holds us back on the front where, for our safety and defense, we must make the greatest strides—our industrial productivity. If we legalize the restoration of the basing-point system as a weapon for the elimination of competition, it can work hardship on every small manufacturer in America.

The PRESIDING OFFICER. The time of the Senator from Connecticut has expired.

Mr. BENTON. Mr. President, may I have time for one more sentence? Before I take my seat, I wish to comment on the statement of the Senator from Minnesota [Mr. HUMPHREY]. May I have 30 seconds more, Mr. President?

Mr. KEFAUVER. I will give the Senator two more minutes.

Mr. WHERRY. Mr. President, I will be very generous and give the Senator from Connecticut five more minutes.

Mr. KEFAUVER. We will yield the Senator from Connecticut three more minutes.

Mr. BENTON. I thank the Senator from Tennessee and the Senator from Nebraska. The 3 minutes will give me a chance to yield to the Senator from Louisiana [Mr. LONG].

Mr. President, the pending bill represents a long stride on the road to monopoly, the road which has led to the strangling of free enterprise abroad. I urge the Senate to refuse to pass the bill. But if the Senate should pass it and the House should also pass it, in line with the comments of the Senator from Minnesota [Mr. HUMPHREY], I am confident that the President will most assuredly veto the bill. I have never before ventured to speak for the President so positively, but I could not imagine the President taking any other course of action than to veto the bill.

I now yield to the Senator from Louisiana.

Mr. LONG. The Senator from Connecticut might be interested to know that the argument he has made that the bill, legalizing, as it does, the basing-point system, would destroy free, independent competition in America, is supported by most of the outstanding economists of the Nation. On March 31, 1950, the junior Senator from Louisiana placed in the RECORD, as appears in the CONGRESSIONAL RECORD, volume 96, part 4, pages 4495, 4496, a letter signed by 100 of the leading economists of America, urging that the bill not be passed. If the Senator so desires, I will ask that it be placed in the RECORD, at this point.

Mr. BENTON. Mr. President, I ask unanimous consent that the letter may be placed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2).

Mr. BENTON. I further call the attention of the Senate to the fact that the minority views bring out the fact that 75 economists, including the president and several past presidents of the American Economic Association, protested the passage of the preceding measure last year, Senate bill 1008, which legalized the basing-point system, on the ground that it would seriously weaken the antitrust laws and hinder their enforcement; on the same issue, in connection with the pending bill, the same group has again urged that the Senate refuse to pass it.

EXHIBIT 1

[From Life]

BUSINESS IN BRITAIN

(By WILLIAM BENTON)

America is a young country with faith in the individual and in his ability to contribute to the common good through the fruits of his enterprise. England, whose pattern of economic life was hardening when many of our great cities were prairie villages, has lost faith in the power of the individual Englishman to build an economy of abundance. England today is not so much interested in opportunity for the individual and in abundance on a high level as it is in security, even on a low one.

Eric Johnston and I reaffirmed this after we had been in England for 3 weeks. We had talked with British businessmen, argued

with them, and visited their factories. We had met high British officials. We had talked with labor leaders. But it was Lloyd George, Britain's Prime Minister in World War I, who really summarized what we both thought.

"You Americans," he said, "can look around you and see on all sides what individual enterprise has contributed to your economy and you will want more of it, not less, after this war."

For a minute he studied the ripening fields of his farm in Surrey. Then he threw back his great head of white hair and his eyes flamed. "Many of you Americans make a mistake when you come to England in thinking that there is any basic difference between our Conservative Party and our Labor Party," he emphasized. "Both parties look forward to a rapidly expanding role for the state in the economy. The Conservatives are reconciled to it and think they can control it. Labor is pledged to it. Only the Liberal Party has stood against it."

He looked off into the distance and he said, judiciously, impartially, as if he were not speaking of himself, "As I look back on it, I think I made a mistake after the last war. We liberals mistrusted centralized state planning and state control. We resisted it. If I had it to do over again I'm not sure I'd resist what seems now to be an irresistible trend here in England. But you Americans will resist. Good for you."

He continued: "You in America and we in England may think we share the same basic social and political objectives. I'm not sure we do. Each country will have to go about working toward its economic objectives in its own way. You will have to work them out your own way, we in ours, and our way cannot and will not be your way, nor your way ours."

What Lloyd George said about the role of the state was what our argument in England was about. Our short visit to England was essentially one long economic argument, an extremely productive and friendly argument, but one that found us everyday for 18 days trading opinions with British leaders on the business and government policies of our two countries after the war.

Each day was full. We were seldom out of sight and never out of mind. We were met at the airfield by Lord and Lady Riverdale, who presented us with a formally printed program 20 pages long—one page for each day of the proposed visit—that opened our eyes to what we were in for. The cover read: "Mr. Eric A. Johnston, England, August 1943." Each page was packed with engagements. Lunches for the first 3 days, for instance, were announced thus: "Lunch, Sir Harry Brand, president, British Employers' Confederation; lunch Mr. Montagu Norman, Governor of the Bank of England; lunch, Sir George Nelson, president, Federation of British Industries." Except for weekends, which had a touch of traditional English leisure, we lunched every day on a prearranged schedule with hand-picked business and governmental groups. We dined every evening, with two or three exceptions, in the same way. British hospitality outdid even itself in a sequence of teas, of meetings with government ministers, of visits to Manchester and Liverpool, and even of initiation into some of the problems of military strategy and tactics. But most of the time we talked shop.

CONTROL VERSUS OPPORTUNITY

One of our first luncheons was at the Savoy, the expensive London commercial hotel of the maharajahs and the magnates. The room was a large private dining room, the furnishings rich without being ornate, the atmosphere quiet and dignified. Our hosts seemed to fit naturally into it. Their bearing was solid and secure; their voices quiet and assured. Seated next to me was Lord McGowan, a gray-haired gentleman in his sixties, self-made and self-reliant, with great reserves of restrained vitality. Lord McGowan is chairman of one of the most powerful companies in the world, Imperial Chemical Industries, Ltd. He has made many visits to the United States. He sits on the board of General Motors.

After Eric Johnston's eloquent talk, Lord McGowan spoke directly to the point which interested him most. He asked a single question: "I see no hope for collaboration between British and American business unless the United States repeals its Sherman Antitrust Act. Can we in England look forward to that?"

Eric Johnston said he saw little chance of that. I said I did not think that there was a major issue between our Republican and Democratic Parties on the question of repeal of the Sherman Antitrust Act. I allowed that I thought that the charges advanced by the Department of Justice, particularly since war broke out, made it more likely that the Sherman Act would be strengthened. One agitated businessman came up to me afterward to explain that he was a licensee of an American company which had just notified him that its officers had been indicted under the Sherman Act and that his license must be canceled. He was confused, baffled, perplexed—amazed at what seemed to him highly irregular practice.

For England has never had antitrust legislation such as ours. Many Englishmen cannot comprehend ours. They do not realize that the American people are against monopoly not only because they fear concentrated power in private hands, but because they instinctively believe that such private power would be ultimately superseded by Government power. Our antitrust laws are aimed at the preservation of individual rights and the fostering of free enterprise.

Lord McGowan argued for the cartels with great dignity and persuasiveness. "Unrestricted competition," he pointed out, "is no longer a method which generally commends itself: the alternative road is by cooperation and agreement." He advocated regulated production and prices, claiming that internecine competition and eventual chaos are the fruits of a system of unrestricted competition. His support of the cartels is entirely open. He has recently proposed in the House of Lords that all private international trade agreements should be registered with the government. To be sure, this would be a step forward—in the United States as well as in Britain. I claimed it wasn't a big enough step: it won't stop the fixing of prices, the dividing of markets and the restriction of production that monopolists often use for their own benefit at the expense of the public. Registration tends to make cartels official; it merely serves the purpose of getting them out in the open.

Most of the businessmen we met not only approved of monopoly as a business device, but of government as a business partner. Many of them seem to have given up hope, if they ever consciously had any, of national reliance on the initiative of the individual citizen. They look to the state to control competition and thus provide security. One prominent business organization has even suggested that membership in trade associations be made compulsory so that business practices can be better controlled. The suggestion reminds us in America of our NRA. Actually, the British trade associations today are scarcely private affairs, for they are so involved with the Government that they are really semigovernmental institutions.

The Cotton Board is one of the trade associations. The Manchester Manufacturers had a bill passed through Parliament to force all cotton-textile manufacturers to contribute to it. This procedure seemed normal to British businessmen. It seems to us in America as unusual as would an act of Congress sponsored by the press requiring every newspaper to pay dues to the American Newspaper Publishers Association. Eric Johnston said: "If you run to the government the government will run you." That is just what our American businessmen fear. Some British businessmen say that they fear it too, but as a group they do not act as if they fear it. They do not heed the warning of Lloyd George: "All politicians are mysterious, but in the final struggle for ultimate power all politicians are malignant."

British businessmen use the Government to remove the loss from the profit-and-loss system. It seems normal in England for the Government to step in—with Government money and Government-appointed directors—to prevent the bankruptcy of substantial employers of labor. At a formal dinner one evening Eric Johnston expressed surprise when he heard of stockholders thus salvaged.

"Now, Mr. Johnston," one of our British friends argued, "in your country you know perfectly well that your Government wouldn't permit General Motors to go bankrupt."

"In peacetime?" replied Johnston. "We certainly would." The entire table looked incredulous. Johnston was taken aback. He turned to me for confirmation. On my return from England, sitting next to Jesse Jones at lunch in Washington, I turned to him. "And why not?" asked our Secretary of Commerce.

Not only is government assistance approved but government ownership, in certain industries, is tolerated and even solicited. A key British business leader, now operating a vital part of the wartime economy, told us, almost as a matter of course, that he didn't expect the railroads to revert after the war to private ownership and operation. An architect, now an army officer, who showed us London air-raid defenses, remarked casually, "The state will have to nationalize the land to modernize the rebuilding of London."

The tendency is to run to the Government when the going gets hard, and in new hazardous areas of economic activity—broadcasting and aviation, for instance—to expect the state to take the risks once assumed by individual operators. Aviation occupies British thought even more than ours. There is an almost nightly drone of bombers overhead, and the people on the street smile and say, "Hear that? We're giving it back to them." Everyone talks aviation, and its civil aspects after the war came up at almost every luncheon and dinner. But only one man we met challenged openly and aggressively the generally anticipated policy of Government ownership and operation. The risk-taking spirit of private venture in new fields appears moribund in England today.

The same men, however, who approve government ownership in new fields would not put up with it in older ones—if the older ones are profitable. Sir Sidney Jones, one of the senior partners in the great company which operates the Blue Funnel Line, explained to us that the shipping business must naturally remain in private hands because it operates all over the world, because its problems are too varied for government ownership, because foreign exchange must be manipulated, because world competition must be met. These arguments seem even more valid to us in aviation. But shipping is a great traditional British business and British businessmen assume that private interests will be respected.

British labor leaders anticipate more and more government ownership, and in the meantime, they are not opposed to monopoly business. In fact, they join up with business leaders to entrench monopoly practices. Many of them state frankly that when the time comes to nationalize industry, it will be easier for the Government to take over big business. Meanwhile, they favor rigid control over big concentrated units. Prof. Harold Laski, member of the execu-

tive committee of the British Labor Party, told us that the party platform calls for the immediate nationalization of the land, the banks, the railroads, and the mines. He spoke of this take-over as the first bite of the cherry explaining that he, a self-styled left-wing Socialist, favors immediate nationalization of about two-thirds of the economy, while right-wing labor leaders prefer a first bite of only about one-third. Bevin, Citrine and other labor leaders say much the same thing, except that they emphasize slow rather than sudden change.

Many British businessmen are confident, nonetheless, that nationalization of the banks, the land and the mines is far off. "Wait and see," one of them said. "Wait until labor has to take the responsibility; the boys' bark is worse than their bite. They had the responsibility once and what did they do with it? We have handled labor before and we will again. Labor won't try to live up to its program."

"THE FOUR DECENCIES"

They may be right. They may be able to keep their hands on the controls. But it is significant that the two major parties are now going fast in the same direction. Meanwhile most British workers claim they would just as soon work for the government as for private industry. Labor leaders say the workers want security and one of them, George Gibson of Manchester, head of the Mental Hospital and Institutional Workers' Union, described labor's goals to us as "the four decencies": decent wage, decent house, decent education, and decent security.

Our American workers want the four decencies, too, and expect to get them, but they want more than just decencies. They want a better chance—for their sons, if they can't make the grade themselves—than merely a level of decent living. They want the four decencies and opportunity, too—opportunity to go as far and as fast as their talents permit.

The London Economist some years ago ran an editorial suggesting that one handicap to progress in England was the fact that potential leaders were largely passed over if their accent wasn't right—passed over, that is, if they didn't belong to the right social class. "England is a comfortable place to live in because everybody stays in his place," one of our titled hosts told us. The return from the wars of new men with new ideas may change the picture, but there is little sign of a change as yet.

There are also the pressures of the depression and the war. Britain had only got out of the one when she got into the other. Both involved a great deal of centralization. And the war has involved a great deal of strain. Britain has been close to the fighting lines, and under such circumstances survival and security seem, for a time at least, to be the things that really count in life.

But the Britain I am describing is not a new Britain. Why should the Conservatives fear their Government? They have always been the Government. Why should they not prize security? They have always had it. The trend toward greater Government control of the economy goes back many decades. It has merely been accelerated by the war. An imponderable, perhaps, is what the war may do to this trend.

In considerable part the interests of Britain's businessmen in security comes from a different conception of what business is and of what caiptalism is. At dinner in Liverpool I sat at the right of Lieutenant Colonel Buckley, a retired British officer, brisk, solid, immaculately groomed, who is now chairman of Liverpool Gas Co. It was he who told me about the business of Sir Sidney Jones, sitting at my right. "You know, Mr. Benton," he observed, "Sir Sidney is a partner in a firm with only £50,000 capital, yet it now operates over 80 ships." His tone was that of a man who scarcely expected to be believed.

"When was the firm founded?" I asked casually.

"Only eighty-odd years ago," Colonel Buckley replied.

Fifty thousand pounds ($250,000) 80 years ago. I thought of Eric Johnston's four companies in Spokane, employing 1,700 people and pyramided in 20 years from $2,500; of my own start in business in 1929 with $5,000. I thought of some of the great companies in the United States—of the Ford empire, for instance, built up in one man's lifetime on a capital investment of $28,000.

SECURITY OF INCOME

"Colonel Buckley," I said, "your comment illustrates an important difference between our two countries. You British believe in capital; we believe in capitalism. You think capital is more indestructible than we do. You think capital is more important—in both your social and your business life. We believe in shirtsleeves to shirtsleeves in three generations as part of the natural destiny of men. With us the initiative of the individual comes first; and capital, which underwrites and rewards enterprise, comes second. You put capital and security of income first. You are astonished because a large Liverpool company can develop in 80 years from £50,000; we would be astonished if a large Chicago company had that much capital 80 years ago, or even if the company existed at all."

The British think they are more advanced than we are and in some ways they may be. (I was told three times the story of J. P. Morgan saying, when asked what the United States would be like in 25 years, "What England is like now.") But they do not understand that our faith in the individualistic system springs not only from our belief that such a system promises the greatest economic progress; we would still prefer individualism even on noneconomic grounds to what seems the only practical alternative, a Government-controlled economy in which, as someone has said, "all our hairs would be numbered and all gray."

As Lloyd George pointed out, our ways are not British ways and British ways are not ours. But this difference does not mean that we cannot work together on many fronts. Indeed, both countries after the war are going to deal with peoples whose ideas of business and government are far more different.

Eric Johnston put this point well at the formal luncheon in his honor in London. This was a most extraordinary luncheon. Businessmen came from Liverpool, Manchester, Aberdeen. One guest commented to me, "There hasn't been such a turn-out, including seven cabinet ministers, since we went to war." It was in part a tribute to the United States, in part a tribute to Eric Johnston whose fame, after 7 days in London, had spread as "the world protagonist of the capitalistic enterprise system" and as "the champion of the little man."

"I am among those Americans," Johnston emphasized, "who want intimate friendship with Britain. I am among those Americans who believe that such cooperation is the world's biggest hope for a fair future. I am one of those Americans who feel that even by cooperating together we may not solve all the problems of the world, but if we fail to cooperate, then none of these problems will be solved."

Arthur Guinness, who is chairman of the International Chambers of Commerce committee studying postwar trade, made the same point. At our first dinner in Britain he stressed the vital necessity not only of political but of economic cooperation. He pointed out that the United States and Britain had almost a third of the world's entire prewar foreign trade. He stressed the idea of a team.

"Recently," he said, "a senior British general from our War Office visited General Eisenhower at his headquarters in north Africa. The British general told General Eisenhower that he felt our two teams were coordinating magnificently and General Eisenhower answered, 'What do you mean—two teams? There is only one team here.' Can we," Guinness asked, "project into peace the idea of one team?"

This is the hope of the majority of British businessmen. Exactly what is meant hasn't been defined in their minds or in ours. From our standpoint, America cannot cooperate in cartels. Can England cooperate in competition? The imponderable to the British is what will be the attitude and the policy of the United States. Indeed, the average American must go to England to appreciate the strength of his country and to understand the earnestness with which many British leaders want to understand us and work with us. Many want to key their policies to ours; many hope that American policy will permit them to follow.

There are signs that British business and economic policy can be diverted from present grooves. The men in the RAF don't look like men who will go back to traditional economic and social grooves. Prime Minister Churchill has emphasized that England should not get caught in such grooves: "We must beware of trying to build a socity," he said recently, "in which nobody counts for anything except a politician or an official, a society where enterprise gains no reward, and thrift no privileges."

Lord Woolton, the man who has kept Britain well fed despite losses of shipping and bombing of warehouses, seems to be a man of like mind. He is the proprietor of seven department stores and, like our great mail-order and chain-store operators in America, he knows that quality merchandise at low prices makes for a high standard of living, and that such merchandise is developed by competition between individuals and companies striving to outdo each other in a free market. And Arthur Guinness, an investment banker with keen insight and judgment, believes that American policy can and will help swing Britain toward a revival of faith in free, independent enterprise.

To be sure, these ideas are not typical. America can hope, however, that they may become infectious. If they do, it is likely to be because United States policy helps swing Britain toward a free-enterprise system. British businessmen hope for a cooperative attitude from the United States, but they know they cannot count on it. Their preoccupation with security partly springs from that uncertainty.

HOW TO COOPERATE

Britain's strength after the war depends on her relations with other countries. Many people in England openly weigh the British alternatives. English policy, they say, may have to go in one of two ways—toward close ties with the United States or toward close ties with Russianized Europe. They hope that there will be no such alternative; they hope for a three-way tie-up. (Little is said of China, nothing of France.) But they think they may have to choose between the United States and Russia. In this situation, indecision in America is not reassuring. Britons are continually asking, "Who is the United States and how can we make a deal that will stick?" The aftermath of the last war is not forgotten.

Before Americans can understand British worries they must understand the British postwar problem. The key to this problem is the fact that Britain cannot grow enough food to feed herself. She must import it. Thus, England's eyes must be fixed overseas. They are now fixed steadfastly on America. They are the eyes of every Englishman, peer and laboring man alike. "How do we eat?"

is the all-important imperative. "How do we eat?" depends on "How do we export?" and "How do we export?" depends on America.

If Britain imports food, she must either export something to pay for it, or she must rely on the holdings she has developed abroad. In the past, Britain paid for her imports in both ways. But she has sold a large part of her foreign investments to pay the costs of the war. This means that after the war she will have to rely on her exports more than ever before. Yet she is short of raw materials from which exports are manufactured, and much of her industrial machine is obsolete by American standards.

Tariffs and shipping are thus vital questions to the British. They want to know whether America will keep its tariffs high and close its markets to British goods, for a high tariff turns international trade into a one-way highway. "The Hawley-Smoot tariff in 1930," Arthur Guinness declared, "struck a hard blow at Canadian and British Commonwealth trade. The British reply was the Import Duties Act of 1932 and the Ottawa agreements. The giving of blow and counterblow is a negation of good neighborliness. It is, in fact, economic war at its very worst." Guinness emphasized that both countries must profit by past mistakes and retrace their steps.

Capt. Oliver Lyttelton, a tall, quiet-spoken man who as Minister of Production holds a post somewhat comparable to that of Donald Nelson, discussed these problems in introducing Eric Johnston at the luncheon in London's Dorchester Hotel. "We in Great Britain," he said, "shall want to work off our indebtedness steadily, for the sake of our creditors, of our own credit and, I may say plainly, for the sake of the help we must be able to give after the war to the resettlement of the world. We are not frightened of all this. Indeed, there is nothing that chance or circumstances can do again that will dismay us, for not so long ago we looked ultimate things in the face and did not flinch. But we do need some understanding of what we have to do and of the ways we shall have to do it. Lyttleton emphasized that the important question is whether the United States—the world's great creditor nation—will permit certain imports to enter the United States freely in order to give the debtor nations the opportunity to pay off what they owe.

Lyttelton asked whether America understands this. He asked whether America understands the vital importance to Britain of the British merchant marine—the avenue through which her trade is conducted. This question of shipping came up at many meetings. Will our postwar policies tend to hamstring or even annihilate British shipping? Will we subsidize our merchant marine, which is likely to total 30,000,000 tons, 8,000,000 more than Britain's prewar ships and 23,000,000,000 tons more than our own prewar total?

I have tried to sketch a few of the specific economic questions that England is asking America. They seem to English businessmen just as important as the more general question of how far America will participate politically in the postwar world.

Americans want a free-enterprise system. The British ask us why, then, do we fear free trade, particularly in shipping? Perhaps if America aims toward a policy of international free trade, we can hope for a revival of private enterprise within Britain itself. The English may then follow our lead in aviation, in currency control, and in other key economic questions. British businessmen may be willing to trade with American businessmen as individuals rather than through semigovernmental corporations. We can perhaps best lay the basis for effective economic cooperation between the two countries by living up to our own principles, by throwing open the opportunity for competition between individuals and companies in both countries.

The British may have a better chance against American business competition than they think. True, we in America have achieved fabulous production. But our costs are higher than the average British businessman realizes. England will emerge from this war stronger than she thinks. She will have won out, again, against overwhelming odds. Her world-wide prestige will be enormous, her credit never higher. She will have been tempered by fire. We may be competitively softer than we think, with higher costs and lazier habits.

At home, America can strive to set an enviable example of what individual competition can do. This is an example the world may want to follow. Abroad, we can find the answer to some of the questions the British are asking us by renouncing artificial controls on free enterprise. This is a step toward a world in which men will not so eagerly look to their governments for business security.

America has a choice and an opportunity, and as we make our choice and seize our opportunity we may choose not only for ourselves but for the British Commonwealth of Nations.

EXHIBIT 2

We undersigned economists, fully sharing the conviction of the Congress that the traditional American policy of maintaining a free and competitive economy should be preserved, urge that legislation facilitating the use of basing-point or freight-equalization systems of pricing, in particular the bill S. 1008 now pending before the Senate, be rejected.

We are convinced that such systems have been employed as a means of effecting the sort of collusive price fixing that is condemned by the Sherman Act. We believe that they have promoted the suppression of competition and resulted in serious economic waste.

It has been said that the proposed bill would clarify the law. We do not believe this to be the case. Some of its supporters contend that it would legalize basing-point pricing; others insist that it would not. These interpretations of the bill's provisions are so inconsistent as to make it certain that its enactment would occasion far more confusion than may now exist. Another decade of litigation would be required to remove the uncertainties that these provisions would create. In the meantime, collusive pricing practices now outlawed by the courts would be reinstituted, and others would go unchecked.

The bill would seriously weaken the antitrust laws and hinder their enforcement. It would impose upon the Government, in the case of industries long habituated to monopolistic systems of delivered pricing, a wellnigh impossible burden of proof. It would permit the issuance of an order terminating an agreement to employing a basing-point system, but it would prevent the issuance of an order enjoining the continued use of the system itself.

The bill would go far toward emasculating the Robinson-Patman Act by restoring the good-faith defense of the old Clayton Act, thus enabling a seller to justify any price discrimination, no matter how destructive of competition, by showing that his discriminatory price was adopted to meet the price of a competitor. This defense would serve to bolster the systematic matching of delivered prices under basing-point systems. But it would not be confined to such cases; it could be offered in justification of every form of price discrimination that is now prohibited by law.

Believing in the superiority of a system of free enterprise and fearing that freedom will be endangered as competition is restrained, we appeal to all Members of the Senate to vote against the bill, S. 1008, or any other bill which could be so interpreted as to legalize the basing-point system of pricing.

Gardner Ackley, University of Michigan; Edward L. Allen, American University; Richard M. Alt, Johns Hopkins University; James W. Angell, Columbia University; George Leland Bach, Carnegie Institute of Technology; Edgar S. Bagley, Kansas State College; Roland W. Bartlett, University of Illinois; Roy Blough, University of Chicago; Walter N. Breckenridge, Colby College; Yale Brozen, Northwestern University; John Buttrick, Northwestern University; William A. Carter, Dartmouth College; C. I. Christenson, Indiana University; Philip H. Coombs, Amherst College; James F. Corbett, New York City School System; John M. Crawford, Carnegie Institute of Technology; Kenneth J. Curran, Princeton University; Charles R. Dean, Rutgers University; Marshall E. Dimock, Bethel, Vt.; John F. Duffy, Jr., Denison University; Durward H. Dyche, Wake Forest College; Howard L. Ellis, University of California; Frank Whitson Fetter, Northwestern University; Milton Friedman, University of Chicago; David L. Gass, Williams College; Betti C. Goldwasser, Washington, D. C., Bernard F. Haley, Stanford University; Milton Hammer, Milton Hammer & Associates; Albert G. Hart, Columbia University; Edward R. Hawkins, Johns Hopkins University; Charles H. Hession, Brooklyn College; Henry H. Hilken, Washington, D. C.; Simeon Hutner, Princeton, N. J.; Martin V. Jones, Chicago, Ill.; Richard A. Kahn, University of Miami; William F. Kennedy, University of California; Robert R. Kibrick, New York Sun; Frank J. Kottke, University of North Carolina; Frank H. Knight, University of Chicago; Ben W. Lewis, Oberlin College; Clarence D. Long, Johns Hopkins University; Arthur F. Lucas, Clark University; Friedrich H. Lutz, Princeton University; Fritz Machlup, Johns Hopkins University; Edward S. Mason, Harvard University; John W. May, Washington and Jefferson College; John W. McBride, Washington, D. C.; S. Sterling McMillan, Western Reserve University; John Perry Miller, Yale University; Cary P. Modlin, Jr., Princeton University; Julius L. Okum, Arlington, Va.; Alfred L. Oxenfeldt, Hofstra College; Shorey Peterson, University of Michigan; Roy A. Prewitt, Washington, D. C.; Lloyd G. Reynolds, Yale University; I. Lyman Singer, S. J. Tilden High School; Caleb A. Smith, Wilmington College; Richard E. Speagle, New York State Banking Department; Joseph J. Spengler, Duke University; George A. Steiner, University of Illinois; George J. Stigler, Columbia University; George W. Stocking, Vanderbilt University; Herbert E. Striner, Syracuse University; Myrick H. Sublette, University of Virginia; Carl F. Taeusch, St. Louis University; Richard B. Tennant, Yale University; Daniel C. Vandermeulen, Claremont Men's College; Myron W. Watkins, New York University; Clair Wilcox, Swarthmore College; Edward R. Willett, Northeastern University; John W. Wright, Washington, D. C.; Floyd A. Bond, Pomona College; Miriam K. Chamberlain, Connecticut College; A. G. Papandreou, University of Minnesota; Floyd L. Vaughan, University of Oklahoma; Jacob Viner, Princeton University.

Mr. WHERRY. Mr. President, Senate bill 719 is a very simple bill, and the issue is clear. In 11 lines the bill provides that a seller may have an absolute right to reduce his price to a customer when he can prove that he does so in good faith to meet the equally low price of a competitor. That is all there is to it. As the publisher of a great encyclopedia, the Senator from Connecticut [Mr. BENTON] sells the encyclopedia anywhere in the United States at the same price. So he is absorbing freight all along the line. He wants freight absorption for himself, but he does not want it for those who are trying to get it written into the law. That is the whole answer.

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

Mr. WHERRY. I will yield after 20 minutes, if the Senator wishes to ask me a question. I love the Senator from Connecticut. He knows that. We have great respect for each other.

I should like to consider the important points in his argument. Let us apply his argument right at home. What is his next point?

The Senator from Connecticut says that the bill would permit price conspiracies. The important thing is conspiracy. He has a perfect right to interpret the language of the bill in any way he cares to interpret it; but those of us who have been living with this problem for 3 or 4 years in the Senate state that the language of the bill has nothing to do with encouraging conspiracy, because the seller must meet a lawful price, not an unlawful price.

Mr. BENTON. Mr. President, will the Senator yield on that point for a question?

Mr. WHERRY. If those who produce encyclopedias arrive at the same price in competition, I ask the Senator from Connecticut, Is that a conspiracy? Is it a conspiracy merely because they happen to have the same price, if they do? There might be an element of conspiracy, but I would not charge my distinguished friend with collusion because his price happened to equal the price of another encyclopedia. However, it is an element which might be taken into consideration if the Department of Justice felt, as the Senator from Illinois [Mr. DOUGLAS] did, that because certain identical prices were arrived at there might be an element of conspiracy.

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

Mr. WHERRY. I say to the distinguished Senator from Connecticut and my other colleagues that Senate bill 719 deals only with people in lawful business, not unlawful business. Therefore, it does not in any way involve the question of increasing or decreasing conspiracy.

The distinguished Senator from Connecticut [Mr. BENTON] dwelt at considerable length on the British economy. He has been to England. He does a great deal of business in Great Britain. That is all right. I am in favor of doing business anywhere in the world, and I want American businessmen to be able to meet the price of anyone else, if it is a lawful price.

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

Mr. WHERRY. Because I think so much of the Senator from Connecticut, I yield to him.

Mr. BENTON. As an able and successful businessman himself, why does the Senator from Nebraska assume that one businessman can see what is in the mind of his competitor by clairvoyance, and know whether the competitor's price is "lawful" or "unlawful"?

Mr. WHERRY. How does the Senator know that his price is lawful compared with that of his competitor in selling encyclopedias? What is in the other man's mind?

Mr. BENTON. How do I know whether his price is lawful?

Mr. WHERRY. If it is not lawful, the Senator has redress in the courts if he can establish his case.

Mr. BENTON. In good faith I must assume that his price is lawful, and thus I may try to meet his price.

Mr. WHERRY. The good-faith clause is already in the act. It is not proposed to change that.

Mr. BENTON. I do not believe that the Senator means what he has just said.

Mr. WHERRY. I hope the Senator from Connecticut does not mean what he says, because he says that his tentative conclusion is what he has described. I hope that is not his final conclusion. In the interest of Connecticut, in the interest of those who process tools, I hope they will be permitted to meet prices all over the United States, so that they can exist, and so that Connecticut tools can be obtained in Nebraska at a cost which is competitive. That is what has made New England great.

Mr. BENTON. Does not the Senator agree that, under present laws, it is perfectly legal today for any manufacturer to absorb freight so long as freight absorption is not a technique to destroy his competitors, and so long as he is not in conspiracy with others in the same line of business to absorb freight?

Mr. WHERRY. I completely agree with the findings of the Supreme Court. My opponent does not. He believes in the interpretation of the Federal Trade Commission. He does not believe in the judgment the Supreme Court has rendered.

In the past 3 or 4 days there has been an awakening. Those on the other side of the aisle are indicting the Supreme Court and saying, "What a terrible Court we have." Most of the members of the Supreme Court have been appointed by the President of the United States. Last week on the floor of the Senate the Senator from Texas [Mr. CONNALLY], in his tidelands speech, said, "What a terrible Court we have."

If Senators have no faith in the Supreme Court, if they believe that the Supreme Court is helping conspirators—and I shall prove that that is what they believe, by the statements which have been made—it is an amazing thing. It is surprising to hear a man like the Senator from Connecticut indict the personnel of the Supreme Court. It would seem that he places the members of the Supreme Court in the same category with conspirators.

Mr. BENTON. I thank the minority leader for wrapping himself in the mantle of the Supreme Court, because on many previous occasions I have failed to hear similar approbation from the other side of the aisle.

Mr. WHERRY. I did not wrap myself up. I am not wrapping anyone up.

Mr. President, I yielded to my friend because I wanted to accommodate him.

Mr. BENTON. I am appreciative.

Mr. WHERRY. He has a perfect right to continue to sell his encyclopedias anywhere in the world, and to absorb the freight, so long as he does not conspire with someone else, to arrive at identical prices. That is all I want him to let me do. If I sell sugar beets, I want to be able to absorb freight on their shipment anywhere, to meet a competitive price. I want to sell my mules that way. I want to buy my steel under those conditions. Under the interpretation of the Federal Trade Commission it may not be possible for me to do that today.

Mr. BENTON. May I suggest——

Mr. WHERRY. I think anyone can understand that.

The PRESIDING OFFICER. Let the Chair settle a question. Does the Senator from Nebraska yield further to the Senator from Connecticut?

Mr. BENTON. Mr. President, will the Senator yield for one more question?

Mr. WHERRY. Yes; if it is just one more, I am glad to yield.

Mr. BENTON. Is there any doubt in the Senator's mind that under the present law, without the passage of the proposed law we are discussing, he has the right to absorb freight on his sugar beets and to sell them anywhere he wants to sell them, absorbing any costs he wishes to absorb?

Mr. WHERRY. Under the Supreme Court decision I say that we have that right. Therefore, we want to write it into the statutes, because the Federal Trade Commission disagrees with the opinion of the Supreme Court. Unless that right is written into the statute, there will be doubt as to whether freight can be absorbed.

Those on the other side are the ones who are raising the issue, not those of us on this side. Inasmuch as the Supreme Court has made that determination, why does the Senator object to writing it into statute? Why not go along with the Supreme Court on its interpretation?

Mr. BENTON. Commissioner Spingarn's testimony, if I understood it as I believe I did, was at variance with what the Senator now suggests is the view of the Federal Trade Commission.

Mr. WHERRY. Mr. President, if it were not for the contradictory opinion of the Federal Trade Commission there would be no fight on the pending legislation. That is where the opposition comes from. That is the reason why we want to write into the statutes the determination of the Supreme Court, so that there may be no doubt about it. If the Senator can accomplish the purpose in any different language, I shall be satisfied. Judging from what I heard the Senator from Connecticut say yesterday, I think he believes as I do, but

he feels that the language does not accomplish the purpose of the bill. If there is any language that can be perfected which will carry out the determination of the Supreme Court in letting a seller sell his goods wherever he desires, anywhere in the country, or anywhere in the world if necessary, so that he may meet competition on a lawful basis, that is all I am trying to accomplish. I think the language of the bill accomplishes that purpose, but if there is some dispute about the phraseology or wording, that is another thing. I think the Senator agrees with what we are trying to do; but I say that, under the rulings of the Federal Trade Commission, American businessmen cannot operate as the Senator has suggested, without fear of action being taken against them.

Mr. BENTON. Mr. President, may I suggest to the distinguished minority leader that there seems to be a basic lack of understanding between us? I have accepted the testimony of Commissioner Spingarn of the Federal Trade Commission that it is legal for any seller today to conduct his operations as the Senator from Nebraska is advocating. His testimony was testimony to which I personally listened. He said it is wholly legal to pursue the practice advocated by the minority leader unless it is done in conspiring with other competitors to create a monopoly, or unless he cuts his price for the purpose of eliminating competition.

Mr. WHERRY. The junior Senator from Nebraska believes that under the Supreme Court decision in the Standard Oil case it is legal now to meet the lower price of a competitor, provided it is a legal price, and not used for the destruction of competition.

Mr. BENTON. That was true even prior to the decision of the Supreme Court, was it not?

Mr. WHERRY. The Federal Trade Commission says, "Yes, they can do it—provided." Their interpretation brings confusion into many segments of industry as to whether they can or cannot, meet a perfectly legal price inside or outside their normal shipping territory. This confusion could be removed by writing into the law what the Supreme Court has said in its decision. Does the Senator from Connecticut believe in the decision of the 4 members of the Supreme Court? Does he believe in that decision?

Mr. BENTON. May I clarify my statement further——

Mr. WHERRY. Will the Senator answer my question? Does he believe that the Supreme Court rendered a correct decision?

Mr. BENTON. In the Standard Oil case?

Mr. WHERRY. Yes.

Mr. BENTON. Unequivocally "No." I do not agree with the decision at all.

Mr. WHERRY. Then the Senator from Connecticut has answered his own question. If the Senator does not believe in the decision of the Supreme Court, he is following the interpretation of the Federal Trade Commission. The Federal Trade Commission has caused all the confusion, because in many instances they have told segments of industry that they are illegally doing what we believe is a perfectly legal method of doing business.

Mr. BENTON. May I ask the distinguished Senator from Nebraska whether he believes in all decisions of the Supreme Court?

Mr. WHERRY. In this case I believe in the decision of the four members of the Supreme Court.

Mr. BENTON. Which now becomes the law of the land?

Mr. WHERRY. Yes.

Mr. BENTON. Then why does the Senator from Nebraska advocate the passage of the bill? There must be some uncertainty about the decision in the mind of the minority leader or he would not be so determined to embody the decision in the statutory law.

Mr. WHERRY. Let me say to my distinguished friend that that is exactly correct. The law is on the books. I hope it will be observed to the very last dotting of an "i" and the crossing of a "t." Because the Federal Trade Commission is in conflict with the decision of the Supreme Court, and, as everyone knows, is casting doubt on the Court's decision. We want to write a piece of legislation which will confirm the decision of the Supreme Court and will conform with it. If that is done, a businessman will be able to ship anywhere in the United States and meet the price of a competitor if he chooses to do so, provided it is a lawful price. Only by such provision may we be sure that competition will thrive.

To take the position of the Federal Trade Commission is to destroy competition. It is not following the American system to do so. It is the quickest way I know of to drive Americans down the road of socialism, which the Senator from Connecticut was talking about a few minutes lago.

Mr. KEFAUVER rose.

Mr. WHERRY. I have been very generous with the oposition, Have I not? I should like to complete my speech. I believe that my arguments will answer all questions of the opponents of the bill. At the conclusion of my remarks I shall be very glad to yield for questions. I have only 20 minutes.

The seller, whose conduct is questioned, has the affirmative obligation of proving that his action was taken in good faith to meet the price of a competitor. That is his responsibility under the proposed legislation. He must prove it.

Those of us who believe in competition and the free enterprise system have no choice but to support the bill. On the other hand, those who would limit competition, or do not believe in competition and the free enterprise system, must vote against the bill.

All the bill does is conform the statutory law to what the Supreme Court has recently said in *Standard Oil Co.* v. *Federal Trade Commission* (3240 U. S. 231). That is all it does, and I see no objection to it.

Under our constitutional form of Government it is the exclusive province of the Supreme Court to construe legislation passed by the Congress. No one doubts that. The Supreme Court has construed the present statutory law as promoting competition, and rejected the Federal Trade Commission's interpretation, because the court found that the Commission's interpretation weakened competition. If the Senator from Connecticut will listen to me, as I listened to him, he will realize that what I have said is in the decision, and that the Commission's interpretation weakens competition.

Mr. President, I was not trying to reprimand the Senator from Connecticut for not listening to me. I have a great deal of respect for him. I was drawing to his attention the main point I had in mind. As I was answering his argument he was conferring with the distinguished junior Senator from Louisiana [Mr. LONG]. The Senator from Louisiana is making a good fight in his attempt to defeat this bill. I respect his differences of opinion.

Mr. LONG. The feeling is mutual.

Mr. WHERRY. There is so much good feeling here I do not see why we cannot get together. I hope that the preliminary conclusion of the Senator from Connecticut will not be his permanent and final conclusion, when he votes on the bill.

In reaching its decision, four members of the Supreme Court in a 4 to 3 vote, rejected the interpretation given to the existing statute by the Federal Trade Commission. The same argument which the Commission made to the Supreme Court and which the Supreme Court rejected is now presented to the Senate by the opponents of the pending legislation, the Senator from Louisiana [Mr. LONG], the Senator from Tennessee [Mr. KEFAUVER], and the Senator from Connecticut [Mr. BENTON], all of them able men. They ask that we amend the present law to override the Supreme Court.

As I said yesterday on the floor, the opponents of the proposed legislation have a perfect right to try to amend the bill. That is what would be done if the Kefauver amendment were adopted.

In reaching the decision that the Robinson-Patman Act, in its present form, grants a seller the absolute right to reduce his price in good faith to meet the equally low price of a competitor, the majority of the Supreme Court said:

> The heart of our national economic policy has long been faith in the value of competition.

We can all agree with that statement.

In construing the existing Robinson-Patman Act, the Supreme Court made a statement to which I desire to invite attention. I wish the Senator from Connecticut would give me his attention.

The Supreme Court said:

> Congress did not seek by the Robinson-Patman Act to abolish competition or so radically to curtail it that a seller would have no right of self-defense against a price raid by a competitor.

Believe me, if a competitor was offering an encyclopedia at a price lower than the price of the encyclopedias sold by the Senator from Connecticut, he would not waste any time trying to meet the competitor's price.

Mr. BENTON. Mr. President, I do not even know the price at which my competitors are selling their encyclopedias.

Mr. WHERRY. But the boys on the firing line know it. If competitors were meeting the price, they would be calling the Senator from Connecticut day and night, saying, "Mr. BENTON, you must reduce the price of our encyclopedia; we must meet the competition, or we will not be able to make any sales."

Mr. BENTON. Mr. President, I should like to inform the Senator from Nebraska that I charge at least twice as much as is charged for any other encyclopedia in the world because my encyclopedia is worth at least three or four times as much.

Mr. WHERRY. Perhaps the Senator from Connecticut should reimburse me a little for the free publicity I have given his encyclopedia. If ever there was a salesman, I do not know where we could find a better one than in the person of the Senator from Connecticut. He could more nearly succeed in selling a 50-cent piece for $1 than anyone else I know, and I say that as a compliment.

Mr. BENTON. I believe the Senator from Nebraska would be even more successful in that connection.

Mr. WHERRY. Mr. President, Congress does not want to deprive a businessman who wishes to meet a competitor's price from having that opportunity. The Senator from Connecticut himself does not want Congress to say that a businessman who wishes to meet a competitor's price should not have that opportunity; of course the Senator from Connecticut does not want Congress to say that.

Furthermore, the Supreme Court went on to say, in passing on the Robinson-Patman Act:

> Congress was dealing with competition which it sought to protect and monopoly which it sought to prevent.

That is what I wish to tell the Senator from Connecticut.

Senate bill 719 is clearly within the provisions of the present act and within the construction that the Supreme Court said will increase competition and prevent monopoly.

The opposition to the pending measure is based upon the premise that the law should not permit a seller to meet his competitor's equally low price. This is tantamount to disputing that the heart of our national economic policy is faith in the value of competition. I believe that faith in the value of competition is the heart of our national economic policy.

Why should not the sugar-beet producer of the West be permitted to sell his sugar in Chicago or in New York at a price which is competitive and which meets an equally low price of the cheap water transportation of sugar from New Orleans to Chicago or from Cuba to New York? Such an arrangement is good for the consumer, because on such a basis the price is lower.

Mr. BENTON. Mr. President, let me suggest that there is no dispute on that score.

Mr. WHERRY. Very well. Then I have won the support of the Senator from Connecticut for Senate bill 719, the pending measure.

Mr. BENTON. Even prior to the decision by the Supreme Court, there was no disagreement about that matter.

Mr. WHERRY. Mr. President, I have stated my views over and over again. If the Federal Trade Commission would agree with the opinion of the Supreme Court of the United States, there would be no need for any debate at all on this question. However, the Senator from Connecticut is backing up the interpretation made by the Federal Trade Commission, under which freight absorption in the United States would be a questionable practice.

Mr. BENTON. Mr. President, will the Senator from Nebraska permit me to read into the RECORD, in connection with this matter, the opinion of Mr. Justice Black?

Mr. WHERRY. No, Mr. President; I do not wish the Senator from Connecticut to do that at this time. He can read that opinion after I conclude my remarks. I do not yield now for that purpose. However, I shall be glad to have the Senator from Connecticut place the opinion in the RECORD following my remarks.

Mr. BENTON. Mr. President, does the Senator from Nebraska also realize that this bill would——

Mr. WHERRY. Mr. President, I have been very generous in yielding; I have yielded on point after point. Many of the questions of the Senator from Connecticut either are answered by the bill itself or will be answered in the course of my remarks.

The Senator from Connecticut has told us that he wishes to permit freight absorption throughout the United States. If he does, then he is in favor of the enactment of Senate bill 719. That is all there is to it.

Mr. President, why should not the canners of vegetables in Idaho or in Nebraska be permitted to sell their vegetables in Chicago or New York at a price which is equally as low as that charged by producers in the States of Maine or Pennsylvania or Delaware?

To defeat the pending bill is to deny the sugar producer of Nebraska and the vegetable grower of Idaho the right that has been confirmed by the Supreme Court's decision. To defeat this bill is to take the position that the Supreme Court was mistaken when it said that the Congress seeks to protect competition and prevent monopoly. We cannot arrive at any other conclusion.

It is true that the Supreme Court's decision was not unanimous. I admit that. Three justices dissented in regard to the construction to be given the present law; but the amazing thing is that the dissenting justices nevertheless pointed out that the construction they would have given the existing law would weaken competition. Those are the three justices upon whom the Senator from Connecticut relies. I quote what they said:

> Nondiscriminatory pricing tends to weaken competition, in that a seller while otherwise maintaining his prices cannot meet his antagonist's price to get a single order or customer.

What could be plainer or clearer than that opinion of the three dissenting judges, who, even though they disagreed, said they did agree that nondiscriminatory pricing would weaken competition.

Mr. KEFAUVER. Mr. President, I wonder, however, whether the Senator from Nebraska will read the next sentence in the opinion.

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Tennessee?

Mr. WHERRY. No; I do not yield at this time.

In other words, Mr. President, the sugar-beet producer of Nebraska is prohibited from meeting the price of his competitor from New Orleans, as is also the vegetable producer of Idaho from meeting the competition of the vegetable growers in Maine or in Pennsylvania or in the good State of Delaware.

The three dissenting members of the Supreme Court agreed that their construction of the Robinson-Patman Act would weaken competition, but they said that this was what they felt the Congress intended in passing the Robinson-Patman Act. However, I do not think Congress intended any such thing. In other words, Mr. President, the three dissenting Justices would prohibit the producers of sugar and vegetables in Nebraska and Idaho from meeting an equally low price of a competitor.

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

Mr. WHERRY. I am glad to yield.

Mr. BENTON. Does the Senator from Nebraska know of any sugar-beet company or any other small company which has been prosecuted for doing that?

Mr. WHERRY. Now the Senator is asking something entirely different. He attempts to make a point of the fact that there have not been prosecutions of such companies. However, many companies have not been able to sell their products in certain territories and absorb the freight; and the Senator from Connecticut knows that to be so.

Mr. BENTON. Mr. President, let me suggest that I am in complete agreement with the Senator from Nebraska on the subject of freight absorption as applied to beet-sugar companies and other companies.

I should like to ask him whether he is in agreement with me that price cutting, when it is conspiratorial and when producers get together and combine to cut prices or to fix prices or to drive competitors out of business, should be made illegal?

Mr. WHERRY. I do not favor fixing prices. Prices would not be fixed under the provisions of Senate bill 719. The effect of the enactment of the bill would be just the opposite. The bill does not sanction conspiracy. The bill will not permit one encyclopedia company to agree with all other encyclopedia companies to fix the prices of encyclopedias. As a matter of fact, this bill has nothing to do with that subject, because if there is a violation of the law and if the violator comes under the provisions of the Clayton Act, he should be prosecuted,

and I hope he will be, if he violates the law.

Mr. BENTON. Why not adopt the Kefauver amendment, which makes this matter clear?

Mr. WHERRY. Because the Kefauver amendment would completely nullify the purposes sought to be accomplished by the bill. The Kefauver amendment would, if adopted, lessen competition. The Kefauver amendment provides that if I am a seller in Omaha and I have a customer who has been purchasing from a businessman in Detroit, and if there is one in Chicago who can take half the business, it is an injury to the man in Detroit to permit that to be done, and therefore the provisions of Senate bill 719 would not apply.

However, the effect of the Kefauver amendment would be, instead of increasing competition, to lessen competition and completely prevent us from having the benefits which come from said competition. The Supreme Court has already said that if there is free competition, someone is bound to be injured, but he will be injured in the interest of the free-enterprise, competitive system, which makes for progress and for lower prices to consumers.

In reply, the Federal Trade Commission said, "Oh, no." The Federal Trade Commission took the position that the man in Omaha could not buy steel in Chicago, but had to continue to buy steel in Detroit, on the theory that if the Detroit producer of steel were injured, eventually he would be destroyed, and then, sooner or later, there would be monopoly in that field. The result has been that the Detroit producer has continued to furnish steel down through the years; that is exactly what has happened.

Mr. KEFAUVER rose.

Mr. WHERRY. The Kefauver amendment is the Federal Trade Commission amendment. I say that with no disrespect to the Senator from Tennessee; but the Federal Trade Commission presented it, and I know what is in it. The position of the Federal Trade Commission is the one taken by the three dissenting Justices of the Supreme Court. In theory, they admit that there is a lessening of competition but they want to be the ones to say who is injured, and so on. I say that to the Senator from Connecticut, because I know that is of interest to his State. There are a great many producers in the State of Connecticut who have relied upon this interpretation all through the years. If the Kefauver amendment were adopted, it would mean hanging a millstone around their necks.

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

Mr. WHERRY. I should like to continue. I have been very generous in yielding to the Senator.

Mr. KEFAUVER. The Senator has been discussing my amendment.

Mr. WHERRY. I know I have. The Senator from Tennessee is a very gracious person, and I should like to yield, but he is asking me questions which, I may say, are answered fully, time and time again, in my prepared statement. If the Senator will allow me to finish, I think all the answers to his questions will have been given. I yield, however. I want to be generous to the Senator.

Mr. KEFAUVER. The Senator, in his speech, said—and I think I have the exact quotation:

> S. 719 will increase competition and prevent monopoly.

Mr. WHERRY. That is correct.

Mr. KEFAUVER. The amendment which I have offered says that these things for which the Senator from Nebraska contends may be done, "unless the effect of the discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce."

Mr. WHERRY. That is correct. The Supreme Court said it.

Mr. KEFAUVER. Just a moment. If Senate bill 719, which the Senator is supporting in his remarks, is going to increase competition and prevent monopoly, why does the Senator not object to its applying when the effect of it would be to lessen competition and tend to create a monopoly?

Mr. WHERRY. That is a good question. I have the answer to it in my prepared statement, but I will answer the Senator now. I hope the Senator will be able to see this point. Certainly, if competition is lessened, it tends to create monopoly. If one follows to the *n*th degree the interpretations of the Federal Trade Commission, he will see that they would be destructive of competition. The Federal Trade Commission says that it thinks and believes—and members of the Federal Trade Commission have a right to believe it—that when one is injured through a lawful price, a price which is in accordance with the provisions of the law and the determination already made by the Supreme Court, the provisions of S. 719 should not be made effective.

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

Mr. WHERRY. That is why we want to write into law what the Supreme Court has determined, in order that the Federal Trade Commission may not continue to hold a threat over the heads of business throughout the country, charging them with being in violation in meeting a lawful price, through freight absorption.

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

Mr. WHERRY. I yield.

Mr. KEFAUVER. The amendment would not be applicable simply because one man might be injured by competition. There must be a lessening of competition in the trade area.

Mr. WHERRY. That is another interpretation which the Senator is placing upon the amendment. The Senator knows the meaning of the English language, and if he will simply read the United States Supreme Court decision, he will understand that I have stated the Court's opinion. The Senator is talking about systems of competition, and this and that. He is shifting from one foot to the other. The fact is that under free competition someone is going to get hurt. Believe me, I do not sell all the automobiles which are sold in my territory, because I have a smart competitor who takes a part of the business. Is that competitor to be outlawed because he is damaged by not having a right to meet my price? That is exactly what would happen under the amendment which the Senator from Tennessee has offered.

Every man who believes in small business ought to be interested in protecting our free, competitive system; a system which makes of a little businessman "big business." That can always be the result in this country.

Some day, it is possible, if what the Senator from Connecticut advocates should come to pass, that the only concern selling encyclopedias would be the Benton Co. There would then be no competition. There would be a monopoly. We do not want that to happen in this country; nor does the Senator from Connecticut. If he will listen to me, and heed what I say, he will certainly please a great many people in Connecticut who do not want to be hamstrung by the interpretation which the Federal Trade Commission is placing upon the practice of freight absorption.

I see around here quite a few who are connected with the Federal Trade Commission. I do not mean the members of the Commission themselves, but the young men who have been working with them. I have worked with some of them, and I like them. I hope they will feel that in what I am saying I am not moved by any personal antagonism toward them. I am thinking of the free competitive enterprise system, as I see it. Believe me, Mr. President, I am one man in the United States of whom it may be said, "What little he has, he has made through the free competitive enterprise system; he has done it under free competition." That is why I want to fight for that system. It is also what the consumer wants, what the American people want, and what we ought to have.

Returning to my statement, and speaking of the Supreme Court decision, I say that the three dissenting Justices agreed that their construction of the Robinson-Patman Act would weaken competition, but they said they felt that was what Congress intended in passing the Robinson-Patman Act. That is, the three dissenting Justices would prohibit the producers of sugar and vegetables in Nebraska and Iowa from meeting the equally low price of a competitor. The Senator from Connecticut says that he is in favor of exactly that. If he is in favor of it, he is in favor of Senate bill 719.

The view of the Federal Trade Commission is in direct contradiction to the views and the opinion of the Attorney General. It is in direct contradiction to the views of the four Justices of the Supreme Court and others who believe that the present act, as interpreted by the Supreme Court of the United States, will strengthen competition.

Senators now have an opportunity to go on record supporting the Supreme Court in their interpretation that Congress intends to protect competition and not weaken competition.

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

Mr. WHERRY. I yield to the Senator from Kansas.

Mr. CARLSON. The distinguished Senator from Nebraska and other Senators have had an opportunity to hear this debate on previous occasions, but this is the first time I have had the privilege of hearing the arguments. I should like to ask the Senator from Nebraska whether Senate bill 719 would in any way affect the basic requirements of the Robinson-Patman Act.

Mr. WHERRY. Not at all. It would further the objectives of the Robinson-Patman Act. I say that sincerely, and I will tell the Senator why I make the statement. The bill provides that a seller may meet a competitive price which is a lawful price. In certain channels, goods may be sold to someone at an unlawful price. It is then mandatory that the one who meets that price affirmatively prove that he was meeting a lawful price. If he is a conspirator, he is then subject to the provisions of the Clayton Antitrust Act. That would mean that, regardless of the pending bill, he ought to be prosecuted.

Mr. KEFAUVER. Mr. President, if the Senator will yield for a further question, he knows that the bill completely nullifies the Robinson-Patman Act, does he not?

Mr. WHERRY. It does no such thing. That is the answer to that question.

Mr. KEFAUVER. I would regard that as being definite.

Mr. WHERRY. The Senator from Tennessee made a statement in my time; and I say the bill does not do any such thing, because it does not countenance conspiracy. The seller must be dealing with people who are doing a lawful business. If they are doing an unlawful business, they are then subject to all the penal provisions of the Robinson-Patman Act, and this bill would make no change; and I would not want it to do so. I am the last man on earth who wants to create a monopoly or to condone the acts of conspirators. I rendered 8 years of service as a member of the Special Committee on Small Business, and I stand on the work I have done within the past 9 years in the Senate to help small business. With that background, I am sure the interpretation I put upon the bill is the correct one.

The American people demand competition as their safeguard against monopolistic pricing, gouging and attacks upon our high standard of living. There cannot be competition without some people being injured.

Mr. DOUGLAS. Mr. President, will the Senator yield for a question, in our time?

Mr. WHERRY. Mr. President, I have been very generous. I am going to ask, now, that I be permitted to conclude my remarks, which will require about 15 minutes. Following that I shall be glad to yield.

Mr. DOUGLAS. The Senator will note that I said "in our time."

Mr. WHERRY. I care not whose time might be used. Time is very cheap here today. I should like to accommodate my good friend from Illinois, because I always like to have him enter into the debate, but I prefer to proceed with my prepared statement.

As the Supreme Court said in the Standard Oil case, there cannot be competition if we are going to prohibit it whenever the competition injures someone.

Today of all times, when prices are going higher and higher each day, the American people look upon competition as the chief means by which they can obtain goods at prices below the mandatory ceiling prices, we cannot afford in any way to impair the right of the people to expect competition from all businessmen.

The right of a seller to engage in good-faith competition has been consistently supported by the Department of Justice. In the Eighty-first Congress the Department of Justice advised the Congress that the present law permitted the good-faith meeting of competition, and the Supreme Court sustained that view. On July 10, 1951, Deputy Attorney General Peyton Ford addressed a letter to Hon. EMANUEL CELLER, chairman of the House Committee on the Judiciary, in the course of which he said:

> It should be noted, however, that the Department has always interpreted subsection 2 (b) as permitting a defendant to defend conclusively against a charge of price discrimination by affirmatively showing that such discrimination was made in good faith to meet the equally low price of a competitor.

The Attorney General himself participated in conferences with Members of the Senate during the last Congress, to approve legislation giving sellers the right to engage in good-faith competition. So strong was the Attorney General's support for a seller's right to engage in good-faith competition that the Attorney General and the Solicitor General refused to represent the Federal Trade Commission before the Supreme Court in the Standard Oil case. That indicates how strongly they felt about it.

The President's Council of Economic Advisers has also supported this right of sellers to engage in good-faith competition.

As to the pending bill, the Department of Justice has written that it has no objection to the bill, although it feels that in view of the Standard Oil case, legislation is unnecessary. But those of us who sponsor the bill feel that it is necessary to enact legislation so that the Federal Trade Commission will interpret the act in the light of the decision of the Supreme Court, and in accordance with the interpretation of the Attorney General. We believe the seller has a right to meet a lower competitive price, if he does so in good faith.

There is a further reason why the bill should be enacted, namely, that the Federal Trade Commission is unwilling to follow the interpretation of the Supreme Court, and of the Attorney General, and is asking Congress to reverse the decision of the Supreme Court and the interpretation of the Attorney General by adopting the Kefauver amendment.

The Department of Justice added that it had always considered that the present law permitted a seller to conclusively defend against a charge of price discrimination by showing that he met his competitor's price in good faith.

Testifying before the House Judiciary Committee, a member of the Council of Economic Advisers, who, I am proud to say, was formerly Dean of the School of Economics at the University of Nebraska, John Clark, said:

> All competitive effort is burdensome and harmful to those who cannot keep pace, but if we said it must stop short before it hurts anyone, we would completely abandon the policy of competition.

And he warned the Congress that—

> Some of us believe that in the particular rulings involved in Senate bill 1008 relating to freight absorption and other matters, the law and the Commission stepped over the line between unfair methods and those which are the essence of vigorous competition.

The Congress has unequivocally expressed its approval of the good-faith meeting of a competitor's equally low price by the substantial votes with which both houses of Congress passed Senate bill 1008 last year.

A Senator stood on the floor of the Senate yesterday and referred to the "courageous" President who vetoed the bill. Even the President approved the purposes of Senate bill 1008. This is what he said in his veto message, in part:

> When further amendments of the antitrust laws are needed to meet new problems, they should be enacted in a form which clearly preserves the basic purpose of these laws—the protection of fair competition and the prevention of monopoly.
>
> The sponsors of this bill intended to do exactly that. They were impressed by court decisions in recent years, which were said by some to mean that businessmen could not absorb freight costs or quote "delivered prices" in distant markets, in order to meet the prices offered by competitors. They drafted this bill in an effort to clarify that situation.

The President there unequivocally said that the purposes intended by the sponsors of S. 1008 were the protection of competition and the prevention of monopoly. One of the purposes intended by S. 1008 was to insure to sellers the absolute right to reduce their prices in good faith to meet the equally low price of a competitor.

The pending bill does not go so far as S. 1008. It includes only that portion of the subject covered by S. 1008 in the last Congress which has since been expressly approved by the Supreme Court. In this bill we go only as far as the Supreme Court decision goes. The bill uses no language that has not already been construed by the Court. It would conform the statutory law to what was given approval by a majority of the Supreme Court in the recent decision. Thus, the only objections raised by the President to S. 1008 have been fully met.

The record shows that the right of the seller to meet the equally low price of a competitor in good faith has the full support of the Congress of the United States, the majority of the Supreme Court, the Department of Justice, and the Council of Economic Advisers.

The Kefauver amendment—which is generally known as the FTC amendment—would make the good-faith

meeting of a competitor's lower price a full defense "unless the effect of the discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce."

The amendment completely reverses the decision of the Supreme Court in the Standard Oil case. The statutory defense would not be available under this amendment whenever the Commission found that there might be a substantial lessening of competition.

In the Standard Oil case the Supreme Court held that any price difference may injure competition. The Supreme Court expressly said that such a limitation upon the right to compete makes the statute practically meaningless.

If the right to meet competition in good faith is not available when the Federal Trade Commission can find that there might be an injury to competition, the Supreme Court having already held that price reduction may always injure competition, then the adoption of this amendment would not only make the bill meaningless, but it would eliminate section 2 (b) from the present statute, and squarely reverse the Supreme Court decision.

The present section 2 (b) of the Robinson-Patman Act permits a seller's equally low price in good faith.

The bill without the Kefauver amendment would make good faith an absolute defense. However, the Kefauver amendment would provide that it would not be a defense when there might be a substantial lessening of competition through an injury in competition. This is clearly shown by the following quotation from the very language of the Supreme Court's opinion:

> It must have been obvious to Congress that any price reduction to any dealer may always affect competition at that dealer's level as well as at the dealer's resale level, whether or not the reduction to the dealer is discriminatory. * * *
>
> The proviso in section 2 (b), as interpreted by the Commission, would not be available when there was or might be an injury to competition at a resale level. So interpreted, the proviso would have such little, if any, applicability as to be practically meaningless. We may, therefore, conclude that Congress meant to permit the natural consequences to follow the seller's action in meeting in good faith a lawful and equally low price of its competitor.

The Court proceeded to state further:

> In the absence of more explicit requirements and more specific standards of comparison than we have here, it is difficult to see how an injury to competition at a level below that of the seller can thus be balanced fairly against a justification for meeting the competition at the seller's level. We hesitate to accept section 2 (b) as establishing such a dubious defense.

The other part of the amendment relates to monopoly. I am as much opposed to monopoly as anyone is.

Section 2 of the Sherman Act now makes it a criminal offense to have a monopoly or attempt to get a monopoly. The Kefauver amendment, however, deprives the seller of the statutory defense whenever the commission can make a finding that there might, that is, that possibly there could be, even a tendency toward a monopoly.

Whenever several sellers are in competition with each other there is always the possibility that one of them will put the others out of business. There is no doubt about that. If such a condition resulted, of course there would be a monopoly, and the Sherman Act would put an end to it.

But if it is going to be said that no businessman can do anything that might possibly end by resulting in a monopoly, then it must be said that he cannot do anything that might ever hurt his competitors, thus prohibiting competition.

It is too much power to give the Federal Trade Commission to say that they can prohibit honest, bona fide, vigorous competition merely because they find that it might be successful and might possibly tend in the direction of a monopoly.

Mr. President, throughout the debate on the bill there has been a tendency to make it appear that the issue is very complex. The principle upon which the bill has been drafted is I think simple; it is completely in harmony with every aspect of free competitive enterprise, which, we all know, is the foundation of America's strength and progress.

The bill simply provides for free competitive enterprise on a national scale. It removes barriers against manufacturers, producers, fabricators, and growers in every community in the country. It makes all America their free market, their opportunity for the sale of their products.

No one will question the right or normalcy of competition by a manufacturer, producer, or fabricator in, say Shreveport, La., with a manufacturer, producer, or fabricator in New Orleans, or the attempt of a manufacturer, producer, or fabricator in New Orleans to sell his product in Shreveport. No one questions that.

When the manufacturer, producer, or fabricator in Shreveport enters the New Orleans market he must meet the prevailing price, if he is to compete; and when the manufacturer, producer, or fabricator in New Orleans goes after business in Shreveport, he must meet the prevailing price to compete in the Shreveport market.

So it is, on a national scale, under the pending bill. Unless this bill shall be passed, manufacturers, producers, fabricators, farmers, miners, growers, businessmen, and all sections of business all over the United States, will be restricted in their markets. Such a condition cannot be defended. It is in conflict with our country's basic principle of free competitive enterprise, which is not local or section, but is a Nation-wide birthright.

Obviously, there must be, and there are in the bill, safeguards to assure that the competition shall be fair, and to the end that the consumers, all the people, shall have free opportunity to buy the best product at a fair price.

The manufacturers, fabricators, farmers, and all industries of New England, up in the northeast corner of the United States, must have opportunity to bring their commodities into the markets all over the country. New England cannot live without this opportunity.

The businesses of the west coast should have opportunity to reach to the east coast, and to the north and to the south, of a country which belongs to all our people.

As for the South, its goal of greater and greater industrialization will be but a shadowy dream unless the manufacturers, fabricators, miners, and farmers of that section can compete freely in the markets of the heavily populated North.

Let us see that every businessman in every section of the country shall have equal opportunity to compete in every market of the country. This is the very essence of a free economy. We thereby stimulate constant improvement in quality and service, and give the consumers the benefit of fair and vigorous competition.

Mr. President, this is the A B C of the pending bill. It is a good bill, in the interest of a stronger America in free competitive enterprise. It is very important that the bill be passed by the Senate and the House.

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

Mr. WHERRY. I am glad to yield to the Senator from Connecticut, but before I do so I wish to address a question to the Presiding Officer.

Mr. President, how much time have the proponents used? I have made definite commitments as to time to be yielded to other Senators who wish to speak on behalf of the proponents, during the 2 hours.

The PRESIDING OFFICER. The Chair advises the Senator from Nebraska that the proponents have remaining 56 minutes, and the opponents have remaining 61 minutes.

Mr. WHERRY. Mr. President, as I stated, I have made certain commitments with reference to time. I yielded considerable of my time to the Senator from Connecticut for the purpose of asking questions. I had intended to use only 20 minutes of the time of the proponents. I have made definite commitments to the Senator from Wyoming [Mr. HUNT], the Senator from Utah [Mr. BENNETT], and the Senator from Indiana [Mr. CAPEHART], of 10 minutes each, and 40 minutes to the Senator from Nevada [Mr. MCCARRAN], who is in charge of the bill, which means a total of 70 minutes, whereas the proponents have only 56 minutes left. Much as I should like to yield to the Senator from Connecticut. I feel I must protect the Senators to whom I have made commitments. If the Senator wishes to speak in the time of the opponents, very well.

Mr. DOUGLAS. Mr. President, I yield the Senator from Connecticut 4 minutes.

Mr. BENTON. Mr. President, I do understand the predicament in which the minority leader finds himself. I am not unsympathetic with his desire to protect Republican Senators who wish to be heard on the bill.

However, may I ask the Senator from Nebraska, in view of his many references to the recent Supreme Court decision, which, as he says, the bill we are debating today validates by actual act of Congress—may I ask him if he agrees that today's bill also repeals or rescinds the

Supreme Court decision in the Cement case, an equally or indeed a far more important decision?

Mr. WHERRY. The Cement case, as I recall, was based on a charge of conspiracy in respect to prices. I believe the distinguished Senator from Illinois [Mr. DOUGLAS] pointed out yesterday on the floor of the Senate that a certain number of bids were made, and because all the bids were the same, it was charged there was collusion. The decision in the Cement case, as I understand, involved that point. That is outside the present discussion entirely. I agree with the Senator that if there was collusion in the Cement case, it was in violation of the Sherman antitrust law, and certainly if that was proved, the decision was a correct one. That does not have anything to do with the principle we are now discussing, because it is not the purpose of S. 719 to tolerate an unlawful or an illegal price.

Mr. BENTON. Mr. President, the Senator from Illinois wishes to make a comment, and then I wish to make my own comment on what the Senator from Nebraska has just said.

Mr. DOUGLAS. Is it not true that in the Cement case the Court directly stated, as is found on page 3 of the decision, that the case originated under the Federal Trade Commission Act and under the Clayton Act, not under the Sherman Act, and is it not true that therefore the Senator from Nebraska inadvertently was in error on that point?

Mr. WHERRY. One moment.

Mr. BENTON. Mr. President, the question of the Senator from Illinois was directed to me.

Mr. WHERRY. The Senator asked me a question, and I refuse to yield if I cannot answer the Senator. It is not fair not to permit me to answer.

Mr. DOUGLAS. Mr. President, may I ask who has the floor?

Mr. WHERRY. Mr. President, I have the floor, and am yielding in someone else's time. I am not yielding 1 minute more of my time.

The PRESIDING OFFICER. The Senator from Connecticut [Mr. BENTON] has the floor.

Mr. WHERRY. I have yielded the floor.

Mr. BENTON. Mr. President, a question was addressed to me. I am glad to hear the statement of the Senator from Illinois [Mr. DOUGLAS] because it is my opinion, from the testimony given before the Small Business Subcommittee, that this bill we are debating would destroy the Robinson-Patman Act, which was passed in order to put teeth into the Clayton Act so that it could be enforced in such a way as to eliminate conspiracy and other restraints of trade.

Mr. WHERRY. Mr. President, is that a question which is being addressed to me?

The PRESIDING OFFICER. The time of the Senator from Connecticut has expired.

Mr. DOUGLAS. I yield 2 minutes more to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 2 minutes.

Mr. BENTON. Mr. President, I should like to read Mr. Justice Black's comments on the Cement case, because they have a bearing on the minority leader's speech. Mr. Justice Black said:

> Most of the objections to the order appear to rest on the premise that its terms will bar an individual cement producer from selling cement at delivered price such that its net return from one customer will be less than that from another even if the sale be made in good faith to meet the lower price of a competitor. The Commission disclaims that the order can possibly be so understood. Nor do we so understand it.

Mr. Justice Black says that the intent of the action of the Supreme Court was to abolish conspiracy among a group of producers to control prices.

Similarly, Mr. President, the Federal Trade Commission, in its letter on the Corn Products case, in connection with its order to the 16 manufacturers, stated as follows:

> [Press release, Federal Trade Commission, Saturday, June 10, 1950]
>
> In the last few days some portions of the press and radio have made incorrect references to and misrepresentations of the proposed order to cease and desist in the Federal Trade Commission case relating to the pricing practices of 16 principal manufacturers and sellers of corn products in the United States.
>
> Some statements made in newspapers and over the radio failed make clear that the proposed order would prohibit use of basing-point and zone systems of pricing only when such systems involve concerted action, conspiracy, or unlawful agreements among sellers of corn products.
>
> The proposed order was submitted by counsel on June 6 to a Federal Trade Commission trial examiner for consideration. It was the subject of a press release issued by the Commission on June 7. * * *
>
> Those misstatements and misinterpretations should be corrected. The public and the business community should not be left with the impression that the Federal Trade Commission is acting or has ever acted to prohibit or interfere with delivered pricing or freight absorption when innocently and independently pursued with the result of promoting competition. The commission and the courts have acted to stop those practices only when they have involved collusion, conspiracy, or unjust discriminations with resulting damage to competition and the public interest. The Commission understands the proposed order to cease and desist in the present Corn Products case to be within those bounds.

Here the Federal Trade Commission points out that it is now perfectly legal, and was perfectly legal before the recent Supreme Court decision, for any manufacturer to absorb freight or any other cost, so long as he did not conspire, so long as he did not get together with his competitors to form a monopoly and to reach an agreement which would stifle competition and control prices.

It is the purpose of the amendment of the Senator from Tennessee [Mr. KEFAUVER] to make this point crystal clear in the bill which we are debating today.

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

Mr. BENTON. I yield the floor.

Mr. KEFAUVER. Mr. President, may I inquire how much time is left for each side?

The PRESIDING OFFICER. The proponents of the bill have 56 minutes remaining. The opponents have 50 minutes remaining.

Mr. KEFAUVER. Mr. President, I yield myself 2 minutes.

Following the remarks of the Senator from Connecticut, I think it should also be pointed out that the majority report, in a footnote on the first page, says that the basing-point controversy is not involved in this matter in any degree whatsoever. That is what the proponents say, and that is what the Senator from Maryland [Mr. O'CONOR] said in explaining the bill.

The Senator from Nebraska [Mr. WHERRY] referred to what the minority of the court said in the Standard Oil case, in the opinion of Mr. Justice Reed, which was joined in by the Chief Justice and Mr. Justice Black. His statement was that they said that the Robinson-Patman Act hurt or lessened competition. I think the entire statement of the Court in that connection should be read. It is as follows:

> The public policy of the United States fosters the free-enterprise system of unfettered competition among producers and distributors of goods as the accepted method to put those goods into the hands of all consumers at the least expense. There are, however, statutory exceptions to such unlimited competition. Nondiscriminatory pricing tends to weaken competition in that a seller, while otherwise maintaining his prices, cannot meet his antagonist's price to get a single order or customer. But Congress obviously concluded that the greater advantage would accrue by fostering equal access to supplies by competing merchants or other purchasers in the course of business.

In other words, the Supreme Court said that indiscriminate and unlawful price cuts to put another customer out of business undoubtedly would be competition, but that it was not the kind of competition which had made our American system great. I felt that that language should be read into the RECORD at this point.

Mr. President, I yield 15 minutes to the Senator from Alabama [Mr. SPARKMAN].

The PRESIDING OFFICER. The Senator from Alabama is recognized for 15 minutes.

Mr. SPARKMAN. Mr. President, in this debate on S. 719 it seems to me there is only one major issue before the Senate. The issue simply is, Shall we repeal the Robinson-Patman Act? Shall we strike from the statute books the law which for the last 15 years has prevented the economic murder of small business in America by means of predatory tactics, by means of coercion, by means of unfair price discrimination? Or, shall we retain the law of fair competition; the law which, in effect, says that no firm being big and financially powerful shall not be the sole criterion for success, the law which sets efficiency as the only criterion for survival in the economic struggle for life?

The provisions of S. 719 are simple and apparently harmless. The bill would allow a seller to use good faith in meeting the equally low price of a competitor as an absolute defense in answering a charge of price discrimination. The

seller could thus use good faith to justify any and all types of price discrimination—regardless of any injurious effect which his action might have on competition. Good faith could always be employed as a complete defense.

That this bill would have devastating effects on small business becomes apparent once we begin to inquire what "good faith" means. In this connection, it is significant that not a single witness appearing before the Small Business Committee during the hearings on S. 719 could define "good faith." Most witnesses agreed that the presence or absence of "good faith" would be almost impossible to determine—certainly when we recognize that all business is done for commercial advantage and profit and not in "good faith" or "bad faith."

There is another aspect to "good faith" which deserves attention, namely, the fact that its use as a defense would in effect result in shifting the burden of proof to the enforcement agency. Since there is no way of establishing whether an act of price discrimination was done in good faith or not, the Federal Trade Commission, before establishing a violation, would actually have to prove it was done in bad faith. Such a procedure would result in shifting the burden of proof, as now written in section 2 (b) of the Robinson-Patman Act from the respondent to the Commission. It would thus add to the already insuperable delay attending antitrust enforcement and impede the granting of relief to the victims of price discrimination. The result might well be that, by the time the Commission won its case in court, the victim of discrimination would no longer be around to enjoy the benefits.

One more point in respect to the good-faith defense should be emphasized. Its use as a standard for judging economic behavior would turn the clock back to 1911, when the courts accepted intent rather than effect as a criterion for establishing violations of the Sherman Act. That this criterion proved futile, that it was eventually rejected as inadequate and irrelevant, is indication enough that Congress sought to avoid writing it into statutory law. Yet this is exactly what S. 719 proposes to do. By making good faith an absolute defense, S. 719 would set the antitrust laws back exactly 40 years, something which I am sure the Senate does not want to do.

What else would S. 719 accomplish? S. 719 would be instrumental in bringing back the days prior to the enactment of the Robinson-Patman Act; the days when a handful of large buyers in industry received discriminatory discounts not generally available to the trade as a whole—discounts which were not necessarily based on savings in cost.

These discounts were frequently obtained by predatory tactics and the coercive use of buying power and were not based on the recipient's ability to compete efficiently. The result was that a handful of large buyers were placed in a special advantageous position and were thus able to start the competitive race from a preferred position. The result was that these large buyers—mostly chain outfits—were able to eliminate from the competitive race legitimate, and otherwise qualified, competitors. Had this process been allowed to continue; had we failed to enact the Robinson-Patman Act, the ultimate result would have been monopoly and the disappearance of the small-business man from the American scene.

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

Mr. SPARKMAN. I yield.

Mr. THYE. Some hardware dealers and lumber dealers, who are engaged in the selling of barbed wire and cement, have written to me expressing great concern and fear that unless the question is clarified there may be some discrimination practiced against them. I wonder how the pending bill would affect merchants who are engaged in the selling of cement, barbed wire, and similar merchandise. I ask the question in all friendliness. I should like to support a bill which would safeguard merchants in Minnesota. That is my only concern. Would the pending bill protect them against unfair and discriminatory competition?

Mr. SPARKMAN. Mr. President, I appreciate the question of the able Senator from Minnesota, and I shall discuss the subject briefly in the remainder of my remarks. I hope that what I may say will sufficiently answer the Senator's question.

Mr. THYE. May I ask one further question?

Mr. KEFAUVER. Mr. President, will the Senator from Alabama yield to me on that point?

Mr. SPARKMAN. Yes.

Mr. KEFAUVER. Is not the answer to the question of the Senator from Minnesota [Mr. THYE] that the bill as now written would allow discrimination, without regard to what was done to competition at all, or without regard to what was done by way of creating a monopoly? In that way the merchants would lose any safeguard they now possess. If sellers act independently in absorbing freight, it would be all right. However, under S. 719, unjust discrimination would be allowed without regard to its effects on competition. That is what my amendment would prevent.

Mr. THYE. If I may address another question to the Senator from Tennessee [Mr. KEFAUVER] or to the Senator from Alabama [Mr. SPARKMAN], I understood that the Senator from Alabama made the statement that the basing-point question was not involved in the consideration of the pending bill. As I understood, he stated that the question had been determined by the Supreme Court. Is my understanding correct?

Mr. SPARKMAN. I believe the Senator from Minnesota is referring to a discussion which took place just before I began to speak, in which the Senator from Tennessee [Mr. KEFAUVER], following some remarks made by the Senator from Connecticut [Mr. BENTON], quoted from the majority opinion of the Supreme Court, rather than to what I have said in my remarks.

Mr. THYE. As I understand, the basing-point question is not in issue here. That is my understanding of the remarks I heard made on the floor today, regardless of who made them. I understood the statement to have been made that the question of the basing point was not at issue. Rather, the issue was to put teeth in the act itself, as I understood the remark at the time it was made.

Mr. SPARKMAN. I am sure the Senator correctly understood the Senator from Tennessee [Mr. KEFAUVER]. It was not in my statement.

Mr. THYE. I thank the Senator.

Mr. SPARKMAN. I appreciate the remarks of the Senator from Minnesota.

Mr. President, it has become fashionable in some quarters to argue that the Robinson-Patman Act stands for "soft" competition that it encourages antiquated and wasteful methods of distribution, that it attempts to prevent the process of natural selection and the elimination of inefficient enterprises, that it is incompatible with the Sherman Act.

Nothing, Mr. President, can be further from the truth. The Robinson-Patman Act fully recognizes, I think, that a large buyer is often entitled to discounts and discriminations on account of his great volume of purchases. What the act does try to prevent, however, is the granting of excessive discounts—discounts which cannot be justified on the basis of cost savings.

Moreover, it is specious and misleading to argue that the Robinson-Patman Act and the Sherman Act are incompatible, that one stands for "soft" competition while the other stands for "hard" competition. Both acts are founded on the same philosophy; both are steeped in the same American tradition; both have as their objective the fostering of competition and the prevention of monopoly. They differ only as to methods. While the Sherman Act tries to attack monopoly and break it up after it has already been formed, the Robinson-Patman Act tries to get at monopoly in its incipiency—to nip it in the bud, as it were. While the Sherman Act prescribes a cure, the Robinson-Patman Act tries to prevent the disease in the first place by giving the patient some preventive medicine. In short, all the Robinson-Patman Act does is to set down rules of fair play which all the contestants in the economic struggle must observe. All it does is to set up efficiency, as opposed to favoritism and coercion, as the standard for economic survival. If that is "soft" competition, I say: let us have more of it.

What else, Mr. President, would S. 719 do? It would, in my opinion, usher in an era of geographical price discrimination, such as we witnessed prior to the passage of the Clayton Act—an era which witnessed the demise of small-business people by the droves.

I hardly need describe how geographical price discrimination was used as a device for eliminating the local, independently owned and operated small enterprise. The old Standard Oil Trust made the technique famous. This trust, as Senators will recall, discovered that monopoly can be created by eliminating individual competitors, one at a time, an area at a time. It would conduct a price war in Illinois while subsidizing that price war with profits earned elsewhere

What was the result of such local price cutting? Not only did it eliminate competition, but once competition had disappeared in a section, prices would be raised to monopolistic levels and the profits so obtained then used to eliminate competition elsewhere. The result was obvious. The result was monopoly—not in one area but monopoly throughout the country. The result was the disappearance of independent business in the oil industry and unconscionably high prices to the consumer. The result was that the Supreme Court had to break up the old Standard Oil Trust and that Congress eventually had to pass the Clayton Act to prevent the employment of these discriminatory tactics, with their evil results, in other industries.

And now the question before the Senate is whether we should return to the lawless days of the Standard Oil Trust. That is what S. 719 would have us do. That is what the small-business man of America does not want us to do. That is what I urge the Senate not to do.

Finally, S. 719 would, in my opinion, permit the restoration of the basing-point system. It would thus negate a battle of more than three decades which was finally resolved when the Supreme Court in 1948 outlawed this unjust, unreasonable, and conspiratorial system of price fixing.

Mr. President, some people have contended that we need a law to clear the confusion which has surrounded the problem of freight absorption; that we need a firm declaration of congressional policy to remove uncertainty from the minds of businessmen. That is why presumably S. 1008 was introduced in the last Congress; that is probably the main reason for pushing S. 719 now.

It is my firm conviction, Mr. President, that we need no additional legislation on freight absorption. It is my belief that the Supreme Court's stand and the stand of the Federal Trade Commission are entirely clear; that both the Court and the Commission are agreed that there is nothing unlawful about freight absorption in and of itself. Over and over again, the Commission has stated that freight absorption is unlawful only when the effect thereof is to lessen competition substantially; only when freight absorption is used as part of a price-fixing conspiracy under the basing-point system.

Not a single witness testifying before our committee—either in support of or in opposition to S. 719—knew of a single case in which a small-business man had been prosecuted for absorbing freight. Not a single witness on either side of the controversy was under the impression that freight absorption per se is illegal under present law. Everyone at the hearings was agreed that Justice Black, in the Cement case, stated the law of the land when he said:

> Most of the objections to this [FTC] order appear to rest on the premise that its terms will bar an individual cement producer from selling cement at a delivered price such that its net return from one customer will be less than that from another even if the sale be made in good faith to meet the lower price of a competitor. The Commission disclaims that the order can possibly be so understood. Nor do we so understand it.

The Court has never reversed this decision and the Commission, to the best of my knowledge, has never since the Cement case acted in contravention thereof.

Therefore, I cannot see why—under the pretext of legalizing freight absorption of the nonmonopolistic variety—why we should pass a bill which would write the basing-point system into statutory law lock, stock, and barrel.

Now, Mr. President, I claim some familiarity with the basing-point system and the effect which it has had on the State of Alabama in particular and on the South in general. By giving you illustrations from the iron and steel industry, I think I can demonstrate how any section can be prevented from getting its rightful share of this Nation's industrial capacity by the artificial restraints of the basing-point system.

The situation has been particularly called to my attention by the condition that has prevailed in the Birmingham area. There has been a great deal of activity in that area by a group known as the Committee of One Hundred, headed by Mr. William P. Engel, a distinguished citizen of Birmingham. The committee has undertaken a self-examination as to why Birmingham does not grow more rapidly, and why industries do not come into the Birmingham area. The committee came up with the conclusion that it was largely due to the fact that Birmingham, in one of the finest iron and steel sections of the entire country, the one section where iron and steel can be produced most cheaply could not get the iron and steel necessary for the factories to use if they were to locate there. They went straight to the point. I believe they will accomplish something in getting a better distribution of the iron and steel which is manufactured right in the Birmingham area. I wish I had the time to go into the many details concerning the situation, but I do not have the time.

However, Mr. President, small-business men appeared before the Small Business Committee, which held hearings on the bill at the suggestion of the Senate itself, although not for the purpose of arriving at a conclusion. A copy of the hearings lies on the desk of every Member of the Senate. The hearings were conducted by the very able Senator from Wyoming [Mr. HUNT]. One of the witnesses who appeared before the committee was Dr. John M. Blair, assistant chief economist, Federal Trade Commission. He gave a very fine and interesting discussion of this particular point. He took up three areas: Birmingham, St. Louis, and Pueblo, Colo.

Mr. President, I ask unanimous consent that there may be inserted in the RECORD at this point in my remarks the statement made by Dr. Blair, commencing on page 3 of the mimeographed sheets which I shall hand to the official reporter.

Dr. Blair's testimony gives the essence of the situation which I have described previously, as it relates to Birmingham. It applies in just about the same way to other areas. I commend its most careful reading by the Members of the Senate. I believe they will find it most interesting and informative on this subject.

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

BIRMINGHAM, ALA.

Turning first to the effect of the basing point system on the South, as illustrated by the experience of the Birmingham mills, it should be made clear at the outset that any failure on the part of these mills to expand and prosper cannot be attributed to inefficiency or high costs. Rather, the Birmingham mills appear to be the lowest-cost mills in the country. In a recent article, Dr. Stocking has stated that "the Birmingham region had the lowest assembly cost for producing iron and steel of any region in the United States." He went on to say:

"No other region in the United States is so favorably situated with regard to the essential raw materials. Here deposits of iron ore, coal for coking, and lime for fluxing are found close together. Frequently the lime and ore are intermixed and hence the ore is self-fluxing. The ore is not so high in iron content as that of the Mesabi Range—35 percent as compared with 50 percent—and it is high in phosphorous content. But technology solved the phosphorous problem and the low ore content is more than compensated for by low assembly costs." [1]

On the basis of their demonstrated efficiency, it would logically follow, by all the laws of economics, that the Birmingham mills should have secured a reasonably large share of at least their own home market—the South. Here, they would have the advantage not only of their greater productive efficiency but also of lower freight costs. It is on this question of the share of the southern market which the Birmingham mills actually did obtain that the data collected by the Temporary National Economic Committee sheds light.

It has long been believed that under the basing-point system, southern buyers have

[1] Basing Point Pricing and the South, Institute on Antitrust Laws and Price Regulations, Southwestern Legal Foundation, 1950.

As further evidence of the efficiency of the Birmingham mills, Dr. Stocking says:

"In 1934, when it cost from $6.324 to $7.417 to assemble the essential raw materials for producing a ton of pig iron at Buffalo, Cleveland, Pittsburgh, Detroit, Chicago, Wheeling, Youngstown, and St. Louis, it cost only $2.888 to assemble the essential raw materials in the Birmingham district. Birmingham enjoyed a similar advantage 5 years later. In 1939 when it cost from $4.86 to $9.93 a ton to assemble the raw materials to make a ton of pig iron at various mills in the North and East, it cost only $2.69 at Birmingham.

"Birmingham's advantage in assembling materials for making a ton of pig iron carried forward to the making of steel. The cost of assembling the materials to make a ton of steel ranged from $7.36 to $13.86 a ton at northern and eastern mills. It was only $4 at Birmingham." (Ibid.). The Board of Investigation and Research, established by act of Congress in 1940, compared the cost of producing a ton of pig iron in 1939 in the six principal producing States. Again the Alabama mills were shown to have the lowest costs. The sum of wages, costs of materials and supplies, and fuel and power costs per ton of pig iron, amounted to $10.39 in Alabama, as compared to an average figure of $13.44 for the six States combined, and to $15.23 for Pennsylvania, $14.47 for Ohio, and $14.56 for Illinois. (Board of Investigation and Research Economics of Iron and Steel Transportation (S. Doc. No. 80, 79th Cong., 1st sess., p. 127).

purchased a large proportion of their steel requirements from distant northern mills. That belief stemmed from the fact that under the basing-point system there is absolutely no incentive whatever for a buyer to purchase from one mill as against another. The delivered price to any particular buyer is exactly the same from all mills. The delivered price to the buyer at Birmingham is the same whether he buys from the Birmingham mills, the Pittsburgh mills, the Chicago mills, or any other mills. Under the basing-point system, the selection of one mill over another is a matter of indifference to the buyer.

During the month of February 1939—the period covered by the TNEC survey—the nine Alabama counties immediately surrounding Birmingham obtained no less than 37.4 percent of their structural shapes from distant sources, most of which (27.9 percent) came from Chicago. The same situation holds true with respect to the Southern States, generally, with their purchases of structural shapes from northern mills, as a percent of their total purchases, ranging from 33.5 percent in the case of Georgia to 82.1 percent in the case of Texas.

Not only did the southern buyers under this system lose the advantage of the greater efficiency of the Birmingham mills; they also lost the advantage of lower transportation costs from Birmingham to their location, which in a heavy product such as steel, is an important factor. Under the basing-point system, freight is concealed in the delivered price. The amount of the freight contained in the delivered prices varies with the location of the supplier. The supplier located at a governing basing point, that is, the basing point nearest the buyer, absorbs no freight. The supplier located at or near some other basing point absorbs freight from his location to the governing basing point. Obviously, the greater is the distance between his location and the governing basing point, the greater is the amount of freight which he absorbs. Thus although the delivered price to a given buyer is the same from all mills, the amount of freight contained in the delivered price varies greatly as among the supplying mills. The more distant is the supplier from the governing basing point, the greater is the amount of freight contained in the delivered price.

If the basing-point system had been eliminated, the buyers of structural shapes in the nine Alabama counties surrounding Birmingham would have incurred freight charges of only 94 cents a ton by buying from the Birmingham mills, as compared to around $15 a ton by buying from the northern mills. By purchasing from Birmingham, Mississippi buyers would have saved about $11 a ton; Georgia buyers would have saved about $7 a ton; Tennessee buyers about $3 to $5 a ton; and so on.

To most buyers in the metal-fabricating industries a saving of $5 a ton in steel costs is, of course, a substantial gain, representing in 1939 about 10 percent of the average price of steel. Had the southern metal-working plants been able to obtain the advantages of the lower transportation costs to which their natural location entitled them, the savings which they would have made in their purchases of steel would have enabled them to expand their markets. And with the expansion of their markets would have come lower production costs and thus the opportunity for an even greater market expansion.

The experience of the Birmingham mills with reference to structural shapes was by no means unique. In the case of steel plates, for example, Georgia obtained 29 percent of its requirements from Pennsylvania. Yet the average freight charges on shipments from Birmingham were only $4.75 a ton as compared to average freight charges ranging from $10 to $12.80 a ton on shipments from the Pennsylvania mills.

In the case of plain drawn wire, although the Birmingham mills had a sharp freight advantage in Tennessee, they supplied only 26 percent of Tennessee's requirements. The freight costs for shipping this product from Birmingham to Tennessee were only $4.21 a ton, as compared to charges ranging from $9.40 to $11.73 a ton for shipments from the northern mills.

Birmingham supplied none of the Texas market for plain drawn wire, although under the basing-point system most Texas shipments were priced on a Birmingham base, that is Birmingham was the nearest basing point (freightwise) to Texas. Neither did South Carolina buy any of this product from Birmingham, although it also was nearer freightwise to Birmingham than to the northern mills that supplied it.

In the case of hot-rolled strip, the nine counties surrounding Birmingham secured no less than 81 percent of their shipments from the distant northern steel center of Youngstown, Ohio. Shipments from Youngstown accounted for 31 percent of the total shipments of this product into Georgia and 66 percent of the shipments into Tennessee.

Under the basing-point system the preemption of southern markets by northern mills sets in motion a vicious circle of events, each of which injures the southern producer. In the example of the Birmingham mills, it has been shown that under the basing-point system mills in an outlying area are able to secure only a relatively small share of their own home market. Then because they are unable to sell at home, they must dispose of their output by going abroad into distant consuming areas. And under the basing-point system, when they do this, they must absorb freight, that is, take a lower mill net price. Under the system, the more a mill sells in its own area, the less does it absorb freight and the higher is its mill net price; the more it sells in distant areas (freightwise), the greater is its freight absorption, and thus the lower is its mill net price.

In other words, the experience of the Birmingham mills reveals the following type of pattern: Northern mills dump their steel output into the southern area, thus depriving the southern mills of their natural market. The southern mills, unable to sell their output at home, have to look elsewhere for markets and ship a considerable proportion of their output into remote areas. The shipments into these remote areas involve heavy freight absorption and lower mill net prices on the part of the southern mills, thus further retarding their natural expansion and development.

The case of hot-rolled sheets provides an illustration of this pattern. The demand from southern buyers for this product, as was true of the other steel products, was substantially greater than the productive capacity of the Birmingham mills. The demand from only six Southern States (Alabama, Georgia, Tennessee, Mississippi, Louisiana, and portions of Texas) in which Birmingham has a distinct freight advantage was greater than Birmingham's output. Yet the Birmingham mills were able to dispose of so little of their tonnage to southern buyers that they had to ship hot-rolled sheets into no less than 19 different States, including North Atlantic Coast States and Pacific Coast States. On most of these distant shipments, the Birmingham mills were forced to absorb large amounts of freight.

One other conclusion flows from this analysis. If the delivered price to the southern buyer is the same from Birmingham mills as from distant mills—as is the case under the basing-point system—then it must necessarily follow that the base price was established at a relatively high level. Only if the delivered price in the South were quite high could northern steel mills have afforded to ship into the South, absorbing freight charges ranging from $10 to $20 a ton, and still make a profit.

Shortly after the Cement decision in the spring of 1948, the steel companies and the cement companies went off the basing-point system. Thus we have had a period of about 3 years in which to see how southern industry would make out in the absence of the basing-point system. It so happens that a widely-known publication, Business Week, made a survey of the effect of the elimination of the basing-point system on Birmingham industry. This survey, which is summarized in the September 30, 1950 issue of Business Week, describes the rapid industrial expansion which has recently taken place in Birmingham. It states:

"Since the first of the year (1950) 14 firms have decided to locate factories in Birmingham or its suburbs. They'll add about 3,000 workers and an estimated $200,000 to the city's weekly payroll. And they'll turn out a variety of products, from bedding to heavy machinery.

"Several other companies are working on arrangements for new Birmingham factories * * *

"At least a half-dozen firms already located in Birmingham have been resold on its industrial advantages. They are expanding plants and production."

It is interesting to note that Business Week regards the elimination of the basing-point-system as the principal reason for this rapid industrial expansion. In discussing the causes of this expansion, Business Week says:

"Probably the biggest reason of all is the present Government policy, stemming from recent court decisions, which virtually bans basing-point pricing. Formerly, steel mills absorbed a large part of freight costs to distant markets in order to meet competitive prices. Now steel prices are set f. o. b. the mill. The buyer pays the freight costs."

ST. LOUIS, MO.

Turning now to St. Louis, the form of the basing-point system was slightly different. There the base price was $2 higher than at most other basing points. This meant that in selling to their own local market the St. Louis mills enjoyed a higher price as compared to other mills in selling to their local markets. But it also meant that, because of their higher base price at St. Louis, distant mills could afford to absorb more freight and thus make greater shipments into the St. Louis area than would otherwise have been the case.

Now, how did the St. Louis mills make out? Did they obtain anything approaching a relatively large share of the St. Louis market, which to them was a premium market? Or since the delivered price to the St. Louis buyer was exactly the same from all mills, did they, like the Birmingham mills, lose the greater share of their own natural market to distant northeastern mills?

In February 1939 the mills in the St. Louis area produced seven types of steel products, of which by far the most important was hot rolled sheets. The consumption of this product in the St. Louis district alone, that is, in the counties immediately surrounding St. Louis, was 3,185 tons. Yet of this total only 763 tons, or 23.9 percent, was supplied by the St. Louis mills. By far the most important supplier of the immediate St. Louis market was the Chicago-Gary producing center, which accounted for 1,312 tons, or 41.2 percent, while mills located in Ohio accounted for another 860 tons, or 27 percent.

The natural market of the St. Louis mills extended, of course, beyond the immediately surrounding counties. St. Louis had a freight advantage in many Western States, including Iowa, Missouri, Nebraska, Kansas, Oklahoma, and Colorado. To have supplied these areas the St. Louis mills would have had to have produced more than 6,000 tons.

As against a consumption figure of over 6,000 tons in its own natural market, the actual production of hot-rolled sheets by the St. Louis mills was only 2,647 tons. This presents a striking paradox. To have supplied their own natural area the St. Louis mills would have been forced to triple their own output. Yet at the time the TNEC survey was made they were operating at only 70 percent of capacity.

Since their own market was largely preempted by distant mills, the St. Louis producers then had to seek customers in other parts of the country. Thus in return for the 1,312 tons shipped into St. Louis by the Chicago mills, the St. Louis mills shipped 200 tons to Chicago. On this tonnage it must be presumed that the St. Louis mills not only forfeited their $2 a ton differential but absorbed freight as well. Similarly they shipped significant tonnages into other parts of Illinois and into Indiana, undoubtedly absorbing freight on most of these shipments. They even made shipments into Wisconsin and Minnesota at an even greater sacrifice.

Thus the pattern revealed by the experience of the Birmingham mills is repeated in the case of the St. Louis mills. Under the basing point system, the St. Louis market, though several times larger than St. Louis production, was largely preempted by distant eastern mills. Then, in order to obtain customers, the St. Louis mills themselves had to ship into distant areas, which frequently involved not only forfeiting their $2 differential but absorbing freight as well.

Since the Cement decision in 1948, St. Louis, like Birmingham, has presented a unique opportunity to examine the effect of the elimination of the basing-point system on the outlying mills. It so happens that as in the case of Birmingham, the magazine Business Week has surveyed the recent expansion plans of the largest of the St. Louis mills, the Granite City Steel Co. In its issue of January 20, 1951, Business Week states:

"John N. Marshall, board chairman and president, says Granite City is all set to double its steel capacity, now about 620,000 tons a year."

As to the causes for this expansion, Business Week cites the long-term increase in the demand for steel, the mobilization effort, and also the basing-point decision, stating:

"In one sense, Granite City's decision to get big—or bigger—was easy to make. The Supreme Court's ban on basing-point pricing practically gave them the answer on a platter. The decision handed Granite City the St. Louis area and the Southwest; in that area few of its rivals can turn out steel close enough geographically to compete, now that they were pretty much barred from absorbing freight costs."

* * * * *

"Marshall says expansion would have been inevitable, even without the basing-point decision in a world clamoring for more and more steel. But, admittedly, the decision played a big part."

Although, as I understand it, mills under the Cement decision are not "pretty much barred from absorbing freight costs" but only from absorbing freight systematically and automatically under the basing-point system, the fact remains that the decision does give the St. Louis mills an advantage in their own natural market area which had previously been denied to them.

PUEBLO, COLO.

The third outlying center of steel production which I wish to discuss is the Colorado Fuel & Iron Corp.'s mill at Pueblo, Colo. This mill illustrates still another variation of basing-point pricing—the nonbase mill.

For most products the nearest basing point to Pueblo is Chicago. Under the basing-point system Colorado Fuel and Iron sold its steel at a delivered price which was the sum of (a) the base price at Chicago plus (b) rail freight from Chicago. Thus a buyer located in Pueblo purchasing steel produced in the Pueblo mill paid "phantom freight" for an imaginary shipment from Chicago to Pueblo. On deliveries to eastern points it reduced this phantom freight by the amount of freight it actually paid to move the steel from Pueblo to the point of delivery.

In March 1943 the phantom freight from Chicago to Pueblo, according to the American Iron & Steel Institute's freight tariff No. 4–13, amounted to $19.80 per ton—or about 40 percent of the average price of steel. If the Pueblo mill delivered steel at, say, Colorado Springs, it paid the actual freight from Pueblo to Colorado Springs, which would reduce the phantom freight to $15.40, and so on.

From the point of view of the Colorado Fuel & Iron Co., itself, this form of pricing had one advantage and two disadvantages. The advantage, of course, was the high net price obtained on local sales incorporating phantom freight.

But it would appear that this advantage was more than offset by the disadvantages in that under the system:

(1) Its natural market had to be shared with distant mills; and

(2) Local steel-consuming industries were restricted in their activities by the high price of steel.

The first disadvantage was, of course, common to all mills under the basing-point system. Since the delivered price to any given buyer in Colorado was the same from all mills, there was of course no economic incentive for the Colorado buyer to purchase from the Pueblo mill. Distant mills, it could be assumed, would therefore secure a large share of the Colorado market.

This assumption is borne out by the data secured in the TNEC survey. Aside from rails, the demand for which is highly specialized, Colorado Fuel & Iron's most important product was structural shapes. In February 1939, 578 tons of heavy structural shapes were delivered in the State of Colorado. Of this, approximately half, 286 tons, came from distant mills—117 tons originating in Chicago-Gary, 92 tons in Buffalo, 50 tons in Pittsburgh, and the remainder in northern Ohio and eastern Pennsylvania. In other words, insofar as this product was concerned, there was about an equal division of the Colorado market, between the Colorado mills on the one hand and distant mills on the other.

The second disadvantage of this form of pricing stemmed from the high price of steel which steel-consuming firms located in Colorado Fuel & Iron's natural territory had to pay. The necessity of paying a delivered price for steel, which included up to $20 of phantom freight, obviously tended to limit the activities of the local steel-consuming firms. The restrictive effects of phantom freight on local Colorado industry were described before a subcommittee of the Senate Interstate and Foreign Commerce Committee by Miss Anne M. Olson, secretary-treasurer of the Wire Specialties and Manufacturers Corp., Denver, Colo.:

"Under the old basing-point system with its ghost freight, we had a serious handicap whereby we paid as much as 25 percent more for our raw materials than did our competitors in Chicago because of this ghost freight but we had to sell our finished products at the same price as Chicago.

"If the old basing-point system with its ghost freight is reinstated, we again will be handicapped or we will be forced to move into the large industrial centers where we can buy our raw products now produced in Colorado at the same prices our competitors pay.

"This system made the manufacturer in our territory pay a price for steel equal to his competitors' price in Chicago, plus the freight from Chicago, even though the steel only traveled 118 miles and not approximately 1,000 miles."

* * * * *

"It is almost impossible for a manufacturer in our region—operating under this 'ghost' freight handicap—to compete for his own market much less compete in the territory half way to Chicago. It is utterly impossible for a manufacturer in our region to compete with a Chicago manufacturer and sell in Chicago; while a Chicago manufacturer can compete very nicely in Denver, due again, and only, to the basing-point system with 'ghost' freight" (80th Cong., 2d sess., hearings before a subcommittee of the Committee on Interstate and Foreign Commerce, U. S. Senate, Study of Pricing Methods, p. 786).

Miss Olson went on to say that in the previous year her company had spent approximately $150,000 for raw material, phantom freight to Denver, and freight on its finished products to its customers. She estimated that if the phantom freight had been eliminated her company would have saved approximately $35,000. She further inserted in the record a table comparing the cost to a Chicago and to a Denver manufacturer of buying and shipping 100 pounds of steel, plus phantom freight, plus freight in finished products to seven cities, ranging from Chicago to Salt Lake City. The table, which is shown below, reveals that only in his home town did the Denver manufacturer have the advantage, and there it amounted to only about 1 percent.

Shipments to—	Chicago manufacturers' cost per 100 pounds	Denver manufacturers' cost per 100 pounds
Chicago	$3.83	$6.10
Omaha	4.53	5.75
Kansas City	4.60	5.76
Wichita	4.75	5.68
Amarillo	5.06	5.80
Salt Lake City	5.52	5.82
Denver	4.89	4.84

This stultification of local industry, described by Miss Olson, was particularly injurious to Colorado Fuel & Iron, since its market consists almost entirely of a band of States running from Canada to Mexico, including Montana, the Dakotas, Wyoming, Utah, Colorado, Kansas, Nebraska, Arizona, and New Mexico. Most of this area is thin territory insofar as the industrial use of steel is concerned. And it will continue to be thin territory as long as its steel-using industries have to pay such a high price for steel that they have difficulty in competing in their own area to say nothing of entering distant markets.

In view of these disadvantages—i. e. the necessity of sharing its natural market with distant mills, and the debilitating effects of phantom freight on local steel consumers—it is not surprising to find that during the year of the TNEC survey, Colorado Fuel & Iron's operating rate was quite low, well below the average for the industry. In 1939 the company was producing at the rate of only 42.5 percent of its capacity, as compared to a national operating rate of 64.5 percent. Reflecting its low rate of operations, its profits were extremely small, amounting to only $758,745; its common stock earnings were only 10 cents a share; and it paid no dividends whatever.

Before ending this discussion of the Colorado mill, it should be pointed out that under S. 719 there could be no nonbase mills and therefore, strictly speaking, no phantom freight. But the same results could be achieved if the Colorado mill were to set its base around $20 above the Chicago base price. In fact, the manipulation of base prices could bring about the practical

equivalent of phantom freight in any amount in any part of the country.

Since the basing-point system, as has been shown in the above analysis, so obviously operated against the best interests of the outlying mills, the question arises as to why they did not break away from that system of pricing and sell their products on the basis of some other pricing method.

As to Birmingham, the answer is quite simple. The great bulk of the Birmingham steel facilities are owned by the Tennessee Coal, Iron & Railroad Co., which, in turn, is owned by the U. S. Steel Corp. It is hardly to be expected that Tennessee Coal & Iron would adopt a pricing method different from the system so strongly advocated by its parent corporation.[2]

As to the other outlying mills the answer may lie in the illusionary appeal of phantom freight or a price differential which though it permits existence, prohibits growth. Or, it may lie in the fact that the basing-point system admirably lends itself to disciplinary action against dissident producers, particularly those located in outlying areas. Under the system a punitive basing point can be established at the location of the dissident producer. The base price at this particular location can then be successively reduced until the recalcitrant producer capitulates. The manner in which this method of disciplinary action operates was described by the Supreme Court in the Cement decision as follows:

"During the depression in the 1930's slow business prompted some producers to deviate from the prices fixed by the delivered price system. Meetings were held by other producers; an effective plan was devised to punish the recalcitrants and bring them into line. The plan was simple but successful. Other producers made the recalcitrant's plant an involuntary base point. The base price was driven down with relatively insignificant losses to the producers who imposed the punitive basing point, but with heavy losses to the recalcitrant who had to make all its sales on this basis. In one instance, where a producer had made a low public bid, a punitive base-point price was put on its plant and cement was reduced 10 cents per barrel; further reductions quickly followed until the base price at which this recalcitrant had to sell its cement dropped to 75 cents per barrel, scarcely one-half of its former base price of $1.45. Within 6 weeks after the base price hit 75 cents capitulation occurred and the recalcitrant joined a portland cement association. Cement in that locality then bounced back to $1.15, later to $1.35, and finally to $1.75" (333 U. S. 683, 714).

From this analysis of the effect of the basing-point system on the underdeveloped areas it is apparent that the system sets in motion a vicious circle of events, all of which injure the underdeveloped areas. This vicious circle affects both the mills and the materials-consuming industries. In regard to the farmer there is, of course, no incentive for the buyers in the outlying regions to prefer one mill as against another. Hence the distant northeastern mills are able to capture a relatively large share of the underdeveloped area's market. As a result of this dumping by the distant mills the outlying mills are unable to obtain more than a relatively small share of their own natural market. Hence, they must seek buyers in other parts of the country, usually at the cost of heavy freight absorption, which in turn reduces their mill net price, their profits, and thus their ability to expand.

The system has equally injurious effects on the buyers in the underdeveloped areas. They are in effect denied the benefit of their location near their local producing mills. Instead of paying a mill price plus the small actual freight charges to their destination, they have to pay a delivered price which includes large amounts of freight absorption. It would certainly appear that the delivered price which they pay is a high price—high enough to enable the distant producers to absorb substantial amounts of freight and still presumably make a profit. These effects on the outlying buyers are, of course, heightened when their delivered prices either include phantom freight or are based on a price at their local mills which is higher than the base prices in the established areas.

Mr. SPARKMAN. The basing-point pricing in the iron and steel industry has tended to retard expansion of Southern steel facilities and to prevent existing facilities from being used efficiently. It has done so by setting a price structure that makes it easy for distant mills to share a market that could more economically be served by southern producers.

As Dr. George W. Stocking of Vanderbilt University in Nashville, a nationally recognized expert in the field, has pointed out, the northern mills "invaded southern markets in spite of the fact that the Birmingham region had the lowest assembly cost for producing iron and steel of any region in the United States. No other region in the United States is so favorably situated with regard to the essential raw materials. Here deposits of iron ore, coal for coking, and lime for fluxing are found close together."

In 1934, when it cost from $6.324 to $7.417 to assemble the essential raw materials for producing a ton of pig iron at Buffalo, Pittsburgh, Detroit, Chicago, Wheeling, Youngstown, and St. Louis, it cost only $2.888 to assemble the essential raw materials in the Birmingham district * * *

Birmingham's advantage in assembling materials for making a ton of pig iron carried forward to the making of steel. The cost of assembling the materials to make a ton of steel ranged from $7.36 to $13.86 a ton at northern and eastern mills. It was only $4 at Birmingham. * * *

But not only did the pricing structure retard the use of Birmingham's facilities to produce iron and steel; it blocked or retarded the construction of facilities to produce products which it could have supplied cheaply to important markets. * * *

Although, according to estimates of Ford, Bacon & Davis, the Tennessee Coal & Iron Co. could make and deliver tin plate to North Atlantic coast markets and warehouse it for less than United States Steel's Pittsburgh plants could lay it down; though it was strategically located to supply other markets, not until the Ford, Bacon & Davis analysis and recommendations had Tennessee Coal and Iron Co. made a ton of tin plate. The Steel Corporation had apparently had no adequate incentive to permit it to do so with its northern and eastern production facilities not fully utilized and a pricing structure that insured their selling in any market at identical prices with their rivals."

On the basis of his study and research, Dr. Stocking came to the following conclusion:

Basing-point pricing has clearly held back the production of iron and steel in the South.

I may interpolate to say that what it has done for the South it has done for many other areas of the country. What it has done for the iron and steel industry it has done for many other products.

I agree with that conclusion simply because my own experience has proved it to be correct. I cannot see why anyone would try to bring back a system of pricing which has retarded the development of underdeveloped regions not only in the South, but also in the Middle West and the Mountain States of the far West, and is tending to retard certain industrial developments in the New England States.

Therefore, I cannot see how I could support a measure such as Senate bill 719.

In conclusion, Mr. President, let me summarize, as follows, my objections to this bill:

First. I believe this bill would have the effect of repealing the Robinson-Patman Act, and thus would deprive the small-business man of the already inadequate protection which he now has.

Second. This bill would set up good faith as an absolute defense against a charge of price discrimination, and thus would place an insurmountable burden of proof on the antitrust enforcement agencies.

Third. Finally, the bill would bring back the pernicious basing-point system which has impeded the sorely needed decentralization of industrial capacity in this country.

On the basis of my sincere belief that this bill would work grave injury to the small-business community of America, I am compelled to oppose, and oppose vigorously, the passage of Senate bill 719.

Mr. CAPEHART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CAPEHART. How much time remains?

The PRESIDING OFFICER. The proponents have 56 minutes remaining. The opponents have 37 minutes remaining.

Mr. KEFAUVER. Mr. President——

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee.

Mr. KEFAUVER. Mr. President, I merely wish to say that in my experience of 12 years in the House of Representatives and approximately 2½ years in the Senate, the distinguished Senator who has just addressed the Senate, the gentleman from Alabama [Mr. SPARKMAN], has over the course of the years been one of the three or four most active and diligent protectors and advocates of the rights of small business throughout the Nation. As a Member of the House of Representatives, he interested himself in a great many proposals for the welfare of small business. He has always been diligent and thorough in supporting their best interests.

[2] It is recognized that the inability of the Birmingham mills to obtain a greater share of their natural market might be due not only to the operation of the basing-point system, but also to artificial restrictions which may have been imposed on Tennessee Coal & Iron by U. S. Steel. While these restrictions may have prevented Tennessee Coal & Iron from extending its sales into more distant areas in which it still had a freight advantage, e. g., the Southwest, it is unlikely that the restrictions would have been of such a nature as to explain the failure of Tennessee Coal & Iron to obtain a greater share of its own immediate market, the Southeast.

When the President of the Senate appointed the select committee to study the problems of small business, he certainly made an excellent selection when the chairmanship of that committee was placed in the hands of the Senator from Alabama, who has directed and guided the work of that committee admirably, in connection with the purposes for which it was created.

The position of the distinguished Senator from Alabama, the Chairman of the Select Committee on Small Business, is taken after mature consideration of the problems involved in this bill and of the best means for accomplishing the development of all areas of the Nation on an equitable basis, according to the assets and raw materials which they have. His position and the excellent speech he has made in connection with this bill certainly are most persuasive that the enactment of this bill would be harmful to the interests of small business and to those who would be subjected to cutthroat competition. Passage of this bill would continue the destruction of small businesses which was occurring prior to the enactment of the Robinson-Patman Act. The statement the Senator from Alabama has made is, of course, borne out by the position of the majority of the small-business organizations and small businesses themselves in the United States and the testimony and the letters which have been received in that connection.

Mr. President, if there be any doubt about where the interests of the small-business man lie in this controversy, the position taken by the Senator from Alabama, and the excellent speech he has delivered on this question, should settle that doubt in the minds of Senators who retain open minds on this controversy and in the minds of the public generally.

Mr. President, inasmuch as the proponents of the bill now have more time remaining than do we who oppose the enactment of the bill, I wonder whether the proponents would like to proceed at this time.

Mr. BENNETT. Mr. President——

Mr. CAPEHART. Mr. President, I yield 10 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 10 minutes.

Mr. BENNETT. Mr. President, I speak as a small-business man. For 30 years I have been connected with a family business which is the prototype of the kind of business which the opponents of this bill say it would destroy. That business is 70 years old. It has grown up in a remote part of the United States, and has faced the competition of all the manufacturers of a similar product. For some years I had the responsibility of managing the business, so I can speak with some experience about this problem.

One of the Senators who addressed the Senate recently said there was no question about the right of any business to absorb freight, and that no small-business man had ever been prosecuted because he had sold his product at a price which resulted in absorbing freight; and then the Senator spoke of the value of good faith in that connection. I wonder whether Senators realize the actual position of the small-business men who face the complexity of our national laws and cannot afford to have a battery of lawyers at their side. I wonder whether Senators realize how much satisfaction there is to such businessmen in being able to understand that so long as they proceed in good faith to defend themselves against the competition of others, they will not be subject to prosecution.

The problem of freight absorption is very, very real. My limited contribution to this debate will take the form of stating an actual experience in our business.

A paint manufacturer in New York can ship paint into the territory we serve with a maximum of 3 cents a gallon differential in cost to cover the variations in shipping charges to our entire territory. The highest freight rate at the fringes of our territory is only 3 cents a gallon more than the freight rate for delivering the New York manufacturer's paint into the center of the territory, where our plant is located.

In Utah there are two cities which are 36 miles apart, and they represent the bulk of the available market. My New York competitor can ship paint to both those cities at the same price. My company operates a factory in the other city, but it would cost us 6 cents a gallon to distribute our paint to that city, which is 36 miles away. Unless we are to be confined entirely to the opportunity to sell paint in the city in which we manufacture paint, we must have the right, without any question when acting in good faith, to sell the paint at a point 36 miles away from our factory and absorb the freight cost of 6 cents a gallon, or else we must prepare to give up that market.

Mr. KEFAUVER. Mr. President, will the distinguished Senator from Utah yield for a question?

Mr. BENNETT. I yield very briefly.

Mr. KEFAUVER. Can the Senator cite any instance where a small-business man has ever been prosecuted or has ever been threatened with prosecution for absorbing freight?

Mr. BENNETT. I cannot; but I have tried to make the point that the fact that a man has not been prosecuted or has not been threatened with prosecution does not save him from the risk of prosecution for violating the law. The reason why I am supporting this bill is that it does make good faith in that connection a valid defense.

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

Mr. BENNETT. I have only five more minutes. The Senator from Indiana controls the remainder of the time for the proponents. Therefore, I yield only briefly to the Senator from Louisiana.

Mr. LONG. Has the Senator been advised by any attorney that he could not absorb freight and that he would be risking prosecution if he absorbed the freight charges? I think all lawyers hold that absorption of freight is permissible.

Mr. BENNETT. I think that all distributors have lived and still live in the realization that when they absorb freight, they are actually discriminating against some customers; and they have lived under the threat that a Supreme Court decision would put all of them under condemnation.

Mr. President, to continue with my example, let me say that although there is this comparatively narrow difference between the two markets I have mentioned, yet when we go to the extended limits of the area which we as a small concern can serve, the difference becomes tremendous; we would have to absorb as much as 25 cents a gallon, as a freight charge, and that is a large part of the price of the paint. We want to be free to make that decision. We do not want to be put in a position where we might be accused of violating the Federal law if we should decide to go into one of the comparatively more remote markets. In other words, the basing-point philosophy, applied to the Nation as a whole, may seem to be one thing; but, in effect, if we are to be allowed to expand to the maximum of our possibilities, we must have the right to establish a little series of basing points of our own inside our own territory.

So, Mr. President, I intend to support the bill largely because of the good-faith provision, which would be a source of great satisfaction and great peace of mind to the small-business man who has to operate without a battery of attorneys at his elbow.

I yield the floor.

Mr. McCARRAN rose.

Mr. CAPEHART. Mr. President, I believe I am in charge of the time of proponents. I yield 30 minutes to the able Senator from Nevada.

Mr. McCARRAN. Mr. President, I should like to suggest the absence of a quorum, but I do not want the time required to call the quorum to be taken out of my time. May we understand that I may suggest the absence of a quorum without having the time taken out of my time? I asked for 40 or 45 minutes at the close of the debate, and I understand the opposition has 60 minutes. I do not know that there is any reason why we should have to use our 45 minutes now.

Mr. CAPEHART. The opposition has but 35 minutes, perhaps less than that. The proponents have about 50 minutes.

The PRESIDING OFFICER. The proponents have 50 minutes remaining; the opponents, 32.

Mr. McCARRAN. I ask unanimous consent that a quorum call be had at this time, without being charged to the time of either side.

Mr. LONG. Reserving the right to object, there are quite a few Senators who have made plans on the assumption that we would not be in session tomorrow. Some of them have planned to go to other places, to make speeches, and things of that sort. I think that if we were to have a quorum call, we would not have many more Senators present when we finished it than we have at this moment, and it would probably result in our being that much later in finishing the bill today. But, if the Senator persists in it, of course I shall not object.

Mr. McCARRAN. I could suggest the absence of a quorum, but I do not want

to have the time consumed in calling the quorum charged to my time. But addressing one's self to but three or four or five Senators on such an intricate matter as the one before the Senate would seem to me to be a lost effort. I should like to discuss the subject from a legalistic standpoint, and I should like to have at least a quorum present in the Senate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nevada?

Mr. KEFAUVER. Later on, either on the amendment, or when the Senator from Louisiana takes the floor to summarize the arguments on behalf of the opponents of the bill, we also would like to have more Senators present to hear what he has to say. I am wondering whether we could have a quorum call suggested on our side preceding the address to be given by the Senator from Louisiana.

Mr. McCARRAN. In my opinion the Members of the Senate should be present. The pending measure is of vital importance to the country, and Senators should be here at least to hear those who have made a study of this important subject, that they might have the benefit of our study, a study which has extended over many years.

Mr. LONG. Would the Senator from Nevada be willing to add to his request that later today the opponents of the bill shall have a right to have a quorum called without the time being taken from their time?

Mr. McCARRAN. I should certainly be agreeable to that.

Mr. LONG. I have no objection to the Senator's request.

Mr. KEFAUVER. The arrangement is satisfactory.

Mr. McCARRAN. 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	Hennings	Millikin
Bennett	Hickenlooper	Monroney
Benton	Hoey	Moody
Brewster	Holland	Morse
Bricker	Humphrey	Mundt
Bridges	Hunt	Murray
Butler, Md.	Ives	Neely
Byrd	Jenner	Nixon
Cain	Johnson, Colo.	O'Conor
Capehart	Johnston, S. C.	O'Mahoney
Carlson	Kefauver	Pastore
Case	Kem	Robertson
Chavez	Kerr	Saltonstall
Connally	Kilgore	Schoeppel
Cordon	Knowland	Smith, Maine
Dirksen	Langer	Smith, N. J.
Douglas	Lehman	Smith, N. C.
Duff	Lodge	Sparkman
Dworshak	Long	Stennis
Ecton	Magnuson	Thye
Ellender	Martin	Underwood
Ferguson	Maybank	Watkins
Frear	McCarran	Welker
Fulbright	McCarthy	Wherry
Gillette	McClellan	Wiley
Green	McFarland	Williams
Hayden	McKellar	Young
Hendrickson	McMahon	

Mr. McFARLAND. I announce that the Senator from New Mexico [Mr. ANDERSON] and the Senators from Georgia [Mr. GEORGE and Mr. RUSSELL] are absent by leave of the Senate.

The Senator from Kentucky [Mr. CLEMENTS], the Senator from Mississippi [Mr. EASTLAND], the Senator from Alabama [Mr. HILL], and the Senator from Texas [Mr. JOHNSON] are absent on official business.

The Senator from Florida Mr. SMATHERS] is absent because of illness.

Mr. SALTONSTALL. I announce that the Senator from Nebraska [Mr. BUTLER] and the Senator from Ohio [Mr. TAFT] are necessarily absent.

The Senator from Vermont [Mr. FLANDERS] and the Senator from New Hampshire [Mr. TOBEY] are absent because of illness.

The Senator from Nevada [Mr. MALONE] is absent on official business.

The PRESIDING OFFICER (Mr. FULBRIGHT in the chair). A quorum is present.

Mr. McCARRAN. Mr. President, I yield 6 minutes to the Senator from Wyoming [Mr. HUNT].

Mr. HUNT. Mr. President, having been asked by the chairman of the Senate Select Committee on Small Business to conduct the recent hearings held on Senate bill 719, I feel it incumbent that I make a few very brief remarks.

I came in contact with this particular subject in the summer of 1948. The Senator from Indiana [Mr. CAPEHART] was invited to Denver, Colo., to address a chamber of commerce luncheon, and was kind enough to invite me to attend.

I think the Senator from Colorado [Mr. JOHNSON] has compiled some factual information which is quite interesting. It shows that this subject was first given consideration in this body on May 20, 1948. A summary of congressional action on this question extends from that date in May 1948 up to the present date. During that period this matter has been acted upon favorably by the Senate three times and by the House four times, making a total of seven times action has been taken by the two Houses on this particular subject matter.

There have been consumed in the Senate and House 22 days of debate on this question, not to mention the offshoots of debate during various other debates.

Something like 71 days of hearings have been conducted on this question. More than 240 witnesses have been examined. There have been more than 200 insertions in the CONGRESSIONAL RECORD, and, of course, literally thousands of pages of testimony have been taken.

The subcommittee of the Small Business Committee appointed to conduct the hearings had no authority to draw conclusions or to make recommendations, and we have refrained from doing so. This is a very complex matter, so complex that apparently the Congress cannot write a bill which the Supreme Court can understand or interpret, for its decisions have been 5 to 4 and 5 to 3. It is so complicated that the Federal Trade Commission has constantly been divided. The businessmen who testified recently before the committee, as well as those who testified at prior hearings, are divided. The small-business men are equally divided—some pro and some con. I do not wish especially to speak for the bill. Neither do I wish especially to speak against the bill. I shall support the bill, however, for what I consider a few well-founded reasons.

I believe that the bill would firm up the Supreme Court decision. By that I mean that I believe it would give the businessman a guide which would direct and help him in his business operations.

Today on the floor of the Senate I heard the question asked whether there had ever been a time when any business firm had been cited into court for absorbing freight to meet competition. There has been no such incident. However, businessman after businessman recently testifying before the committee stated that he was confused. As I have just said, everyone else seems to be confused. Businessmen believe that the passage of this bill would give them assurance that they could absorb the freight legally, and that they could meet competition without in any way jeopardizing themselves.

I realize that in times gone by the Federal Trade Commission has said that those who absorbed freight to meet competition were taking a calculated risk. I say that a great number of businessmen in the United States today still find themselves in the same category.

With reference to my own State and the West, I believe that the passage of this bill would be very beneficial. All big businesses were at one time small businesses. Without the opportunity to absorb freight, I say that no small business can get started in areas which are at great distances from the centers of population. Such a situation exists in my own State today. If it were not for the Sugar Act, the sugar-beet farmers in my State would simply have to fold up. There is no possible way we could operate our sugar refineries and our beet production in the State of Wyoming without absorbing freight and meeting competition, both from offshore sugar and from sugar from the southern States, in that great market which is ours, up and down the central States of the Union.

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

Mr. HUNT. I yield.

Mr. LONG. The Senator refers to the Sugar Act. To be fair about this matter, if it were not for the Sugar Act, if the Cubans and Puerto Ricans were able to take advantage of the provisions of the pending bill, so that they could plead good faith, is there any doubt in the Senator's mind that Cuba and Puerto Rico would have all the American market? The sugar beets produced in the Senator's State and the sugar cane produced in my own home State of Louisiana would probably not be able to compete with foreign production.

Mr. HUNT. I think the Senator is quite correct, without the shadow of a doubt. The Senator will agree with me that if we did not have the Sugar Act we would require an import duty to protect our interests.

The PRESIDING OFFICER. The time of the Senator from Wyoming has expired.

Mr. McCARRAN. Does the Senator from Wyoming wish 1 or 2 minutes additional time?

Mr. HUNT. I could use one more minute.

Mr. McCARRAN. Very well. I yield 1 minute more to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 1 minute.

Mr. HUNT. In conclusion, Mr. President, I should like to say that my State did not elect me to represent it in part in the United States Senate in order that I might assist in the liquidation of any of our industries, or in order that I might place stumbling blocks in the way of new industries which are getting under way. I feel that I am definitely acting in the interest of the State of Wyoming when I support the bill now under discussion.

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

Mr. HUNT. I am glad to yield.

Mr. CASE. Would not the Senator add to that statement that the people of Wyoming did not send him here to liquidate the sugar industry of Wyoming in order that the sugar industry of Cuba might be enriched?

Mr. HUNT. The Senator from South Dakota is entirely correct. I thank him.

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

Mr. HUNT. I am glad to yield.

The PRESIDING OFFICER. The time of the Senator from Wyoming has expired.

Mr. McCARRAN. Mr. President, this subject has been discussed at such length that I shall ask the privilege of making my remarks without having to yield.

Mr. President, on July 2 the junior Senator from Louisiana [Mr. LONG] addressed the Senate at some length concerning the bill S. 719, which is now the pending business.

An attempt to discuss seriatim everything which the Senator from Louisiana said on July 2 would take up far too much of the Senate's time; but some of the Senator's statements do seem to merit at least brief mention, in the interest of accuracy.

At the outset of his speech, the Senator from Louisiana made the statement that the bill S. 719 "proposes to make the good-faith defense in meeting competition a complete defense on the part of a manufacturer, a processor, a wholesaler, a retailer, or anyone doing business in any particular trade."

Of course, Mr. President, the bill does not affect retailers. It is concerned only with price discriminations under the Clayton act, as amended by the Robinson-Patman Act. Retail price cutting is not price discrimination within the purview of that act. The reason, of course, is clear. When a retailer marks down an item, he is making an offer to sell that item at the reduced price to any and every customer who comes into his store. Therefore, there is no discrimination.

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

Mr. McCARRAN. No; I shall not yield. I apologize to the Senator from Louisiana. I shall not yield.

Mr. LONG. The Senator is referring to my remarks. It would seem only fair that I should have an opportunity to answer his statement.

Mr. McCARRAN. I shall discuss the bill; that is all.

This is a point which has not been well understood. The junior Senator from Louisiana is not the only one who has been confused about it. Some of the retail trade associations—or, at least, some of the officials of those associations—are also laboring under the misconception that this bill has something to do with retail price fixing. Therefore, let me reiterate, in slightly different words, what I said a moment ago. This bill, S. 719, does not apply to retail sales, any more than the Clayton Act itself applies to retail sales.

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

Mr. McCARRAN. I decline to yield.

A little further along in his speech, Mr. President, the junior Senator from Louisiana declared that to vote for this bill "is to permit the large manufacturers, pretty much at will, to drive out of business almost any one against whom they cared to discriminate."

Perhaps the Senator from Louisiana intended that only as an expression of opinion, and of course he is entitled to his own opinion on any subject, however wrong that opinion may be. But the Senator did not state it as an opinion; he stated it as a fact; and it is not a fact. Therefore, it is desirable to state the fact, so that the misstatement does not stand unchallenged as a part of the legislative history of this bill. Let me say categorically that this bill does not permit and will not permit any discrimination for the purpose of driving anyone out of business. This bill does not enlarge or expand the present law with regard to price discrimination. This bill only says that a manufacturer or a wholesaler may cut his own price in order to meet the equally low price of a competitor.

So much for that.

A little later in his speech, Mr. President, the junior Senator from Louisiana, in a colloquy with the Senator from Idaho, asserted that "if this bill were passed it would be necessary only for the person called before the Federal Trade Commission on the charge that he was making the discrimination only to allege that he was acting in good faith, and put the burden upon the Commission to prove that he was acting in bad faith."

Mr. President, as I have already pointed out on this floor, the bill will have no such effect with respect to shifting the burden of proof. It is an elementary principle of law that the party claiming a statutory defense must bear the burden of proof with respect to every element of that defense. If there are affirmative conditions to the defense, he must show that he has met such conditions. If there are negative conditions to the defense, he must show that he has not met the negative conditions. If there are excepted classes, to which the defense is not applicable, he must show that he does not fall within one of the excepted classes.

Mr. LONG. Mr. President, will the Senator yield for a question at this point?

Mr. McCARRAN. I beg the Senator's pardon. I have already stated that I wanted to discuss the matter from a legalistic standpoint. I hope I shall not be interrupted again.

Mr. LONG. The Senator from Nevada is discussing my speech.

Mr. McCARRAN. That is so. I am discussing the Senator's speech. The Senator from Louisiana will have an opportunity to discuss it again.

The courts hold—quite uniformly—that in such a case, every element of the defense must be proved by the person claiming the defense. That rule unquestionably applies in the present instance. Thus, a manufacturer charged with discrimination in price, and attempting to justify the discrimination on the ground that he was in good-faith meeting the equally low price of a competitor, would have to prove by a preponderance of the substantial, probative and reliable evidence that he was in fact acting in good-faith. The burden of proof would be his, and he could not escape it.

Now, Mr. President, the junior Senator from Louisiana has painted a terrible picture of how the enactment of this bill is going to ruin the independent grocers and the independent druggists and virtually all other small independent businessmen in the country. The junior Senator from Louisiana has implied that all members of the Judiciary Committee who are not opposed to this bill are against protecting small merchants. That implication is, of course, both unfair and untrue. The fact is that preservation of the American system of free competition is essential to the protection of independent business; and enactment of this bill will help preserve the American system of free competition.

The junior Senator from Louisiana was asked by the junior Senator from Maryland if it was correct that this bill would constitute a legislative affirmation of an existing Supreme Court opinion which is now the case law of the Nation. The junior Senator from Louisiana replied:

> It is stated that such is the purpose of the bill; but I point out that the bill, taken together with the committee report, would go far beyond that decision.

As a matter of fact, the report on the bill actually begins with a statement:

> The primary purpose of this bill is to conform statutory law to the interpretation of section 2 of the Clayton Act, as amended by the Robinson-Patman Act, recently enunciated by the Supreme Court in *Standard Oil Co.* v. *Federal Trade Commission.*

Thus, at the very beginning, the committee report itself makes it perfectly clear that this bill is intended only to affirm the Supreme Court decision in the Standard Oil case. I earnestly hope that all Senators who have not done so will read the committee report.

Mr. President, how much time have I remaining?

The PRESIDING OFFICER (Mr. HUNT in the chair). Nine minutes.

Mr. McCARRAN. Mr. President, there has been a great deal of confusion in the debate on this bill. About a great many of the points involved. One of the points about which there has

been confusion most confounded is the question of good faith as a defense.

All of the opponents of the bill, it seems to me, have taken their turns hammering away at what they consider the unwisdom of what they call the proposed good faith defense. And every one of them, Mr. President, have beeen making the same mistakes. Every one of them, Mr. President, has dealt with this subject as though the bill provided that good faith was a defense to any price discrimination.

I ask my colleagues: Does that sound familiar? That is what the opponents of this bill have been contending: That this bill would provide that good faith shall be a complete defense to a charge of price discrimination.

But, Mr. President, that is only half the story. The good-faith defense which is provided for in this bill is not concerned with price discriminations in general. It is concerned only with price discriminations for the purpose of meeting the equally low price of a competitor.

Let me state that again, so there can be no misunderstanding about it. This bill deals entirely with price discriminations for the purpose of meeting the equally low price of a competitor. No other kind of a price discrimination is affected by this bill. A price discrimination for the purpose of creating or advancing a monopoly is not affected by this bill. A price discrimination arrived at in collusion with other sellers, for the purpose of controlling a market or markets, is not affected by this bill. A price discrimination in the nature of a quantity discount is not affected by this bill; such a discrimination, if justifiable at all, is justifiable under another provision of the Clayton Act. The only kind of a price discrimination that is affected by this bill is a price discrimination for the purpose of meeting the equally low price of a competitor. It is only after it has been established that there is that kind of a price discrimination, that is the question of good faith enters the picture.

In that light, we can see what "good faith" means, as the term is used in this bill. The question is not an abstract one of whether the seller has in his mind some vague quality which we can define as "good faith." The question is whether the seller is, in good faith, meeting the price of a competitor. In other words, the question is whether his contention that he has been meeting the price of a competitor is a bona fide contention. This is a matter which is susceptible of proof, one way or another. It is a matter concerning which evidence can be taken, and concerning which a jury could properly form an opinion.

What this bill says is that it is not enough that a seller shall show that in making a particular price discrimination, he has only been meeting the equally low price of a competitor. He must also show that he has done so in good faith. There are many elements which might tend to show bad faith. The bill points out one of them: That is, if the seller knows or has reason to know that the price which he is meeting is not a legal price, he shall not be deemed to have been acting in good faith. Another test might be whether the seller acted in collusion and conspiracy with other sellers, for some monopolistic or otherwise illegal purpose. If it could be shown that the seller had the motive of injuring a third party, the seller could not say he was acting in good faith. Senators may say it is hard to prove motives, and of course that is true. But let us not lose sight of the fact that, in law, motive may be presumed from result; and that would be true under this proposed law. Let us suppose that a man is engaged in a price discrimination to meet the lower price of a competitor. Let us assume that the seller who made the price discrimination was a very large corporation, and that the seller whose price was being met was a very small corporation. The small corporation, let us say, by reason of particular advantages, could produce a very small quantity of its product at a low price; but it could not enlarge its capacity without encountering factors which would result in a price increase. Thus, the small competitor could provide only a small fraction of the requirements of a particular buyer. But just to make the case more complicated, let us also assume that there are a number of other competitors, all small, who cannot meet the lower price. Let us suppose that the original seller who engaged in the price discrimination met the price not merely for the quantity which the smaller competitor could have supplied, but for the entire needs of the buyer. Let us suppose that in doing so he actually incurred a substantial loss to himself; but that he also accomplished the result of driving the other smaller competitors out of business, because they could not meet the price, and thus were forced out of the market. In such circumstances, I would have no hesitation in saying that any court would sustain a finding that the price discrimination was not in good faith, and therefore was not defensible under the terms of this bill.

Perhaps that example is overly complex, Mr. President; but it is not half as complex as many of the hypothetical situations which have been discussed here in connection with this bill. However, I shall refrain from imagining other hypothetical situations.

The point I am trying to drive home is this: This bill does not make "good faith" a complete defense to all charges of price discrimination. This bill does make it a defense to a charge of price discrimination for the seller to show that the discrimination was only for the purpose of meeting the equally low price of a competitor; but this defense is good only where the competitor's price was being met in good faith; that is, where the price discrimination was only for the purpose of meeting the competitor's price, had no other and ulterior purpose, was not the result of collusion or conniving or conspiracy, and was without any knowledge or reason to know that the price being met was not itself a legal price, lawfully arrived at.

Mr. President, I doubt that there is on this floor one Senator who, under those circumstances, would deny a seller the right to meet the price of his competitor. The Federal Trade Commission has said a seller has that right. The President of the United States has said a seller has that right. The Supreme Court of the United States has said a seller has that right. Now we are trying to get Congress to say a seller has that right, but we are meeting rugged opposition from Senators who say they do not know what "good faith" means, but who have been trying to convince the Senate that the phrase "good faith," as used in this bill, means something horrendous.

The PRESIDING OFFICER. The time of the Senator from Nevada has expired.

Mr. CAPEHART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Indiana will state it.

Mr. CAPEHART. How much time remains to each side?

The PRESIDING OFFICER. The proponents have 18 minutes remaining; the opponents have 32 minutes remaining.

Mr. CAPEHART. The proponents have 18 minutes remaining; is that correct?

The PRESIDING OFFICER. Yes; 18 minutes.

Mr. CAPEHART. And the opponents have how much time remaining?

The PRESIDING OFFICER. The opponents have 32 minutes remaining.

Mr. DOUGLAS. Mr. President, I yield 15 minutes to the Senator from Washington [Mr. MAGNUSON].

The PRESIDING OFFICER. The Senator from Washington is recognized for 15 minutes.

Mr. MAGNUSON. Mr. President, I rise to protest the consideration at this time of Senate bill 719, the successor measure to Senate bill 1008 of the last Congress. Before beginning my discussion of the present bill, I should like to review briefly certain aspects of the debate on a section of Senate bill 1008 which exactly parallels, and in fact is the exact equivalent of Senate bill 719.

Mr. President, Senate bill 1008, as the later debates clearly demonstrated, was a highly important measure. It was a measure which was vigorously and effectively opposed by every bona fide small business organization in the United States. It was opposed by leading farm organizations. It was opposed by leading labor organizations. It was opposed by leading cooperative organizations. In the subsequent debate, each of these organizations made known its position in no uncertain terms.

But the reasons for their position were frequently unknown to Members of Congress. They were unknown for the simple reason that no hearings, worthy of the name, had been held in either House of Congress. Many Members of Congress, including Members of this body, were dismayed by the vigorous objections to Senate bill 1008 advanced by the druggists, the grocers, the filling station operators, and other small merchants. Why, it was frequently asked, were these organizations concerned with a bill which seemed to relate only to the pricing practices of the steel and cement companies? The small druggist does not buy steel or cement; the small grocer does not buy steel or cement; the small filling station operator does not

buy steel or cement. Why were these organizations so vigorously opposing a bill which appeared to have no relevance to their line of business?

Mr. President, it is a fact that many Members of Congress simply did not know the answer to that elementary question. They did not know that in the so-called basing-point bill there was a provision which struck at the heart of what has been commonly regarded as the Magna Carta of small business—the Robinson-Patman Act. They simply did not know that section 3 of S. 1008 was not primarily directed at the basing-point question, but rather was deliberately designed to place the druggist, the grocer, and the filling-station operator completely at the mercy of their larger competitors, particularly the chain stores.

These same observations now apply to the present bill, S. 719. Like its predecessor, S. 719 has been brought to the floor of the Senate without hearings by the Judiciary Committee. Like its predecessor, it will undoubtedly be regarded by many Members of this body as a measure which relates only to the pricing practices followed in a few basic raw-material industries. Like its predecessor, it will be regarded as a bill which has little or no relevance to the problems of the small merchant. Yet, as in the case of its predecessor, Members of Congress will undoubtedly find that the druggists, the grocers, the tire dealers, and the filling-station operators are opposing this bill with all of the resources at their command. Again, many Members of this body will be dismayed by this question, Why this opposition by the small merchants to a bill which apparently does not concern them? The answer is even simpler than in the case of S. 1008. Whereas only one section of S. 1008 struck at the Robinson-Patman Act, the entire text of S. 719, as well as the accompanying majority report, in my opinion, is aimed directly at that act.

Mr. President, let me repeat. S. 719, in every word and punctuation mark, is aimed directly at the small merchant. As an incidental effect, it will also legalize the basing-point system and similar pricing practices in basic raw-material industries. But the legalization of the basing-point system is a secondary purpose of this measure. Its primary and principal purpose is to permit the big chain and department stores to slaughter local independent merchants through the use of vicious predatory pricing attacks. The term "basing-point bill," as applied to S. 719, is a misnomer. S. 719, in the opinion of myself and others who have studied the matter, is purely and simply a chain-store bill. I think it should be so regarded and so termed. If, from this time forward, we refer to S. 719 as a "chain-store bill" and stop using the term "basing-point bill," Members of Congress, as well as the general public, will have a much clearer idea of what the debate is all about.

Now, Mr. President, what would S. 719 do? It would make good faith a complete defense against charges of price discrimination, a principle which was even set forth by the Supreme Court when it sent the case back. Moreover, in doing this, it goes beyond the comparable provisions of S. 1008. Under S. 1008 it would have been necessary for each discriminator to have found another discriminator who was offering the same discrimination. In other words, under S. 1008 any discrimination which was matched, or believed to have been matched, was ipso facto legalized. As the junior Senator from Louisiana so aptly put it, any chain store was free to discriminate at will as long as it found a dancing partner to match its discriminations.

S. 719, however, simplifies the matter even further. Under this new bill it is no longer necessary for a discriminator to find a dancing partner. Rather, the mere fact that the small merchant is obeying the law and not discriminating in price justifies an attack on him by a chain store. Let me repeat: Under S. 719, the mere fact that a small merchant is obeying the law automatically makes him eligible for any type of discriminatory attack which his larger rivals may wish to make against him. No longer does the big chain have to find a dancing partner; it only needs to find a small merchant who is obeying the law. And the mere fact that he is obeying the law, in and of itself, justifies a discriminatory attack upon him. Yet he cannot, in self-defense, use the same practices with which he is being attacked.

Mr. President, I recognize that this sounds incredible, but it is exactly what S. 719 would accomplish. If there are any Members of this body who believe that I must be wrong in making what may seem to be an incredible assertion, let them turn to pages 9 through 12 of the minority views. There they will find full and complete corroboration of everything that I have said.

Mr. President, it should be clear to everyone that by thus permitting the chain stores to use any and all types of price discriminations against the small merchant, as long as the small merchant is obeying the law, S. 719 effectively repeals the Robinson-Patman Act. That is the sole issue now before us. It is the simple issue of whether or not we shall have a Robinson-Patman Act. It is not the issue of whether the steel and cement industries shall be permitted to follow certain types of pricing systems. It is the simple question of whether we wish to repeal, in a somewhat deceptive way—but nonetheless repeal—the Magna Carta of small business. The issue is a simple one of whether we want to maintain the Robinson-Patman Act or throw it in the garbage heap. It is the simple issue of whether we wish to protect local druggists, local grocers, local filling-station operators, local tire dealers, and all the other local merchants against the savage, unscrupulous price attacks which, as history has shown, the big chains will use at each and every opportunity.

Mr. President, the parallelism between S. 1008 and S. 719 is rather striking. While in the case of neither bill were hearings held by a legislative committee of the Senate, that is, a committee having jurisdiction over antitrust legislation, hearings were held by nonlegislative committees. In the previous Congress, the House Small Business Committee held hearings on S. 1008; in the present Congress the Senate Select Committee on Small Business has held hearings on S. 719. Inasmuch as these committees have no power to report legislation, the hearings have merely provided the small-business organizations with a forum in which to express their views. But it is in these hearings that we can find a true expression of the views of the druggists, the grocers, the tire dealers, the filling-station operators, and the other independent small merchants. In these hearings the small-business organizations have made it clear that their opposition to S. 1008 was not based upon its effect on basing-point pricing; their opposition was based upon its effect on the Robinson-Patman Act.

Let us examine first the position taken by the retail druggists. On June 29, 1949, Mr. George H. Frates, representative of the National Association of Retail Druggists, appeared before the House Small Business Committee. His testimony, as well as that of other small-business representatives, is to be found in a printed volume, Hearings Before the Select Committee on Small Business, House of Representatives, Eighty-first Congress, first session, "Small Business Objections on Basing Point Legislation, Particularly S. 1008," 1949. Mr. Frates stated that his organization comprises over 35,000 small independent retail pharmacists, practicing their profession in every State of the Union and in the District of Columbia.

Why was this great organization of independent druggists so vigorously opposed to S. 1008? That bill, in its effect upon the small merchant, was mild compared to the effect of this bill. In Mr. Frates' words:

> The National Association of Retail Druggists vigorously opposes S. 1008 because we believe the bill will emasculate the original intent of Congress when it passed the Robinson-Patman law (p. 21).

In his testimony, Mr. Frates emphasized the fact that the Robinson-Patman Act permits discriminations if they are justified by savings in costs; it is only those discriminations which cannot be justified on the basis of efficiency which are prohibited:

> Time and experience have proved beyond the question of a reasonable doubt that monopoly does not like the Robinson-Patman Act. The only business—big or little—that is handicapped by the effectuation of the act is that one that finds it impossible to operate on a fair and honest basis (p. 22).

What does this same organization have to say concerning the present bill, S. 719? In the hearings before the Senate Small Business Committee, Price Discrimination and the Basing-Point System, Mr. Frates, speaking on behalf of the National Association of Retail Druggists stated on July 18, 1951, "the title is misleading because what the bill actually does, in our opinion, is to repeal the Robinson-Patman Act"—page 112.

Mr. Frates described the havoc wreaked on small merchants by price

discrimination before the passage of the Robinson-Patman Act:

Before the enactment of the Robinson-Patman Act price discrimination was rampant. One price to all—quantity and the cost of doing business being considered was an unknown factor, an occupant in the limbo of forgotten things. Small business was at the mercy of the manufacturer. We want to make it plain that the National Association of Retail Druggists is not opposed to big business per se. We do, however, vigorously oppose differentials in price resulting from whims and fancies of the sellers. It is our opinion that small business can hold its own if producers are made to play by the same set of rules required of small business. We do not know the intricacies of the law nor the fine points which the proponents of S. 719 might conceive. We do, however, know that 35,000 small independent retail drug store owners in the country who come in contact with millions upon millions of people each day, have a positive knowledge of the effect of price discrimination (pp. 112–113).

Mr. Frates went on to describe the way in which price discriminations promote monopoly in distribution:

Monopoly in the field of distribution develops when big business is able to get concessions that are not available to all retailers, and to continue this practice long enough, wears down the reserves of the independent retailers. Big business is able to subdue competition by working on one sector at a time. Competition is subdued, and independents who survive are on the brink of bankruptcy. Laws must be amended to eliminate, instead of foster discriminatory practices (p. 114).

Of course, Mr. President, this bill would do just the reverse.

Finally, Mr. Frates made it abundantly clear that the objections of his organization to S. 719 did not concern the basing-point question; he was opposing the bill because of its direct impact on small merchants—in this case the thousands of independent druggists scattered throughout the Nation:

Small independent retail druggists of the Nation worked hard to promote the passage of the Robinson-Patman Act. It has given them a fighting chance with big business. The basing point may or may not be of vital importance to our industry, but when an attempt to settle a squabble belonging to the cement, steel, and gasoline giants takes place and the result weakens protective legislation for the small retailer, then we feel like innocent bystanders on whom there has been dumped an avalanche of steel and cement and gasoline (p. 114).

Let us now turn to another small-business organization which appeared before the House Small Business Committee in opposition to both S. 1008 and S. 719—the United States Wholesale Grocers' Association. The average wholesale grocer serves each week a group of retail stores numbering from several hundred to several thousand. He thus is intimately acquainted with the problems of the local grocer and is able to reflect his wishes.

On June 28, 1949, Mr. R. H. Rowe, vice president and secretary of the United States Wholesale Grocers' Association, appeared before the House Small Business Committee. As in the case of the representative of the retail druggists, Mr. Rowe's opposition to S. 1008 did not stem from any particular desire to overthrow basing-point-pricing systems. His organization was interested in S. 1008 because of its effect on the Robinson-Patman Act—because, like S. 719, it would have made good faith a complete defense against charges of price discrimination. He stated:

Our opposition to S. 1008 as approved by the House Judiciary Committee is that its language jeopardizes the effectiveness of the Robinson-Patman Act in its provisions against price discriminations in favor of the chain stores and other large buyers (p. 4).

Now, Mr. Rowe has also appeared before the Senate Small Business Committee in opposition to S. 719, testifying on July 16, 1951. Mr. Rowe described some of the practices which led Congress to pass the Robinson-Patman Act—practices which will undoubtedly be repeated if S. 719 is enacted:

The investigation of large-scale buying and selling methods that the Patman committee conducted in 1935 prior to and after the introduction of the Robinson-Patman bill disclosed that the Great Atlantic & Pacific Tea Co. alone was receiving annually from its manufacturer suppliers $6,000,000 in advertising allowances and off-the-invoice quantity discounts, and $2,000,000 as brokerage fees, making a total of $8,000,000 in concessions that either were not available to the individual food distributor or available in very much less amounts (p. 34).

The VICE PRESIDENT. The time of the Senator from Washington has expired.

Mr. MAGNUSON. Mr. President, if the Senator from Illinois has more time, I should like to submit my conclusions.

Mr. DOUGLAS. I yield five additional minutes to the Senator from Washington.

Mr. MAGNUSON. Mr. President, faced with such huge discriminations received by the chain stores, Mr. Rowe asked how could the small merchant be expected to stay in business:

How could the individual merchant compete against concession piled on concession, brokerage fees piled on special quantity discounts and that aggregation heaped on advertising allowances? Such individual merchant was stayed in his tracks. He was defeated in the competitive fight before he started. No amount of good management and efficiency of operation could overcome such handicap (p. 41).

It was the Robinson-Patman Act, said Mr. Rowe, which stopped "this flood of concessions" and enabled small merchants to compete with the chain stores on the basis of efficiency, rather than on the basis of who has the greater buying power. Now, Mr. Rowe stated, his organization is strongly opposing S. 719 because it would weaken the Magna Carta of small business—the Robinson-Patman Act.

Our firm convicton is that the Robinson-Patman Act should not be changed in any respect whatsoever except to strengthen it. We do not believe that S. 719 strengthens the act. We think it weakens and confuses the act both in provisions and enforcement (p. 41).

Mr. President, the hearings on S. 719 show that it is opposed by practically all of the major organizations of small merchants, many of whom had also appeared before the House Small Business Committee in opposition to S. 1008. In addition to the National Association of Retail Druggists and the United States Wholesale Grocers' Association the hearings show that this bill is vigorously opposed by the National Association of Independent Tire Dealers, the National Food Brokers Association, the National Congress of Petroleum Retailers, and others.

Here is what the representative of the independent tire dealers, Mr. Winston W. Marsh, had to say about this bill:

Our basic objection to this proposed legislation is that it is pointed in the wrong direction. It is said that the purpose of the bill is to put in statutory form the interpretation recently placed by the Supreme Court upon the existing provisions of the Robinson-Patman Act * * * we think this bill goes beyond restating the Supreme Court interpretation, but more than that, we think it is fundamentally objectionable because we believe that Congress, instead of solidifying the Supreme Court interpretation, should amend the present law to return it to that protection for small-business men which most people originally thought it gave (p. 92–93).

Mr. Watson Rogers, speaking for the National Food Brokers Association had this to say:

Unearned and unfair discriminations have nothing to do with efficiency. They give an unfair advantage to a limited number of competitors. Thus these start the competitive race with an unearned advantage. It is an advantage they have obtained by predatory tactics, coercive use of buying power, not on their ability to compete efficiently. And because the unearned discriminations place the limited few in a special advantageous position the result is often the elimination from the competitive race of legitimate, and otherwise qualified, competitors. With these competitors eliminated the ultimate result is monopoly, which is universally detested and condemned (pp. 83–84).

* * * * *

This bill proposes to eliminate completely one of the soundest safeguards incorporated in the Robinson-Patman Act. It proposes to restore, in effect, the good-faith clause of the old Clayton Act, with its broad loophole. The result will be to make the present act as ineffective of enforcement as was the old section 2 of the Clayton Act (p. 86).

The National Congress of Petroleum Retailers, through their counsel, Mr. William D. Snow, also went on record against the bill:

Mr. Chairman and Senators, I am here on behalf of the National Congress of Petroleum Retailers, because it's the considered judgment of the affiliates of that organization and the thinking of the independent service-station operators who comprise it, that the continuance of restrictions and restraints upon price discriminations in the fullest possible form is a condition upon which our survival, their survival, the small-business men, depends, and without the continuation of these restrictions upon price discriminations, that their survival as small-business men is jeopardized (p. 142).

We particularly urge not only that S. 719 not be adopted, but what we think was the intent of Congress in the Robinson-Patman Act is that whereas evidence of good faith may be valuable that there should be unremitting, effective protection against price discrimination which is based upon coercive cutting of prices, whether or not a pretense of a lower price of a competitor exists. We don't think the Standard Oil Co. will suffer any hardship. If it could really afford to cut its price to one dealer, it could afford to cut

its price to all dealers and let the dealers compete on the basis of efficiency rather than on the basis of a squeeze-out margin (p. 147).

Mr. President, if we go against the advice of all these small-business organizations and in effect repeal the Robinson-Patman Act by passing S. 719, we will undoubtedly set in motion a series of steps which will result in great embarrassment to every Member of the Congress who votes for this proposed legislation. What will unquestionably happen will be:

First. With the Robinson-Patman Act effectively repealed, the chains and other big buyers will undoubtedly return to the vicious discriminatory pricing methods which they used on a wholesale scale before the passage of that act and which it prohibits.

Second. These predatory attacks will result in widespread and serious injury to small business, particularly to small merchants.

Third. These injured small-business men will then come to Congress, as they did in 1935, and demand legislation against price discriminations which destroy competition. Facts will be brought out showing the outrageous discriminations which the chains will be enjoying. The case will be conclusive that Congress, in passing S. 719, acted to destroy small business.

Fourth. Each Member of Congress who voted for S. 719 will then have an extremely difficult time trying to explain away his vote to small merchants in his own home State. He will have to explain it to the druggists, to the grocers, to the food brokers, to the tire dealers, to the filling-station operators; in fact to small merchants of all types. His vote by then will be known to all as a vote for monopoly and a vote against small business. When I say they will have an extremely difficult time I believe I am putting it mildly.

Mr. President, I hope that each Member of this body will have an opportunity to study the testimony of the small-business organizations before the Senate Small Business Committee. Even a survey glance at their statements will make it abundantly clear that S. 719 is not just a basing-point bill. It is a price-discrimination bill, a bill to repeal the Robinson-Patman Act, a bill to promote chain stores, a bill to destroy small merchants, a bill to make it permissible for chain stores and other big buyers to commit economic murder. Any of these titles would be more appropriate than the phrase, "the basing-point bill." It is not just a basing-point bill; it is a bill aimed directly at every small merchant in the United States.

It must be defeated.

Mr. DOUGLAS. Mr. President, what is the balance of unused time?

The VICE PRESIDENT. The proponents of the bill have 18 minutes remaining, and the opponents have 12 minutes remaining.

Mr. WHERRY. Mr. President, if it is satisfactory to the opponents, I believe the proponents are ready to vote.

Mr. DOUGLAS. I should like to yield 7 minutes to the Senator from Louisiana [Mr. LONG].

The VICE PRESIDENT. The Senator from Louisiana is recognized for 7 minutes.

Mr. LONG. Mr. President, several things should be understood with reference to the bill now before the Senate. In the first place, the law always has permitted a merchant to price his goods in any way in which he would like to price them, so long as he is not injuring competition. A person can manufacture and price his goods in a discriminatory fashion so long as he is not injuring competition. The Kefauver amendment will be offered, which provides that a merchant can price his goods and injure competition so long as he does not substantially injure competition. That is going pretty far. Chain stores can drive out little establishments throughout the country so long as they do not do it in a wholesale fashion, so that it would not be possible for those who are being favored by discrimination to do enormous injury to competition in an entire marketing area.

Of course, some are opposed to accepting an amendment which provides that one can price his goods in a discriminatory fashion so long as he does not destroy competition in a broad, general sense. If it is done in that way, opposition will still be met. Someone will say, "If you are in good faith, you should be able to go into the City of Detroit and run every filling station out of business by discriminatory pricing.

For example, the Standard Oil Co. of Indiana alleged that the Red Indian Gasoline Co. offered to drop its price to four large customers of Standard Oil Co. of Indiana. So Standard Oil Co. of Indiana then dropped its price to the four large customers, who in turn dropped their price to their customers, but other customers were not given a chance to buy gasoline at that lower price. If the price were dropped to all, well and good. But what we do not want is the Standard Oil Co. reducing its price merely to four of its large customers, whereas all the rest of the filling station operators may be driven out of business.

Mr. President, all of us would like to see Squibb & Co. reduce the price of everything they sell to a drugstore. We want them to do so, however, in such a way as not to enable Rexall to drive every independent drugstore out of business. Why should anyone want to become angry about such a proposal. Why should anyone want to allow the defense of good faith, and permit discriminations to be made on the ground that they were made in good faith, although it was clear throughout the country that independent merchants were being driven out of business by that sort of action?

Mr. President, the Senator from Nevada referred to a speech I made, and he said I was entirely wrong in everything I said. For example, he said that this bill does not affect the retail stores at all. I cite a good example of how it does affect the retail stores. We know about the Morton Salt Co. case. The Morton Salt Co. was selling its salt to the five largest chain groceries in the United States, the A. & P., Safeway, Kroger, National Tea Co., and American Stores, at 10 percent below the price they were selling to the average small merchant. The Court in that case said, in effect, "If the Morton Salt Co. is permitted to do that in connection with the big chains, it will result in permitting everybody else manufacturing canned goods to do the same thing, which will result in driving the little independent merchants out of business." The Court said, "That is why the Robinson-Patman Act was passed."

Mr. President, in that case it took years before a decision came from the Court. If the bill before us became law, it would be possible for the Morton Salt Co. to find that the smallest producer of salt in the United States had offered to any one of these five grocery chains a price 10 percent or 15 percent or 20 percent below the price the Morton Salt Co. is required by law either to furnish its product to its customers, or else reduce its price to all, and it would then be possible for the Morton Salt Co. to reduce its price to everyone.

Mr. President, good faith is urged. It is said that if a man is in good faith, he should be able to do about anything. It was argued that bad faith should be proved by showing what a person was doing. In other words, if a person was losing money in everything he was doing to drive competitors out of business, it could almost be presumed he was in bad faith.

But suppose he was not losing money. That is what the fact will always be. How could one charged with the responsibility of filing an antitrust suit, who found that there was discrimination, who found that the action complained of injured competition, who would try to protect the national interests as a representative of the Federal Government, know he had a good case unless he could read the mind of the one who was making the discriminations?

Mr. President, there are laws against all sorts of homicide. There are laws against murder. Murder is reduced to manslaughter if it is committed in an understandable heat of passion. If a man has an excusable motive we do not put him in jail quite as long as we would if he did not have such a motive, but his action, however, is quite against the law. There is what is known as negligent homicide, which is not quite as bad as manslaughter. But nowhere can we find any provision excusing a man from killing several others merely because he says that he did not know the gun was loaded.

However, under the Kefauver amendment, which will be offered, we ask that the law should not go that far in destroying independent businesses by price discriminations. Under that amendment we would let the large concerns destroy a few merchants. But when we find that they are destroying merchants in large numbers, that their actions are destructive of competition, even though what they are doing is done in good faith, discrimination can be prohibited.

The VICE PRESIDENT. The time of the Senator from Louisiana has expired.

Mr. DOUGLAS. Mr. President, I yield five more minutes to the Senator from Louisiana.

The VICE PRESIDENT. The Senator from Louisiana is recognized for five more minutes.

Mr. LONG. Mr. President, I made the statement that it would be possible under the proposed legislation for large manufacturers to drive out competition at will, using their economic power to do so. It was stated by the Senator from Nevada that that was not correct. I should like to cite the testimony of Dr. Hamilton, one of the first witnesses to appear before the Senate Committee on Small Business. Dr. Hamilton showed the tremendous number of discriminations practiced by the American Can Co., and the Continental Can Co. Dr. Hamilton is a man who has been in antitrust work with the Government, and in many other lines, whose conclusion was that the 2,300 producers of canned goods in this country are almost completely at the mercy of the American Can Co. That man is at the present time prosecuting a case for a small concern that was driven out of business, one of the few of such actions ever to come up in the higher courts. Usually small concerns are driven into bankruptcy before they are in position to successfully prosecute these lawsuits. But in this case this man was able to get the stockholders of a bankrupt company to subscribe their own funds to keep their case alive, and to get some help from the Federal Government. If Senators will read his testimony they will find that these two large can companies—only two in the country—price their products in such a discriminatory fashion, in most cases meeting one another's competitions, the independent and small-canners of goods are at the mercy of those two suppliers of cans.

Mr. President, it was argued that the bill does not shift the burden of proof. Let us take the case which the proponents of the bill use as a springboard, the Standard Oil Co. of Indiana case. Did anyone prove that the Standard Oil Co. of Indiana was in good faith? No one proved any such thing. The Standard Oil Co. said, in effect, "Here is a company that is offering a lower price to some of our customers. We are meeting that lower price to some of those customers." That shifted the case to the Federal Trade Commission. The case is no longer being prosecuted. Once it is shown that a company is meeting the lower price offered by another company to some of the first company's customers, it is assumed that they are meeting the price in good faith.

Some of us know what is really behind the bill. We know that a few years ago the cement industry was found to be using a basing-point pricing system that had the effect of eliminating all price competition. It was a system whereby they arrived at identical prices at every delivered point. There are many of us from the South and from the West who felt that that system had much to do with the fact that our States were still undeveloped, and that there was very little industry in them.

Mr. President, I have had prepared for me a chart showing what mills have been expanded, and what new mills have been authorized, since the basing-point decision. The chart is now behind me in this Chamber. It will be noted that since that decision by the Supreme Court there have been expansions of mills, and new mills built all over the United States, except, I would say, in one area, namely, the Lehigh Valley of Pennsylvania, where there are already about 19 mills which produce three times as much cement as can be consumed in that marketing area.

Aside from that, the entire United States has seen the development of new mills and a tremendous expansion of the old mills. Especially the undeveloped sections. In my own State there is a new mill. Oddly enough, those who brought that mill there are urging the passage of this bill in order that price discrimination can be eliminated in the cement industry. How would they do it? They would do it simply by every mill matching every other mill's price. If it could be proved that they were in conspiracy, that could be stopped, but I do not believe it could be proved that they were in conspiracy.

The VICE PRESIDENT. The time of the Senator from Louisiana has expired.

The Senator from Tennessee [Mr. KEFAUVER] has 1 minute remaining under his control. The proponents of the bill have 18 minutes left if they wish to use the time.

Mr. CAPEHART. Mr. President, I shall take 1 minute, and then I believe the proponents are willing to surrender their remaining time, and a vote may be had.

I refer Senators to page 2, line 5, of the bill, which reads as follows:

Provided, That a seller shall not be deemed to have acted in good faith if he knew or should have known that the lower price or more extensive services or facilities which he met were in fact unlawful.

We have heard a great deal about good faith and bad faith. I want to read that sentence again. I do not know how in the world the Congress of the United States can better protect every person involved than by those words. Let me read them again:

Provided, That a seller shall not be deemed to have acted in good faith if he knew or should have known that the lower price or more extensive services or facilities which he met were in fact unlawful.

That covers the Standard Oil case. It covers every other case which has been discussed on the floor of the Senate. It covers all the categories. I think it is perfect language. I think it means exactly what it says. I think it describes exactly what good faith is and what it is not. It says:

Provided, That a seller shall not be deemed to have acted in good faith if he knew—

We did not end with those words. We continued—

or should have known that the lower price or more extensive services or facilities which he met were in fact unlawful.

That means that if he knew—or if he did not know, if he should have known—that by doing any one of the things which able Senators point out have been done or might be done in respect to collusion and unfair competition, a certain result would follow, he would not be acting in good faith. Those things are all covered by the Robinson-Patman Act and the Clayton Act. They are described in the language which I have read, and which I wish to read again, and then I shall take my seat. It seems to me that this language covers everything that has been said here in many days of debate. Let me read it again:

Provided, That the seller shall not be deemed to have acted in good faith—

At the beginning of the bill it is provided that if he acts in good faith he may meet the equally low price of a competitor. The opponents of the bill have all admitted that he has the right to meet any price he cares to meet. He has the right to absorb freight. He has the right to pay all the freight or part of the freight. The President has said so. The Supreme Court has said so. Even those opposed to the bill say that he has the right to do all those things if he does them in good faith. We were not satisfied, so we added this proviso, which I wish to read once more:

Provided, That a seller shall not be deemed to have acted in good faith—

Everyone admits that he has the right to do all the things I have mentioned if he does them in good faith. In order that there might be no question about it, we added this proviso:

Provided, That a seller shall not be deemed to have acted in good faith if he knew—

Businessmen all know that it is against the law for two or three or more of them to get together and set prices. They all know that it is against the law to set a price temporarily in order to run someone else out of business. They all know exactly what the Robinson-Patman Act means. It means that everybody must be treated alike, and that is exactly what we want. No discrimination may be practiced in favor of one class as against another. All businessmen know that. The last proviso is to the effect that a seller shall not be deemed to have acted in good faith if he knew that the price which he met was unlawful. They all know. There is no question about that. No one in business could be brought into court or brought before the Federal Trade Commission and say that he did not know the law. We were not even satisfied with saying that he knew the law, but we added the words "or should have known." There is no one in business but who knows the law, or should know it, particularly in the case of a big corporation, or in the case of the chain stores about which Senators have spoken. They know the law. They know what they can do and what they cannot do. So we said—and I shall read the proviso again, and then take my seat:

Provided, That a seller shall not be deemed to have acted in good faith if he knew or should have known—

Any of the big wicked organizations about which Senators have been talking know; and if they do not know, they should know. So we put into the bill the words "or should have known," so as to read:

Provided, That seller shall not be deemed to have acted in good faith if he knew or should have known that the lower price or more extensive services or facilities which he met were in fact unlawful.

We certainly do not want to prosecute anyone in America for doing something unless it is unlawful. Unless he violates the law, we certainly do not want to prosecute him. In my opinion, the last five lines of the bill would protect all the small businesses in America. I think it is a wonderful protection against those who would take advantage of competition. It is clear, plain language. It means exactly what it says—no more and no less. It says:

Provided, That a seller shall not be deemed to have acted in good faith if he knew or should have known that the lower price or more extensive services or facilities which he met were in fact unlawful.

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

Mr. CAPEHART. I yield.

Mr. LONG. In the very case which gave rise to this legislation, the Standard Oil Co. of Indiana case, we had a situation in which the Red Indian Gasoline Co. was alleged to have made a discrimination which was the basis upon which the Standard Oil Co. justified its discrimination. Can the Senator tell me how the Standard Oil Co. would feel that it either knew or should have known whether or not the price of the Red Indian Gasoline Co. was legal?

Mr. CAPEHART. It would be up to the Standard Oil Co. to prove to the court or the Federal Trade Commission that it acted in good faith. The burden of proof would be upon the Standard Oil Co. The able Senator is a lawyer and he understands what that means.

Mr. LONG. Who would be the one to prove that the Standard Oil Co. either knew or should have known that the price charged by the Red Indian Co., let us say, was a lawful price?

Mr. CAPEHART. The Standard Oil Co. would have to prove that it acted in good faith. The burden of proof would be upon the Standard Oil Co. under the existing law, and it would be upon the Standard Oil Co. under the proposed law. The Standard Oil Co. of Indiana certainly knows the laws of the land. It certainly knows what it can do and what it cannot do so far as competition is concerned. I am not saying that it would not try to get away with some thing or that it would try to get away with something. But the point is that it could never make me or the Senator or any judge believe that it did not know the law, and that it did not know the net effect of what it might do in Detroit or anywhere else. That is why we placed in the bill the last five lines, which to my mind protect small business and big business, and make the proposed law worth while. What the bill does is simply to clear up in the mind of everyone in America what he can do and what he cannot do.

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

Mr. CAPEHART. I yield.

Mr. LONG. In this case would not the Federal Trade Commission, in its effort to protect the smaller merchants, be in the position of having to prove, first, that the price of the Red Indian Co., was an unlawful price; and, in addition that the Standard Oil Co. should have known that fact? Would not that be an impossible burden?

Mr. CAPEHART. I do not think so.

Mr. President, we surrender back the proponents' time, and are ready to vote.

The VICE PRESIDENT. The bill is open to amendment.

Mr. DOUGLAS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Senator from Illinois has 1 minute left if he wishes to use it.

Mr. DOUGLAS. I understand that the proponents of the bill were able to have a quorum call earlier in the day without the time being deducted from the time of either side. I wonder, therefore, if the opponents might have the same privilege.

The VICE PRESIDENT. There was an agreement that a quorum call might be had without the time being charged to either side.

Mr. WHERRY. I would suggest that the first amendment be offered, that then there be a quorum call, and that the time consumed in the call of the quorum be not charged to either side.

The VICE PRESIDENT. Under the unanimous-consent agreement entered into if a quorum call is had after an amendment is offered the time would be charged to the proponent of the amendment, unless an agreement is made otherwise.

Mr. WHERRY. We could enter into an agreement that the time consumed in the call of the quorum be not charged to either side.

The VICE PRESIDENT. The bill is open to amendment. An amendment has been sent to the desk and has been printed, but it has not been offered.

Mr. KEFAUVER. Mr. President, I call up my amendment, with the understanding that the time consumed in the quorum call will not be charged to either side.

Mr. WHERRY. That is correct. The understanding is that the time will not be charged to either side.

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

The clerk will state the amendment.

The LEGISLATIVE CLERK. On page 2, line 5, after the word "competitor", it is proposed to insert a comma and the following: "unless the effect of the discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce."

Mr. KEFAUVER. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

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

Aiken	Hennings	Millikin
Bennett	Hickenlooper	Monroney
Benton	Hoey	Moody
Brewster	Holland	Morse
Bricker	Humphrey	Mundt
Bridges	Hunt	Murray
Butler, Md.	Ives	Neely
Byrd	Jenner	Nixon
Cain	Johnson, Colo.	O'Mahoney
Capehart	Johnston, S. C.	Pastore
Carlson	Kefauver	Robertson
Case	Kem	Saltonstall
Chavez	Kerr	Schoeppel
Connally	Kilgore	Smith, Maine
Cordon	Knowland	Smith, N. J.
Dirksen	Langer	Smith, N. C.
Douglas	Lehman	Sparkman
Duff	Lodge	Stennis
Dworshak	Long	Thye
Ecton	Magnuson	Underwood
Ellender	Martin	Watkins
Ferguson	Maybank	Welker
Frear	McCarran	Wherry
Fulbright	McCarthy	Wiley
Gillette	McClellan	Williams
Green	McFarland	Young
Hayden	McKellar	
Hendrickson	McMahon	

The VICE PRESIDENT. A quorum is present. The Senator from Tennessee has offered an amendment, which the clerk has stated. Twenty minutes for debate is available on each side, if that much time is desired. The Senator from Tennessee is recognized for 20 minutes.

Mr. KEFAUVER. Mr. President, the proponents of Senate bill 719 have stated repeatedly that it would increase competition and would prevent the formation of monopolies. The burden of their argument in favor of Senate bill 719 is that it would bring about more competition, enhance the free-enterprise system, and prevent the creation of monopolies.

If the proponents believe this bill will do that, as all of them have said it will—in other words, that the bill, if enacted, will increase competition, will not lessen competition, and will not create monopolies—then I cannot understand why any of the proponents of the bill would object to an amendment which would simply provide an additional safeguard, which the proponents say is already in the bill. They say that the bill will increase competition and will not lessen competition and will not create monopoly. All that the amendment does is simply to provide that discriminatory prices can be made as much as is desired and discriminatory price cuts can be made, but if they substantially lessen competition or tend to create monopoly they cannot be made; that cannot be done.

What Senators would wish to lessen competition and what Senators would wish to create monopoly? If the proponents of the bill do not wish to lessen competition and do not wish to create monopoly, then I cannot see any reason why they should not support this amendment.

Mr. President, we say that we have free speech in our country. However, there are certain types of free speech which, if allowed, would destroy free speech altogether. That is why there are laws which prevent persons from shouting "fire" in a crowded theater. We do not wish to have free speech used in such a way as to destroy all free

speech. That is why we have laws limiting free speech on the part of Communists, because they would, if they could, destroy the very thing we want.

All of us want competition to the greatest possible extent, but we do not wish to have the kind of competition which destroys competition or creates monopoly.

This amendment merely provides that competition can be met in good faith and discriminatory price cuts can be made, if desired, to meet competition in good faith, and those who operate in that way can proceed as far as they wish with the competitive system, until they reach a situation where the effect would be substantially to lessen competition or to create monopoly; and there they must stop.

The amendment does not mean that simply to put one small customer out of business would be prohibited. That would be prohibited under the original Robinson-Patman Act, because it referred to competitors. This amendment means that in a general area the effect must be substantially to lessen competition or to create a monopoly. Does any Senator want that to happen under the terms of this bill? If Senators do not want it to happen, I cannot see what objection they could have to the amendment.

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

Mr. KEFAUVER. I yield to the distinguished Senator from New York.

Mr. IVES. I should like to ask the distinguished Senator from Tennessee whether his amendment would remove anything from the bill, other than punctuation. I understand that the amendment would add certain words and perhaps certain punctuation, as well.

Mr. KEFAUVER. That is correct; the amendment would not strike out any of the language of the bill, but would simply add a comma and the following words:

> Unless the effect of the discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce.

Mr. IVES. Then, following that addition or insertion, the bill would continue with the colon and the word "Provided," and so forth, just as the bill now reads; is that correct?

Mr. KEFAUVER. That is correct.

Mr. IVES. I thank the Senator.

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

Mr. KEFAUVER. I yield.

Mr. HENDRICKSON. I take it from what the Senator from Tennessee has said that there is no intent by the amendment to strike out the proviso at that point in the bill.

Mr. KEFAUVER. That is correct. The amendment merely comes between the word "competitor" and the word *"Provided,"* in the bill as it now stands.

Mr. HENDRICKSON. I thank the Senator.

Mr. KEFAUVER. Mr. President, I should like to demonstrate on the blackboard which I have had placed at the front of the Chamber just what I have been trying to show about the effect of the amendment, if adopted.

Let us suppose that there is a large supplier and a small one and a large chain-store organization and 10 or 12 small merchants or buyers, in addition. Suppose the large chain organization, whatever it might be, had heard that it could get even a small amount of groceries from the supplier at, let us say, 20 percent less than it had been paying. Then the large supplier could, in turn, supply the large chain or the large purchaser with everything that was needed, and could discriminate in price as to the smaller merchants, and could charge them 20 percent more than the large concern was charged. The large concern might not even make a purchase from the other concern; the large concern might simply have heard that it would be able to purchase the groceries at the reduced amount, even if in that way it could obtain only 2 percent of the merchandise needed, and even though the merchant was operating on a price scale which was not discriminatory, because he might be selling all his products to the one to which I now point on the diagram on this blackboard. If the large concern could sell for 20 percent less to the large chain than the price at which it sold the groceries to the small merchants, then under the bill, as interpreted by the report, the large concern could sell at 20 percent less to other large purchasers.

If the result was to increase competition to the extent that the smaller operators would be put out of business, we would not want that to be done.

Therefore, under the provisions of the amendment, discriminatory reductions in price could be made as long as desired, provided monopoly was not created or provided the effect was not substantially to lessen competition in the area concerned.

Those who believe in the competitive system and those who do not want to foster monopolies or to lessen competition will find that safeguard provided by this amendment.

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

Mr. KEFAUVER. I yield.

Mr. CAPEHART. Does not the Senator from Tennessee think that the merchants indicated by the numerals "20" on the diagram on the blackboard, would, under the Robinson-Patman Act, have to sell to the merchant indicated on the extreme left-hand side of the diagram?

Mr. KEFAUVER. Oh, no, because if he can get a 20-percent reduction in the price, he would not have to keep the other man as a customer; and then he could begin to sell to the others, and could discriminate in price.

Mr. CAPEHART. The Senator from Tennessee has not answered my question. If the merchant indicated by the letter "S" is selling to the one indicated by the letter "C" at a 20-percent reduction, the Senator from Tennessee says, as I understand him, that that merchant does not have to sell to the other stores at the reduced price. However, under the Robinson-Patman Act he then has to sell to the others at 20-percent less.

Mr. KEFAUVER. Oh, no; that is not true.

Mr. CAPEHART. I believe it is true.

Mr. KEFAUVER. No; under the Robinson-Patman Act he can sell at the reduced price to anyone to whom he wishes to sell, but not necessarily to all.

Mr. CAPEHART. There is nothing in the Robinson-Patman Act, which I hold in my hand, which would permit that to be done.

Mr. KEFAUVER. Oh, yes; if the large chain store obtains a lawful lower price from a small dealer, even though the large chain may be purchasing in that way only 1 percent of what it needs, the merchant I now indicate on the diagram can meet the price and can discriminate against his other customers, either in order to meet the price or in order to retain the other merchant as a customer, and can make a reduced price as to him, as opposed to the others.

Mr. CAPEHART. Suppose the merchant indicated by the letter "S" on the diagram——

Mr. KEFAUVER. Let us call him the supplier.

Mr. CAPEHART. Very well, suppose he is selling to the chain store at 20 percent less than he is selling to his other customers, before the supplier indicated by the larger letter "S" gets into the operation. He will be in violation of the law, in that case, and can be prosecuted for violating the law.

Mr. KEFAUVER. No.

Mr. CAPEHART. Oh, yes.

Mr. KEFAUVER. No, because he is selling at 20 percent less in order to meet the competition of the other man.

Mr. CAPEHART. No; if the merchant indicated by the small letter "s" were selling to the chain stores at 20 percent less, he would have to be selling to the other stores at the same price, under the existing law; and the pending amendment, if adopted, would not come into effect until the chain stores began to sell to the others.

Mr. KEFAUVER. The merchant I now indicate on the diagram could sell at 20 percent less to the chain stores, so long as he was selling at a nondiscriminatory price. Of course he would not even have to sell; if the chain store simply heard about a price which the other merchant had, at a 20 percent reduction, that would justify the merchant I now indicate on the diagram in selling to the chain store at 20 percent less, he would not have to give that reduced price to the merchant I now indicate on the diagram.

Mr. CAPEHART. Oh, no.

Mr. KEFAUVER. Absolutely so; the entire report shows that to be the case.

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

Mr. KEFAUVER. I yield.

Mr. DOUGLAS. Mr. President, is not the Senator from Tennessee saying that the small supplier in question is virtually a captive of the chain store, disposing of his entire output to the chain store, making a low price, and that then, under Senate bill 719, the big supplier could make to the chain store a discount which was not granted to the independent?

Mr. KEFAUVER. That is correct. That is exactly what was done in the case of the Standard Oil Co., which sold to four large retailers at a lower price than it sold to others.

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

Mr. KEFAUVER. The Standard Oil Co. said it was done in order to meet competition on the part of the Red Indian Oil Co. I yield to the Senator from Indiana.

Mr. CAPEHART. When the small merchant, indicated by the small letter "s," starts selling the chain stores at 20 percent off his regular price, and when he continues to do it, I say that, under the law, he must give the discount to the four men who are indicated on the left of the diagram by the four circles.

Mr. KEFAUVER. But the merchant indicated by the small letter "s" is selling his entire output to the man indicated at this point on the diagram, so it is not a discriminatory price. He does not have to sell to anyone else; he may select his own customers. So the big suppliers can say, "In order to meet the competition of the merchant indicated by the small letter 's,' I will meet that price, and I will sell you 98 percent of your needs," and he would discriminate against the little fellows, indicated at this point on the diagram.

Mr. CAPEHART. If the merchant indicated by the small letter "s" is selling his entire output, then, of course, the four men who are indicated on the left of the diagram would be unable to get any of it, would they not?

Mr. KEFAUVER. That is correct; but the merchant indicated on the diagram by the little letter "s" sells only 2 percent of his output, in view of the fact that the Federal Trade Commission and the committees of Congress felt that, in that sort of business, it was absolutely impossible to police the original Clayton Act. If the Senator will examine the statement made by the Senator from Maryland [Mr. O'CONOR], he will find that the Senator from Louisiana [Mr. LONG] time after time asked, "Why should not the Standard Oil Co. have given the same price to all these 100 little fellows?" In reply to that question the Senator from Maryland said: "It would not have to, under the bill S. 719, which is here presented."

Mr. President, I may say that all we want to do is to let it cut its price if it wants to in order to create competition; but, if it gets to a point where it is going to create a monopoly, or is going to lessen competition substantially in an area, then we want it declared illegal. That is the only purpose of the amendment. It would serve as a guarantee. In order to have competition, there must be competitors. Without this amendment, it would be possible under the existing system to eliminate competitors on a vast scale in a particular city or area. I repeat, there cannot be competiton without competitors.

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

Mr. KEFAUVER. I do not care to take too much time. I wanted the Senator from Louisiana to have some of the time. I yield to the Senator from Indiana for a question.

Mr. CAPEHART. The whole weakness——

Mr. KEFAUVER. I do not want to yield in our time. I will yield in the proponents' time.

Mr. McCARRAN. Very well. I will yield to the Senator.

Mr. CAPEHART. Will the Senator from Nevada yield me some time?

Mr. McCARRAN. I will yield to the Senator from Indiana, if he will not take too much time.

Mr. CAPEHART. Let me say what happened. I recall that the Senator from Tennessee brought up the question of the small-business man, represented on the diagram by the small letter "s," who sells his entire output to the chain store. If he is selling his entire output to the chain store, he never can sell the four men who are indicated on the diagram at this point. That is exactly what happens, and that is exactly what makes it tough for the four men. In other words, the chain stores use their own companies, or they make a deal for the entire output of a company. They buy at 20 percent less than they can buy anywhere else. That enables the chain store to undersell the four men indicated on the diagram, and likewise denies the business to the merchant who is also indicated on the diagram.

The Senator never in his life described a more perfect example of what happens to American industry than when he described the situation represented on this chart. I have personally faced such a situation. I have had actual experience with it, and have seen chain stores and the large concerns put the other fellows out of business, because they buy "S" company, they control it, they take its entire output at 20 percent less than the prices at which others could buy, denying all the people indicated on the other side of the diagram the right to get anything. The result is the situation which exists in America today. The Senator did the Congress and the American people a great justice by pointing out the weakness in the situation as indicated on the diagram.

Mr. KEFAUVER. I know of no way under this bill by which we can prevent the little fellow from selling his entire output to the man indicated at this point on the diagram.

Mr. LONG. Mr. President, will the Senator from Tennessee yield?

Mr. KEFAUVER. This bill would make it possible for this other big supplier shown on the chart—which is the usual case—in order, let us say, to meet the competition, to sell at the same price, and, as the report on page 4 says, "without necessarily changing the seller's price to its other customers." So the amendment, at least, gets at half the difficulty. I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, may I point out to the Senator from Tennessee that if the chain store bought any of its salt, or its entire supply in this particular case, from one producer and all the other smaller merchants were competing with the large chain group which was buying it, it would be very important that the supplier then get his price down low enough so that the little fellows could continue in business. He would therefore find some way to get his price down, if he could, because he would realize that it was important to him that these little fellows be able to survive. However, under this bill, without the Kefauver amendment, it would be possible for the supplier to keep that customer by discriminating in his prices to him, in order to retain that business, even though he knew that it would result in all the little fellows going out of business.

Mr. KEFAUVER. I thank the Senator. That is exactly what happened in the case of the Morton Salt Co. The Morton Salt Co. was a big supplier. The purchaser was buying from a little concern. He was buying about 2 percent of its supply. The Morton Salt Co., on the ground that the purchaser was buying 2 percent of its supply from the little fellow, sold the five big concerns 98 percent of their salt and discriminated against the small purchasers and almost put them out of business. That is what would happen without this amendment.

Mr. JOHNSON of Colorado. Mr. President, will the Senator yield?

The VICE PRESIDENT. Is the Senator from Tennessee speaking now in his own time?

Mr. KEFAUVER. I am speaking in our own time. I want to reserve the remainder of our time for the Senator from Louisiana.

The VICE PRESIDENT. The Chair is advised that the Senator from Louisiana has used 2 minutes.

Mr. KEFAUVER. Let some of the time be charged to the proponents.

The VICE PRESIDENT. Does the Senator from Indiana or the Senator from Nebraska desire to use some of the proponents' time?

Mr. CAPEHART. How much time remains to the proponents?

The VICE PRESIDENT. The Senator from Nebraska has 18 minutes. The Senator from Tennessee has 5 minutes.

Mr. McCARRAN. Mr. President, I should like to have 15 minutes at some time.

Mr. WHERRY. I suggest the Senator from Nevada proceed.

Mr. McCARRAN. If the Senator from Indiana wishes me to do so, and if the Senator from Colorado wishes it, I shall be very glad to yield briefly to the Senator from Colorado.

Mr. WHERRY. Mr. President, who yields the time? Is it the Senator from Indiana [Mr. CAPEHART]?

Mr. McCARRAN. I am giving 1 minute to the Senator from Colorado.

Mr. JOHNSON of Colorado. I thank the Senator. I think the amendment offered by the Senator from Tennessee looks very plausible, until we consider the facts, and analyze and study it. But I have applied it, for example, to the sugar-beet industry, and this is what happens in the sugar-beet industry. The sugar-beet industry finds it necessary to compete.

The VICE PRESIDENT rapped for order.

Mr. JOHNSON of Colorado. Mr. President, please do not take that out of my time.

The VICE PRESIDENT. The Chair is trying to get order for the Senator.

Mr. JOHNSON of Colorado. If I cannot keep order, unassisted, I am not entitled to it.

The VICE PRESIDENT. The Chair is interested in keeping order.

Mr. JOHNSON of Colorado. I appreciate that.

The VICE PRESIDENT. The Senator from Colorado will proceed.

Mr. JOHNSON of Colorado. I thank the Chair for keeping order.

The sugar-beet industry is in a peculiar position in that it does not produce sugar in an area which is able to consume its product. It must be taken to distant markets. When it reaches the Chicago market, it comes into competition with the Atlantic seaboard sugar and the Louisiana sugar. It is necessary to lower the price at Chicago. The industry sets a price in Chicago, so that it can compete, so that it can get a part of the business. What the Kefauver amendment would do would be to require the industry to set its Chicago price, and, having set that price at a certain figure, it would then have to set its price throughout the United States at exactly the same figure. If it undertook to do that, it would be out of business. The amendment is very deceptive. It overrules the Supreme Court decision in the Standard Oil Co. case, and it would destroy the sugar-beet industry and any other industry in a similar position.

The VICE PRESIDENT. The time of the Senator from Colorado has expired.

Mr. McCARRAN. Mr. President, as a background for the discussion of this amendment, which I oppose, I should like to quote from a letter which I received over the signature of the Chairman of the Federal Trade Commission, under date of April 18, 1951, by way of a report on this bill. In that letter our former colleague, now Federal Trade Commissioner James Mead, speaking for the majority of the Commission, stated, referring to Senate bill 719:

> The bill would add a new subsection to section 2 of the Clayton Act making the meeting of an equally low price of a competitor in good faith a complete defense to a charge of unlawful price discrimination, in effect writing into the statute the interpretation of existing law expressed by the Supreme Court in the case of *Standard Oil Company* v. *Federal Trade Commission* (340 U. S. 231), decided on January 8, 1951, in addition to undertaking to define one aspect of the term "good faith."

That statement makes it clear, I think, that the Federal Trade Commission understands the effect of the Supreme Court's decision in the Standard Oil case to be a holding that the meeting of an equally low price of a competitor in good faith is a complete defense to a charge of unlawful price discrimination.

The Federal Trade Commission's letter continued with a suggestion concerning a possible construction of the bill in relation to shifting the burden of proof. That point has been discussed at length heretofore. It is not pertinent right at this moment, because the amendment which has been proposed has nothing to do with any question of shifting the burden of proof. The purpose of the amendment is, quite clearly, to reverse the holding of the Supreme Court in the Standard Oil case.

This amendment, Mr. President, would have, if adopted, and clearly is intended to have, the effect of repealing the Supreme Court's decision in the Standard Oil case. This is in line with the statement contained in the minority report, that the Supreme Court decision was in error.

Mr. President, Congress passed a pricing practices bill last year. One of the strongest arguments used against that bill—arguments used in the main by the same persons who are opposing S. 719 today—was that we should await the decision of the Supreme Court. Mr. President, that argument implies that when the decision of the Supreme Court has been handed down, we should follow it. But, Mr. President, the decision of the Supreme Court has been handed down; and now we find the opponents of S. 719 offering an amendment which would have the effect of striking down the Supreme Court's decision.

The Federal Trade Commission always has contended, Mr. President, that it had the power to determine when and whether a pricing discrimination was unlawful, on the sole ground, if it so exercised its discretion, that the discrimination tended to create a monopoly, or to lessen competition. The Trade Commission has not been able to establish the validity of that contention. The Supreme Court has ruled against the Federal Trade Commission on that point. Now we are confronted with an amendment which would reverse the Supreme Court, and give the Federal Trade Commission a victory with respect to this matter. Mr. President, when it comes to a controversy between the Federal Trade Commission and the Supreme Court of the United States, it seems to me Senators should be very sure of their ground before lining up against the Supreme Court.

The Supreme Court pointed out, Mr. President, in the Standard Oil case, that any price difference may be found to injure competition. The Supreme Court, in that decision, expressly said that such a limitation as is contained in the pending amendment, a limitation upon the right to compete, would render the statute virtually meaningless. Of course, this is true. Particularly in view of the fact that the Court has already found that any price reduction may always injure competition, the limitation proposed in this amendment—which I choose to refer to as the Federal Trade Commission amendment—will not only make the statute meaningless, but will also have the effect of squarely reversing the Supreme Court.

Let me quote from the Supreme Court's decision in the Standard Oil case. The Court said:

> It must have been obvious to Congress that any price reduction to any dealer may always affect competition at the dealer's level as well as at the dealer's resale level, whether or not the reduction to the dealer is discriminatory.

A little further on, the Court said:

> The proviso in paragraph 2 (b), as interpreted by the Commission, would not be available when there was or might be an injury to competition at a resale level. So interpreted, the proviso would have such little, if any, applicability as to be practically meaningless. We may, therefore, conclude that Congress meant to permit the natural consequences to follow the seller's action in meeting in good faith a lawful and equally low price of its competitor.

Then the Supreme Court continued:

> In the absence of more explicit requirements and more specific standards of comparison than we have here, it is difficult to see how an injury to competition at a level below that of the seller can thus be balanced fairly against a justification for meeting the competition at the seller's level. We hesitate to accept subsection 2 (b) as establishing such a dubious defense.

It is, indeed, Mr. President, difficult to see how an injury to competition at a level below that of the seller can be balanced fairly against a justification for meeting the competition at the seller's level. Yet this is what the amendment now pending would have us provide, if we should adopt it.

Mr. President, there is one result which would flow from adoption of this amendment, which proponents of the amendment have not discussed. I do not know whether they are aware of it. I do feel, however, that the Federal Trade Commission is aware of this result, probably well aware of it; and I think it is probably one of the reasons why the Federal Trade Commission is so anxious to have this amendment enacted into law.

The result concerning which I speak is this: If this amendment should be adopted, it would make the Federal Trade Commission, in effect, the absolute arbiter of all questions of price discrimination. Under this amendment, a seller might be permitted to discriminate so long as the Federal Trade Commission was content that he should discriminate; but no seller could ever know at what moment the Federal Trade Commission might decide his discrimination was illegal and crack down on him.

I say the Federal Trade Commission would be the absolute arbiter, under the terms of this amendment, because this amendment, when viewed from the standpoint of the administrative lawyer, represents a complete surrender to the "expertise" of the Federal Trade Commission.

For the benefit of my nonlawyer colleagues, let me explain that "expertise" means the presumed special knowledge and skill and expert judgment which a court attributes to a quasi-judicial body such as the Federal Trade Commission.

Under the Administrative Procedure Act, the findings of an administrative tribunal are subject to review in the courts, and in most cases, where such findings are not in accord with the reliable, probative, and substantial evidence, the court may reverse the administrative decision. However, it is an established principle of administrative law that a court will not examine into

administrative findings and decisions concerning matters which involve "expertise"; that is, matters deemed to be within the special province of the administrative body, as a group of experts. This is a doctrine, Mr. President, which is much overworked, frequently misapplied, and often misunderstood. Nevertheless, it is an important doctrine in the field of administrative law; and under this doctrine it is my opinion that if the pending amendment should be adopted the courts would find that they had no right to review the findings of the Federal Trade Commission with respect to the legality of a price discrimination based on this amendment. The courts would arrive at this decision by holding that since, obviously, the effect of any price discrimination may be to lessen competition in some degree, the question of what constituted a substantial lessening is a question for the "expertise" of the Federal Trade Commission; that is, a question the Federal Trade Commission is especially qualified to answer. The courts would then hold, I am confident, that since Congress had committed this question to the Federal Trade Commission, the courts had no power to interfere with the Trade Commission's findings and decision with respect to it.

The same reasoning would hold, I believe, with regard to the question of whether a discrimination tended to create a monopoly in any line of commerce. It is unimportant, however, whether this is true, since the amendment states the propositions of substantially lessening competition and tending to create a monopoly in the alternative, and a finding in either regard would be enough to sustain a decision of illegality by the Federal Trade Commission.

For the reasons I have just pointed out, Mr. President, it should be obvious that if we adopt this amendment, we will be giving the Federal Trade Commission a sort of life-and-death power over business and industry, a power which is discretionary and arbitrary, not subject to adequate court review, and therefore susceptible of all imaginable abuses. I do not mean to charge that the Federal Trade Commission ever would abuse any power which Congress might grant; but I see no reason, Mr. President, to grant such a power, or to grant any power to any administrative tribunal which is not subject to proper court review.

Too many times, in the past, Mr. President, the Federal Trade Commission has rendered findings and decisions which were at variance one with the other, in principle, for me to be willing now to give the Commission absolute power of decision over what price discriminations business and industry shall be permitted to make. Many times in the past, Mr. President, the Federal Trade Commission has been overruled by the courts. In fact, most recently, the Federal Trade Commission has been overruled by the Supreme Court of the United States on the very point which is involved in this amendment. In the face of that record I submit that there is no justification for granting to the Federal Trade Commission virtual immunity from court review of its findings. But that is exactly what we shall grant, by this amendment, in the field of price discrimination, if we adopt this amendment and it should be enacted into law.

Mr. President, there are many ways to whittle down the power of our courts. Various methods of accomplishing that result have been tried in the past, and I have had the honor of helping to resist them on the floor of the United States Senate. This amendment which is before us now, Mr. President, is another method to whittle down the power of our courts. I do not charge that this is the purpose of the proponents of the amendment; but I think I have demonstrated to the satisfaction of any reasonable person that whether or not this is the intent of the amendment, it would be the result. I cannot abide such a result; I shall always oppose any provision having such a result. Therefore, Mr. President, I must oppose this amendment.

Mr. KEFAUVER. Mr. President, may I inquire as to the time remaining?

The VICE PRESIDENT. The Senator from Tennessee has 3 minutes remaining and the opposition to his amendment has 5 minutes remaining.

Mr. McCARRAN. Mr. President, does the Senator from Tennessee desire to use his remaining time now?

Mr. KEFAUVER. No.

Mr. CASE. Mr. President, I wish to make an inquiry. The Senator from South Dakota has an amendment to the Kefauver amendment and would be glad to present it at this time, before all the time is exhausted on the original amendment. If the Senator from Nevada is interested in that amendment I should like to have an opportunity to have it considered, so Senators may know what its effect will be, possibly before debate is concluded on the original amendment.

Mr. McCARRAN. I take it the Senator from South Dakota would want time from the Senator from Tennessee and not from the Senator from Nevada.

The VICE PRESIDENT. There will be 40 minutes of time on the amendment of the Senator from South Dakota to the amendment of the Senator from Tennessee, if the Senator from South Dakota wishes to have it used. He can speak in his own time after he has offered his amendment to the Kefauver amendment.

Mr. CASE. Mr. President, it has occurred to me that it would be helpful if the amendment to the amendment were offered and stated.

The VICE PRESIDENT. The Senator from South Dakota cannot be recognized to offer the amendment unless he is accorded time by one of the Senators in control of the time.

Mr. CASE. Then, Mr. President, I ask that one of the Senators in control of the time yield me a minute, or half a minute, in order that I may offer my amendment.

The VICE PRESIDENT. Does either Senator in control of time yield to the Senator from South Dakota?

Mr. McCARRAN. Mr. President, I yield a minute to the Senator from South Dakota to offer his amendment.

The VICE PRESIDENT. The Senator from South Dakota is recognized for 1 minute.

Mr. CASE. Mr. President, I offer an amendment to the Kefauver amendment and ask that it be stated.

The VICE PRESIDENT. The amendment will be stated.

The LEGISLATIVE CLERK. In line 3 of the Kefauver amendment it is proposed to strike out the words "lessen competition or tend" and to insert in lieu thereof the words "destroy competition and."

Mr. CASE. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. CASE. Am I now entitled to time on my amendment?

The VICE PRESIDENT. The Senator from South Dakota is entitled to time on his amendment.

Mr. WHERRY. Mr. President, will the Senator from South Dakota yield for a parliamentary inquiry?

Mr. CASE. I am glad to yield.

Mr. WHERRY. Mr. President, how much time is left, if any, on either side of the so-called Kefauver amendment?

The VICE PRESIDENT. The Senator from Tennessee has 5 minutes remaining and the other side had 3 minutes—it is about 2 minutes now.

Mr. CASE. Mr. President, the purpose of offering the amendment to the Kefauver amendment is twofold.

The VICE PRESIDENT. The Chair presumes the Senator from South Dakota is now speaking in the time of the Senator from Nevada?

Mr. CASE. No, Mr. President.

The VICE PRESIDENT. The Senator from South Dakota may speak now on his own amendment without charging any time to the Senator from Nevada.

Mr. CASE. Mr. President, the purpose in offering the amendment is twofold. One is to seek to clarify in my own mind, and perhaps that of other Members of the Senate, exactly the effect of the Kefauver amendment. Second, if we should adopt a provision in the nature of the Kefauver amendment, we should have it do what I understand it is intended that it should do, and to do it without invoking the disaster which has been suggested by the Senator from Indiana [Mr. CAPEHART] and the Senator from Nevada [Mr. McCARRAN].

I think the intention will be made clear if one goes to the original bill and reads merely the substantive part of it, and drops the various clauses. In other words, the bill proposes to make it "a complete defense to a charge of discrimination for the seller to show that his differential was made in good faith to meet the equally low price of a competitor." In other words, if it is purely a matter of competition it is a defense to the charge of discrimination.

The Senator from Tennessee would add to that, that it is a complete defense to show that it is for the purpose of competition, unless the effect of the discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce.

The point that has been made by the Senator from Nevada that the effect of

this amendment would be to make the Federal Trade Commission a complete arbiter, and to leave a seller without knowing where he was, to leave him in the dark, I think, is good if the language stands exactly as it is in the Kefauver amendment, for it would be hard for any seller to know when the effect of his meeting competition was, in the judgment of the Federal Trade Commission, substantially to lessen competition or to tend to create monopoly.

Without ascribing to the Federal Trade Commission caprice or anything of the sort, it at least would be a no-man's land, and the seller would never know when the Federal Trade Commission might decide that the effect of his meeting competition was in effect to lessen competition, and the seller could never know when in the mind of the Federal Trade Commission his meeting of competition might tend to create monopoly.

The words "to lessen" and "tend" are certainly words of degree. No seller could know when that degree had been reached in the minds of the Federal Trade Commission. That is why it seems to me that if any amendment of that sort should be adopted we should use exact words, and not words such as "lessen" and "tend." That is why the amendment I propose to the amendment offered by the Senator from Tennessee uses the words "to destroy" and strikes out the word "tend."

I respectfully suggest to the Senator from Tennessee and the Senator from Nevada that I would like to have their comments on my amendment. The Kefauver amendment, as amended by my amendment, would read:

> Unless the effect of the discrimination may be substantially to destroy competition and to create a monopoly—

In other words, for the word "lessen" my amendment would substitute "destroy," and in the words "tend to create monopoly," it would strike out the word "tend." Then it would not leave it purely within the arbitrary judgment of the Federal Trade Commission as to whether or not the competition was tending to lessen competition, or whether pricing to meet competition was tending to create monopoly. A seller would have a gage and a standard to go by, for any seller would know when he was destroying competition under the guise of meeting competition, and any seller would know whether or not he was creating a monopoly under the guise of meeting competition.

I thought the argument of the Senator from Nevada was very well taken, that the Federal Trade Commission could become a complete arbiter, and that the seller would be wholly at the mercy of the unknown realm of the mind of the Federal Trade Commission if we were to leave the language of the Kefauver amendment in the form offered by the Senator from Tennessee.

Mr. President, if the Senator from Nevada or the Senator from Tennessee cares to comment upon my observations, I shall be glad to yield to either of them at this time.

Mr. McCARRAN. Mr. President, in the Senator's time, I wish to say that in my judgment the amendment offered by the Senator from South Dakota to the amendment of the Senator from Tennessee does nothing more than to make the matter more confused and more complicated. I am unable to clarify the situation any more with the Senator's amendment than I was before.

Mr. CASE. The observation of the ditsinguished Senator from Nevada, the chairman of the Judiciary Committee, certainly does not lend much support to the amendment to the amendment. I suspect that possibly it is because the Senator from Nevada is wholly opposed to the amendment offered by the Senator from Tennessee. The amendment which I have offered was offered in a definite effort to meet the objections which the Senator from Nevada had voiced to the Kefauver amendment.

Mr. McCARRAN. Please understand that I do not doubt for a moment the good intention of the Senator from South Dakota; but I still say that the entire amendment, even with the amendment of the Senator from South Dakota to the Kefauver amendment, would still be completely out of place.

Mr. CASE. Would not the Senator from Nevada agree with me, however, that when we delete the word "tend" and change the word "lessen" to "destroy" we provide more of an absolute standard and eliminate the discretionary feature?

Mr. McCARRAN. If the situation were construed in the manner which the Senator has in mind, perhaps his objective would be eventually worthwhile. But I can see how misconstruction can come into the picture by reason of the Kefauver amendment, even with the amendment of the Senator from South Dakota attached to it.

Let me say one further word in the Senator's time. There is no occasion for either the Kefauver amendment or the amendment of the Senator from South Dakota. The law is now pronounced by the Supreme Court of the United States, and all that the bill would do would be to give the decision of the Supreme Court of the United States statutory effect.

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

Mr. CASE. I yield to the Senator from Tennessee.

Mr. KEFAUVER. The Senator from South Dakota takes a different view than I do as to the effect of Senate bill 719, in that, in at least four respects, it goes further than the decision in the Standard Oil Co. of Indiana case.

The first respect in which it goes further is that the decision in the Standard Oil Co. of Indiana case authorized a discriminatory reduction for the purpose of retaining a customer. It will be noticed from page 7 of the report that the bill authorizes a discriminatory reduction not only for the purpose of retaining a customer, but for the purpose of grabbing someone else's customer.

The second respect in which it goes further than the Standard Oil Co. of Indiana case is that the bill also affects private rights. A party could not sue for triple damages under section 4 of the Clayton Act for unjust discriminations if he were injured thereby, whereas at the present time he can sue for triple damages.

The third respect is that it shifts the burden of proof, so that the whole burden of proof is on the Federal Trade Commission.

The fourth respect is that, when a man is operating legally, he may be attacked by unjust discrimination, but he cannot do anything to help himself. A man who is operating lawfully may be attacked; but if a man is operating illegally, he cannot be attacked. And a man who is attacked cannot do anything to help himself.

I think the Senator from South Dakota has a good idea. The language of the Senator's amendment would be "to destroy competition and to create a monopoly."

The trouble is that we do not want to wait until the small-business man is entirely put out of business, and until the large concern actually has an entire monopoly before something is done to help the small-business man. I believe that when discriminations tend to create a monopoly, or are about to create a monopoly, that is the point at which the law should go into effect. I should not like to see the little fellows put entirely out of business. The Senator from South Dakota is thinking along the same lines we are thinking.

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

Mr. CASE. I yield.

Mr. WHERRY. Frankly, I would much rather have the Kefauver amendment amended to include what the distinguished Senator from South Dakota suggests than to have the Kefauver amendment as it stands. For a long time I thought about offering a similar amendment. I wish the RECORD to show that I believe that the amendment of the Senator from Tennessee, even with the amendment of the Senator from South Dakota, would tend to reverse the decision of the Supreme Court. That is the second objection which I urged against the Kefauver amendment. If the Kefauver amendment, even with the amendment of the Senator from South Dakota, is adopted, we reverse the decision of the Supreme Court. That is the one thing which kept me from offering any amendment to the Kefauver amendment.

However, I certainly agree with the distinguished Senator from South Dakota that the amendment which he has offered with regard to competition makes the Kefauver amendment much better than it was.

Mr. CASE. Mr. President, I have understood that the purpose of the bill was to make competition possible, to make it possible for a distributor or seller to meet the price of a competitor. However, in the illustration used by the Senator from Tennessee, if under the guise of meeting competition the large supplier should, for the time being, neglect some of his own customers and go over into the territory of a small supplier and seek

to pirate his business by meeting competition through certain discriminations, to the extent that he destroys the small supplier and to the extent that he neglects or injures his other customers, it seems to me that a halt should be called.

The reason why we want to get away from the Kefauver amendment is that the Federal Trade Commission would be allowed in a no-man's land, to exercise, in possibly an arbitrary or capricious way, the power to determine when something was lessening competition, or when it was tending to create monopoly. My amendment would substitute some absolute words, so that the seller might be on guard, and would not be made subject to the indefinite, no-man's domain of the mentality of the changing membership of the Federal Trade Commission.

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

Mr. CASE. I yield.

Mr. LONG. Can the Senator tell us what words he proposes to strike in the Kefauver amendment?

Mr. CASE. If the Senator has the Kefauver amendment before him, in line 3 I would change the word "lessen" to "destroy." Then I would strike out the words "or tend," so that the Kefauver amendment would read: "unless the effect of the discrimination may be substantially to destroy competition and to create a monopoly in any line of commerce."

My amendment would eliminate the uncertainty of the language, "tend to create a monopoly," and would change "lessen" to "destroy." It seems to me that my amendment would introduce absolute terms, so that any seller would have a standard by which he could act. My amendment would remove business from the uncertainty of trying to guess or read the mind of the Federal Trade Commission if a case should arise.

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

Mr. CASE. I yield.

Mr. IVES. Would it not be advisable in the circumstances to eliminate the word "substantially"?

Mr. CASE. I have no objection. I would be glad to modify my amendment, if I may, by striking out the word "substantially," so as to make it read:

> Unless the effect of the discrimination may be to destroy competition and to create a monopoly in any line of commerce.

The VICE PRESIDENT. The Senator modifies his amendment.

Mr. CASE. Mr. President, I reserve the remainder of my time.

Mr. McCARRAN. Mr. President, in the Senator's own time I wish him to understand my position. The burden of proof never shifts. The burden of proof is on the individual who claims the defense. He must prove that he is not violating the spirit and intent of the law at all times.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from South Dakota [Mr. CASE] to the amendment offered by the Senator from Tennessee [Mr. KEFAUVER].

Mr. LONG. Mr. President, will the Senator yield me some time to speak on the amendment of the Senator from South Dakota?

Mr. KEFAUVER. I do not have any time to yield.

The VICE PRESIDENT. The Senator from Tennessee does not control the time.

Mr. LONG. Who is in control of the time in opposition to the amendment?

The VICE PRESIDENT. The Senator from Nebraska.

Mr. WHERRY. Mr. President, I do not like to disagree with the distinguished Vice President, but I believe the unanimous-consent agreement states that if the Senator from Tennessee [Mr. KEFAUVER] is in favor of an amendment he shall transfer the time in opposition to the Senator from Nebraska. If he is opposed to the amendment, he controls the time.

The VICE PRESIDENT. The Chair does not know whether the Senator from Tennessee favors or opposes the amendment.

Mr. WHERRY. Will the Senator yield?

The VICE PRESIDENT. Is the Senator from Tennessee opposed to the amendment?

Mr. KEFAUVER. As presently written, yes.

The VICE PRESIDENT. Then the Senator from Tennessee controls the time in opposition.

Mr. KEFAUVER. We have no speakers in opposition.

The VICE PRESIDENT. The Senator from Louisiana [Mr. LONG] wants some time yielded to him.

Mr. KEFAUVER. I yield to the Senator from Louisiana such time as he may desire.

Mr. LONG. I would say that if the amendment to the amendment carries I shall vote for the amendment, as amended. However, if that should be the outcome, I believe a motion to recommit the bill would be in order. I expect to vote to recommit the bill, at any rate, because I believe a further study should be made of the effect of the proposed legislation. If the amendment to the amendment is adopted I feel that no one would know exactly what the bill would mean. So a further opportunity should be afforded to study the effect of the bill as amended. Those of us who are supporting the Kefauver amendment made a very careful study of its language. We believe we know what is meant by the language: "unless the effect of the discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce."

The effect of the amendment proposed by the Senator from South Dakota would be to close the stable door after the horse had been stolen. In other words, when it can be shown that the effect may be to destroy competition, it would seem to the junior Senator from Louisiana that such discrimination on the part of one concern standing alone, could not possibly destroy competition and create a monopoly in a line of commerce. It would have to be an accumulation of acts of discrimination, all of which would tend to do it. Therefore it would seem to me that the amendment has not been carefully worked out, and that it would not accomplish the purpose which the Kefauver amendment would accomplish. If the Senate adopts the amendment of the Senator from South Dakota the bill should be recommitted.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from South Dakota [Mr. CASE] to the amendment of the Senator from Tennessee [Mr. KEFAUVER].

The amendment to the amendment was rejected.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Tennessee.

Mr. KEFAUVER. I yield 5 minutes to the Senator from Louisiana.

Mr. LONG. Mr. President, I should like to say a few words on behalf of the Kefauver amendment, relating to some of the discriminations from which we hope to protect the independent merchants. I have discussed the situation in my previous remarks. Many Senators did not hear them.

Let us consider the Morton Salt Co. case. The Morton Salt Co. was selling its salt to five of the major chain stores, the A. & P., Kroger, American, Safeway, and one other store, at 10 percent below the price at which independent merchants could buy the salt.

The practice was outlawed on the theory that to permit that type of discrimination in all lines of goods being sold to various grocers would result in driving independent merchants out of business.

If the pending bill were passed without the Kefauver amendment, it would be possible for the Morton Salt Co., for example, to show that they either knew or had some cause to believe that the A. & P. and the other large chain stores were able to acquire their salt at a lower price and therefore the Morton Salt Co. could make a price discrimination. A tremendous loophole would be created in the law. Similarly, it would be possible to make such huge discriminations in any line of commerce on the ground that someone else might be willing to do the same thing.

Prior to the enactment of the Robinson-Patman Act the Goodyear Tire & Rubber Co. was selling its tires to Sears, Roebuck & Co. at 33⅓ percent below the price at which they were selling tires to independent tire dealers. An independent merchant cannot compete against that kind of favoritism. The retail druggists of the Nation have been especially diligent to keep that kind of thing from happening to them in the handling of various drug products. In many other lines of commerce discrimination is just as bad.

The Standard Oil Co. case shows what was being done in connection with gasoline. In the city of Detroit all the independent filling stations were being destroyed and run out of business because the Standard Oil Co. chose to favor a few gasoline stations and did not give the same consideration to other stations.

The Kefauver amendment would prohibit that kind of discrimination, even though it might be in good faith, if the

effect of it would be substantially to lessen competition. In other words, it is not the effect on one or two merchants which counts. It would be necessary to substantially injure them and to injure competition in an entire market area. That seems fair to me, Mr. President, and should be fair to any person who has made a study of the subject. I realize that some Senators will disagree, but that seems to me to be the effect of the amendment.

The bill says good faith would be a valid defense except where price discrimination would be substantially to lessen competition. Therefore, it would not apply to the little fellow. It would apply only to the giants, who would be capable of discrimination which would lessen competition.

Therefore, I favor the amendment.

Mr. WHERRY. Mr. President, how much time is remaining?

The VICE PRESIDENT. The Senator from Nebraska has 2 minutes remaining.

Mr. WHERRY. I wish to say that the Morton Salt case has nothing to do with the bill. The Morton Salt Co. case had to do with quantity discounts. The Morton Salt Co. would sell to large operators at a certain price. They would not sell to others at the same price.

Under S. 179, if another salt distributor wanted to sell salt, he would have the right to meet the price of any other salt producer, providing it was a lawful price. The decision in the Salt case was against the company, not because of what is involved in the pending bill, but because the company sold salt to a chain store at one price and sold it at another price to firms which could not take salt in such large quantities. The Salt case has nothing to do with the pending legislation. Under the bill a seller could meet competition in good faith, if he made a lawful price. If the Morton Salt Co. had been selling salt at a lawful price, under this bill other salt distributors could meet the price of the Morton Salt Co. in good faith with a lawful price.

Mr. President, this is a very simple piece of proposed legislation. Senate bill 719 simply provides that a producer or merchant or other businessman can sell his goods anywhere in the United States at a competitive price to meet a competitor's price, if it is a lawful price. Why should not every businessman and every farmer and every miner have that right? That is the competitive enterprise system. The moment it is destroyed by saying, as the Federal Trade Commission has made its interpretation, that a competitor's price cannot be met if the result is to injure a competitor, competition is lessened, and the very thing we desire to build up in this country is destroyed.

Mr. President, the Kefauver amendment would absolutely nullify Senate bill 719. Therefore I hope the Kefauver amendment will be rejected.

The VICE PRESIDENT. The time of the Senator from Nebraska has expired.

The question is on agreeing to the amendment of the Senator from Tennessee.

Mr. DOUGLAS. Mr. President, on this question I ask for the yeas and nays.

Mr. IVES. Mr. President, I desire to submit an amendment to the Kefauver amendment.

The VICE PRESIDENT. The Senator from New York may state his amendment to the amendment.

Mr. IVES. Mr. President, the amendment which I offer to the Kefauver amendment would delete the word "tend" in line 4. The remainder of the Kefauver amendment would remain as it now stands; the only change would be to delete the word "tend" in the amendment. I believe that the word "tend" will do no good at all in the amendment, but will simply cause much confusion and will open the way to a great deal of controversy, which certainly it is not desirable to have.

So I think it is desirable to amend the Kefauver amendment by adopting my amendment to it.

As thus amended, the Kefauver amendment will then read:

> Unless the effect of the discrimination may be substantially to lessen competition or to create a monopoly in any line of commerce.

I think that is what is intended by the amendment, Mr. President.

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

Mr. IVES. I yield.

Mr. KEFAUVER. The amendment submitted by the Senator from New York to my amendment would weaken my amendment somewhat. Nevertheless, as the sponsor of the amendment, I accept the amendment offered to it by the Senator from New York; I modify my amendment accordingly.

The VICE PRESIDENT. The question is on agreeing to the modified amendment of the Senator from Tennessee.

Mr. DOUGLAS, Mr. WHERRY, and other Senators asked for the yeas and nays; and the yeas and the nays were ordered.

The VICE PRESIDENT. The clerk will call the roll.

Mr. WHERRY. Mr. President, a parliamentary inquiry.

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

Mr. WHERRY. In the confusion many Senators did not hear the Chair state the pending question. Will the Chair please state it again?

The VICE PRESIDENT. The question is on agreeing to the modified amendment of the Senator from Tennessee [Mr. KEFAUVER].

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CAIN (when his name was called). On this vote I have a pair with the Senator from Vermont [Mr. FLANDERS]. If the Senator from Vermont were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. FREAR (when his name was called). On this vote I have a pair with the senior Senator from Maryland [Mr. O'CONOR]. If the Senator from Maryland were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. HUNT (when his name was called). On this vote I have a pair with the senior Senator from Alabama [Mr. HILL]. If the Senator from Alabama were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. McCARTHY (when his name was called). On this vote, I have a pair with the senior Senator from Nebraska [Mr. BUTLER]. If the Senator from Nebraska were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

The roll call was concluded.

Mr. McFARLAND. I announce that the Senator from New Mexico [Mr. ANDERSON] and the Senators from Georgia [Mr. GEORGE and Mr. RUSSELL] are absent by leave of the Senate.

The Senator from New Mexico [Mr. CHAVEZ], the Senator from Kentucky [Mr. CLEMENTS], the Senator from Mississippi [Mr. EASTLAND], the Senator from Alabama [Mr. HILL], the Senator from Texas [Mr. JOHNSON], and the Senator from Maryland [Mr. O'CONOR] are absent on official business.

The Senator from Florida [Mr. SMATHERS] is absent because of illness.

I announce further that if present and voting, the Senator from New Mexico [Mr. CHAVEZ] would vote "nay."

Mr. SALTONSTALL. I announce that the Senator from Nebraska [Mr. BUTLER] is necessarily absent, and his pair has been announced previously by the Senator from Wisconsin [Mr. McCARTHY].

The Senator from Vermont [Mr. FLANDERS] is absent because of illness, and his pair has been announced previously by the Senator from Washington [Mr. CAIN].

The Senator from Nevada [Mr. MALONE] is absent on official business.

The Senator from Ohio [Mr. TAFT] is necessarily absent.

The Senator from New Hampshire [Mr. TOBEY] is absent because of illness.

The result was announced—yeas 38, nays 39, as follows:

YEAS—38

Aiken	Holland	Monroney
Benton	Humphrey	Moody
Case	Ives	Morse
Connally	Johnston, S. C.	Mundt
Douglas	Kefauver	Murray
Ellender	Kilgore	Neely
Fulbright	Langer	Pastore
Gillette	Lehman	Sparkman
Green	Lodge	Stennis
Hayden	Long	Underwood
Hendrickson	Magnuson	Wiley
Hennings	McClellan	Young
Hoey	McMahon	

NAYS—39

Bennett	Ferguson	Nixon
Brewster	Hickenlooper	O'Mahoney
Bricker	Jenner	Robertson
Bridges	Johnson, Colo.	Saltonstall
Butler, Md.	Kem	Schoeppel
Byrd	Kerr	Smith, Maine
Capehart	Knowland	Smith, N. J.
Carlson	Martin	Smith, N. C.
Cordon	Maybank	Thye
Dirksen	McCarran	Watkins
Duff	McFarland	Welker
Dworshak	McKellar	Wherry
Ecton	Millikin	Williams

NOT VOTING—19

Anderson	Frear	O'Conor
Butler, Nebr.	George	Russell
Cain	Hill	Smathers
Chavez	Hunt	Taft
Clements	Johnson, Tex.	Tobey
Eastland	Malone	
Flanders	McCarthy	

So Mr. KEFAUVER'S amendment, as modified, was rejected.

Mr. MAGNUSON. Mr. President, I move to recommit the bill to the Committee on the Judiciary.

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

Mr. MAGNUSON. I ask for the yeas and nays.

The yeas and nays were ordered.

The legislative clerk proceeded to call the roll, and the name of Mr. AIKEN was called.

Mr. McCARRAN. Mr. President, the motion is debatable, is it not?

The VICE PRESIDENT. It is debatable.

Mr. LONG. Mr. President, has not the clerk read the name of the Senator from Vermont.

The VICE PRESIDENT. That is true, but the Senator from Nevada was on his feet, seeking recognition. The Chair did not see him. Under the circumstances, if the Senator from Nevada wishes to debate the motion, the mover has 20 minutes on the motion, and the opposition has 20 minutes.

LEGISLATIVE PROGRAM

Mr. McFARLAND. Mr. President, will the Senator from Nevada yield without it being charged to his time, so that I may make an announcement? I ask unanimous consent that that may be done.

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

Mr. McCARRAN. I shall be pleased to yield.

Mr. McFARLAND. Mr. President, I desire to make an announcement dealing with the legislative program for next week. We have reviewed the legislative calendar and the progress which is being made in committees on what is generally agreed to be the must program, and bills available for action during the next few weeks.

It is the opinion of the majority policy committee that every possible effort must be made to expedite and conclude consideration of all appropriation bills, the ECA authorization and appropriation, and the tax bill. I am glad to report that the Senate Appropriations Committee, under the able and driving leadership of its experienced and distinguished chairman, the senior Senator from Tennessee, has been meeting morning, noon, and even night to conclude hearings on appropriation bills already sent to the Senate from the House. Unfortunately, a log jam, preventing final action on a number of appropriation bills which has already been passed by both Houses, is now developing over a personnel reduction amendment. It is unfortunate that, thus far, the impasse has not been resolved, and six of the major appropriation bills cannot be sent to the President for signature.

However, only three appropriation bills, already passed by the House, are yet to be acted upon by the Senate. Great progress has been made on all three, and we are hopeful that, if the committee members can have more time to work on them, they will be before the Senate for final action during the next two weeks. These include the important civil functions bill, the State, Justice, Commerce, and judiciary bill, and the legislative bill.

I also desire to take this opportunity personally to commend the Chairmen and members of the subcommittees for starting their hearings even before the bills came to the Senate from the House. The distinguished senior Senator from Wyoming [Mr. O'MAHONEY], who is chairman of the subcommittee on the defense appropriation bill, has been and is now conducting hearings in an effort to expedite the Appropriation Committee's action on that important bill which is yet to be passed by the House.

The Foreign Relations and Armed Services Committees are moving forward with the hearings on the all-important ECA measure and are scheduled to conclude hearings about August 10. The Finance Committee will finish its hearings on the tax bill tomorrow. Both committees will shortly be closely engaged in drafting their respective bills, which will require full attendance and close application by all members.

The membership of the four committees involved in the appropriation bills, the ECA bill, and the tax bill, comprise more than half of the total membership of the Senate. It is clear that their work is impeded and slowed up by having to attend floor sessions, answer frequent quorum calls, and votes when they occur. Moreover, it becomes difficult for us to conduct our business here on the floor with half of the membership thus importantly engaged. Under these circumstances and because all of these bills are "must" legislation which directly involve the national defense, it is deemed advisable to expedite their consideration in every way possible. Long sessions on the Senate floor would only delay the committee work. We have, therefore, decided to leave next week relatively free from floor consideration of legislation; that is, free unless one of the appropriation bills is reported and is ready for action.

This evening, if the Senate finishes the bill now under consideration, it is the intention to recess until Monday at 12 o'clock. On Monday we will meet only briefly to dispose of one bill, H. R. 400, Calendar 332, to provide for the expeditious naturalization of certain persons who lost their American citizenship in an election in Italy, which, I am told, should be acted upon promptly.

I believe that this bill can be disposed of quickly, and thus the remainder of the day will be open for committee work. There are those who have expressed a desire to make speeches on that day, but that should not interfere with the committee work.

We shall then recess on Monday to Thursday at 12 o'clock, when the calendar will be called, beginning where the last call was concluded, and immediately thereafter we shall attempt to dispose of the two motions made by the junior Senator from Washington [Mr. CAIN], on April 2, to reconsider the vote by which were agreed to the contempt citation resolutions against two witnesses called before the Crime Investigating Committee. I understand the Senator from Tennessee [Mr. KEFAUVER] and the Senator from Washington [Mr. CAIN] will be prepared to conclude consideration of the motions promptly.

If the Appropriations Committee has reported one of the pending appropriation bills by then we shall immediately proceed with the appropriation measure. The distinguished chairman has just told me that he hopes to begin marking up the civil-functions bill tomorrow, and that he expects to have it ready for consideration by the Senate by Thursday, or will attempt to do so. If that occurs, of course we shall proceed to the consideration of the bill immediately when it is ready to be considered. If, however, the appropriation bill is not ready for floor consideration, we shall adjourn over Thursday until the following Monday, when we can definitely expect that two appropriation bills will be ready.

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

Mr. McFARLAND. I yield.

Mr. WATKINS. Does the Senator have in mind House bill 3795?

Mr. McFARLAND. I had hoped we might find time for its consideration this afternoon, if agreeable to the distinguished chairman of the committee. If not, I would have no objection to taking it up on Monday and disposing of it then if it can be done quickly. I do not think there is any controversy about it at all.

Mr. WATKINS. I do not think there is any opposition to it.

Mr. McFARLAND. I shall assist the Senator from Utah in every possible way. The bill is now on the calendar and it certainly could be handled next Thursday, when the calendar is to be called.

It is my hope, Mr. President, that this schedule will expedite consideration of all legislation, and, most importantly, the "must" bills. It is our belief in the Policy Committee that this program of freeing committee members to work uninterruptedly on "must" bills will aid the Senate materially in expedition of its work. I believe that if the Senate works diligently we can meet the deadline about which I have been speaking and dispose of the "must" bills sometime in the month of September.

PRICING PRACTICES

The Senate resumed the consideration of the bill (S. 719) to establish beyond doubt that, under the Robinson-Patman Act, it is a complete defense to a charge of price discrimination for the seller to show that its price differential has been

made in good faith to meet the equally low price of a competitor.

Mr. McCARRAN. Mr. President, in order that a vote may immediately be taken, I yield the floor.

The VICE PRESIDENT. The question is on the motion of the Senator from Washington [Mr. MAGNUSON] to recommit the bill. On this question the yeas and nays have been ordered, and the Secretary will call the roll.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. MAGNUSON. Will the Chair state what the question is?

The VICE PRESIDENT. It is on the motion to recommit the bill to the committee.

The Chief Clerk called the roll.

Mr. CAIN (when his name was called). I have a pair with the Senator from Vermont [Mr. FLANDERS]. If he were present and permitted to vote, he would vote "nay." If I were permitted to vote, I would vote "yea." I withhold my vote.

Mr. FREAR (when his name was called). I have a pair with the Senator from Maryland [Mr. O'CONOR]. If he were present and voting he would vote "nay." If I were permitted to vote, I would vote "yea." I withhold my vote.

Mr. McCARTHY (when his name was called). On this vote I have a pair with the senior Senator from Nebraska [Mr. BUTLER]. If he were present and voting he would vote "nay." If I were permitted to vote, I would vote "yea." I withhold my vote.

The roll call was concluded.

Mr. McFARLAND. I announce that the Senator from New Mexico [Mr. ANDERSON] and the Senators from Georgia [Mr. GEORGE and Mr. RUSSELL] are absent by leave of the Senate.

The Senator from New Mexico [Mr. CHAVEZ], the Senator from Kentucky [Mr. CLEMENTS], the Senator from Mississippi [Mr. EASTLAND], the Senator from Alabama [Mr. HILL], the Senator from Texas [Mr. JOHNSON], and the Senator from Maryland [Mr. O'CONOR] are absent on official business.

The Senator from Florida [Mr. SMATHERS] is absent because of illness.

The Senator from New Mexico [Mr. CHAVEZ] is paired on this vote with the Senator from Mississippi [Mr. EASTLAND]. If present and voting, the Senator from New Mexico would vote "nay," and the Senator from Mississippi would vote "yea."

The Senator from Kentucky [Mr. CLEMENTS] is paired on this vote with the Senator from Ohio [Mr. TAFT]. If present and voting, the Senator from Kentucky would vote "yea," and the Senator from Ohio would vote "nay."

The Senator from Georgia [Mr. GEORGE] is paired on this vote with the Senator from Texas [Mr. JOHNSON]. If present and voting, the Senator from Georgia would vote "nay," and the Senator from Texas would vote "yea."

I announce further that if present and voting, the Senator from Alabama [Mr. HILL] and the Senator from Georgia [Mr. RUSSELL] would vote "yea."

Mr. SALTONSTALL. I announce that the Senator from Nebraska [Mr. BUTLER] is necessarily absent and his pair has been announced previously by the Senator from Wisconsin [Mr. McCARTHY].

The Senator from Vermont [Mr. FLANDERS] is absent because of illness and his pair has been announced previously by the Senator from Washington [Mr. CAIN].

The Senator from Nevada [Mr. MALONE] is absent on official business.

The Senator from New Hampshire [Mr. TOBEY] is absent because of illness.

The Senator from Ohio [Mr. TAFT], who is necessarily absent, is paired with the Senator from Kentucky [Mr. CLEMENTS]. If present and voting, the Senator from Ohio would vote "nay" and the Senator from Kentucky would vote "yea."

The result was announced—yeas 33, nays 45, as follows:

YEAS—33

Aiken	Humphrey	Moody
Benton	Ives	Morse
Connally	Kefauver	Murray
Douglas	Kilgore	Neely
Ellender	Langer	Pastore
Fulbright	Lehman	Smith, N. C.
Green	Long	Sparkman
Hayden	Magnuson	Stennis
Hennings	McClellan	Thye
Hoey	McMahon	Underwood
Holland	Monroney	Young

NAYS—45

Bennett	Gillette	McKellar
Brewster	Hendrickson	Millikin
Bricker	Hickenlooper	Mundt
Bridges	Hunt	Nixon
Butler, Md.	Jenner	O'Mahoney
Byrd	Johnson, Colo.	Robertson
Capehart	Johnston, S. C.	Saltonstall
Carlson	Kem	Schoeppel
Case	Kerr	Smith, Maine
Cordon	Knowland	Smith, N. J.
Dirksen	Lodge	Watkins
Duff	Martin	Welker
Dworshak	Maybank	Wherry
Ecton	McCarran	Wiley
Ferguson	McFarland	Williams

NOT VOTING—18

Anderson	Flanders	McCarthy
Butler, Nebr.	Frear	O'Conor
Cain	George	Russell
Chavez	Hill	Smathers
Clements	Johnson, Tex.	Taft
Eastland	Malone	Tobey

So the motion to recommit was not agreed to.

The VICE PRESIDENT. The question is now on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The VICE PRESIDENT. The bill having been read three times, the question is on its final passage. On this question the yeas and nays have been asked for. There is obviously a sufficient number, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CAIN (when his name was called). On this vote I have a pair with the junior Senator from Vermont [Mr. FLANDERS]. Were he present he would vote "yea." If I were permitted to vote I would vote "nay." I withhold my vote.

Mr. FREAR (when his name was called). On this vote I have a pair with the senior Senator from Maryland [Mr. O'CONOR]. If he were present he would vote "yea." If I were at liberty to vote I would vote "nay." I withhold my vote.

Mr. HUNT (when his name was called). On this vote I have a pair with the senior Senator from Alabama [Mr. HILL]. If he were present he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. McCARTHY (when his name was called). On this vote I have a pair with the senior Senator from Nebraska [Mr. BUTLER]. If he were present he would vote "yea." If I were at liberty to vote I would vote "nay."

The roll call was concluded.

Mr. McFARLAND. I announce that the Senator from New Mexico [Mr. ANDERSON] and the Senators from Georgia [Mr. GEORGE and Mr. RUSSELL] are absent by leave of the Senate.

The Senator from Virginia [Mr. BYRD], the Senator from New Mexico [Mr. CHAVEZ], the Senator from Kentucky [Mr. CLEMENTS], the Senator from Mississippi [Mr. EASTLAND], the Senator from Alabama [Mr. HILL], the Senator from Texas [Mr. JOHNSON], and the Senator from Maryland [Mr. O'CONOR] are absent on official business.

The Senator from Florida [Mr. SMATHERS] is absent because of illness.

The Senator from New Mexico [Mr. CHAVEZ] is paired on this vote with the Senator from Mississippi [Mr. EASTLAND]. If present and voting, the Senator from New Mexico would vote "yea," and the Senator from Mississippi would vote "nay."

The Senator from Kentucky [Mr. CLEMENTS] is paired on this vote with the Senator from Ohio [Mr. TAFT]. If present and voting, the Senator from Kentucky would vote "nay," and the Senator from Ohio would vote "yea."

The Senator from Georgia [Mr. GEORGE] is paired on this vote with the Senator from Texas [Mr. JOHNSON]. If present and voting, the Senator from Georgia would vote "yea," and the Senator from Texas would vote "nay."

The Senator from Georgia [Mr. RUSSELL] is paired on this vote with the Senator from Virginia [Mr. BYRD]. If present and voting, the Senator from Georgia would vote "nay," and the Senator from Virginia would vote "yea."

Mr. SALTONSTALL. I announce that the Senator from Nebraska [Mr. BUTLER] is necessarily absent and his pair has been announced previously by the Senator from Wisconsin [Mr. McCARTHY].

The Senator from Vermont [Mr. FLANDERS] is absent because of illness and his pair has been announced previously by the Senator from Washington [Mr. CAIN].

The Senator from Nevada [Mr. MALONE] is absent on official business.

The Senator from New Hampshire [Mr. TOBEY] is absent because of illness.

The Senator from Ohio [Mr. TAFT] who is necessarily absent is paired with the Senator from Kentucky [Mr. CLEMENTS]. If present and voting, the Senator from Ohio would vote "yea" and the Senator from Kentucky would vote "nay."

The result was announced—yeas 42, nays 34, as follows:

YEAS—42

Bennett	Hendrickson	Mundt
Brewster	Hickenlooper	Nixon
Bricker	Jenner	O'Mahoney
Bridges	Johnson, Colo.	Robertson
Butler, Md.	Kem	Saltonstall
Capehart	Kerr	Schoeppel
Carlson	Knowland	Smith, Maine
Case	Lodge	Smith, N. J.
Cordon	Martin	Smith, N. C.
Dirksen	Maybank	Thye
Duff	McCarran	Watkins
Dworshak	McFarland	Welker
Ecton	McKellar	Wherry
Ferguson	Millikin	Williams

NAYS—34

Aiken	Humphrey	Moody
Benton	Ives	Morse
Connally	Johnston, S. C.	Murray
Douglas	Kefauver	Neely
Ellender	Kilgore	Pastore
Fulbright	Langer	Sparkman
Gillette	Lehman	Stennis
Green	Long	Underwood
Hayden	Magnuson	Wiley
Hennings	McClellan	Young
Hoey	McMahon	
Holland	Monroney	

NOT VOTING—20

Anderson	Flanders	McCarthy
Butler, Nebr.	Frear	O'Conor
Byrd	George	Russell
Cain	Hill	Smathers
Chavez	Hunt	Taft
Clements	Johnson, Tex.	Tobey
Eastland	Malone	

So the bill S. 719 was passed.

WHERE'S SHVERNIK?

Mr. McMAHON. Mr. President, I think it is time the Senate had a day of indignation. Recently, 22 Members of this body sponsored a concurrent resolution setting forth the peace aims of the American Government and expressing the friendship of the American people for the people of Soviet Russia. The resolution, Senate Concurrent Resolution 11, was duly agreed to by the Congress.

This resolution may properly be termed one of the most significant pronouncements of this Government in recent years. It should have been welcomed by the Soviet Government if that government sincerely wants peace. But I think its reception should make the Senate not only indignant but also apprehensive. Let me quote a few sentences from the resolution as finally adopted:

Whereas the goal of the American people is now, and ever has been, a just and lasting peace;

Whereas the deepest wish of our Nation is to join with all other nations in preserving the dignity of man, and in observing those moral principles which alone lend meaning to existence;

Resolved, That the Congress of the United States reaffirms the historic and abiding friendship of the American people for all other peoples.

And then this further line:

That the American people and their Government desire neither war with the Soviet Union nor the terrible consequences of such a war.

The above quotations illustrate the intent and purpose of this resolution.

A few days later, this concurrent resolution was duly transmitted through proper diplomatic channels by President Truman to Mr. Shvernik, President of the Union of Soviet Socialist Republics, with a request that its contents be made known by the Soviet Government to the Soviet people. With the resolution, President Truman sent a letter of his own to the Russian people in which he plainly stated that if the Kremlin will remove the iron curtain which separates our two peoples, there will be no third world war. I offer Mr. Truman's letter for the record to be printed after my remarks.

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

(See exhibit 1.)

Mr. McMAHON. Mr. President, I know the American people were startled when this resolution went forth to the President of the Union of Soviet Socialist Republics because very few in this country ever heard of Mr. Shvernik. But it had to be done that way. Protocol is sacred to the Soviet Government; in fact, no monarchy in history was ever more devoted to the rigid precepts of formal diplomacy. Mr. Shvernik is titular head of the Soviet Government and all communications must be addressed to him. It is true that if President Truman's message had gone direct to Stalin, there is no doubt the latter gentleman would have returned it with the humble statement that he is only a minor functionary in the vast Soviet bureaucracy.

But despite the fact that this important message was sent forward weeks ago, to date not a word has been heard from Mr. Shvernik. The letter has not even been acknowledged although it was formally delivered by our Ambassador Kirk to the Soviet Foreign Office in Moscow. Surely Mr. Shvernik, the man who holds the exalted title of President of the Union of Soviet Socialist Republics, would never be guilty of a breach of etiquette or a deliberate affront to the American people.

A moment ago I stated that no one in the United States ever heard of Mr. Shvernik. Now I am about convinced that very few people in Russia ever heard of him either.

Can the man be an imposter? Is there such an office as President of the Union of Soviet Socialist Republics? If there is, where is the man hiding? Why will not the man answer his mail, especially a friendly communication addressed to him by the greatest Government and the most peaceful Government on earth?

Most Senators are old enough to remember the old song, "Has Anybody Here Seen Kelly?" Perhaps it is about time for the Moscow radio to take up the chant. "Has Anybody Here Seen Shvernik?" This is the first time in history that I recall the official head of a tremendous empire having passed out of sight without a trace. Is there foul play here? Has Mr. Shvernik been liquidated? Has he won that famous Soviet prize, like so many of his unhappy colleagues, a one-way ticket to the salt mines of Siberia? Has anyone reported him to the Bureau of Missing Persons in Moscow?

Mr. President, as good neighbors and good citizens, I think we ought to do something about the disappearance of poor old Comrade Shvernik. He may be a shy fellow who's hiding out simply because of a sincere dislike for personal publicity. But he is listed as nominal head of the Soviet Government, and the man who should receive all mail addressed to the crowd in the Kremlin. As long as he has this listing Mr. Shvernik should answer his mail. Perhaps if our Government addressed a friendly but informal note to Mr. Stalin, the latter might be able to turn up Mr. Shvernik. According to reports from Moscow, Mr. Stalin has been unusually successful in turning up a lot of fellows when everyone else had given them up for lost.

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

Mr. McMAHON. I yield.

Mr. DOUGLAS. Might it not be a good plan for the Voice of America to take up the suggestion of the eminent Senator from Connecticut and broadcast to Russia the song, Has Anybody Here Seen Shvernik?

Mr. McMAHON. I think it might not be a bad thing to do. Incidentally, the Voice of America is calling attention every day to the fact that one more day has gone by, and the Soviet Government has refused to make this plain, honest statement of the intentions of the American people, as evidenced by the Congress and as endorsed by the President, known to the people of the Soviet Union. I am convinced the Soviet Government is afraid to tell them.

The Voice of America has had considerable success in getting the terms of the friendship resolution to people behind the iron curtain despite the refusal of the Soviet Government to make its contents known through the press and radio. It might be well for the Voice to offer a substantial reward to the Soviet citizenship who can first discover and disclose the whereabouts of Mr. Shvernik. I think the offer of a fine Connecticut-made hat would set every Ivan and Igor in Russia hurriedly beating the bushes to find the missing President of the Union of Soviet Socialist Republics. After all, it could be that the Kremlin crowd has simply mislaid Mr. Shvernik, and a friendly tip will bring him bounding into the spotlight.

This is the situation as it stands now. The Congress of the United States has passed a resolution of friendship in a sincere desire to do what it can to avoid the most hideous war in history. The President of the United States has passed on this resolution to the nominal head of the Government of Russia. Thus far, this resolution has drawn neither acknowledgment nor reply, a situation perhaps unprecedented in the history of relations between governments.

I have treated this matter with ridicule because the Soviet Government has made itself ridiculous in the eyes of the whole world. The Kremlin crowd has made a farce and a mockery of representative government by insisting that communications be sent to Mr. Shvernik who has

no more authority than the lowliest peasant on a collective farm. We have now proved that Mr. Shvernik holds the emptiest honor on earth despite his grandiose title. He is the tame creature of Mr. Stalin, a puppet without the slightest desire to think for himself or act for himself. If without first consulting Mr. Stalin, he dared to answer a communication from the President of the United States, he would be carted away in the dead of the night to pay the supreme penalty for his act of defiance.

I have treated this matter with ridicule because only by contemptuous banter can we bring home to the American people a vivid picture of what the Soviet Government has done in this instance. But, Senators, I would be the first to emphasize that this is no laughing matter. On the contrary, the story of what has happened to this friendship resolution is ugly and sinister.

The Soviet Government is now acting out the most hypercritical sham in history.

The Soviet Government has deliberately and wantonly refused to make known the contents of this friendship resolution to the Russian people because it is afraid of the Russian people. It has adopted the cowardly course of hiding behind the anonymous person of Mr. Shvernik because it is afraid to print the resolution or acknowledge the resolution.

This is the ultimate proof that the people of Russia would accept a resolution of friendship from the American people with utter joy. This is the ultimate proof that if the Soviet Government should make known the contents of the resolution to the Russian people, this gesture of friendship would be received with immense enthusiasm by the Russian people. The unfortunate millions who are held in misery by Soviet tyranny are just as anxious for peace as we are. Only the iron curtain prevents them from knowing about the friendly disposition of the American people.

The strange case of the missing and silent Mr. Shvernik is in sharp contrast to the bluff and bluster of Mr. Vishinsky when he appears before the United Nations to make his fraudulent charge of warmongering against the western democracies. The Vishinsky farce would be meaningless if the Russian people ever learned the truth and no one knows this fact better than the crowd in the Kremlin.

There was nothing in the resolution passed by the Congress of the United States to which any government in the world could take exception.

By refusing to publish this expression of friendship by the American Congress, the Soviet Government has committed a crime against peace. The Kremlin crowd are now self-confessed warmongers. The Kremlin conspirators have now shown to the world that they are mortally afraid the Russian people will catch on to their deception and double dealing, that the Russian people may learn that peace is possible whenever the Politburo wants peace.

This incident of the friendship resolution shows that the Soviet leaders fear truth more than they fear anything on earth.

I think the friendship resolution has marked a huge gain for the free world and the cause of truth despite the fact that the Soviet Government does not dare make its contents known to the Russian people. We have now uncovered the Achilles heel of the Soviet regime. We have disclosed that the tough-talking Soviet spokesmen are mortally afraid of the Russian people, that they cringe in terror lest the free world ever gain the ear of the 200,000,000 wretched human beings locked up behind the iron curtain.

For the first time since the odious Bolshevik conspiracy was fastened on the Russian people, the Kremlin crowd has been caught without an answer. They have lied about the forced labor camps, they have lied about the enslavement of Poland and Hungary and the other satellite countries, they have lied about conditions in Russia, they have lied about conditions in the United States, they have falsified history, they have maligned every decent citizen of the free world, but they do not dare lie about the friendship resolution. The whole free world knows they received the resolution and every person knows they do not dare print it. Their hypocrisy and cowardice is self-evident and self-accusatory.

Mr. President, now we know that the Soviet ringmasters live in dread that the free world will appropriate the word "peace" as it should do and as it has a right to do. Now we know that if the iron curtain is penetrated, this war-plagued sphere can have the most abundant era of peace its unhappy people have ever known.

The Soviet Government has willfully flouted a friendly communication from the Government and people of the United States. It has scorned the hand of friendship extended to the Russian people by this Senate, representing the most powerful Government on earth. It has been able to do this because of the iron curtain which screens the pernicious acts of the Soviet conspirators from the Russian people.

While refusing to publish the friendship resolution, the Kremlin ring is doing all it can to whip up hatred of the American people. Every day the Soviet press is filled with villification of the American Government and people to a deplorable and dangerous degree. We know what this stimulus to hate and evil did to the people of Hitler's Germany and for our own safety, we must study and weigh its probable effects upon the Russian people. Every day we are pictured and denounced in passionate terms beyond reason for reasoned restraint. We are called such revolting names as barbarians, bloody butchers, and atomic assassins.

While continuing this incitement to violence in the daily press, the Moscow pundits recently launched a phony magazine called "News" for the announced purpose of fostering "closer understanding between the peoples of the Soviet Union and the Anglo-Saxon world"—including us, of course. This sheet, very conveniently printed in English so too many Russians would not understand it, appeared in vast numbers on the Moscow newsstands. Apparently, the magazine was conceived as a typical piece of Soviet brass and double-dealing, chiefly designed to fool the Russian people as to the intentions of the Soviet Government.

But the campaign against the iron curtain is paying off. Believe it or not, the editors of the magazine now invite contributions by American writers. Moscow is becoming sensitive to the iron curtain charges. It wants to appear before the world as welcoming public expressions from the West—provided, of course, that these expressions are printed in English, and are carefully screened in advance. The magazine News has not as yet printed the resolution of friendship passed by this Congress or President Truman's letter to Shvernik, certainly a curious oversight for a magazine devoted to the promotion of good will and better understanding.

This is not the only sign of Soviet uneasiness about the iron curtain. Under prodding by the British Government, the Moscow newspaper Pravda actually printed this week an article by British Foreign Secretary Herbert Morrison in which he sharply criticized policies and practices of the Soviet Government. There is no precedent for such action in the history of the Stalinist Government. This incident may truly be hailed as the first real chink put in the iron curtain in 30 years. In view of past performances by Mr. Stalin and his cohorts, we may assume that the reason why the Morrison article was printed was not so much good will as bad conscience on the part of the Moscow rulers.

Senators, we are not helpless before the iron curtain which has divided the world into two armed camps. People on both sides of this diabolical curtain want peace. We have demonstrated that the American Congress has the power to expose this hypercritical farce in a manner which even the glibbest-tongued Soviet spokesman cannot explain away. I would like to rattle and shake this iron curtain by formal resolution of the United States Senate every week if I could. If we keep at the job, eventually truth will find its way to the people of Russia.

Incidentally, General Eisenhower said to us in Paris, as he said to Congress, that morale is to matériel as three is one.

The Soviet conspirators have refused entry to words of friendship expressed by this Congress. Now I should like to see if they dare bar the person of Members of this body—and still tell the world they stand for peace. I should like to see a resolution adopted by the Congress authorizing 50 Members of the Senate and House to visit Russia while we are in recess to tell the Russian people about the peaceful and friendly desires of the American people. I would formally ask the Soviet Government for official permission for these Members to visit every city and town in a thousand mile radius of Moscow—and let that Government refuse such permission if it dared. At the same time, I would have the American Government, by resolution of the Con-

gress, invite the 14 members of the Politburo to visit America so that they could breathe the clean air of democracy and decide for themselves whether the American people want war or peace. I believe this "Committee of Friendship" from the American Congress should include the distinguished Vice President of the United States; the minority leader [Mr. WHERRY]; and the majority leader [Mr. MCFARLAND]. On the House side, I believe it would be well if the "Committee of Friendship" included Speaker RAYBURN; the minority leader, Mr. MARTIN; and the majority leader, Mr. MCCORMACK. It is essential to emphasize that on the issue of peace, the American people are unanimous without regard to politics or partisanship.

The Soviets have made considerable progress during the past few years by means of the Stockholm peace petition and other fraudulent peace gestures. Let us see if they will let a committee from the American Congress talk to the Russian people. If they refuse, the spurious Soviet peace claims will be meaningless from now on.

The iron curtain is not invincible. We are not hopeless before this giant fraud which is making a mockery of the peace hopes of the world. Without the iron curtain, the Soviet Government could never carry on its campaign of calumny against the American people. Tear away the iron curtain and there will be no war.

The Soviet leaders fear the Russian people far more than they fear us. They are willing to risk the bloodiest war in history in order to retain the iron curtain which hold them in power. They know that once the Russian people learn the truth, the game is up for them. But I believe we can reach the Russian people and resolve this menace without a war. The Moscow leaders have gotten away with the iron curtain because until recently no one challenged its sway. Let us keep on exposing this fraud to the world. Even the crafty communism conspirators cannot make a prisoner of truth forever.

EXHIBIT 1

The President today sent the following communication to His Excellency Nikolai Mikhailovich Shvernik, President of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics, transmitting Senate Concurrent Resolution 11:

"I have the honor of transmitting to you a resolution adopted by the Congress of the United States with a request that its contents be made known by your government to the people of the Soviet Union.

"This resolution expresses the friendship and good will of the American people for all the peoples of the earth and it also reemphasizes the profound desire of the American Government to do everything in its power to bring about a just and lasting peace.

"As Chief Executive of the United States, I give this resolution my sincere approval. I add to it a message of my own to the Soviet people in the earnest hope that these expressions may help form a better understanding of the aims and purposes of the United States.

"The unhappy results of the last few years demonstrate that formal diplomatic negotiations among nations will be largely barren while barriers exist to the friendly exchange of ideas and information among peoples. The best hope for a peaceful world lies in the yearning for peace and brotherhood which lies deep in the heart of every human being. But peoples who are denied the normal means of communication will not be able to attain that mutual understanding which must form the basis for trust and friendship. We shall never be able to remove suspicion and fear as potential causes of war until communication is permitted to flow, free and open, across international boundaries.

"The peoples of both our countries know from personal experience the horror and misery of war. They abhor the thought of future conflict which they know would be waged by means of the most hideous weapons in the history of mankind. As leaders of their respective governments, it is our sacred duty to pursue every honorable means which will bring to fruition their common longing for peace. Peace is safest in the hands of the people and we can best achieve the goal by doing all we can to place it there.

"I believe that if we can acquaint the Soviet people with the peace aims of the American people and Government, there will be no war.

"I feel sure that you will wish to have carried to the Soviet people the text of this resolution adopted by the American Congress."

CECIL H. TOLBERT

Mr. MCKELLAR. Mr. President, I shall detain the Senate for only a few minutes.

Since 1933 Mr. Cecil H. Tolbert, of Texas, has been in the service of the United States Senate.

On February 1, 1934, Mr. Tolbert was appointed clerk to the Military Affairs Committee under the chairmanship of the late beloved Senator Morris Sheppard, of Texas.

On January 1, 1939, he was appointed assistant clerk to the Committee on Appropriations.

On January 21, 1947, he was appointed assistant chief clerk to the Committee on Appropriations.

A few days ago he resigned and went back to his home in Texas.

Mr. President, I wish to say that Mr. Tolbert's service as one of the clerks of the Committee on Appropriations of the Senate has been of the most outstanding kind and of the highest order.

Throughout his whole service Mr. Tolbert has been dignified, modest, a hard worker, and one of the most efficient employees of our committee. His work has been of the highest quality, accurate to a marked degree, and outstandingly efficient.

He knows the work of the committee. No one could fill his place better than he has filled it. All of us relied upon him for his accuracy of statement and his attention to details.

The work on the Appropriations Committee has grown with the years. Mr. Tolbert has grown with that work. He has served the Government as few men have served it.

Not only will he be missed by the chairman and the other members of the committee, but he will be missed by every employee of the committee and by all of those who were fortunate enough to come into contact with him and to know him.

I wish for him in his new field of endeavor every success. He deserves success. He deserves the very best things in life, and our very best wishes go with him.

Mr. CONNALLY. Mr. President, I wish to express my thanks to the senior Senator from Tennessee [Mr. MCKELLAR] for the very deserved tribute he has paid to Mr. Tolbert.

I have known Mr. Tolbert personally for many years. I wish to congratulate him for the great service he rendered to the Committee on Military Affairs when my late colleague, Senator Sheppard, was chairman of that committee.

I have had many contacts with Mr. Tolbert since he has been one of the clerks of the Senate Appropriations Committee. On every occasion he was attentive, courteous, efficient, and able. I am proud of him as a Texan and I am proud of him as a distinguished constitutent who has rendered the Government efficient and patriotic service.

Again I thank the Senator from Tennessee for his tribute.

Mr. WHERRY. Mr. President, certainly I do not wish to detain the Senate at this late hour, but I should like to join the chairman of the Appropriations Committee, the distinguished Senator from Tennesseee [Mr. MCKELLAR], and my distinguished colleague, the senior Senator from Texas [Mr. CONNALLY] in paying tribute to Mr. Tolbert. In doing so I am satisfied that I express not only the sentiments of all Senators who have worked with Mr. Tolbert, but the sentiments of all Senators on the minority side who have come in contact with him, as many of us have in connection with his work for the Appropriations Committee. He has performed his services most efficiently for the Appropriations Committee and for his country. Certainly he is worthy and absolutely honest, and he has been absolutely fair in his treatment of all members of the committee. As the Senator from Texas has said, Mr. Tolbert comes from Texas, and Texas can well be proud of him; but he is also an outstanding American. For that reason, all of us share the interest the distinguished senior Senator from Texas [Mr. CONNALLY] has in Mr. Tolbert, and all of us join in saying that we appreciate the work Mr. Tolbert has done, and we wish him success and every good thing in his new venture.

DEFENSE MATERIALS PROCUREMENT AGENCY

Mr. DWORSHAK. Mr. President, last night announcement was made that the President has created a new, independent agency which is charged with procuring and increasing the supply of critical and strategic materials, both at home and abroad. The new unit will be called the Defense Materials Procurement Agency. According to the dispatch in today's issue of the New York Times—

In his directive creating the new agency President Truman explained:

"It is essential that we have ample supplies of basic and rare materials if we are to fulfill our mobilization goals during the coming months and if we are to maintain the expanding national economy which gives us some of the necessary elements of strength in international affairs."

Mr. President, during the past few weeks much criticism has been made of the procurement and utilization of our minerals and the operation of our procurement program. On Monday I made some remarks in the course of which I called attention to the duplication, confusion, and unnecessary delays in stockpiling minerals and metals for our national defense.

The President has indicated that he will name Jess Larson, who currently is Administrator of the General Services Administration, to head the new agency. I have no comment to make on this appointment, except that I should like to see Mr. Larson name as his assistant an experienced mining man, to help him in the full utilization of our domestic mining industry in the efforts to make minerals available in connection with our preparedness program. Undoubtedly there will be some improvement, under the supervision of the new agency, in expediting the entire program. However, if improved procurement is the only improvement which we shall be making at this time, we shall lose sight of the fact that the production of critical and essential minerals and metals is just as vital as their procurement. I am hopeful that Mr. Larson will take steps to organize the kind of agency which not only will procure such minerals, but will give full consideration to our domestic mining industry.

ASSISTANCE TO FRIENDLY NATIONS—AMENDMENTS

Mr. SMITH of New Jersey. Mr. President, on behalf of myself, a member of the Foreign Relations Committee, and the Senator from Massachusetts [Mr. SALTONSTALL], a member of the Armed Services Committee, I submit for appropriate reference certain amendments intended to be proposed by us, jointly, to the bill (S. 1762) to promote the foreign policy and provide for the defense and general welfare of the United States by furnishing assistance to friendly nations in the interest of international security, which now is being considered at joint hearings of the Committees on Foreign Relations and Armed Services. I ask unanimous consent that the amendments, together with an explanatory statement which I have prepared, be printed at this point in the RECORD, as a part of my remarks.

The PRESIDING OFFICER (Mr. O'MAHONEY in the chair). Without objection, the amendments will be received and referred to the Committees on Foreign Relations and Armed Services, jointly; and the amendments, together with the statement of the Senator from New Jersey, will be printed in the RECORD.

The amendments submitted by Mr. SMITH of New Jersey (for himself and Mr. SALTONSTALL) are as follows:

Amendments intended to be proposed by Mr. SMITH of New Jersey (for himself and Mr. SALTONSTALL) to the bill (S. 1762) to promote the foreign policy and provide for the defense and general welfare of the United States by furnishing assistance to friendly nations in the interest of international security, viz: On page 1, line 5, strike out section 2 and insert the following new sections:

"SEC 2. The United States, dedicated to the purposes and principles of the United Nations Charter and to the promotion of peace and security in furtherance thereof, has heretofore joined with, and rendered assistance to, other countries so dedicated in programs of economic support and recovery, notably a program for European recovery to restore and maintain in Europe the principles of individual liberty, free institutions, and genuine independence through the establishment of sound economic conditions and stable international economic relationships. The United States has likewise joined with, and rendered assistance to, such countries in programs of individual and collective self-defense against the threat of military aggression and internal subversion. The United States has further initiated programs of technical assistance to, and promotion of capital investment in, economically underdeveloped areas to enable such areas to develop their resources and improve their working and living conditions. An essential element of such programs has been the principle of continuous and effective self-help and mutual aid.

"The Congress hereby finds that the existence of large military forces under the control of aggressive rulers hostile to freedom, and the proven readiness of those rulers to support and engage in open military aggression as well as political subversion against free peoples, constitute an increased threat to the security and independence of the United States and of the free world.

"Except for the necessity of intensifying and accelerating the program of individual and collective self-defense in the North Atlantic area because of this increased threat, the program of economic assistance for European recovery would now be virtually completed. Under present conditions, however, the mutual defense assistance program and the economic assistance programs of the United States have become in large measure bound together, and are dependent upon one another for the achievement of their respective purposes. The present critical world conditions have made necessary the continuation of both programs, but have united the originally separate purposes of each into a single unified purpose—mutual self-defense in the interest of world peace.

"SEC. 3. (a) It is the purpose and policy of this act (1) to provide for the continuation of the mutual defense assistance program and of such assistance as may be necessary to render essential economic support to the countries participating therein; (2) to provide for assistance necessary to complete the economic recovery of those countries in which it has not yet been substantially completed through the European Recovery Program; and (3) to continue the program of technical assistance and promotion of capital investment in underdeveloped areas of the world.

"(b) It is further declared to be the purpose of this act to reorganize the major foreign assistance activities of the United States under a single agency in order to promote more efficient conduct and improved coordination of such activities with each other and with the foreign policy and national security objectives of the United States.

"(c) The purposes of the various foreign-assistance acts heretofore enacted, and of the various titles therein, shall be deemed to include the purposes of this act and, to the extent inconsistent with the purposes of this act, to be amended and superseded by the purposes of this act."

On page 2, following line 8, insert the following new title and renumber the remaining titles and sections accordingly:

"TITLE I—MUTUAL SECURITY ADMINISTRATION

"SEC. 101. There is hereby established, with headquarters in the District of Columbia, an agency to be known as the Mutual Security Administration. This agency shall be headed by an Administrator for Mutual Security, hereinafter referred to as the Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be responsible to the President for carrying out the purposes and provisions of this act. The Administrator shall have a status in the executive branch of the Government comparable to that of the head of an executive department, and shall receive compensation at the same rate.

"DEPUTY ADMINISTRATOR

"SEC. 102. There shall be a Deputy Administrator for Mutual Security, appointed by the President, by and with the advice and consent of the Senate. The Deputy Administrator shall receive compensation at the same rate as that payable to an under secretary of an executive department. He shall perform such functions as the Administrator shall designate, and shall be Acting Administrator for Mutual Security during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

"TERMINATION OF AGENCIES, TRANSFER OF POWERS, ETC.

"SEC. 103. (a) Except as otherwise provided in this act, there shall be transferred to the Administrator all the powers, functions, and duties of (1) the Administrator for Economic Cooperation under the Economic Cooperation Act of 1948, as amended, and the Far Eastern Economic Assistance Act of 1950, as amended; (2) the President under the Mutual Defense Assistance Act of 1949, as amended, the Act for International Development, and the act of May 22, 1947, except the power to conclude international agreements, the power to make appointments by and with the advice and consent of the Senate, and such other powers as the President may reserve for exercise by himself; and (3) the Secretary of State under the Institute of Inter-American Affairs Act. Sections 5 and 8 of the Institute of Inter-American Affairs Act are amended by striking out 'Department of State' wherever it occurs and inserting in lieu thereof 'Mutual Security Administration.'

"(b) The following agencies and offices shall cease to exist:

"(1) The Economic Cooperation Administration (including the special missions abroad) and the offices of Administrator and Deputy Administrator for Economic Cooperation;

"(2) The office of United States Special Representative in Europe and of Deputy United States Special Representative in Europe created by the Economic Cooperation Act of 1948, as amended;

"(3) The Public Advisory Board created under section 107 of the Economic Cooperation Act of 1948, as amended;

"(4) The Advisory Board created by section 409 of the Act for International Development;

"(5) The office created under section 413 (a) of the Act for International Development; and

"(6) The offices created by section 406 (a) of the Mutual Defense Assistance Act of 1949, as amended.

"(c) All of the personnel, records, and property used primarily in the administration of the powers, functions, and duties transferred by subsection (a) of this section shall be transferred to the Mutual Security Administration.

"(d) Subsections (a), (b), and (c) of this section shall take effect on the day following the date upon which the Administrator first appointed under this act takes office or on the thirtieth day after the date of the enactment of this act, whichever first occurs; except that, if the President makes a nomination (or a recess appointment) of an individual as the first Administrator during such 30-day period and the first Administrator does not take office until after the expiration

of such period, the effectiveness of such subsections shall be postponed until such Administrator takes office.

"(e) Notwithstanding the provisions of section 4 (a) of the Bretton Woods Agreements Act, as amended, of section 101 (a) of the National Security Act of 1947, as amended, and of section 635 (a) of the Export-Import Bank Act of 1945, as amended, the Administrator shall serve ex officio, for so long as the Mutual Security Administration shall continue to exist, as a member of the National Security Council, the National Advisory Council on International Monetary and Financial Problems, and the Board of Directors of the Export-Import Bank of Washington.

"INTERAGENCY COORDINATION

"SEC. 104. The Administrator, the Secretary of State, and the Secretary of Defense shall each keep the others fully and currently informed on all matters, including prospective action, relating to any program under this act, which are pertinent to the respective duties of the others. Whenever any action, proposed action, or failure to act on the part of the Administrator appears to the Secretary of State to be inconsistent with the foreign policy objectives of the United States, or appears to the Secretary of Defense to be inconsistent with national defense objectives, and differences of view cannot be settled by consultation with the Administrator, the matter shall be referred to the President for final decision. Whenever the Administrator believes that any action, proposed action, or failure to act on the part of the Secretary of State or the Secretary of Defense is inconsistent with the purposes of this act, and if differences of view cannot be settled by consultation with the Secretary of State or Defense, as the case may be, the matter shall be referred to the President for final decision.

"ADVISORY COMMITTEES

"SEC. 105. The Administrator may appoint such advisory committees as he may determine to be necessary or desirable to effectuate the purpose of this act.

"OVERSEAS ADMINISTRATION

"SEC. 106. (a) There shall be a United States Special Representative Abroad for Europe (hereinafter called the 'Special Representative'), who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be entitled to receive the same compensation and allowances as a chief of mission, class 1, within the meaning of the act of August 13, 1946 (60 Stat. 999), and have the rank of ambassador extraordinary and plenipotentiary. He shall be the representative of the Administrator, and shall be the chief representative of the United States Government to the Organization for European Economic Cooperation. He, or such person as he may designate to represent him, shall also be the representative of the United States Government on the Finance and Economic Board and the Defense Production Board of the North Atlantic Treaty Organization. He may also be designated as the United States representative on the Economic Commission for Europe and may discharge such additional responsibilities as may be assigned to him with the approval of the President in furtherance of the purposes of this act. He shall receive his instructions from the Administrator and such instructions shall be prepared and transmitted to him in accordance with the procedures agreed upon between the Administrator and the Secretaries of State and Defense in order to assure appropriate coordination. He shall coordinate the activities of the chiefs of special missions (provided for in subsection (d) of this section) in the European area. He shall keep the Administrator, the Secretary of State, the Secretary of Defense, the chiefs of the United States diplomatic missions, and the chiefs of special missions currently informed concerning his activities. He shall consult with the chiefs of all such missions, who shall give him such cooperation as he may require for the performance of his duties under this act.

"(b) There shall be a Deputy United States Special Representative Abroad for Europe (hereinafter called the 'Deputy Special Representative') who shall (1) be appointed by the President, by and with advice and consent of the Senate, (2) be entitled to receive the same compensation and allowances as a chief of mission, class 3, within the meaning of the act of August 13, 1946 (60 Stat. 999), and (3) have the rank of ambassador extraordinary and plenipotentiary. The Deputy Special Representative shall perform such functions as the Special Representative shall designate, and shall be Acting United States Special Representative Abroad for Europe during the absence or disability, or in the event of a vacancy in the office, of the Special Representative.

"(c) The Secretary of Defense shall make available to the Special Representative the services of a European Area Military Advisory Group. It shall be the duty of such Advisory Group to coordinate the activities of the military advisory groups attached to the special missions provided in subsection (g) of this section, to assist the Special Representative in appraising and screening programs of United States assistance recommended by the special missions, and to advise the Special Representative as to the military capabilities and requirements of all countries in the European area which receive military assistance from the United States or may become eligible for such assistance.

"(d) There shall be established for each country receiving assistance under the terms of this act, and there may be established for any country cooperating in regional economic or military programs in support of the purposes of this act, a special mission for mutual security assistance under the direction of a chief who shall be resonsible for assuring the performance within such country of operations under this act. The chief of such special mission shall be appointed by the Administrator, shall receive his instructions from the Administrator, and shall report to the Administrator on the performance of the duties assigned to him. The chief of such special mission shall take rank immediately after the chief of the United States diplomatic mission in such country.

"(e) The chief of the special mission in each country receiving assistance in the form of military equipment or other assistance for the support of local military production shall be assisted by a military advisory group appointed by the Secretary of Defense. It shall be the function of such military advisory group to advise the chief of the special mission as to the military capabilities and requirements of the country, to assist him in reviewing and appraising requests for military assistance received from the authorities of the country as may be required to assure effective use of the military equipment furnished or to assist such country to develop the military forces required for joint defense.

"(f) The chief of the special mission shall keep the chief of the United States diplomatic mission fully and currently informed on all matters, including prospective action, arising within the scope of the operations of the special mission, and the chief of the diplomatic mission shall keep the chief of the special mission fully and currently informed on matters relative to the conduct of the duties of the chief of the special mission. The chief of the United States diplomatic mission shall be responsible for assuring that the operations of the special mission are consistent with the foreign policy objectives of the United States in such country, and in the event that the chief of the United States diplomatic mission believes any action, proposed action, or failure to act on the part of the special mission to be inconsistent with such foreign policy objectives, he shall so advise the chief of the special mission and the special representative in the region to which he is assigned. If differences of view are not adjusted by consultation, the matter shall be referred to the Secretary of State and the Administrator for decision.

"(g) The Secretary of State shall provide such office space, facilities, and other administrative services for the United States Special Representative Abroad for Europe and his staff, and for the special missions in each country, as may be agreed between the Secretary of State and the Administrator.

"(h) The Administrator may, where he deems it appropriate and with the approval of the Secretary of State, direct that the functions of the chief of the special mission in any country be assumed by the chief of the United States diplomatic mission in that country. The chief of the diplomatic mission shall, in such instances, report to the Administrator and receive directions from him with respect to carrying out functions relating to the purposes of this act.

"SEC. 107. In the case of aid under this act for a military purpose, the Secretary of Defense shall certify to the Administrator, from time to time, the military-defense objectives for recipient countries. The Administrator, in continuing consultation with the Department of Defense and with other interested departments and agencies, shall determine the measure and forms of aid which are necessary to enable such countries to accomplish such objectives most effectively and efficiently and within necessary time limits. When such aid is in the form of military items or of related technical assistance and advice, the Administrator shall allocate to the Department of Defense funds for procuring and furnishing such military items and related technical assistance and advice.

"SEC. 108. Notwithstanding any of the provisions of the Defense Production Act of 1950, as amended:

"(a) The Administrator shall have responsibility for representing, before the authorities in the executive branch of the Government charged with the administration of title I of such act, the needs of all countries receiving assistance under this act, and of such other countries as the President may direct, for United States materials and facilities.

"(b) Whenever allocations under such act of United States materials and facilities for foreign countries receiving assistance under this act, and for foreign-assistance programs in such countries, are made on an over-all, and not on a country-by-country, basis, the Administrator shall have the authority and responsibility of apportioning, among such countries, the United States materials and facilities so allocated.

"TERMINATION OF ASSISTANCE

"SEC. 109. (a) The Administrator shall terminate the provision of all or part of any assistance authorized by this act to any country under any of the following circumstances:

"(1) when requested to do so by that country;

"(2) when the Administrator determines, after consultation with the Secretaries of State and Defense that (A) such country is not adhering to its agreement with the United States governing such assistance, or is diverting from the purposes of this act assistance provided hereunder, and that, in the circumstances, remedial action other than termination will not more effectively promote the purposes of this act, or (B) that such assistance no longer contributes effectively to the purposes of this act;

"(3) when the President directs such termination upon finding that provision of assistance would contravene any decision of the Security Council of the United Nations, or if the President otherwise determines that provision of assistance to any nation would be inconsistent with the obligation of the United States under the Charter of the United Nations to refrain from giving assistance to any nation against which the United Nations is taking preventive or enforcement action or in respect of which the General Assembly finds that the continuance of such assistance is unnecessary or undesirable;

"(4) upon passage of a concurrent resolution by the Congress resolving that such assistance should be terminated.

"(b) Termination of assistance to any country under this act shall include the termination of deliveries of all supplies scheduled under the aid program for such country and not yet delivered; but funds made available under this act shall remain available for 12 months from the date of such termination for the necessary expenses of liquidating contracts, obligations, and operations under this act."

On page 3, line 23, strike out subsection (c) and insert the following:

"(c) Not to exceed 10 percent of the total of the appropriations granted pursuant to this section may be transferred by the Administrator between appropriations granted pursuant to either subsection: *Provided*, That no funds shall be transferred from subsection (a) to subsection (b) unless the Administrator determines that the funds so transferred will, by virtue of such transfer, be more effective in accomplishing the objectives certified by the Secretary of Defense pursuant to section 107 of this act."

On page 6, line 11, strike out "any agency of the United States Government" and insert "the Administrator."

On page 9, line 16, strike out subsection (e).

On page 11, line 4, strike out "the President" and insert "the Administrator, with the approval of the President,".

On page 13, line 4, page 16, line 23, and page 17, line 8, strike out "President" and insert in lieu thereof "Administrator."

On page 14, strike out all after "of" on line 8 through line 13, and insert in lieu thereof "section 109 of this act.".

On pages 17 and 18, strike out sections 512 and 513.

The explanatory statement presented by Mr. SMITH of New Jersey is as follows:

AMENDMENTS TO ESTABLISH A MUTUAL SECURITY ADMINISTRATION—STATEMENT BY SENATOR SMITH OF NEW JERSEY

The essence of the amendments we are offering is the creation of a unified organization of all our major foreign assistance programs under an independent Mutual Security Administration. These amendments would abolish the Economic Corporation Administration, as was intended from the beginning, and would bring together our military and economic aid under a single agency directly responsible to the President.

This proposal is the result of long study by a number of groups interested in foreign aid administration, notably the Committee on the Present Danger, of which President James B. Conant, of Harvard University, is chairman. In framing it we have had the benefit of consultation with officials of the major interested agencies, both in Washington and overseas.

The sole purpose of this proposal is to unify the administration of our foreign military and economic aid programs, which are closely tied together both in their operation and in their over-all purpose of strengthening the security of the free world. We believe that the organization we propose is necessary in order to achieve that over-all purpose with the maximum speed and effectiveness and with the greatest economy of money and effort.

The present committee-government structure which prevails in our military aid program has proved itself unavoidably slow and cumbersome, no matter how ably it is carried through. The new organization would avoid that difficulty. Moreover, the experience of the ECA proves that there is no valid objection to it on the ground of a conflict of authority between the Administrator and the Secretary of State.

There is no partisan or political motive connected with this proposal. It is submitted in a spirit of unpartisanship and I hope that it will gain wide bipartisan support on its own merits. Except for the time factor, and our desire to place this proposal before the Foreign Relations and Armed Services Committees during their present deliberations on the foreign-aid program, we would have sought broad bipartisan sponsorship before introducing these amendments.

I hope and expect that the amendments in their present form will be improved and refined upon further study by the two committees. This proposal can only gain by constructive criticism.

INFLUENCE IN GOVERNMENT PROCUREMENT—INTERIM REPORT OF A COMMITTEE (S. REPT. NO. 611)

Mr. HOEY. Mr. President, from the Committee on Expenditures in the Executive Departments, I ask unanimous consent to submit, pursuant to Senate Resolution 51, Eighty-second Congress, first session, an interim report dealing with the activities of influence peddlers in Government.

The subcommittee of the Committee on Expenditures in the Executive Departments held public hearings for the purpose of further exploring and delving into the activities of people who hold themselves out as influence peddlers by being able to secure contracts and do business with the Government because of their influence with Government officials. The subcommittee has been continuously working to outlaw this type of individual and to completely divorce them from the Government. Some 2 years ago the subcommittee held extensive public hearings and filed a report as to its findings regarding activities of the 5 percenter or influence peddler. Today's report of the investigation discusses an entirely different type of so-called influence peddler, and shows the workings of a professional confidence man and how he swindled his gullible victims out of more than a quarter of a million dollars. The subject of this report led his victims to believe that he had been a powerful lobbyist in Washington for many years and that he had made a fortune by getting contracts, leases, and other types of business for individuals with Government agencies. He further led his victims to believe that due to the national emergency the Government was building mammoth office buildings underground, and that all Government agencies would eventually move underground, and that as a result, many of the surface Government buildings would become surplus and would be subject to lease for a nominal sum to individuals who had influence with Government officials.

The hearings in this matter disclosed to the subcommittee one of the most fantastic stories ever told, and shows how easy it is to swindle large sums of money from poorly informed and unsuspecting citizens.

It is the hope of the subcommittee that this investigation and the publicity given to it by the press will in some measure warn the public against the activities of this type of individual. This subcommittee would like to reiterate to the American people that it is not necessary to bribe Government officials in order to do business with the Government. Legitimate business people can do business with the Government through regular and ordinary channels, without stooping to the low level of the influence peddler. As a matter of fact, many of the Government agencies now have procurement information facilities. These offices were established as a result of the 5-percenter investigation in the summer of 1949, and their sole function is to inform the public how to do business with the Government.

It must be pointed out that not a single Government official or employee was in any way involved in this particular case. It is also true that if the victims of this corrupt scheme had not been willing to lend themselves to a dishonorable proposition of bribery they would not have been victimized.

The facts disclosed by the subcommittee hearings have been turned over to the Department of Justice; and today a Federal grand jury in Washington is being presented with the facts in this case, and it is contemplated that the subject of this report will soon be required to answer at the bar of justice for his criminal activities.

The PRESIDING OFFICER. Without objection, the report will be received and printed.

VETERANS' ADMINISTRATION POLICIES AND PRACTICES WITH RESPECT TO MEDICAL CARE—REPORT OF A COMMITTEE (S. REPT. NO. 610)

Mr. HUMPHREY. Mr. President, from the Committee on Labor and Public Welfare, I ask unanimous consent to submit a report on the Veterans' Administration policies and practices with respect to medical care, and request that it be printed.

The PRESIDING OFFICER. Without objection, the report will be received and printed, as requested by the Senator from Minnesota.

LACK OF PARTY RESPONSIBILITY IN THE CONGRESS

Mr. HUMPHREY. Mr. President, I rise to discuss a grave matter of national importance, one which disturbs me a great deal. I refer to the lack of party responsibility in the Congress. I speak now, not as a partisan, but as an American citizen concerned with the preservation of democratic institutions and anxious to maximize the advantages of free government and majority rule.

It is my deep conviction that the health of our body politic depends upon the development of our political parties in such a manner that they are responsible to the electorate as a whole and that they be concerned more with the welfare of the people than with the welfare of

the party. Political democracy is meaningful only insofar as our two-party system operates in such a manner as to present the American people with alternatives when they go to the polls and elect their representatives. Since it is the political party which acts as the medium through which our national elections take place, it is necessary for the political parties to represent issues and to present those issues to the American people. It is therefore a healthy sign that in recent years there has developed a growing realization that the Democratic Party stands for one position—the liberal position—in American politics, and the Republican Party stands for another—the conservative position—in American politics. It is significant that the voting records in the Congress show a greater trend toward representing this political framework.

Yet, Mr. President, there are serious aberrations in this picture. We find sincere and able men like the junior Senator from Oregon in the unique position of being a permanent minority in the Republican Party, fighting a valiant but losing struggle to instill liberalism within his party in spite of his party's leadership. Similarly, on this side of the aisle we find equally sincere Members fighting just as courageously, though mistakenly, to stop the inevitable full development of the Democratic Party as the party of liberalism and progress.

There are some who would identify these internal differences as regional. They are mistaken. The differences are based on issues, not on geography. A recent speech by the distinguished senior Senator from Virginia, a man whose ability and earnestness I respect in spite of our political differences, led a number of journalists wishfully to report that there is a "southern resistance movement." I am convinced, Mr. President, that the overwhelming number of citizens in the South will remain loyal to the Democratic Party and will remember that it was under the leadership of the Democratic Party that rural electrification, rural telephone service, public power, soil conservation and reforestation, farm price supports, aid to education, public housing, and the many other parts of the New Deal and Fair Deal program which have benefited the South were developed. It is true that there is some opposition to the Democratic Party platform in the South, just as there is some opposition to the Democratic Party in the North, and just as there is opposition to the Republican Party in other regions of the country. It is the issues, however, rather than the region, which are significant; and it is erroneous and misleading to foster a contrary impression.

A recent letter in the July 21 issue of the New York Times, written by a citizen of the South, illustrates this conclusion. I ask unanimous consent that excerpts from that letter be incorporated in the RECORD at the close of these remarks.

The PRESIDING OFFICER. Without objection, the excerpts from the letter will be printed in the RECORD, as requested.

(See exhibit A.)

Mr. HUMPHREY. Finally, Mr. President, I say to the members of my own party, the Democratic Party, that we must take heart, gird our loins, unify our ranks, and proudly proclaim to the American people the merits of the social, political, economic, and international program which we offer to them for their judgment and decision. We have a record of objectives in which we can take pride. To the extent that we have failed to achieve our objectives, we did so because of a coalition of conservative forces in the Congress who voted against the program of our Democratic Party because they did not believe in that program. The solution to that problem is a simple one: It is for the American people to send to the Congress, as their representatives, members of the Democratic Party who are committed to the party program; and it is for the many millions of voters who may consider themselves independents or Republicans in the Lincolnian sense to recognize that the principles of Jefferson, Lincoln, Wilson, and Roosevelt can best be realized through the political victory of the Democratic Party under the banner of the Fair Deal and under the leadership of our President, Harry S. Truman.

EXHIBIT A

[From the New York Times of July 1, 1951]

HOW THE SOUTH WILL VOTE—EXTENT OF REVOLT AGAINST DEMOCRATIC PARTY QUESTIONED

To the EDITOR OF THE NEW YORK TIMES:

Arthur Krock, in his series of articles on the southern resistance movement in 1952, seems to me to be indulging in a bit of wishful, hopeful reporting.

Mr. Krock is correct in that there will be political bushwhackers at work in the Democratic Party in the South in 1952, but those same bushwhackers have been boring from within since 1936. In 1936 they called themselves "Jeffersonian Democrats." In 1940 they called themselves the "No-Third-Term Democrats." In 1944 in Texas they called themselves "Texas Regulars." In 1948 they called themselves "Dixiecrats." I do not know what they will call themselves in 1952. But I do know it will be the same old crowd who hated the New Deal and fear the Fair Deal.

Atlanta was an appropriate place for Senator BYRD to sound off with his brand of Dixie Republicanism against the administration, because BYRD and his cohorts would do for the South with their negative approach to the economic and political problems of the 1950's the same sort of constructive job which Gen. William T. Sherman did the time he went to Atlanta.

ECONOMIC RETROGRESSION

The South, including Texas, has come a long way since President Roosevelt described the area as the Nation's No. 1 economic problem. Senator BYRD would turn back the clock and put the South right back where it was 15 years ago. Those in revolt against the administration do not like change. They want to return to the golden era when the South was noted for its cheap and docile labor and a small handful of plantation owners and big business-men operating politically through poll-tax machines were in ironclad control, and the farmers and those who labored for a living had nothing to say in politics.

Mr. Krock says that many southern leaders believe, however, that 1952 will be the last call for their brand of democracy in the party. That is what those same leaders said in 1936, 1940, 1944, and 1948.

Mr. Krock tips his hand when he says: "The difficulties would disappear, of course, if the President decided not to stand for reelection and the Democratic convention chose instead a candidate satisfactory to the South on an acceptable platform. General Eisenhower, on any platform he conceivably would endorse, fits these specifications."

Mr. Krock and many of his fellow-journalists trot General Eisenhower out for every political sweepstakes. General Eisenhower the unknown is one thing; Eisenhower the candidate and what he believes in and stands for politically is another. If Eisenhower runs as a Republican and if Eisenhower is against the domestic program of the Democratic Party, we Democrats are ready, willing, and able to do political battle with the general.

TRUMAN PROGRAM

Senator BYRD's program for the South as revealed by an examination of his votes in the Senate the past 15 years gives us the answer as to what BYRD's brand of democracy is. In the market place of politics President Truman's Fair Deal will win hands down over Senator BYRD's No Deal. An impassioned appeal to racial prejudice will not outweigh the TVA, the Rural Electrification Administration, social security, the farm programs and peace.

* * * There are too many southerners who believe in living with their Democratic fellows in the rest of the Union and working out their problems together, giving here and taking there, for Senator BYRD's political activities to succeed.

I believe that most southerners want three things out of the national administration: Peace, freedom, and security. I, for one, firmly believe that I have a better chance at all three with the National Democratic Party as presently constituted than with any alternative which has been offered.

The Democratic candidate in 1952 will run on the record of the administration of President Truman. President Truman is the best man to run on that record. It is a record of which we Democrats are justly proud.

CREEKMORE FATH.

AUSTIN, TEX., *July 16, 1951.*

UNITED STATES ATTORNEY

Mr. McFARLAND. Mr. President, I understand that the distinguished minority leader has received a request that the first three nominations on the executive calendar, including those of Mr. Brown and Mr. Coddaire, go over at least until Monday.

Mr. WHERRY. That is correct.

The PRESIDING OFFICER. Does the Senator move that the Senate now proceed to the consideration of executive business?

Mr. McFARLAND. No, Mr. President; inasmuch as there is only one other nomination on the executive calendar, I now ask that the nomination of Mr. Otto Kerner, Jr., to be United States attorney for the northern district of Illinois, be confirmed, as in executive session.

The PRESIDING OFFICER. Without objection as in executive session, the nomination is confirmed.

Mr. McFARLAND. Mr. President, also as in executive session, I ask that the President be immediately notified of the confirmation of this nomination.

The PRESIDING OFFICER. As in executive session, and without objection, the President will be immediately notified of the confirmation.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDING OFFICER (Mr. O'MAHONEY in the chair) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. JOHNSTON of South Carolina, from the Committee on Post Office and Civil Service:

Twelve postmasters.

By Mr. BYRD, from the Committe on Armed Services:

Francis P. Whitehair, of Florida, to be Under Secretary of the Navy.

CONVENTION WITH SWITZERLAND RELATING TO DOUBLE TAXATION—REMOVAL OF INJUNCTION OF SECRECY

Mr. CONNALLY. Mr. President, the President of the United States has transmitted to the Senate Executive P, Eighty-second Congress, first session, a convention between the United States of America and Switzerland, signed at Washington on July 9, 1951, for the avoidance of double taxation with respect to taxes on estates and inheritances. As in executive session, I ask unanimous consent that the injunction of secrecy be removed from the convention; that the convention, together with the President's message, be referred to the Committee on Foreign Relations; and that the President's message of transmittal be printed in the RECORD.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas? The Chair hears none, and it is so ordered.

The President message of transmittal is as follows:

AUGUST 2, 1951.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the convention between the United States of America and Switzerland, signed at Washington on July 9, 1951, for the avoidance of double taxation with respect to taxes on estates and inheritances.

I also transmit for the information of the Senate the report by the Secretary of State with respect to the convention. The convention has the approval of the Department of State and the Department of the Treasury.

HARRY S. TRUMAN.

THE WHITE HOUSE, *August 2, 1951.*

(Enclosures: (1) Report by the Secretary of State; (2) estate-tax convention between the United States and Switzerland, signed July 9, 1951.)

TRIBAL FUNDS OF UTE INDIANS

Mr. McFARLAND. Mr. President, in regard to House bill 3795, relating to the tribal funds of the Ute Indians, which the Senator from Utah has mentioned, let me say that request has been made that that bill be not taken up until Monday. In that connection, I have conferred with the distinguished Senator from Utah.

Mr. WATKINS. Mr. President, can we make the bill the unfinished business for Monday?

Mr. McFARLAND. I have already announced that another bill will be taken up at that time. Therefore, I think it would be better to proceed in accordance with the announcement which already has been made. I would not wish to make a motion to the contrary in the absence of Senators who might be opposed to such a motion.

Mr. WATKINS. Very well.

RECESS TO MONDAY

Mr. McFARLAND. Mr. President, I now move that the Senate stand in recess until 12 o'clock noon on Monday next.

The motion was agreed to; and (at 6 o'clock and 39 minutes p. m.) the Senate took a recess until Monday, August 6, 1951, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received August 2 (legislative day of August 1, 1951:

IN THE ARMY

The following-named officers for appointment, by transfer, in the Judge Advocate General's Corps, Regular Army of the United States:

Maj. Charles David Thomas Lennhoff, O21882, United States Army.

Maj. Frank Thomas Holt, O21908, United States Army.

Capt. Lysle Iver Abbott, O34559, United States Army.

Capt. James Clyde Waller, Jr., O50167, United States Army.

The following-named officers for promotion in the Regular Army of the United States, under the provisions of sections 502 and 510 of the Officer Personnel Act of 1947. All officers are subject to physical examination required by law.

To be colonels

Paul DeWitt Adams, O17306.
Ray Adams, O51010.
Forrest Jack Agee, O29029.
Julian Sheppard Albergotti, O39601.
Eskil Milburn Johannes Alenius, O41452.
James Edward Allen, O29074.
Webster Anderson, O17101.
James Gallagher Bain, O17246.
George Lindon Barnes, O29078.
Verdi Beethoven Barnes, O17198.
Aaron William Beeman, A29063.
John Dabney Billingsley, O17188.
Francis Henry Boos, O17291.
Goodman Shinault Branch, O51014.
William Mattingly Breckinridge, O17210.
John Paul Breden, O17135.
Roland Clough Brown, O17080.
William Henry Brown, O41552.
Samuel Roberts Browning, O17081.
Ralph Joseph Butchers, O17242.
Robert George Butler, O17191.
William Grant Caldwell, O17312.
James Albert Channon, O29044.
Thomas Joseph Cody, O17190.
James Matthias Coleman, O41582.
Louis Edward Cotulla, O29069.
Garrison Barkley Coverdale, O17148.
Maury Spotswood Crallé, O17279.
Edwin Augustus Cummings, O17222.
William Ross Currie, O17115.
Edmund Koehler Daley, O17099.
Alfred Benjamin Denniston, O17315.
George Richard Eckman, O51005.
William Glenn Eldridge, O29070.
Harry Buttolph Emigh, O39599.
Edgar Elliott Enger, O17284.
Houston Val Evans, O29011.
Francis Howard Falkner, O17092.
Jack Eubank Finks, O38625.
Walter Emerson Finnegan, O17219.
Robert John Fleming, Jr., O17095.
Clayton Frederick Fowler, O41553.
Carl Ferdinand Fritzsche, O17234.
Wilber Mortimer Gaige, Jr., O41538.
Elmer Cleo Gault, O39589.
Paul Amos Gavan, O17169.
Urban Franklin George, O28845.
Alvin Raymond Glafka, O41559.
William Charles Golden, O39605.
Roger Woodhull Goldsmith, O17163.
Frank Quincy Goodell, O17147.
James Laffeter Green, O17074.
Thomas Coleman Green, O50944.
John Blanchard Grinstead, O17134.
Fred Shomaker Hanna, O38612.
Russell Charles Harpole, O29023.
Murray Duncan Harris, O29048.
Allison Richard Hartman, O17204.
James Lowman Hathaway, O17215.
Howard Hazlett, O38621.
David William Heiman, O17094.
William Henry Hennig, O17122.
John Honeycutt Hinrichs, O17174.
James Easton Holley, O17185.
Evan McLaren Houseman, O17307.
Robert Albert Howard, Jr., O17182.
Wilhelm Paul Johnson, O17229.
Henry Burton Joseph, O29054.
John Leo Keefe, O29080.
Lawrence Henry Kemman, O38616.
Earnest Kemp, O41469.
John Ogden Kilgore, O29008.
Boyce Dexter Kitchings, Jr., O41565.
Sidney Peter Kretlow, O50908.
James Melvin Lamont, O17226.
Thomas Alphonsus Lane, O17075.
James William Lockett, O17305.
Douglas Glen Ludlam, O17207.
Frank Rudolph Maerdian, O17256.
Frederic Arthur Maples, O29017.
Stanhope Brasfield Mason, O17295.
Elmo Stewart Mathews, O17167.
Broadus McAfee, O29053.
Lionel Charles McGarr, O17225.
Ephraim Hester McLemore, O17184.
Andrew Thomas McNamara, O17324.
Alan Johnstone McCutchen, O17093.
Carleton Eugene Merritt, O28867.
Jonathan Howard Michael, O39594.
Paul Jones Mitchell, O17314.
William Thomas Moore, O17313.
Francis Ellsworth Morawetz, O28947.
Tito George Moscatelli, O17286.
Robert Jones Moulton, O16665.
Edward Eyre Murphy, O41634.
Preston Joseph Cornelius Murphy, O50936.
Samuel Leslie Myers, O17180.
Ramon Antonio Nadal, O17280.
Ralph Thomas Nelson, O17308.
Lawrence Edwin Nobles, O29045.
John Cogswell Oakes, O17160.
George Oliver Pearson, O39592.
Everett Davenport Peddicord, O17245.
John Phillip Perlett, O28956.
Thomas Ambrose Pitcher, O39607.
Marion George Pohl, O17176.
Benjamin Wood Poor, O41575.
William Everett Potter, O17098.
Carter Oliver Price, O51018.
Hal Randall, O50969.
Montgomery Breck Raymond, O17227.
Theodore Scott Riggs, O17076.
John Archibald Sawyer, O17177.
Ralph Julius Schuetz, O50941.
Lyle Edward Seeman, O17032.
Thomas Lilley Sherburne, Jr., O17293.
Benjamin Smith Shute, O17097.
Ralph Harold Sievers, O17254.
Frank Howard Skelly, O29056.
Alexander Norton Slocum, Jr., O39610.
Daniel Edwin Smalle, O41576.
Edwin Arthur Smith, O41459.
William Dixon Smith, O17085.
James William Smyly, Jr., O16928.
Rudolph Ethelbert Smyser, Jr., O17090.
Duncan Sloan Somerville, O17109.

Leslie Spinks, O29012.
John Ernest Stewart, O39598.
Charles William Stratton, O16661.
Frederick G. Stritzinger 4th, O17186.
Thomas Mason Tarpley, O17325.
Legare Kilgore Tarrant, O17208.
Armin Leo Tenner, O41428.
Elmer Briant Thayer, O17156.
Robert George Theiring, O28982.
Wiley Benjamin Tonnar, O50955.
David William Traub, O17110.
Bernard John Tullington, O29064.
John Sou'hworth Upham, Jr., O17178.
Thomas Fraley Van Natta, O17086.
Louis Test Vickers, O17249.
Mercer Christie Walter, O17151.
David Andrew Watt, Jr., O17088.
Thomas Jennings Well, O17111.
Robert Henry Wienecke, O41569.
William Kelly Wilemon, O29060.
Noble James Wiley, Jr., O17228.
Alexender McNair Willing, O38619.
Harold Graydon Wilson, O41384.
William Julius Wuest, O29026.

To be colonels, Judge Advocate General's Corps

Charles Robert Bard, O18435.
Charles Lowman Decker, O18549.
Clarence Jonathan Hauck, Jr., O18360.
Ashton Miller Haynes, O18545.
Robert Lynn Lancefield, O18037.
Carlos Edmond McAfee, O41629.
Hamilton Murray Peyton, O18461.
Claude Everett Reitzel, Jr., O29404.
Chester DeForest Silvers, O39564.
Howard Russell Whipple, O39542.

To be colonels, Medical Corps

Wayne Glassburn Brandstadt, O18318.
Ernest Allan Brav, O56995.
Roland Keith Charles, Jr., O17988.
Lyman Chandler Duryea, O57522.
Joseph Julius Hornisher, O17989.
John Joseph Marren, O41706.
Paul Herbert Martin, O18331.
Walter Houser Matuska, O29155.
Cecil Spencer Mollohan, O19309.
James Little Murchison, O18920.
Jonathan Milton Rigdon, O17981.
Arthur Herbert Thompson, O19305.

To be colonels, Dental Corps

Dean Stirling Beiter, O19692.
Howard Newton Burgin, O18932.
Frank Pinkard Campbell, O51129.
Alfred Marvin Cayton, O29169.
Robert Earl Hammersberg, O18933.
John Sheldon Oartel, O57039.

To be colonels, Medical Service Corps

Stanley Jennings Carpenter, O41712.
Warren Chester Eveland, O29167.
Charles Ludwick Gilbert, O29148.
Bernard Joseph Kotte, O29172.

To be colonels, Chaplains

William Lewis Cooper, O20100.
Edward Twyman Donahue, O39650.
Matthew Hindmarsh Imrie, O29181.
John Joseph Mullaney, O29150.
Harold Henry Schulz, O20074.
Henry Tavel, O39652.
James Thomas Wilson, O20103.

The following-named officers for promotion in the Regular Army of the United States, under the provisions of sections 502 and 509 of the Officer Personnel Act of 1947. Those officers whose names are preceded by the symbol (×) have been examined for physical fitness and found physically qualified for promotion. All others are subject to physical examination required by law.

To be lieutenant colonels, Dental Corps

×Frank Garvey Bolton, O20976.
×Henry Stuart Carroll, O20974.
×Frederick Reuben Corbin, O20972.
Paul Anderson Miller, O30843.

To be lieutenant colonels, Chaplains

×Carl Frederick Gunther, O29193.
×Floyd William Shiery, O51146.

To be lieutenant colonels, Women's Army Corps

Helen Haring Bouffier, L32.
Hortense Mae Boutell, L94.
Florence Marie Clark, L90.
Emily Cora Gorman, L55.
Lillian Harris, L96.
Ruby Eleanor Herman, L30.
Frances Muriel Lathrope, L21.
Mary Louise Milligan, L80.
Mary Kathryn Moynahan, L77.
Lucile Gleason Odbert, L68.
Esther Pierce Pulis, L31.
Arlene Gertrude Scheidenhelm, L49.
Sara Louise Sturgis, L29.
Eleanore Catherine Sullivan, L14.
Anne Eloise Sweeney, L119.

To be major, Judge Advocate General's Corps

×Robert Michael Murray, O52094.

To be majors, Dental Corps

George Wesley Burnett, O39499.
×Ogden Marlin Frank, O31101.
×John William Rudisill, Jr., O31128.
×Rubert Archie Weeks, O52011.

To be majors, Chaplains

×John Christian Brucker, O30997.
Robert Burns Herndon, O51984.

To be majors, Women's Army Corps

Elenor Pauline Abbott, L315.
Edith Agnes Ayers, L99.
Martha Minerva Bonner, L97.
Margaret Elizabeth Brewster, L88.
Judy Bryan, L258.
Miriam Luella Butler, L111.
Maribeth Turnbull Cardinal, L106.
Edwina Cathryn Casbergue, L248.
Elinor June Connor, L323.
Sylvia Ely, L332.
Helen Kathryn Foreman, L93.
Ruth Richmond Gorton, L100.
Elizabeth Storrs Hazen, L95.
Ethel Mary Hooper, L253.
Lela Alberta Hopfe, L326.
Muriel Josephine Janikula, L107.
Mary Elizabeth Kelly, L341.
Rosa Turner Lawton, L254.
Margaret Alexina Maxwell, L257.
Billie Marjorie McConnell, L104.
Mary Gordon McDonald, L102.
Dorothy Lucille McLellan, L255.
Irene Ann Van Houten Munster, L110.
Sonja Anita Munter, L321.
Mercedes Mary Ormston, L108.
Beatrice Ashworth Parker, L247.
Kathryn Jones Royster, L105.
Martha Frances Schuchart, L317.
Florence Shulman, L319.
Elva Mae Stillwaugh, L250.
Sarah Bonita Todd, L259.
Dale Augusta Van Vacter, L101.
Hazel Ver Hey, L256.
Mary Barbara Warner, L89.
Elsie Louise Weible, L320.
Nellie Margaret Young, L325.

To be captains, Chaplains

×John Thomas Hayes, O60749.
×James Eaton Hemann, O62787.
Holland Hope, O58795.
Gerhardt Wilfred Hyatt, O58796.
Walter Grey McLeod, O60748.
Emmett Lee Walsh, O58797.

To be captains, Medical Services Corps

Stephen Elmer Akers, O38569.
×Lester Ray Boyd, O38559.
×Joseph Vincent Brady, O38563.
×Robert L. Clark, O50575.
×Leo Joseph Collins, O26974.
×Melvin William Crotty, O26985.
×Charles Lincoln Franklin, Jr., O38562.
×Robert Charles Frase, O38561.
×Henry Lamar Hammond, O26976.
×David Henry Hood, O26978.
×Walter Addison Howard, O56278.
×Lonzo Dale Justice, O38565.
×Jimmie Kanaya, O38558.
Charles Robert Kinney, O38566.
×Jack Williamson McNamara, O26990.
×Quentin Harold Miller, O50573.
×T. J. Shelton, O38570.
×James Robert Wigger, O38571.
×Harold LeRoy Williams, O56984.

To be captains, Women's Army Corps

Norma Jean Fischer, L194.
Josephine Louisa Redenius, L189.
Lucille Doris Schneider, L196.
Julia C. Southerland, L291.
Betty Jo Venable, L190.

The following-named officers for promotion in the Regular Army of the United States, under the provisions of section 107 of the Army-Navy Nurses Act of 1947, as amended by section 3, Public Law 514, Eighty-first Congress, approved May 16, 1950. All officers are subject to physical examination required by law.

To be captains, Army Nurse Corps

Mayna Ruth Allen, N2106.
Anna Bernice Astrosky, N2501.
Angela Rose Benda, N2108.
Edith Elizabeth Bennetts, N2013.
Virginia Rathine Butler, N2015.
Jeanette Vivian Caldwell, N2213.
Agnes Irene Fay, N2012.
Mary Alyce Folwell, N2014.
Margaret Gist, N1478.
Susie Mae Green, N2330.
Harriett Frances Hansen, N2498.
Mildred Jean Hillhouse, N1601.
Nancy Crary Kermott, N1685.
Irene Lyon, N2496.
Alice Mary Metzger, N2329.
Patricia Theresa Murphy, N2107.
Jeraldine Louise Payton, N2331.
Marie Louise Pearce, N2212.
Alta Pearl Rogers, N1443.
Mary Dolores Slabe, N2499.
Mary Margaret Staron, N2503.
Helen Louise Steward, N2328.
Margaret Elizabeth Wendland, N2497.

To be first lieutenant, Army Nurse Corps

Marian Agnes Tierney, N1750.

The following-named officers for promotion in the Regular Army of the United States, under the provisions of sections 502 and 508 of the Officer Personnel Act of 1947. Those officers whose names are preceded by the symbol (×) have been examined for physical fitness and found physically qualified for promotion. All others are subject to physical examination required by law.

To be first lieutenants

Billy Joe Adams, O59933.
Thomas Edwin Adams, Jr., O59949.
David Beydler Alexander, O59956.
Marion Carroll Allbright, O63678.
William Joseph Andrews, O58162.
Paul Livingston Applin, Jr., O57968.
Robert Lee Ariail, Jr., O59930.
Claude Valentine Bache, O61100.
John Willard Baker, O63380.
Cecil Cleo Baldwin, O60226.
George Benton Barrett, O62265.
William Earle Bates, Jr., O59939.
Rutland Duckett Beard, Jr., O57813.
Richard Stuart Bentley, O59490.
Thomas Rexford Biggs, O63104.
Bill Richard Blalock, O63348.
Edgar Walthall Boggan, O59928.
Robert John Bouchard, O62004.
×Colon Rodman Britt, Jr., O57806.
Louis George Broad, Jr., O63182.
Lorence Francis Brown, O60223.
Robert Lee Bryant, O58164.
Vernon Winford Bryant, O58127.
Bruce Burnett, O63096.
Richard Frederic Burns, O58121.
Matthew Wales Busey 3d, O60845.
Bobby Connally Bush, O59505.
Lex J. Byers, O63366.
Robert Frank Carrell, O58855.
Ernest William Christ, O59936.
Edward Howland Church, O59940.
Egbert Bailey Clark 3d, O62267.
Julius Edel Clark, Jr., O60841.
Maurice Leon Clouser, O60232.

William Morton Cole, O58148.
John Warren Collins, O63332.
Robert S. Collins, Jr., O63383.
Stanley Pendleton Converse, O62262.
Sidney Herbert Cook, Jr., O58133.
Hugh Cort, Jr., O62839.
Gordon Ra nbler Cubbison, O60234.
William Joseph Cummings, O57807.
Cecil McKinley Curles, O63298.
Frederick Clarke Dahlquist, Jr., O60221.
Charles Riggs Darby, O58072.
Charles Edward Davis, O60726.
Glenn Allen Davis, O63295.
Oren Edwin DeHaven, O63382.
Frederick Gerard Dempsey, O63097.
James Edward Dempsey, O63101.
Alfred Louis Dibella, O59489.
Jack LaVerne Dinkel, O62270.
Henry Dudley Doiron, O57850.
Otis James Doty, O62269.
×James Ewell Echols, Jr., O63334.
Harold Norman Elliott, O58138.
Hodges Samuel Escue, O63375.
Frank Clay Eubanks, Jr., O62838.
Lloyd Rueben Evans, O59942.
Bert Phillips Ezell, O59818.
Lawrence Beach Farnum, O61211.
Charles Henry Fisher, O58142.
William Grey Foreman, O63106.
Charles William Forsthoff, O59485.
Romaine Shiere Foss, O59947.
John Donald Gard, O59820.
Hugh Manson Garner, O60218.
Floyd Samuel Gibson, O60844.
Leo Nicholas Goche, O59937.
Alonzo John Golden, O61210.
Ray Mack Golden, O58175.
Nicholas Nick Gombos, O63100.
Charles Edward Green, O58125.
Alfred John Grigsby, Jr., O60727.
Douglas Dale Grinnell, O62843.
Tom Saxton Groseclose, O63108.
William Byrd Hale, O59478.
James Garhart Harper, O63379.
John Leland Hart, O62261.
John Nelson Hassell, O63368.
Donald James Hassin, O63361.
Strather William Hawkins, O58157.
Return Carter Haynes, O63102.
Robert James Heckendorn, O59945.
Dennis Eldon Henricks, O60225.
×Lee Swink Henry, Jr., O63337.
William Herbert Henry, Jr., O63109.
Lewis Eckert Hess, O59815.
William Burnette Hill, O58167.
George Robert Hoddinott, O59479.
John Daniel Albert Hogan, Jr., O60720.
Jackson Harold Martin Holbrook, O58155.
Needham Claudius Holden, Jr., O63105.
John Harold Hougen, O63107.
James Leroy Hundemer, Jr., O58149.
Clarence Henry Jackson, O57803.
Kenneth Francis Jackson, O58159.
John Mark Jenkins, O58139.
Richard Milburn Jennings, O58935.
Maurice Edward Jessup, O59821.
Walter Freeman Johnston, O63302.
Walter Floyd Jones, O60208.
Jesse Lee Jordan, Jr., O63362.
Edwin Boagni Junge, O59964.
William Pryor Junk, Jr., O63380.
Paul Raymond Kaster, Jr., O59483.
Phillip Paul Katz, O59957.
William Orval Keeling, Jr., O58150.
Ernest McNeill Kelly, Jr., O58744.
Howard William Killam, O62268.
Monroe Kirkpatrick, O59926.
Travis Monroe Kirkpatrick, Jr., O59924.
Arthur Henry Kuhlman, Jr., O59963.
Wheeler Edward Laird, O58153.
Joe Ben Lamb, O62266.
Robert Douglas Lambourne, O57851.
Wilson Albert Landry, Jr., O63378.
Jack Benjamin Lang, O63381.
Vincent Walter Lang, O62841.
Gerald Edward Ledford, O60219.
William Carroll Leist, O60220.
Earl Robert LeVier, O59925.
William Mayo Lipsey, O60840.
John Curtis Littlejohn, O57886.
Hoyt Robert Livingston, O60228.
Theodore Frelinghuysen Locke, Jr., O59951.
Elwood George Lodle, O59958.
Robert James Loe, O59960.
Henry Frederick Lopez, O62840.
Phillip Edward Lowry, O60721.
Donald Bror Malmberg, O59955.
Clarence Henry Manly, Jr., O59941.
Norman Lewis Martin, O63370.
Allen John Mauderly, O63369.
LaVern William Maxwell, O59484.
Richard Mark McBride, O58071.
Robert Carl McCulloch, O60723.
George Linus McFadden, Jr., O60722.
William Runciman McNeil, O59931.
Richard Grover McSwain, O63098.
John William Meek, Jr., O63095.
Carl Joseph Merck, O57801.
Richard Christopher Millard, O63356.
Wilburn Edwin Milton, O59943.
Richard Francis Mitchell, O63338.
Clifford Edgar Mize, O60838.
Albert Edwards Moore, O63364.
Orbra Garfield Mullins, O63353.
Powell Davis Murphy, O62842.
William Richard New, O59961.
William Elmer Noble, O63363.
Thomas Ernest Oberley, O58161.
Francis Stephen Obradovich, Jr., O63055.
Harold Hellmann Olsen, Jr., O63351.
Joseph Francis Paradis, O63305.
Clyde Harris Patterson, Jr., O58173.
Richard Reyburn Peabody, O63354.
Quentin Pease, O59934.
George Edward Peck, O58126.
Alva Wesley Pendergrass, Jr., O58169.
Robert Graham Penny, O59946.
Fred William Peters, Jr., O58129.
Martin Luther Pitts, Jr., O57920.
Frank Slater Plummer, Jr., O63093.
Lewington Stuart Ponder, O59823.
James Volentine Preuit, O63360.
John Gerald Ransier, O63376.
Arnold Rathlev, O59944.
Clyde Earl Reed, Jr., O59927.
James Bruce Reed, O57921.
John Edwards Reed, O57809.
William Herschel Rhodes, O58154.
Norman Joseph Richards, O59482.
George Mark Richardson, Jr., O60843.
Thomas Bruce Richey, O59938.
Vernon Renice Rider, O59488.
Edward Melvin Ridlehoover, O60222.
William Burnell Robinson, O62813.
Charles Willis Root, O59950.
George Herbert Rosenfield, O58163.
David Ray Rosson, O58174.
John Peter Ruppert, O62273.
Paul Sanders, O59953.
Louis Gerard Sandkaut, O57922.
Wittmer Ira Schleh, O62271.
James Irvin Scott, O63319.
Donald Albert Seibert, O60224.
Charles Calvin Semple, O59929.
Edgar Bennett Sharpe, O62263.
Francis Joseph Shearer, Jr., O60227.
James Roy Shelnut, O60725.
Buren Riley Shields, Jr., O60230.
Donald Eugene Smith, O62001.
Harry Edward Smith, O60233.
Paul Clifton Smithey, O59817.
Robert Wilson Smithson, O63086.
George Snipan, O62264.
Ralph Wycliffe Spence, O58145.
J. Wayne Staley, Jr., O60842.
Posie Lee Starkey, Jr., O63373.
Warren Bell Steele, O63377.
John Ellis Steinke, O57885.
Chester Raymond Stelman, O63352.
Joel Ellison Stone, O58165.
Robert Merle Stump, O58134.
Charles Eugene Taylor, O60231.
Eugene Tedick, O59481.
Charles Milton Thomas, O63357.
William Hoffecker Vail, O59954.
John Robert Voseipka, O63365.
Andrew Jackson Waldrop, O57808.
Vernon Virgil Wallis, O63072.
Billy Hugo Watson, O59932.
Charles Lancaster Weaver, O59935.
Donald Christy Weaver, O59962.
Robert William Webb, O57804.
Dobson Lindley Webster, O59816.
Charles Rushton Westcott, O63374.
×Nevin Clarence White, O63286.
Richard Vernon White, O58172.
Robert Willoughby Williams, O60839.
Calvin Oscar Wilson, O63094.
Joseph Orr Wintersteen, Jr., O58151.
William Wallace Woodside, O63315.
Jerome Zohn, O60229.

To be first lieutenants, Medical Service Corps

Howard Clifford Leifheit, O63460.
Albert Leon Paul, O63461.
Lyle Harrison Wharton, O58123.
James Bernard Woodrum, O62802.

To be first lieutenant, Women's Army Corps

×Janet Marion Rasmussen, L351.

IN THE NAVY

Rear Adm. James Fife, Jr., United States Navy, to have the grade, rank, pay, and allowances of a vice admiral while serving as Deputy Chief of Naval Operations (Operations).

IN THE COAST GUARD

The following Coast Guard officers for promotion to the permanent rank of rear admiral in the United States Coast Guard:

Russell E. Wood
James A. Hirshfield

CONFIRMATION

Executive nomination confirmed by the Senate August 2 (legislative day of August 1), 1951:

UNITED STATES ATTORNEY

Otto Kerner, Jr., to be United States attorney for the northern district of Illinois.

HOUSE OF REPRESENTATIVES

THURSDAY, AUGUST 2, 1951

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D. D., offered the following prayer:

Almighty God, who art always providing for us so abundantly and whose goodness and mercy follow us all our days, we pray that we may never make a selfish use of our blessings.

We penitently confess that we know very well that there would be far less of suffering and sorrow in our world if human nature had in it more of Thy divine compassion and self-giving love. Inspire us with a magnanimous spirit and a keener sense of social responsibility.

Grant us the Christlike vision and perspective, and may we see our fellow men and their struggles as Thou wouldst have us see them. Help us to look at needy humanity through the eyes of our blessed Lord which were the eyes of sympathy and kindness and hope.

We pray that the day may be hastened when every need will be supplied and the heart of all mankind shall be filled with happiness and peace.

Hear us in the name of our Lord and Saviour. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Hawks, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and